

\$~40

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 20th September, 2021

+ **MAC.APP. 134/2019**

RATAN MAJUMDAR Appellant

versus

VIPUL GOEL & ANR Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Pooja Goel, Advocate

For the Respondents: Mr. A.K. Soni and Mr. Pavan Kumar, Advocates for R-2

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

CM APPLN. 32467/2021 (direction)

1. The hearing was conducted through video conferencing.
2. This is an application on behalf of the appellant seeking a remit for the purpose of leading additional evidence on behalf of the appellant.
3. Issue notice. Notice is accepted by learned counsel appearing for respondent no. 2.
4. Since there is no dispute with regard to the liability of the

MAC.APP. 134/2019

Page 1 of 4

Signature Not Verified

Digitally Signed By: KUNAL
MAGGU
Signing Date: 21.09.2021 08:23:43
This file is digitally signed by PS
to HMJ Sanjeev Sachdeva.

Digitally Signed
By: JUSTICE SANJEEV
SACHDEVA
Signing Date: 20.09.2021
21:59

insurance company, vis-à-vis, driver and owner of the vehicle, service of respondent no. 1 is dispensed with.

5. For the reasons stated in the application, the appeal is taken up for final disposal with the consent of the parties today itself. Next date 17.11.2021 is cancelled.

MAC.APP. 134/2019

1. Appellant impugns award dated 11.09.2018.
2. Learned counsel for the appellant submits that at the time when the impugned judgment was passed, the disability certificate was not available as the claimant has not been examined by a disability board.
3. Learned counsel submits that by order dated 22.01.2019 in CM APPL. 3120//2019, this Court had directed the Medical Superintendent of Jag Parvesh Chandra Hospital to constitute a medical board to assess the permanent disability of the appellant, if any and to submit a report to this Court.
4. Learned counsel points out that pursuant the said directions, the Medical Superintendent by its letter dated 05.02.2019 has forwarded the disability certificate and has assessed 40% permanent disability in relation to the lower limbs.

5. Learned counsel further submits that at the time of leading evidence, the educational record of the appellant was not available and subsequently the same has been traced out and placed on record.

6. It is noticed from the impugned award that there is no discussion with regard to the permanent disability or grant of future loss of income, if any, to the appellant.

7. The tribunal has also noticed in the award that there was no record produced with regard to his academic status and accordingly the monthly income was notionally assessed on the benchmark of prevalent minimum wage of unskilled workers.

8. Since as per the medical examination of the medical board, appellant has sustained 40% permanent disability in relation to both his lower limbs, in my view, it is a fit case for a remit to the tribunal to assess the compensation with regard to future loss of income. Further, since appellant claims to have traced out the educational documents, tribunal shall also revisit the award based on evidence that may be produced by the appellant and reassess the income, if so warranted.

9. In view of the above, impugned award dated 11.09.2018 is set aside. The matter is remitted to the tribunal to permit the appellant to

lead additional evidence with regard to the permanent disability and the academic status of the appellant.

10. After taking evidence of the parties, the tribunal shall pass a fresh award.

11. Parties shall appear before the tribunal on 22.10.2021.

12. Original disability certificate furnished to this Court be handed over to learned counsel for the appellant in accordance with the rules after the appellant has placed on record a certified copy of the same as per rules.

13. The amount that has already been released to the appellant, under the original award, shall be appropriately taken into account by the tribunal while reassessing compensation, if any.

14. Appeal is disposed of in the above terms.

15. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J

SEPTEMBER 20, 2021/‘rs’