

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

Date of Reserve: 20<sup>th</sup> May, 2010

Date of Order: 5<sup>th</sup> July, 2010

**+ MAC Appeal No. 319/2010**

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**05.07.2010**

**Shyam Kumar**

**... Appellant**

Through: Nemo

Versus

**Sandeep Kumar & Anr.**

**... Respondents**

Through: Mr. Brijesh Bagga, Advocate for R-2

**JUSTICE SHIV NARAYAN DHINGRA**

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

**JUDGMENT**

**CM No. 8945/2010 (exemption)**

Allowed subject to all just exceptions.

**CM No. 8944/2010 & CM No. 8946/2010 (Delay)**

The applications are allowed for the reasons stated therein.

**MAC Appeal No. 319/2010**

By the present appeal, the appellant has assailed the quantum of compensation awarded to him by the Motor Accident Claims Tribunal vide award dated 8<sup>th</sup> October, 2009.

2. The appellant was a student of XI Class aged 17 years at the time of accident and fractured his right leg as a result he was treated at Trauma Center Lok Nayak Hospital where he remained admitted from 9<sup>th</sup> July, 2008 to 19<sup>th</sup> July, 2008. He admitted that his treatment at Trauma Center was free of charge however, he had to purchase some medicines and he produced bills of Rs.5399/-. The Tribunal

awarded him a sum of Rs.10,000/- against cost of medicines, implant and future treatment. Another Rs.10,000/- was awarded towards pain and agony, Rs.5000/- towards loss of studies and Rs.3,000/- towards special diet and conveyance. He (Appellant) was issued a certificate by Medical Board of Hindu Rao Hospital stating that he suffered 20% permanent disablement of his right leg. The Tribunal considered his disability for entire body as 10% and taken into account a multiplier of 18 and wages of a skilled workman of Rs.4081/-, calculated loss of income as Rs.88,149.60 and thus, the Tribunal awarded a total sum of Rs.1,26,150/- to the appellant.

3. The appellant has assailed the order on the ground that the grant of Rs.88,149.60 towards loss of future earning was too low and the Court should have considered his disability at 20% instead of 10%. I do not agree with the Counsel for the appellant. 20% disablement was only in respect of one leg of the injured and because of this injury of the appellant his total earning capacity may not even be reduced at all. The future is always uncertain. It is not necessary that the appellant had to be labourer or manual worker in future. It is quite probable that the appellant disability of 20% in right leg may not stand in his future career. However, since the disability has been suffered, the learned Tribunal rightly considered 10% disablement of overall body and calculated loss of income on the basis of wages of a skilled workman.

I find no infirmity in the award. The appeal is hereby dismissed.

**July 05, 2010**  
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**SHIV NARAYAN DHINGRA, J.**