

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 7115 OF 2017  
[ARISING OUT OF S.L.P. (C) NO.15620 OF 2016]**

**DIXIT KUMAR & ANOTHER** **...APPELLANTS**

**VERSUS**

**OM PRAKASH GOEL** **...RESPONDENT**

**WITH**

**CIVIL APPEAL NO. 7132 OF 2017  
[ARISING OUT OF S.L.P. (C) NO.7979 OF 2017]**

**ORDER**

Leave granted.

**2.** Both these appeals witness a challenge to the judgment and order dated 25.01.2016 rendered by the High Court of Delhi in MAC Appeal No.358/2011 preferred by the appellants Dixit Kumar and Nitin Kumar (hereinafter referred to as the “opposite party”) against the award dated 18.12.2010 of the Motor Accident Claims Tribunal, Delhi (hereinafter referred to as the “Tribunal”) in MACT No.1084/2004 (old No.543/2003). By the impugned judgment and order the High Court has reduced the amount of compensation of Rs.15,51,030/- granted by the Tribunal to Rs.7,90,000/-. The claim petition was made before the

Tribunal by the respondent Om Prakash Goel (hereinafter referred to as the “claimant”) through his son/next friend Vikas Goel under Sections 166 and 140 of the Motor Vehicles Act, 1988 claiming Rs.20 lacs as compensation for the injuries suffered by him in the accident involving the Maruti Car No.DL-3C-F-1400 which at the relevant time was driven by the appellant Dixit Kumar. The present appeals are by both the sides, the claimant being aggrieved by the reduction of the award in amount by the High Court and the opposite party in the claim proceedings, by the denial of exoneration of liability.

**3.** We have heard Mr. Lalit Kumar, learned counsel for the opposite party and Mr. Anunaya Mehta, learned counsel for the claimant.

**4.** The facts lie in a narrow compass and provide the essential backdrop of the litigation. On 07.08.2002 at about 7.30 a.m. while the claimant Om Prakash Goel was travelling on the pillion of the scooter No.DL-8S-F-9713 being driven by his son/next friend, Vikas Goel, the Maruti Car referred to hereinabove, being driven rashly and negligently, dashed it from behind, as a result whereof the occupants of the scooter fell down and in the process, the claimant suffered multiple

injuries on his head and also sustained fractures. According to the claimant, though for treatment he was taken to the hospital, the injuries sustained by him wholly left him permanently disabled. The claim petition disclosed that at that time, the claimant was running a business in the name of M/s. Shiv Traders at Peeragari, Delhi and was an Income Tax Assessee.

**5.** In the written statement filed by the opposite party in the claim proceedings, they denied the accident and pleaded that the claim be dismissed. They stated that a similar claim had been made earlier on the same cause of action which was dismissed and that therefore on that ground alone the claim petition was not maintainable.

**6.** Both sides adduced evidence, oral and documentary and the Tribunal returned a finding that the accident did occur due to rash and negligent driving of the Maruti Car and that the claimant Om Prakash Goel had sustained injuries in the same. The Tribunal granted compensation on various heads and in assessing the same, principally took note of the oral and documentary evidence with regard to the physical state of the claimant as a result of the injuries sustained. It took note amongst others of the disability certificate

Ext.PW-2/K proved by the doctor concerned who assessed the permanent physical disability of the claimant to the extent of 50% due to post traumatic hemiparalysis of the left side of the body. The doctor, PW-2 opined that in the kind of permanent physical disability involved, the patient cannot be cured by medicines or surgery. The Tribunal also took into consideration the testimony of PW-1, the son of the claimant to the effect that he (claimant) had been bed ridden and that he had also become 50% mentally retarded following the trauma and the injuries suffered. The Tribunal in addition noted the evidence of PW-1, the son of the claimant that half portion of the body of the claimant had become totally paralyzed so much so that he was left in no state to conduct his business in future. The Tribunal thus assessed the functional disability of the claimant to be 100%. On an overall assessment relating to the injuries suffered, the adverse consequences thereof on the physical state, expenses incurred on medical treatment, loss of income, extent of functional disability and the bearing thereof on the earning capacity of the claimant together with the incidental expenses as well as the general damages, it awarded in all Rs.15,51,030/- as compensation to the claimant together

with interest at the rate of 7.5% per annum thereon from the date of institution of the claim petition.

**7.** Being aggrieved the opposite party in the claim proceedings preferred appeal before the High Court which reduced the quantum of compensation to Rs.7,88,150/- maintaining however the rate of interest at Rs.7.5% per annum payable with effect from 25.05.2004. In quantifying the compensation as above, the High Court reiterated that the accident had occurred due to the rash and negligent driving of the Maruti Car but declined to accept that functional disability of the claimant to the extent of 100% had resulted from the permanent physical disability acquired from the injuries sustained by him. The High Court though noted the testimony of PW-1, the son of the claimant that he (claimant) had become paralytic on one side thus reducing him to a vegetative state and rendering him 100% functionally disabled, did not accept the said version. The High Court noted the age of the claimant at the relevant time to be 54 years and accepted his monthly income of Rs.2680/- per month as had been fixed by the Tribunal. Proceeding on this premise, the High Court thus reduced the quantum of compensation under various heads and even struck off the

award on many counts of non-pecuniary damages, thus reducing the amount of compensation to Rs.7,88,150/-. The notable omission from the heads of compensation granted by the Tribunal apart from the reductions generally made are with regard to compensation on account of inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life as well as loss of recurring inevitable expenses in future. As the calculations would reveal, the High Court substantially reduced the amount of compensation under the heads of loss of income and future earning capacity, loss of enjoyment of amenities of life and attendant charges. It did not take account as well the future medical expenses and prospects of higher earnings in future.

**8.** Whereas the learned counsel for the claimant has urged that the reduction in the quantum of compensation by the High Court in the facts and circumstances of the case is grossly erroneous and if sustained would result in serious prejudice and hardship, it has been insistently argued on behalf of the opposite party that the claim ought to have been rejected *in toto* in view of the earlier dismissal thereof and the failure as well to prove the negligence of the Maruti Car in causing the accident as well as their (opposite party) liability

in law.

**9.** On an evaluation of the materials on record, we are of the view that the concurrent finding of the Courts below on the liability of the opposite party/appellants to bear the compensation does not warrant any interference. It is noticeable that the finding of the learned Tribunal that the claimant had suffered 100% functional disability resulting from 50% permanent physical disability is based on evidence on record. It did in our estimate, meticulously analyze all essential aspects correlated to the fall out of such physical state of the claimant and consciously awarded different sums on account of special and general damages as contemplated in law. Significantly, the Tribunal took the monthly income of the claimant to be Rs.2680/- at par with the prevalent minimum wage on the date of the accident though his claim was that he had an earning of Rs.5000/- per month from his running business. In absence of any dispute that the claimant at the time of the accident did have a business in the name and style of M/s. Shiv Traders for which he used to file income tax returns as well, we are of the comprehension that the income of Rs.2680/- as adopted by the Tribunal was on the lower side.

**10.** In view of the totality of the facts and circumstances and the evidence on records, in our estimate, the quantum of compensation as awarded by the Tribunal, on balancing all relevant factors, was just and reasonable. The learned Tribunal not only had appreciated the materials on record in the correct perspectives, it had been realistic in its approach and was informed as well of the practical realities of life to be encountered by the claimant. Its decision making process in our comprehension is informed with the avowed prescription of just compensation as mandated by law.

**11.** We are thus inclined to interfere with the decision of the High Court and restore the compensation awarded by the Tribunal. We order accordingly. The amount of compensation affirmed hereby would carry interest of 6% per annum from the date of the order of the Tribunal till the payment or realization thereof. Consequently, the appeal filed by the claimant is allowed and the one preferred by the opposite party is hereby dismissed.

.....**J.**  
**[ARUN MISHRA]**

.....**J.**  
**[AMITAVA ROY]**

**NEW DELHI;**  
**MAY 08, 2017.**

ITEM NO.53

COURT NO.12

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).15620/2016

(Arising out of impugned final judgment and order dated 25/01/2016 in MACAP No. 358/2011 passed by the High Court Of Delhi At New Delhi)

DIXIT KUMAR AND ANR.

Petitioner(s)

VERSUS

OM PRAKASH GOEL

Respondent(s)

(With interim relief and office report)

WITH

SLP(C) No. 7979/2017

(With appln for c/delay in filing SLP and Office Report)

Date : 08/05/2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA  
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Lalit Kumar, Adv.  
Mr. Anunaya Mehta, Adv.  
Ms. Arunima Dwivedi, Adv.

For Respondent(s) Mr. Anunaya Mehta, Adv.  
Ms. Arunima Dwivedi, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Delay condoned.

Leave granted.

The Appeals are, allowed in terms of the signed order.

(B.Parvathi)  
Court Master

(Tapan Kr. Chakraborty)  
Court Master

(Signed order is placed on the file)