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

% **Date of Decision: 18th October, 2016**

+ MAC.APP. 638/2016 & CM No.29642/2016 (Stay)

THE NEW INDIA ASSURANCE CO LTD Appellant
Through: Mr. J.P.N. Shahi, Advocate

versus

UMESH TYAGI & ORS Respondents
Through: Mr. O.P. Mannie, Advocate for
respondent No.1.

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The appellant has challenged the award of the Claims Tribunal whereby compensation of Rs.5,24,930/- has been awarded to respondent No.1.
2. The accident dated 3rd February 2014 resulted in fracture of right elbow of respondent No.1. Respondent No.1 underwent two surgeries for closed reduction and wire fixation with hematoma evacuation. Respondent No.1 remained hospitalized on 14th February 2014 and again from 11th August 2014 to 12th August 2014. Respondent No.1 suffered 10% disability with respect to right upper limb. The Claims Tribunal has awarded compensation of Rs.5,24,930/- along with interest @ 12% per annum.

3. Learned counsel for the appellant urged at the time of hearing that compensation awarded is on a higher side. The second ground urged is that rate of interest be reduced from 12% to 9%.
4. Respondent No.1 is present in Court along with his counsel and his condition has been seen. This Court is satisfied that the compensation awarded to respondent No.1 is just, fair and reasonable and it does not warrant any reduction. However, there is merit in the second contention urged by the learned counsel for the appellant that the rate of interest be reduced from 12% to 9%.
5. The appeal is partly allowed to the extent that the rate of interest on the award amount shall be 9% instead of 12%. However, the compensation of Rs.5,24,930/- is upheld.
6. The appellant has deposited Rs.6,43,492/- which includes interest @ 9% per month. UCO Bank, Delhi High Court branch is directed to keep a sum of Rs.5 Lacs in five fixed deposits of Rs.1 Lakh each for the periods 1 year, 2 year, 3 year, 4 year and 5 year. The balance amount, after keeping Rs.5 Lakh in fixed deposit be released to respondent No.1 by transferring the said amount to his savings bank account.
7. The monthly interest on all the FDRs shall be paid to respondent No.1 by transferring the said amount to the savings bank account.
8. At the time of maturity, the fixed deposit amount shall be automatically credited in the savings bank account of the claimant/beneficiary.
9. All the original FDRs shall be retained by UCO Bank, Delhi

High Court Branch. However, the photocopies of the same shall be provided to the claimant/beneficiary.

10. No cheque book or debit card be issued to the claimant/respondent No.1 without permission of this Court.

11. No loan or advance or pre-mature discharge shall be permitted without the permission of this Court.

12. The claimant/respondent No.1 shall approach the UCO Bank for completing the formalities for the disbursement of the award amount in terms of this order.

13. UCO Bank, Delhi High Court Branch shall ensure that the savings bank account of respondent No.1 is individual account and not joint account.

14. The statutory amount be refunded back to the appellant.

15. CM 29642/2016 is disposed of.

16. Copy of this judgment be given *dasti* to counsels for the parties under signatures of the Court Master.

OCTOBER 18, 2016

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J.R. MIDHA, J.