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

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Judgment delivered on: 17th February, 2014

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MAC.APP. 161/2005

VIKAS BHUTANI

..... Appellant

Represented by: Mr. O.P. Mannie, Adv.

Versus

KEDAR SINGH AND ORS.

..... Respondents

Represented by: Mr. Pankaj Seth, Adv.
for R3.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J.

1. The present appeal is directed against the impugned award dated 12.03.2004 whereby, Id. Tribunal has granted compensation for a sum of Rs.11,26,000/- with interest @ 7.5% per annum from the date of filing of the petition till realization of the amount.

2. Vide the present appeal, appellant is seeking enhancement of the compensation amount as noted above.

3. Ld. Counsel appearing on behalf of the appellant has argued that Ld. Tribunal has erred in not awarding any compensation for a period of one year for which the appellant remained under treatment and confined to bed. He was not able to undertake any work during that period. The appellant received disability of 68% of hand component, however, Ld.

Tribunal has considered 40% functional disability while awarding the compensation.

4. Ld. Counsel submitted that the appellant was admitted in the hospital for 5 times and underwent surgeries and procedures. The Discharge Summaries to this effect have been proved as Ex.PW3/2, Ex.PW3/6, Ex.PW3/7, Ex.PW3/10 and Ex.PW3/12 respectively. Thus he underwent treatment from 30.04.2003 to 30.11.2003 including Physiotherapy. However, the Ld. Tribunal has not granted any compensation for the said period.

5. Ld. Counsel further submitted that the appellant was 28 years of age on the date of accident. He was pursuing CA and LLB during that period. Simultaneously, he was working as insurance agent and was also doing clerical work. However, Ld. Tribunal has not added any future prospects.

6. Ld. Counsel further argued that the accident in question had taken place on 13.04.2008. He received injuries as under:-

1. Crush Injury involving right hand and forearm with soft tissue and bony injury.
2. Right Hand De-vascularised.
3. Compound Fracture both bones right forearm.
4. Evolution of thumb & Index Finger with evolution of neurovascular bundle and tendons.
5. Partial Evolution of Third, Fourth and Fifth Finger.
6. Evolution, dislocation of wrist at radiocorpal joint.
7. Spiral fracture of distal phalanx of index finger.

8. Burst Fracture of Ist and IInd M.C. with disruption of CMC joint of thumb.
 9. Profusely Bleeding.
 10. Multiple abrasions and blunt injuries all over the body.
7. To strengthen his arguments, Ld. Counsel for the appellant has relied upon a case of ***N. Manje Gawda v. the Manager, United India Insurance Company Ltd. 2013 (13) SCALE 642*** wherein it is held that:

“Unlike many other professions, legal profession requires not only sharp and focussed mind, but also good health and ability to put in hard work within a limited timeframe. The requirement of impressing the client at the age of 36 is much more. It is only when a young advocate has built a good impression and reputation, then in the evening of his life he may continue to command professional work on the basis of his acquired knowledge and reputation. A young Advocate is bound to suffer huge professional loss on account of injuries as have been sustained by the appellant and the condition in which the Doctor found him.”

8. On the other hand, Ld. Counsel appearing on behalf of the respondent no. 3/insurance company argued that ld. Tribunal has awarded Rs.50,000/- on account of pain and suffering, Rs.4,50,000/- on account of medicines, medical treatments, special diet and conveyance. He received 68% disability of hand component. Therefore, keeping in view the evidence on record, ld. Tribunal has assessed 40% functional disability and accordingly granted the compensation of Rs.5,76,000/- on account of permanent disability.
9. Ld. Counsel further submitted that there is no loss of education as he had completed CA and LLB and he was working with his father in the

family business as his father is a Chartered Accountant.

10. He further submitted that the accident had taken place in 2003. Almost 11 years have already passed. Therefore, considering all the facts and circumstances of the case and evidence into view, Ld. Tribunal has granted sufficient compensation amount in favour of the appellant.

11. Moreover, the appellant had not filed any ITR on record after 2003-2004, whereby, he could have proved that due to the disability received, there was adverse effect on the income of the appellant. There is no material on record by which the appellant could establish that he had the bright future and he would have earned more than what he was earning at the time of accident. Therefore, Ld. Tribunal had not added any income towards the future prospects.

12. He further submitted that the appellant failed to produce any material on record, by which it could be established that till 30.11.2003 he did not earn anything. Therefore, during the period from 30.04.2003 to 30.11.2003, there was no loss on account of not attending the work. The disability was qua one hand, which had not affected his day-to-day affairs. Therefore, no loss was occurred to the appellant due to the injuries suffered in the accident and the Ld. Tribunal had granted sufficient amount in favour of the appellant.

13. I have heard Ld. Counsels for the parties.

14. It is not in dispute that the Ld. Tribunal had assessed the annual income of the appellant as Rs.80,000/- and he remained under treatment for 7 months. Therefore, keeping in view the period for which he underwent the treatment and the injuries received, this Court grants

compensation of Rs.40,000/- for the said period.

15. As the issue of future prospects is concerned, the Full Bench of the Apex Court has decided this issue in the case of ***Rajesh and Ors. Vs. Rajbir Singh and Ors. 2013 (6) SCALE 563***. This Court also relied upon the dictum of ***Rajesh (Supra)*** in the case of MAC. APP. No.846/2011 titled as ***ICICI Lombard General Insurance Co. Ltd. Vs. Angrej Singh & Ors.***, decided on 30.09.2013. Therefore, keeping in view the dictum of ***Rajesh (Supra)*** and age of the appellant, i.e., 28 years, I add 50% of the income of the appellant towards future prospects.

16. The appellant was a young upcoming boy and at the time of accident he was pursuing fourth term of LLB as well as Chartered Accountancy and he qualified the intermediate examination of CA. He was working as LIC agent and as a liaison officer with M/S. Radar Marketing and was earning Rs.10,000/- per month, out of which, he was getting Rs.7,000/- from LIC as commission and Rs.3,000/- from M/S. Radar Marketing. Initially, he remained admitted for 17 days and thereafter got admitted for five times for surgeries and procedures. Thus, in the said year, he could not pursue his study, however, Ld. Tribunal had not granted any amount towards the loss of education of the appellant.

17. As regards the issue of loss of education, it is not disputed that the appellant continued with the treatment from 30.04.2003 to 30.11.2003. He received serious injuries as discussed above. In such a situation, it was not possible for him to pursue his study in the said particular year. Therefore, there was a loss of education for 1 year.

18. Keeping in view the age of the appellant and his upcoming, I grant

Rs.25,000/- towards loss of education.

19. Consequently, the compensation amount comes as under:-

Sl. No.	Heads of compensation	Compensation granted by the Ld. Tribunal.	Compensation granted by this court.
i.	For medicines and Treatment	Rs.4,20,000/-	Rs.4,20,000/-
ii.	Conveyance & diet charges	Rs.30,000/-	Rs.30,000/-
iii.	Loss of income on account of disability	Rs.5,76,000/-	Rs.8,64,000/-
iv.	Loss of amenities & General damages	Rs.50,000/-	Rs.50,000/-
v.	Compensation for pain and suffering	Rs.50,000/-	Rs.50,000/-
vi.	Expenses incurred for follow ups	Nil	Rs.40,000/-
vii.	Loss of Education	Nil	Rs.25,000/-
	Total	Rs.11,26,000/-	Rs.14,79,000/-

Resultantly, the award is assessed at Rs.14,79,000/-

20. Thus, the enhanced compensation comes to Rs.3,53,000/- (Rs.14,79,000 – Rs.11,26,000).

21. The enhanced compensation amount shall carry interest @ 7.5% *per annum* from the date of filing of the claim petition till realization of the amount.

22. Accordingly, the respondent No.3/Insurance Company is directed to deposit the enhanced compensation amount with the Registrar General of this Court within a period of five weeks from today, failing which,

appellant / claimant shall be entitled for penal interest @ 12% *per annum* on account of delayed payment.

23. On deposit, the Registrar General is directed to release the amount in favour of the appellant / claimant in terms of the impugned award dated 21.12.2012 passed by the learned Tribunal on taking necessary steps by him.

24. In view of the above, the appeal is allowed.

SURESH KAIT, J

FEBRUARY 17, 2014

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