

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

% **Date of Decision: 01st August, 2016**

+ **MAC.APP. 542/2016**

BAJAJ ALLIANZ GENERAL INSURANCE CO LTD Appellant
Through: Mr. Rajat Brar, Advocate

versus

PRAMOD KUMAR & ORS Respondents
Through: Mr. Navneet Goel, Advocate

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

JUDGMENT (ORAL)

C.M. Appl. 25675/2016

The delay in filing the appeal is condoned. The application is disposed of.

MAC.APP. 542/2016

1. The appellant has challenged the award for Rs.20,12,500/- passed by the Claims Tribunal in favour of respondent No.1 on the short ground that the Claims Tribunal should not have taken the future prospects of respondent No.1 into consideration.
2. On 16th February, 2015 at 02:45 p.m., respondent No.1 was riding his motorcycle while going from Khel Gaon to Malviya Nagar. When respondent No.1 reached opposite S-137, Panchsheel Park, he was hit by car bearing registration No.DL-1C-K-4444 resulting in grievous injuries. Respondent No.1 was taken to JPN Trauma Centre, AIIMS, where he was operated upon. The injuries suffered by respondent No.1 has resulted in 22% permanent disability in respect of right lower limb. Respondent No.1 was aged 43 years at the time of the accident and was doing the work of air-

conditioner repairs earning Rs.19,000/- per month. The respondent No.1 remained out of work for four months and the Claims Tribunal awarded Rs.76,000/- (Rs.19,000 x 4) towards the loss of income for four months. The Claims Tribunal took the functional disability of respondent No.1 as 50% and awarded loss of future income as Rs.15,96,000/- (Rs.19,000 x 12 x 14 x 50%) by applying the multiplier of 14. The Claims Tribunal awarded Rs.50,000/- towards pain and sufferings, Rs.10,000/- towards special diet, Rs.10,000/- towards conveyance, Rs.15,000/- towards attendant charges and Rs.50,000/- towards loss of amenities. The total compensation awarded is Rs.20,12,500/-.

3. Respondent No.1 is present in Court and his injuries have been seen by the Court as well as learned counsel for the appellant. Respondent No.1 submits that he used to drive a two wheeler for going to the repairs of air-conditioners which he is unable to drive now due to the permanent disability. He further submits that he finds difficulty in balancing the body while walking due to the permanent disability. He further submits that his income of Rs.19,000/- per month at the time of the accident has come down to about Rs.15,000/- per month. Respondent No.1 has a family comprising of himself, his wife, unmarried sister and three children.

4. On hearing the parties at length, this Court is satisfied that the compensation awarded to respondent No.1 is fair and reasonable. There is no infirmity in taking the future prospects by the Claims Tribunal in awarding the compensation.

5. The appeal is dismissed. However, the disbursement of the award done by the Claims Tribunal is modified. The appellant shall deposit the entire award amount along with upto date interest within four weeks with State Bank of India, Saket Court Branch, New Delhi, by means of a cheque drawn in the name of SBI A/c Pramod Kumar, whereupon State Bank of

India shall keep a sum of Rs.20,00,000/- in fixed deposit in the following manner: -

SR. NO.	DURATION OF FDR	<u>RESP. 1</u> FDR AMOUNT (RS.)
1.	1 year	2,00,000/-
2.	2 years	2,00,000/-
3.	3 years	2,00,000/-
4.	4 years	2,00,000/-
5.	5 years	2,00,000/-
6.	6 years	2,00,000/-
7.	7 years	2,00,000/-
8.	8 years	2,00,000/-
9.	9 years	2,00,000/-
10.	10 years	2,00,000/-
TOTAL		20,00,000/-

6. The balance amount shall be released to respondent No.1 by transferring the said amount to his savings bank account.

7. Monthly interest on the FDRs shall be credited in the savings bank account of respondent No.1.

8. All the original FDRs shall be retained by State Bank of India, Saket Court Branch, New Delhi. However, the photocopies of the same shall be provided to the respondent No.1. At the time of maturity, the fixed deposit amount shall be automatically credited in the saving bank account of the Claimant(s).

9. No cheque book be issued to the claimant without permission of the Court.

10. No loan or advance on pre-mature discharge shall be permitted

without the permission of this Court.

11. The respondents shall approach the State Bank of India for completing the formalities for the disbursement of the award amount in terms of this order.

12. State Bank of India, Saket Court Branch, New Delhi shall ensure that the savings account of respondent No.1 is individual account and not joint account.

13. The claimant/respondent is at liberty to approach this Court for release of further amount in case of any financial exigency.

14. The appellant shall file the affidavit giving the computation of interest upto the date of deposit along with proof of deposit with the Registrar General of this Court whereupon the statutory amount deposited by the Court shall be released.

15. Copy of this order be sent to State Bank of India, Saket Court Branch, New Delhi.

16. Copy of this order be given *dasti* to learned counsel for the appellant under signature of Court Master.

C.M. Appl. 25673/2016

This application is dismissed.

J.R. MIDHA, J.

AUGUST 01, 2016

rsk