

\$~R-587

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 29th November, 2017

+ MAC. APPEAL 952/2012

RAJESHWARI

..... Appellant

Through: Mr. S.N. Parashar, Advocate.

versus

PAPU SAHANI & ORS

..... Respondents

Through: Mr. A.K. Soni, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The appellant was 39 years old, earning her livelihood as a maid servant, when she suffered injuries in a motor vehicular accident, that occurred on 18.07.2010 due to negligent driving of tempo bearing registration No. DL-1LG-9915, which was insured against third party risk with the third respondent for the period in question. On her accident claim case (Suit No. 1091/10), instituted on 21.08.2010, after inquiry the Tribunal rendered its judgment dated 02.02.2012, awarding compensation in the sum of Rs.4,62,000/- directing the insurer to pay with interest at the rate of 9% per annum, calculating it thus:-

S.No.	Heads	Compensation
1.	Medical expenses	Rs.35,000/-
2.	Future expenses	Rs.15,000/-
3.	Pain & Sufferings and Enjoyment of Life	Rs.50,000/-
4.	Special diet, conveyance charges	Rs.15,000/-
5.	Attendant charges	Rs.10,000/-
6.	Loss of Income	Rs.32,000/-
7.	Future Loss of Income	Rs.2,85,000/-
8.	Loss of Amenities	Rs.20,000/-

2. The appeal at hand is filed and pressed with the grievance that in calculating the future loss of income due to functional disability assessed at 30% the Tribunal did not include the element of future prospects. The claimant also seeks enhanced non-pecuniary damages under the heads of pain and suffering and loss of amenities of life.

3. Following the ruling of a Constitution Bench of the Supreme Court rendered on 31.10.2017 in *SLP (C) 25590/2014, National Insurance Company Ltd. Vs. Pranay Sethi and Ors.*, the element of future prospects of increase in income to the extent of 40% deserves to be added. Thus, the loss of future income due to disability is re-computed as $(5278 \times 140/100 \times 30/100 \times 12 \times 15)$ Rs.3,99,016.80 rounded off to Rs.4,00,000/-.

4. Having regard to the fact that the claimant had suffered pelvic fracture with haemo and pneumoperitoneum left renal injury and had to undergo prolonged treatment and also keeping in mind the

aftermath suffered, the awards under the heads of pain and suffering and loss of amenities of life are increased to Rs.75,000/- each.

5. Putting together all the heads of damages including on other counts as calculated by the Tribunal, the total compensation comes to (35,000 + 15,000 + 75,000 + 15,000 + 10,000 + 32,000 + 4,00,000 + 75,000) Rs.6,57,000/- (Rupees Six Lakhs and Fifty Seven Thousand Only). The award is enhanced accordingly. It shall carry the interest as levied by the Tribunal.

6. The third respondent (insurer) is directed to satisfy the enhanced award with requisite deposit before the Tribunal within 30 days, such amount to be released to her in the form of interest bearing fixed deposit receipt taken out from a nationalized bank for a period of ten years with right to draw periodic interest.

7. The appeal stands disposed of accordingly.

NOVEMBER 29, 2017

srb

R.K.GAUBA, J.