

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

Date of Decision: September 14, 2018

+ **MAC.APP. 344/2013**

BAHADUR SINGH

..... Appellant

Through: Mr. Sanjeev Srivastava, Advocate

versus

MANISH KUMAR KAIN & ORS.

..... Respondents

Through: Mr. Pankaj Gupta, Advocate for
Ms. Suman Bagga, Advocate for
respondent-Insurer

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

(ORAL)

1. Impugned Award of 5th May, 2012 grants compensation of ₹27,10,386/- with interest @ 7.5% *per annum* to *Bahadur Singh (hereinafter referred to as 'Injured')*, aged 40 years, on account of grievous injuries suffered by him in a vehicular accident, which took place on 24th September, 2006. The facts, as noticed in the impugned Award, are as under:-

“Present claim petition has been filed for compensation in sum of Rs.5,00,000/- by petitioner for self injuries sustained by him in an accident which took place on 24.09.2006 at about 10.30 pm. The petitioner along with his colleague Sh. Virender Kumar Chauhan were coming back from Mohan Singh Market and when they reached near bus stand R.K. Puram, one Motorcycle bearing DL-3SAY-0634

being driven by its driver in rash and negligent manner came from Sangam Cinema Side and hit the victim. As a result of which, petitioner fell down and sustained grievous injuries. The petitioner was removed to Safdarjung Hospital and was admitted under MLC no. 199898 dated 24.09.2006. An FIR no. 631/06 with police station R.K. Puram was registered for this accident under section 279/337 IPC against driver/first respondent Manish Kumar.”

2. To render the impugned Award, learned Motor Accident Claims Tribunal (*hereinafter referred to as “the Tribunal”*) has relied upon evidence of injured and as per Disability Certificate, injured had sustained permanent disability of 83% in relation to post head injury left sided hemiparesis with seizure disorder. The breakup of compensation awarded by the Tribunal to the Injured is as under:-

<i>Head of Compensation</i>	<i>Amount</i>
<i>Loss of future income on account of permanent disability</i>	₹26,08,788.00
<i>On account of medical expenses</i>	₹11,598.00
<i>Pain & Suffering</i>	₹40,000.00
<i>Loss of amenities and enjoyment of life</i>	₹30,000.00
<i>Special Diet</i>	₹10,000.00
<i>Conveyance</i>	₹10,000.00
<i>Total</i>	₹27,10,386.00

3. Learned counsel for appellant-*Injured* seeks enhancement of compensation awarded on the ground that quantum of compensation granted by the Tribunal under the ‘*non-pecuniary heads*’ is inadequate and the Tribunal has erred in making addition of 30% only towards ‘*future prospects*’ and infact addition ought to be 50%. It is submitted

that due to the injuries sustained by Injured in this accident, he has been discharged from service at the age of about 43 years in December, 2010. Thus, it is submitted that the quantum of compensation granted by the Tribunal to Injured needs to be suitably enhanced.

4. On the contrary, learned counsel for respondent-*Insurer* supports the impugned Award and maintains that the compensation granted by the Tribunal to Injured is just and proper.

5. Upon hearing and on perusal of impugned Award and the evidence on record, I find no case for varying the addition made by the Tribunal towards '*future prospects*' is made out. The multiplier applied by the Tribunal is correct and the compensation under the head of '*loss of future income on account of permanent disability*' determined by the Tribunal does not call for any interference. Even the '*medical expenses*' granted by the Tribunal are proper. However, the compensation granted by the Tribunal under the '*non-pecuniary heads*' appears to be on lower side. In the facts and circumstances of this case, compensation granted by the Tribunal under the head of '*pain and suffering*' is enhanced from ₹40,000/- to ₹1,00,000/- and the compensation awarded under the head of '*loss of amenities and enjoyment of life*' is enhanced from ₹30,000/- to ₹1,00,000/-. However, the compensation granted by the Tribunal under other heads is found to be just and proper and is thus maintained. In view of aforesaid, the compensation payable to the Injured is reassessed as under: -

Head of Compensation	Amount
Loss of future income on account of permanent disability	₹26,08,788/-

On account of medical expenses	₹11,598/-
Pain & Suffering	₹ 1,00,000/-
Loss of amenities and enjoyment and life	₹ 1,00,000/-
Special Diet	₹ 10,000/-
Conveyance	₹ 10,000/-
Total	₹ 28,40,386/-

6. Consequentially, the compensation amount payable to Injured stands enhanced from ₹27,10,386/- to ₹28,40,386. The enhanced compensation be deposited by Insurer with the Tribunal within four weeks from today. A Three Judge Bench of Supreme Court in a recent decision of *Jagdish v. Mohan and Others*, (2018) 4 SCC 571 has granted interest @ 9% *per annum* on the awarded compensation and so, appellant is also entitled to interest @ 9% *per annum*. As such, the re-assessed compensation shall carry interest @ 9% *per annum* and it be disbursed in the manner already indicated in the impugned Award.

7. With aforesaid directions, this appeal is disposed of.

(SUNIL GAUR)
JUDGE

SEPTEMBER 14, 2018

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