

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

Date of Decision: July 11, 2018

+ **MAC.APP.125/2013**

BRIJ LAL VERMA

..... Appellant

Through: Mr. Vijay K. Wadhwa, Advocate

Versus

MAN MOHAN SINGH & ANR.

.... Respondents

Through: Mr. A.K. Soni and Mr. Pavan,
Advocates for respondent No.2-Insurer

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 19th March, 2011 grants compensation of ₹2,89,600/- with interest @ 7.5 % *per annum* to respondent/injured-Brij Lal Verma, aged 51 years, on account of grievous injuries suffered by him in a vehicular accident, which took place on 13th May, 2010. The facts emerging from the record are as under:-

On day of 13.5.2010 at about 9.30 p.m., the Brijlal Verma was crossing the road at Outer Ring Road, Near CNG Pump, Opp. Gandhi Vihar, Delhi, while on foot, then all of a sudden a Motor Cycle bearing regn. No. DL-8S-AQ-5449, which was being driven by the respondent no. 1, came at a very high speed, in rash and negligent manner, in violation of all traffic rules & norms and hit the appellant with forceful impact and caused a dreadful accident.

As a result of the aforesaid accident, the Brijlal Verma sustained fractures on both bones of his right forearm, compound fractures on his left proximal tibia, severe chest injury and also sustained abrasions, wounds and other grievous injuries all over his body.

2. To render the impugned Award, learned Motor Accident Claims Tribunal (*hereinafter referred to as “the Tribunal”*) has relied upon evidence of injured and the documentary evidence. The breakup of compensation awarded by the Tribunal is as under:-

Head of Compensation	Amount (in Rs.)
Medical Expenses	Rs.87,300/-
Special Diet and conveyance	Rs.12,000/-
Loss of Income	Rs.90,300/-
Pain & Suffering	Rs.1,00,000/-
Total	Rs.2,89,600/-

3. In this appeal, appellant has led additional evidence regarding medical treatment undertaken by him on three occasions and the total expenses incurred are to the tune of ₹75,220/-. Appellant in his additional evidence has relied upon estimate bill of ₹80,000/- for the surgery to be performed on him. In the additional evidence, appellant has also claimed compensation on account of 152 days leave taken by him to undergo the medical treatment during the pendency of this appeal. Learned counsel for appellant submits that appellant is also entitled to compensation of ₹77,981/- on account of ‘*loss of income*’. In this appeal, compensation on account of ‘*treatment*’ and ‘*pain and suffering*’ undergone by appellant is also claimed. Lastly, enhancement of rate of interest from 7.5% *per annum* is sought on the compensation awarded by the Tribunal as well as

on the compensation now sought by appellant before this Court on the basis of additional evidence led. He submits that in the face of additional evidence led, adequate compensation deserves to be granted to appellant.

4. On the contrary, learned counsel for respondent-Insurer submits that there is no medical advice to appellant to undertake the medical treatment. It is also pointed by him that no evidence has been led by appellant and in the appeal, no compensation under the head of '*pain and suffering*' or '*special diet*', etc. has been claimed and so, this appeal deserves to be dismissed.

5. Upon hearing and on perusal of impugned Award and the evidence on record as well as additional evidence led by appellant, I find that in view of additional evidence regarding appellant's discharge from St. Stephen's Hospital on 22nd December, 2011, there is discharge summary (*Annexure A-4*). There is another discharge summary (*Annexure A-5*) on record which indicates that appellant's admission in hospital was on 12th January, 2012 and after treatment, he was discharged from hospital on 15th January, 2012. Another discharge summary (*Annexure A-6*) reveals that appellant was admitted in the hospital on 1st March, 2012 and was discharged on 9th March, 2012 after surgical operation. Authenticity of afore referred documents is not in dispute and so formal proof is dispensed with. In view of medical bills (*Ex.AW1/E colly.*), ₹75,220/- as medical expenses is granted.

6. In view of Estimate (*Ex.AW1/F*) issued by Doctor from Department of Orthopaedics of St. Stephen's Hospital, Tis Hazari, Delhi, I find that appellant is entitled to an amount of ₹80,000/- towards implant in right forearm. However, it is made clear that expenses of ₹80,000/- for

the implant would be directly released to the concerned hospital after submission of the requisite documents. Office Orders issued by the employer of appellant reveals that appellant, from time to time, had availed 152 days' leaves between October, 2011 and July, 2012 and so, compensation payable on account of '*loss of income*' for this period is assessed at ₹77,981/-.

7. In the additional evidence led, no compensation under the head of '*pain and suffering*' and '*special diet*' has been claimed by appellant and rightly so. In view of aforesaid, the compensation payable to appellant is assessed as under: -

1. Loss of income during treatment period	- ₹77,981/-
2. Medical expenses	- ₹75,220/-
3. Future medical expenses	- ₹80,000/-
Total	- ₹2,33,201/-

8. 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* on the compensation, except under the head of '*future medical expenses*', granted in light of additional evidence. Appellant shall be also entitled to interest @ 9% *per annum* on the compensation awarded by the Tribunal. Six weeks' time is granted to Insurer to deposit the awarded compensation under the head of '*loss of income during treatment period*' and '*medical expenses*' with the Tribunal and thereafter, it be released to appellant forthwith. As regards compensation under the head of '*future medical expenses*', the Insurer shall directly release the amount of ₹80,000/- as and when called by the

concerned Hospital. Statutory deposit, if any, be refunded to Insurer.

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

(SUNIL GAUR)
JUDGE

JULY 11, 2018

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