

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

Date of Decision: September 20, 2018

+ **MAC.APP. 758/2017**

SHIV LAL PASWAN

..... Appellant

Through: Mr. Manish Maini, Advocate

Versus

HARSHIT NAGPAL & ORS

....Respondents

Through: Mr. Sameer Nandwani, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

1. Impugned Award of 1st February, 2017 grants compensation of ₹3,82,702/- with interest @ 10 % *per annum* to appellant-Shiv Lal Paswan (hereinafter referred to as 'Injured'), aged 36 years, working as COMI-I with Haldiram Ethnic Food Pvt. Ltd., who had suffered grievous injuries in a vehicular accident, which took place on 19th October, 2013. The facts, as noticed in the impugned Award, are as under:-

“Shiv Lal Paswan gave his statement to the police that on 19.10.2013 at 6.40 p.m. he was standing at crossing, near Holiday Inn, where one car bearing no. DL-13C-2946 came in a high speed and in a rash and negligent manner hit against scooty and thereafter hit against him as a result he fell down and sustained injuries. He saw that car rammed into rickshaw as a result rickshaw puller fell down on the road and rickshaw was badly damaged. The car driver along with car fled towards Vivek Vihar. Someone informed the

police. Ambulance removed him to Dr. Hedgewar Hospital. The rickshaw puller was also brought to Dr. Hedgewar Hospital who was declared brought dead. FIR no. 337/13, PS, Anand Vihar, Delhi was recorded against respondent no.1. The accident has taken place due to rash and negligent driving of respondent no.1. Usual investigation was carried out and detailed accident reports pertaining to Md. Savir and injured Shiv Lal Paswan are filed. Shiv Lal Paswan has not filed the separate petition so his DAR is treated as petition.”

2. To render the impugned Award, learned Motor Accident Claims Tribunal (*henceforth referred to as “the Tribunal”*) has relied upon evidence of Injured- *Shiv Lal Paswan* and other evidence on record. The Tribunal has noted in the impugned Award that Injured- *Shiv Lal Paswan* had suffered 22% permanent disability and has assessed the functional disability to be 11%. The Tribunal has also noticed that on the day of the accident, Injured- *Shiv Lal Paswan* was drawing salary of ₹11,160/- *per annum*. Multiplier of 15 has been applied by the Tribunal and the ‘*loss of earning capacity*’ has been assessed at ₹2,20,968/-. The breakup of compensation awarded by the Tribunal to the Injured is as under:-

1.	<i>Compensation towards pain and sufferings</i>	₹45,000/-
2.	<i>Compensation towards medical bills</i>	₹5,094/-
3.	<i>Loss of earning capacity due to disability</i>	₹2,20,968/-
4.	<i>Loss of earning for a period of 4 months</i>	₹44,640/-
5.	<i>Attendant charges for 2 months</i>	₹7,000/-
6.	<i>Special diet and conveyance</i>	₹10,000/-
7.	<i>Compensation towards loss of amenities and enjoyment of life</i>	₹25,000/-
8.	<i>Compensation towards disfigurement</i>	₹25,000/-
	<i>Total</i>	₹3,82,702/-

3. In this appeal, enhancement in the quantum of compensation awarded by the Tribunal is sought by Injured- *Shiv Lal Paswan* on the ground that the compensation granted is inadequate. It is submitted that the Tribunal has erred in not making any addition towards '*future prospects*' of Injured- *Shiv Lal Paswan*, whereas in view of Supreme Court's Constitution Bench decision in *National Insurance Co. Ltd. Vs. Pranay Sethi & Ors.* (2017) 16 SCC 680, addition of 50% towards '*future prospects*' ought to be made, as due to the permanent disability suffered by the Injured, his '*future prospects*' have been adversely affected. In support of above submissions, reliance is placed upon Supreme Court's decisions in *Jagdish Vs. Mohan & Ors.* (2018) 4 SCC 571 and in Civil Appeal No. 6071/2018 *Shashi Chandan Vs. Ramesh Chander & Anr.*, rendered on 5th July, 2018.

4. On the contrary, learned counsel for Insurer submits that the quantum of compensation granted by the Tribunal is just and proper and no case for its enhancement is made out and so, this appeal deserves dismissal.

5. Upon hearing and on perusal of impugned Award, evidence on record and decisions cited, I find that reliance placed upon decisions in *Jagdish* and *Shashi Chandan (Supra)*, is of no assistance to the case of Injured, as Supreme Court therein has made addition towards "*future prospects*" while relying upon Supreme Court's Constitution Bench decision in *National Insurance Company Ltd. Vs. Pranay Sethi & ors.* (2017) 16 SCC 680. Another Bench of Supreme Court while dealing with the case of injury in *Anant son of Sidheshwar Dukre Vs. Pratap son of*

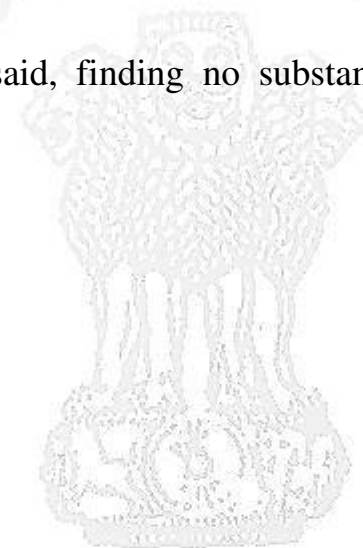
Zhamnnappa Lamzane & Anr. 2018 (10) SCALE 130, has not made any addition towards “*future prospects*”. It is a matter of record that Supreme Court’s Constitution Bench decision in *Pranay Sethi (Supra)*, had not dealt with injury case and so, no addition towards “*future prospects*” can be made. In the considered opinion of this Court, compensation granted to Injured by the Tribunal under the other heads is also found to be just and adequate. No case for enhancement is made out. In the absence of cross-objections by the Insurer, the rate of interest granted by the Tribunal is not disturbed.

6. In view of aforesaid, finding no substance in this appeal, it is dismissed.

(SUNIL GAUR)
JUDGE

SEPTEMBER 20, 2018

r



सत्यमेव जयते