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

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Decided on: 18.09.2019

+ MAC.APP. 74/2019

HIRA SINGH

..... Appellant

Through: Mr. Shekhar Aggarwal, Advocate.

versus

ANSAR AHMAD & ORS

..... Respondents

Through: Mr. Parveen Kumar Mehdiratta,
Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 03.07.2018 passed by learned MACT in Suit No. 75999/2016. The limited relief sought in this appeal is that the appellant/claimant who has suffered 70% permanent disability apropos his left lower limb was considered to be functionally disabled upto only 35%.

2. The learned counsel for the insurance company contends that since the claimant was working as a Data Entry Operator, his employment would not suffer as he has now been re-employed by the same employer after his motor accident. The appellant's movement has been constricted due to the amputation of his left leg. For the rest of his life he would move about only with the assistance of crutches and/or with the aid of a prosthetic limb.

3. In a similar case titled ***The New India Assurance Co. Ltd. vs. Hira Singh & Ors.*** (MAC APP. No. 968/2018) this Court has held :

“This Court agrees with the said reasoning and conclusion because the injured would have a perpetual constricted movement due to his amputated left leg. He would move about only with the assistance of crutches or a prosthetic limb for the rest of his life. He would physically not be a complete man that he was earlier. His inability to move around as swiftly and freely as before would to some extent adversely affect his professional growth and employability. The restriction of functional disability to 35% in view of 70% permanent disability of his left lower limb, calls for no interference....”

4. Likewise in the present case, the assessment of functional disability apropos whole body at 35% vis-a-vis 70% permanent disability in the left lower limb calls for no interference. The injured will be able to move about and carry out his essential activities and to eke out some livelihood. His services as a Data Entry Operator are not fundamentally affected by the amputation and are otherwise secured. The appellant contends that compensation towards ‘loss of future income’ has not been computed by the learned Tribunal, in terms of the dicta of the Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi & Ors.*** (2017) 16 SCC 680. The appellant is not in permanent employment. His disability will to some extent affect his mobility and future development in job and job prospects. Therefore, he is entitled to and is granted compensation for ‘loss of future prospects’ @ 35%, because he was 40 years of age at the time of the motor accident.

5. The additional amounts shall be paid by the insurance company to the appellant, at the same rate of interest and from the same date as mentioned in the Award, within three weeks from the date of receipt of copy of this order, to be disbursed to the beneficiary(ies) of the Award, in terms of the scheme of disbursement specified therein.

6. The appeal stands disposed-off in the above terms.

SEPTEMBER 18, 2019/RW

NAJMI WAZIRI, J

न्यायमेव जयते