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

+ MAC.APP. 321/2019 & CM APPL. 9981-9982/2019

SH. ASHISH SAGAR Appellant

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

versus

SH. NAIM KHAN & ORS (HDFC ERGO GENERAL
INSURANCE CO LTD) Respondent

Through : Mr. Sameer Nandwani, Advocate
for R-3.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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15.03.2019

1. The appellant assails the impugned judgment – Award dated 20.08.2018 passed by the MACT-1 (Central), THC, Delhi, where-under, for the injuries sustained by the appellant, while travelling in the offending vehicle, the following amounts have come to be awarded :-

<i>NAME OF HEAD</i>	<i>AMOUNT (In Rs.)</i>
<i>Loss Of Income</i>	62,868/-
<i>Medical Expenses</i>	16,544/-
<i>Conveyance charges</i>	15,000/-
<i>Special Diet</i>	25,000/-
<i>Attendant Charges</i>	25,000/-
<i>Loss of earning capacity due to disability</i>	11,08,976/-
<i>Mental & Physical shock</i>	40,000/-

<i>Pain & suffering</i>	70,000/-
<i>Loss of amenities of life</i>	20,000/-
<i>Loss of marriage prospects</i>	40,000/-
<i>Loss of inconvenience/hardship/ Disappointment/mental stress</i>	35,000/-
Total	14,58,388/-

2. During the course of hearing, it emerges that the offending vehicle was being driven and occupied by the occupants, which includes the appellant, who were all drunk and taking note of the totality of the facts and circumstances, the Tribunal, while assessing the compensation, has deducted the total assessed Award by 25% towards contributory negligence. At this stage, Mr. Parashar, learned counsel for the appellant, submits that he has instruction to not agitate to the issue of such deduction and few other heads of the Award, but, for the compensation awarded towards (i) pain and suffering; (ii) loss of amenities of life; (iii) loss of marriage prospects; and (iv) loss of inconvenience/hardship/ disappointment/mental stress, which have come to be awarded in the sum of (i) Rs.70,000/-; (ii) Rs.20,000/-; (iii) Rs.40,000/-; and (iv) Rs.35,000/- respectively.

3. Mr. Nandwani, learned counsel for the respondent no.3 – insurance company, on his part, submits that the compensation awarded against such heads is sufficient. He is however, at pains to justify such submission.

4. In 2016 ACJ 2132, **National Insurance Company Limited vs. Salma Farheen & Ors.**, this Court had awarded a compensation of Rs.2,00,000/- towards marriage prospects of a girl, who had suffered 50% permanent physical disability in respect of movement of right knee besides suffering

mental disability. In 2018 ACJ 547 *Ankur Kapoor vs. Oriental Insurance Company Limited*, the Supreme Court has awarded compensation of Rs.3,00,000/- towards marriage prospects and loss of amenities to a boy, aged 22 years, who had suffered 50% permanent disability to his right arm besides other injuries.

5. In the case in hand, the Tribunal has concluded that the appellant has suffered 35.56% permanent disability in relation to his whole body and taking into account the totality and facts and circumstances, it is considered just and proper that the compensation towards the marriage prospects of the appellant is enhanced to Rs.1,00,000/-. In view thereof, towards the loss of marriage prospects, enhancement from Rs.40,000/- to Rs.1,00,000/- is considered, just and proper. It is also an undisputed fact that the injured-appellant was hospitalized for a period of 18 days and has suffered permanent disability. It also emerges that during the period of his treatment, the appellant also underwent physiotherapy, but, no amount there-against has come to be awarded. Taking into account the totality of facts and circumstances, it is considered appropriate that the amount against the following three heads, excluding the head of pain and suffering, be enhanced, as follows :

S.No.	Heads	Amount awarded by the Tribunal	On enhancement by this Court
(i)	Loss of amenities of life	Rs.20,000/-	Rs.70,000/-
(ii)	Loss of marriage prospects	Rs.40,000/-	Rs.1,00,000/-

(iii)	Loss of inconvenience /hardship/disappointment /mental stress	Rs.35,000/-	Rs.55,000/-
	Total	Rs.95,000/-	Rs.2,25,000/-

6. The enhanced Award amount, in all, thus comes to Rs.1,30,000/- (Rupees One lakh Thirty Thousand Only). The impugned Award is modified to said effect, which shall be disbursed by the Tribunal, in consonance with the terms and condition of the Award. The enhanced Award amount shall be deposited within 30 days from today, failing which, it shall attract interest @ 9% per annum.

7. The appeal and pending applications stand disposed of accordingly.

8. *Dasti* under signatures of the Court Master.

A. K. CHAWLA, J

MARCH 15, 2019

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