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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decided on: 29.08.2019

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MAC.APP. 334/2019 & CM Nos.10376/2019

ORIENTAL INSURANCE CO LTD.

..... Appellant

Through: Mr. R. K. Tripathi, Advocate.

Versus

SHAKUNTALA & ORS.

..... Respondents

Through: Mr. Bhupesh Narula, Advocate for
Respondent No.1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 15.12.2018 passed by the learned MACT in MACT Claim Petition No. 356706/2016, on the ground that 10% compensation granted towards future prospects is contrary to the decision of this Court in MAC. APP. No.520/2016, *United India Insurance Co. Ltd. vs. Pappu Deo Yadav & Ors.*, decided on 13.09.2018. The court is of the view the same is no more applicable because in view of the dicta of the Supreme Court in *Parminder Singh vs. New India Assurance Co. Ltd. & Ors.*, 2019 SCC OnLine SC 802, decided on 01.07.2019, 50% towards loss of future prospects' was granted to a person who had been extensively debilitated for life.

2. Furthermore, this issue has been dealt with in the impugned order as under:-

*“(vi) In case **Meer Khan vs. Mehender Kumar Singh &ors.** MAC No. 758/2011 decided by Hon'ble High Court of Delhi on 01.11.2017, Hon'ble High Court pleased to add future prospect in the income of claimant in terms of the law laid down in **National Insurance Company Ltd. vs. Pranay Sethi & ors.** SLP (C) 25590/14 decided by the Hon'ble Supreme Court on 31.10.2007 before calculating the loss of future earning capacity due to disability. The relevant para is reproduced as under:-*

“There is, however need for correction in the calculation of loss of future earning since the element of future prospects was omitted. Following the ruling of the Constitution Bench of the Supreme Court rendered on 31.10.2017 in SLP(C) National Insurance Company ltd. vs. Pranay Sethi & ors., future prospects to the extent of 10% will have to be added, this keeping in view the facts that the claimant was a self employed person, his income having being assessed notionally, his age on the relevant date being 54 years.”

(vii) In view of the aforesaid judgment, I am of the considered opinion that petitioner is also entitled for future prospects.

*(Viii) Since the petitioner was about 58+ years old, in view of the law laid down in **Praney** (sic) **Sethi's Case**, petitioner is entitled for 10% addition in her income towards future prospects.”*

3. In the present case, since there is a debilitation upto 4%, the same is granted.
4. The impugned order is modified to the aforesaid extent. Let a fresh computation be furnished by the insurer to the injured-claimant within three

weeks of receipt of copy of this order. The excess amount alongwith interest accrued thereon, as specified in the Award, shall be deposited before the learned MACT within the said period for release to the beneficiary (ies) of the Award in terms of the scheme of disbursement specified therein.

5. The statutory deposit of Rs.25,000/-, alongwith interest accrued thereon, shall be refunded to the insurance company.

6. The appeal, alongwith pending application, stands disposed-off in the above terms.

AUGUST 29, 2019

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NAJMI WAZIRI, J.



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