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

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Decided on: 22.11.2019

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MAC.APP. 669/2019

PREM WATI

..... Appellant

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

versus

THE NEW INDIA ASSURANCE CO LTD & ORS

..... Respondents

Through: Mr. Pankaj Seth, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 30.03.2013 passed by the learned MACT in MACP. No. 1311/10, on the ground that it has erroneously considered the functional disability of the appellant/injured apropos the whole body as 20%, whereas the injured has suffered 40% physical disability in relation to her right lower limb.

2. In this regard, the learned Tribunal held as under:

"46. PW-14, Dr. S.C. Sinha, Sr. Consultant (Orthopaedic) stated that he was one of the member of the disability board which examined Smt. Premwati on 28.06,2012. PW14 stated that on examination, Smt. Premwati was found to be the case of post traumatic limitation of movement at right ankle, right knee and shortening of right lower limb and that amounted to disability of 40% in relation

to right lower limb. PW-14 stated that patient would be facing difficulty in squatting, fast walking and running and the disability was permanent in nature and marital obligation of the petitioner would not be affected because of the disability.

47. I have gone through the material on record. The treatment record of Paras hospital shows that petitioner was admitted on 12.10.2010 and was discharged on 16.10.2010 and she has suffered fracture of tibia and fibula (right) with fracture clavicle(right). The petitioner remained under treatment in Gupta hospital and Maternity Hospital and there are some other prescriptions issued by private doctors. The treatment record and testimony of PW-13 shows that petitioner remained under treatment upto March'2012. The disability certificate issued by Office of the CMO, Ghaziabad shows that petitioner has suffered disability of 40%. The petitioner is a house wife and must have been suffering because of the disability and she would have to take help of maid servant as she will not be able to do many household and other day to day work which she could have done otherwise, had she not suffered the disability. The petitioner will have to incur extra expenses because of disability. The disability in relation to whole body can be taken as 20%."

3. The Court would note that the appellant is a house-wife and due to the nature of the injury sustained by her, she is neither capable of carrying out the house-hold work nor her other day-to-day activities, which she was earlier doing. In the circumstance, her functional disability apropos whole body is enhanced from 20% to 30%. Therefore, the compensation towards "Loss of Future Earnings" would be Rs. 3,64,780/-. [Rs. 6,333/- (minimum wages) x 12 (months) x 16 (multiplier) x 30/100 (30% functional disability)]

4. The Court would also note that for the past half a decade interest has been awarded @9%. Accordingly, the impugned order is modified to the

extent that the rate of interest on the awarded amount shall be payable @ 9% p.a.

5. Let the aforesaid amount, alongwith interest @9% from the date of filing of the claim petition till its realization, be deposited before the learned Tribunal, within three weeks from the date of receipt of copy of this order, to be released to the beneficiary of the Award, in terms of the scheme of disbursement specified therein.

6. The appeal is allowed and disposed-off in the above terms.

NAJMI WAZIRI, J

NOVEMBER 22, 2019

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