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

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Decided on: 13.09.2019

+ **MAC.APP. 776/2019**

RANI KUMARI

..... Appellant

Through: Mr. Sunil Kr. Verma, Advocate.

versus

ORIENTAL INSURANCE CO LTD & ORS Respondents

Through: Mr. R.K. Tripathi, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

CM APPL. 40442/2019 (delay of 21 days in re-filing)

1. This application seeks condonation of delay of 27 days in re-filing the appeal.
2. For the reasons mentioned in the application, the delay is condoned.
3. The application stands disposed-off.

CM APPL. 40441/2019 (delay of 4 days in filing)

4. This application seeks condonation of delay of 4 days in filing the appeal.
5. For the reasons mentioned in the application, the delay is condoned.
6. The application stands disposed-off.

MAC.APP. 776/2019

7. Issue notice.
8. The learned counsel named above accepts notice on behalf of the insurance company.
9. At joint request, the case is taken up for disposal.

10. This appeal seeks enhancement of the award of compensation dated 25.03.2019 passed by the learned MACT in MACP No. 759/2019 on the ground that 17% permanent disability apropos the right lower limb of the injured, who was merely 24 years at the time of the accident, has so drastically altered her life that she is reduced to walking on a single limb. She is stated to have married and has filed an affidavit to this effect. The copy of the same has been supplied to the learned counsel for the insurance company.

11. The Court is of the view that the young lady who has suffered the irreparable permanent physical disability in the prime of her life would be deprived of amenities of life. The compensation for her “pain and suffering” and “mental and physical shock” awarded by the learned Tribunal as Rs. 70,000/- and Rs. 20,000/- respectively, is on the lower side. The felicity of being able to up and/or step out for a walk at one’s fancy, or to get up to fetch a glass of water or to open the window or to walk into a social gathering without being noticed for one’s disability or being an object of pity, etc.; of being eluded for life of sensory feel and the reassurance of one’s complete and wholesome limbs are all extremely significant deprivations which will haunt her throughout her life. These deprivations and physical impoverishments need to be compensated meaningfully, bearing in mind that the substantial exactitude of such compensation would forever be only a human aspiration. In the circumstances, in view of the principle of compensation laid down by the Supreme Court in ***Parminder Singh vs. New India Assurance Co. Ltd. & Ors.***, 2019 SCC OnLine SC 802, which held *inter alia*, as under:

5.6. In the present case, it is an admitted position that it is not possible for the Appellant to get employed as a driver, or do any kind of manual labour, or engage in any agricultural operations whatsoever, for his sustenance.

In such circumstances, the High Court has rightly assessed the Appellant's functional disability at 100% insofar as his loss of earning capacity is concerned. The Appellant is, therefore, awarded Rs. 32,40,000/- towards loss of earning capacity.

12. Accordingly, the appellant is awarded an amount of Rs. 5,00,000/- alongwith, the enhanced compensation under the following heads:

- a) Compensation for 'pain and suffering' be enhanced from Rs. 70,000/- to Rs. 1,00,000/-
- b) Compensation for 'Loss of amenities of life' be enhanced from Rs. 50,000/- to Rs. 1,50,000/-.
- c) Compensation for 'mental and physical shock' be enhanced from Rs. 20,000/- to Rs. 80,000/-

S.No.	Particulars	Granted by Tribunal	Enhancement by this Court
1.	Pain and suffering	Rs. 70,000/-	Rs. 1,00,000/-
2.	Loss of amenities of life	Rs.50,000/-	Rs. 1,50,000/-
3.	Mental and physical Shock	Rs. 20,000/-	Rs. 80,000/-
	TOTAL	Rs. 1,40,000/-	Rs. 3,30,000/-

13. The total enhanced amount payable shall be Rs. 6,90,000/- (Rs. 3,30,000/- less Rs. 1,40,000/- + Rs. 5,00,000/-)

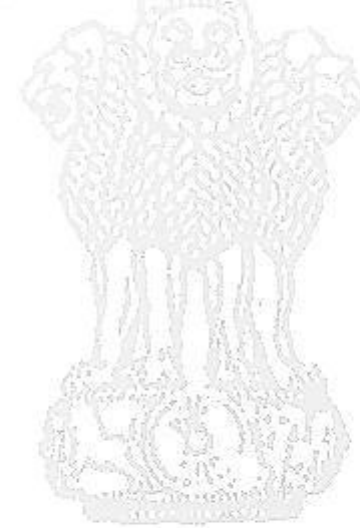
14. The enhanced amounts shall be deposited by the insurance company within three weeks from the date of receipt of copy of this order alongwith interest accrued thereon at the same rate and date as mentioned in the award, to be released to the beneficiary of the award.

15. The appeal is disposed-off in the above terms.

SEPTEMBER 13, 2019

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NAJMI WAZIRI, J



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