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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 02.09.2019*+ **MAC.APP. 951/2014**

SH. RAM CHANDER DHAWAN Appellant

Through: Mr. S N Parashar, Advocate

Versus

SH. SHIV RAM & ORS (THE BAJAJ ALLIANZ GENERAL
INSURANCE CO. LTD) Respondent

Through: Ms. Manu Kushwaha, Adv

CORAM:**HON'BLE MR. JUSTICE NAJMI WAZIRI****NAJMI WAZIRI, J (Oral)**

1. This appeal seeks enhancement of the award of compensation dated 24.05.2014 passed by the learned MACT in MACT No. 386/08, on the ground that admittedly the appellant/injured was hospitalised for 55 days on different dates at i) Max Super Speciality Hospital, ii) Sir Ganga Ram Hospital and iii) Pentamed Hospital for treatment of the injuries caused to him in the motor vehicular accident. The appellant was a pensioner and was unable to prove loss of income but he claimed to be working at Sethi Medicos. However, no proof was brought on record apropos his loss of income. Accordingly, no compensation was granted by this Court under this head. An Award of Rs.24,000/- towards attendant charges, for the year he was incapacitated, were granted by the learned MACT.

2. In view of decision of this Court in *Delhi Transport Corporation Vs. Kumari Lalita* (1982) SCC Online Del 123, for compensation towards

attendant charges, the learned Tribunal held that even if the injured has not hired services of an attendant, there would nevertheless, be the need of an attendant which would ordinarily be provided, gratuitously by his family member with much love and affection. Similar view has been taken in ***United India Insurance Co. Ltd Vs. Rama Swamy & Ors.*** 2012 SCC Online Del. 220, wherein the services rendered by a family member towards attendant charges were assessed @ Rs.2,000/- per month. Rs.24,000/- (Rs.2,000x12), was granted as compensation towards notional hiring of an attendant.

3. The Court would note that the quantum of compensation awarded in the aforesaid cases pertains to accidents which took place a decade earlier. The minimum wages applicable in Delhi in the year 2006 was Rs.3,271/- for unskilled workers. It increased to Rs.3,516/- in the year 2008. The Court is of the view that the attendant services of his family members which the appellant availed, were out of love and affection towards him. In the circumstance, it would be just to award Rs.5,000/- towards attendant charges. Therefore, the amount payable on this account would be Rs.5,000 x 12 = Rs.60,000/-.

4. Under the Head of 'Pain and Suffering' an amount of Rs. 25,000/- was awarded to the appellant who was 67 years of age at that time. This Court is of the view that healing of injuries among elderly people takes much longer and is more painful. Accordingly, compensation towards 'Pain and Suffering' is enhanced from Rs.25,000/- to Rs. 50,000/-.

5. Likewise, in view of the aforesaid decision, compensation towards 'Loss of amenities and enjoyment of life' is enhanced by Rs.15,000/- and for 'Conveyance and Special Diet' is enhanced by Rs.5,000/-.

6. The amount payable by the insurer is as follows:

S.No.	Particulars	Granted by Tribunal	Enhancement by this Court
1.	Attendant Charges	Rs. 24,000/- (Rs. 2,000/- x 12)	Rs. 60,000/- (Rs. 5,000/- x 12)
2.	Pain and Suffering	Rs. 25,000/-	Rs. 50,000/-
3.	Loss of amenities and enjoyment of life	Rs. 15,000/-	Rs. 30,000/-
4.	Conveyance and Special Diet	Rs. 10,000/-	Rs. 15,000/-
TOTAL		Rs. 74,000/-	Rs. 1,55,000/-

7. The enhanced amount of Rs. 81,000/- (Rs. 1,55,000/- less Rs. 74,000/-) along with interest @ 9% shall be paid to the injured within a period of three weeks of receipt of copy of this order.

8. In view of the above, no ground is made out for reduction of the compensation.

9. The appeal stands disposed off, in the above terms.

NAJMI WAZIRI, J

SEPTEMBER 02, 2019/sm