

\$~13

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

%

Decided on: 25.07.2019

+ **MAC.APP. 603/2017**

ANIL KUMAR @ ANIL SINGH

..... Appellant

Through: Mr. Jatinder Kumar, Advocate.

versus

ARJUN SINGH AND ORS

..... Respondents

Through: Mr. S.L. Gupta and Mr. R.K. Gupta,
Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

CM APPL. 24829/2017 (for delay)

1. For the reasons mentioned in the application, it is allowed. The delay of 140 days in filing the appeal is condoned.

2. The application stands disposed-off.

MAC.APP. 603/2017

3. The appellant has impugned the award of compensation on the ground that it is on the lesser side.

4. It is the case of the appellant that he has suffered 45% permanent disability in the right lower limb. He worked as a helper and was employed by a private company and his work entailed a lot of physical movements, but now he would not be able to use almost half of his lower limbs. His

movements are severely hampered for carrying on the same nature of work as he was doing earlier, therefore, the loss of earning capacity would be more than the mere 45% as held by the learned MACT. Furthermore, the appellant is aggrieved by the fact that the loss has been presumed to be static, whereas every human being is ever hopeful of improving both her/his economic as well as social position and therefore there should be compensation towards loss of future prospects as well.

5. This Court would refer to the dicta of the Supreme Court in *Parminder Singh vs. New India Assurance Co. Ltd. & Ors.* in Civil Appeal No. 5123/2019 dated 01.07.2019, wherein 50% was granted towards loss of future prospects in a case of permanent disability. The same principle would be applicable to the present case as well. Therefore, for the loss of future prospects in the earning capacity, the appellant shall be entitled to and is awarded 50% enhancement.

6. The additional amount shall be computed by respondent no. 3/insurance company and shall be paid to the appellant within four weeks from today.

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

NAJMI WAZIRI, J.

JULY 25, 2019

RW