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

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Decided on: 18.10.2019

+ **MAC.APP. 588/2017**

SURESH SAINI

..... Appellant

Through: Mr. Abhijit Kumar Chattopadhyay,
Ms. Swati and Ms. Jyoti, Advocates.

versus

**MANJEET SINGH & ORS (M/S L AND T GENERAL
INSURANCE CO LTD)**

..... Respondents

Through: Mr. A.K. Soni, Advocate for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

CM APPL. 24401/2017 (delay of 84 days in filing)

1. This application seeks condonation of delay of 84 days in filing the appeal.
2. For the reasons mentioned in the application, the delay is condoned.
3. The application stands disposed-off.

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4. This appeal impugns the award of compensation dated 29.11.2016 passed by the learned MACT in Suit No. 3172/16 on the ground that the appellant, having suffered a fracture in the fifth metatarsal bone of his left foot, was incapacitated for a period of more than three months, and should

be duly compensated, as his business has suffered due to this incapacitation. The appellant had filed ITRs of three years showing gross total income of Rs. 8,74,917/- per annum.

5. The said fracture is not in dispute inasmuch as the learned Tribunal has noted that the appellant had suffered it. It is understandable that a person who suffers such an injury in the web of the feet, would necessarily be in some degree of constant pain, discomfort and inconvenience, since the entire weight of the body rests upon the feet. Obviously such injured part of the body would take a longer time to heal. The claimant-appellant is stated to be 40 years of age, therefore, the injury would take him longer to recuperate from than, if he was younger. In any case, he would have been disabled for at least six to seven weeks and would be unable to attend to his work properly.

6. The appellant is engaged in the business of trade of batteries. The plaster cast over his fractured foot would ordinarily take four to five weeks to be removed and for the leg to heal and to be used fully and/or effectively. In the circumstances, his incapacitation is assessed for six weeks.

7. In the circumstances, the appellant's monthly income would be computed as Rs. 8,74,917÷12= Rs.72,910/- (monthly income)x1.5months (six weeks) = Rs. 1,09,365/-. The Court would note that he has been granted non-pecuniary compensation of only Rs. 25,000/- for his 'pain and suffering'; looking at the duration of the suffering the same is enhanced to Rs. 40,000/-. For a person so incapacitated, he would necessarily need a vehicle to visit the hospital for medical consultation and/or to go to his office, if and when he would so be able to. Additionally he would require 'special diet' for the period of recuperation. Accordingly, the compensations

towards 'conveyance charges' and 'special diet' are enhanced to Rs. 10,000/- each. The total amount payable shall be as under:

S.No.	Particulars	Amount
1.	Loss of Income Rs. 72,910 (monthly income) x 1.5 (months)	Rs. 1,09,365/-
2.	Pain and suffering	Rs. 40,000/-
3.	Conveyance charges	Rs. 10,000/-
4.	Special Diet	Rs. 10,000/-
5.	Medical Treatment	Rs. 10,000/-
TOTAL		Rs. 1,79,365/-

8. Let the said amount of Rs. 1,79,365/-, alongwith interest @ 9% per annum from the date of filing of the claim petition till its realization, be directly paid into the appellant's bank account bearing account no: 0349101010464, Canara Bank, Maharani Bagh, IFSC CNRB0000349, within four weeks from the date of receipt of copy of this order.

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

NAJMI WAZIRI, J

OCTOBER 18, 2019/AB