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

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Decided on: 16.09.2019

+ **MAC.APP. 892/2016**

HARSHIT SONI

..... Appellant

Through: Mr. L.K. Verma and Ms. Bobby
Verma, Advocates.

versus

NATIONAL INSURANCE COMPANY LTD & ORS.... Respondents

Through: Ms. Hetu Arora Sethi, Advocate for
R-1.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. The award of compensation dated 23.08.2016 passed by the learned MACT in MACP No. 50375/2016, is impugned on the ground of certain errors in it. In the first instance, the date of institution of the claim petition has been recorded as 17.01.2009 instead of 15.03.2007. This is not disputed by the learned counsel for the insurance company. Accordingly the date of institution of the Claim Petition shall be recorded as 15.03.2007.
2. The next challenge is, that although in para 30 of the award, the Court has granted Rs. 1,50,000/- towards 'loss of marital prospects' because of loss of vision in the right eye of the injured victim, but only Rs.

1,00,000/- has been computed in the final amount. The error is apparent. It is rectified by adding Rs. 50,000/-.

3. The next argument is that although the loss of vision in the right eye of the injured has resulted in 30% of his loss of vision, the same has been construed as 20% apropos the whole body. This is erroneous. The same degree of disfigurement should be construed for the whole body and the compensation amount should be enhanced on this account.
4. The Supreme Court in *Mallikarjun vs. Divisional Manager, National Insurance Company Limited and Anr.*, (2014) 14 SCC 396, held that where the permanent disability is upto 30% apropos the whole body, Rs. 3,00,000/- be granted. In the present case, the assessment for the whole body is 20%, however, there is explanation as to why the 30% with respect to the eye has been taken as 20% for the whole body. Eyes are perhaps the most important organ for a human body. The loss of vision even partially, can be immensely disadvantageous to the individual. A young person would not be qualified for the armed forces or the uniformed forces. In the circumstances, for the loss of vision construed as 30%, the functional disability shall be equivalent to 30%. The compensation on this count is enhanced from Rs. 3,00,000/- to Rs. 4,00,000/-.
5. It is the appellant's case that the loss of his right eye and the subsequent requirement of putting an artificial eye in the right eye socket, is a very evident disfigurement, which would affect his marital prospects. In the circumstances, on account of 'loss of disfigurement', the appellant is granted an amount of Rs. 4,00,000/-

and for 'loss of marital prospects', the compensation is enhanced from Rs. 1,00,000/- to Rs. 4,00,000/-. Hence, the total compensation is enhanced by Rs. 8,00,000/-.

6. The aforesaid amounts, alongwith interest @ 9% per annum from the date of filing of the claim petition i.e. 15.03.2007 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(ies) of the Award in terms of the scheme of disbursement specified therein.
7. The appeal is disposed-off in the above terms.

NAJMI WAZIRI, J

SEPTEMBER 16, 2019

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