$~18

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

% *Decided on: 27.11.2019*

\+ **MAC.APP. 1156/2018**

NEERAJ PAL ..... Appellant

Through: Mr. Varun Sarin, Advocate. (Mob.-9910160045).

versus

NAVEEN BALHARA & ORS (NATIONAL INS CO LTD) ..... Respondents

Through: Mr. Pankaj Seth, Advocate for Insurance Company.
Ms. Archana Gaur, Advocate for Insurance Company.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal seeks enhancement of the Award dated 22.12.2017 passed by the learned MACT in Suit No. 75503/16, on the ground that the addition of compensation towards 'loss of future prospects' has not been granted. The deceased was 32 years of age at the time of the motor accident. He was privately employed, therefore, in terms of the dicta of the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi & Ors*** (2017) 16 SCC 680, he would be entitled to an addition of 40% towards 'loss of future prospects'. It is so granted.

2. The next contention is that the injured was incapacitated for a whole year, therefore, he should be compensated for the said period. However, the

learned Tribunal considered the injured to be incapacitated for a period of four months only because there was no evidence to prove or support his incapacitation beyond four months. Therefore, the appellant's contention is untenable and is accordingly rejected.

3. Apropos compensation towards 'loss of amenities of life', the appellant has been granted Rs. 50,000/-, an enhancement is sought. As per the Disability Certificate, the appellant has become 42% permanently disabled apropos his right ankle and foot. The learned Tribunal considered his functional disability as 21%. The Court would note that he was in the prime of his life and would obviously not be able to run and also would be unable to do other activities which his earlier wholesome body could do. The enjoyment of amenities of life has been affected irreparably and extensively. The appellant was earlier employed as an accountant. Considering his age, the nature of his activities, etc., the compensation towards 'loss of amenities of life' is enhanced from Rs. 50,000/- to Rs. 1,50,000/-.

4. Since the appellant was wholly incapacitated for four months, his visits to the hospitals, for medication, therapy and rehabilitation centers would have been numerous. Therefore, the charges for conveyance is enhanced from Rs. 2,400/- to Rs. 10,000/-.

5. The Court would note that compensation towards 'disfigurement' has not been granted to the appellant. The same is granted @ Rs. 50,000/-.

6. Accordingly, the amount payable to the appellant/injured is as under:-

S.No.	Particulars	Amount
1.	Loss of Future Earnings [Rs.22,650/- (monthly salary of the injured) x 12 (months) x 16 (multiplier) x 21/100 (21% functional disability) x 150/100 (loss of future prospects)]	Rs. 13,69,872/-
2.	Loss of amenities of life	Rs. 1,50,000/-
3.	Conveyance Charges	Rs. 10,000/-
4.	Disfigurement	Rs. 50,000/-
TOTAL		Rs. 15,79,872/-
Less (amount already awarded by learned Tribunal) [Rs. 15,79,872/- less Rs. 11,93,300/-]		**Rs. 3,86,572/-**

7. Let the enhanced amount of Rs. 3,86,572/- alongwith interest @9% from the date of filing of the claim petition till its realization be deposited by the insurer before the learned Tribunal, to be released to the appellant/claimant directly into his bank account being Savings Bank Account No. 34931180016, IFSC: SBIN0017490, State Bank of India, Saket Court Branch, within three weeks from the date of receipt of copy of this order.

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

NAJMI WAZIRI, J

NOVEMBER 27, 2019

RW