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

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Decided on: 03.09.2019

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MAC.APP. 1028/2018

DHEERAJ

..... Appellant

Through: Mr.S.N. Parashar, Advocate

versus

VIJAY SINGH & ORS(NEW INDIA
ASSURANCE CO LTD)

..... Respondent

Through: Mr.Pankaj Seth, Advocate

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J (Oral)

1. This appeal impugns the award of compensation dated 06.03.2018 in Petition No. 76874/16, on the ground that the permanent physical disability of a labourer to the extent of 29% in both his lower limbs, should be considered as 100% functional disability, because the said injured person knows nothing better than offering his physical service as a labourer, which now he would be unable to.

2. The motor vehicular accident occurred six years ago in the intervening night of 29th and 30th August, 2013. It is stated that the appellant has received no monies thus far and has been managing his livelihood by support of his family, friends and well-wishers.

3. The learned counsel for the appellant relies upon the dicta of Supreme Court in *Parminder Singh v. New India Assurance Co. Ltd. & Ors.*, 2019

SCC OnLine SC 802, wherein left side of body of the injured, was not functioning due to *hemiplegia* resulting in his inability to move. Therefore, his physical disability was considered as 100% functional disability.

4. The appellant is present in court. He is unable to move freely. He walks gingerly, with evident difficulty. He states that he has not been able to lift any object of reckonable weight. In his condition, he is hardly likely to be hired as a labourer. He would need to learn some new skills to eke out a living. Therefore, looking at his condition, his functional disability is enhanced by 11% i.e. from 29% to 40%.

5. In view of the above, the amount payable towards 'loss of future earnings' shall be Rs. 6,67,181/- [Rs. 7,722/- (monthly income) x 12 (months) x 18 (multiplier) x 40/100 (40% disability)].

6. Let the enhanced amount be deposited before the learned Tribunal within three weeks from the date of receipt of copy of this order alongwith interest @ 9% from the date of filing of the petition till its realisation, to be disbursed to the beneficiary of the award in terms of the scheme of disbursement specified therein.

7. The appeal stands disposed off in the above terms.

NAJMI WAZIRI, J

SEPTEMBER 03, 2019

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