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

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Decided on: 17.01.2020.

+ MAC.APP. 728/2019

SHIV CHARAN

..... Appellant

Through: Mr. Rajeev Sood, Advocate.

versus

RAJ KUMAR & ORS (UNITED INDIA INSURANCE CO LTD)

..... Respondents

Through: Mr. Bhuvaneshwar Tyagi and Mr.
Vinayak Kamra, Advocates for R-2
with R-2 in person.
Mr. Amit Kr. Singh, Advocate for
insurance company.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

CM APPL. 36752/2019 & CM APPL. 36753/2019

1. These applications seek filing and re-filing of the appeal.
2. For the reasons mentioned in the applications, they are allowed.
The delay in filing and re-filing of the appeal is condoned.
3. The applications stand disposed-off.

4. This appeal impugns the award of compensation dated 18.08.2018 passed by the learned MACT in MACT No. 14526/15, insofar as it has erred in not granting compensation towards 'loss of future prospects' to the injured/appellant who has suffered 68% disability apropos his right upper limb. The same has been assessed by the learned Tribunal as 40% functional disability. The appellant claims to have been an embroiderer by vocation. His salary was however not proven, therefore, the minimum wages applicable to an unskilled workman were taken into consideration while computing the amount of compensation payable.

5. Be that as it may, the extensive injury to right hand, which is the main hand of most people, would incapacitate the injured to a large extent. The assessment of 40% functional disability by the learned Tribunal, calls for no inference.

6. The Court would note that if the appellant were to be working as an unskilled/daily wager, he would now not be the first person to be employed in the labour market because of his 68% disability in the right upper limb. His likelihood of getting employed as a daily wager has been immensely affected because of the physical disability and the resultant functional disability. However, he could possibly rehabilitate himself in some other vocation albeit with immense effort and some difficulty.

7. The appellant/injured was 42 years of age at the time of the motor vehicular accident. He would be functionally disabled for life upto 40%, therefore, he will be entitled to an addition of 40% towards 'loss of future income' as well. The learned counsel for the insurance company submits that the compensation towards 'loss of future prospects' should be akin to

the percentage laid down by the Supreme Court in *National Insurance Co. Ltd. vs. Pranay Sethi & Ors.*, (2017) 16 SCC, which has held that, for a person aged between 40 years and 50 years, addition of 25% would be granted towards 'loss of future prospects'. It is contended that the same has also been held in *Jagdish vs. Mohan*, (2018) 4 SCC 571.

8. The learned counsel for the appellant submits that he would be happy with grant of 25% towards 'loss of future prospects'. The Court would note however that in *Parminder Singh vs. New India Assurance Co. Ltd. & Ors.*, 2019 SCC OnLine SC, the Supreme Court had granted addition 50% towards 'loss of future prospects' for a paraplegic. However, since the learned counsel for the injured is himself satisfied with the addition of 25% as compensation towards 'loss of future prospects', the same is granted to the injured.

9. The relevant amount payable shall be Rs. 5,74,830/- (Rs. 8,554/- x 12 x 14 x 40% + 125/100)

10. The altered amounts, alongwith interest @ 9% per annum from the date of filing of the claim petition till its realization, shall be deposited by the insurer, before the learned Tribunal, within three weeks from the date of receipt of copy of this order, to be released to the beneficiary of the Award in terms thereof.

11. The appeal, alongwith pending applications, is disposed-off in the above terms.

NAJMI WAZIRI, J

JANUARY 17, 2020

SSC/AB