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

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Decided on: 14.01.2020.

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MAC.APP. 240/2017

MOHD GULAM NABI KHAN @ SADDAM Appellant

Through: Mr. S.N. Parashar, Advocate.

versus

MOHD AFTAB ALAM & ORS (UNITED INDIA INSURANCE CO LTD) Respondents

Through: Mr. Sameer Nandwani, Advocate for R-3.
Mr. Sankar N. Sinha, Advocate for R-6.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal seeks enhancement of award of compensation dated 13.05.2016 passed by the learned MACT in Suit No. 70/2013, which has assessed the appellant's functional disability at 49% apropos the whole body.

2. As a result of the grievous injuries suffered by the appellant, his left lower limb has been amputated above the knee. The Disability Certificate (Ex. PW1/3) issued by Medical Board, Deen Dayal Upadhyay Hospital, New Delhi, certifies that:-

“ Case of Post Traumatic Amputation of Left Lower Limb at the Level of Lower 1/3rd of thigh with Permanent

Physical Disability of 80% (Eighty Percent) in respect to Left Lower Limb.”

3. The Court would note that in the unorganized sector, a motor vehicle cleaner or helper, assists its driver in maintaining and managing the vehicle, and if the said helper happens to possess a valid driving licence, then he would also be permitted, now and then to park the vehicle. In due course, he may be promoted for employment as a driver. However, with the amputation of the left leg and his loss of ability up to 80% in the said limb, he would never be able to drive a vehicle commercially or assist anybody as a helper or assistant driver. He may however, earn a livelihood through some other mode if he is able to move about with the help of prosthetic. His functional disability apropos the earlier employment would be 100%. Albeit, keeping in mind that the appellant has suffered extensive injuries, there is every possibility that his livelihood has been affected to a larger extent. In the circumstance, his functional disability is assessed as 75%.

4. It is the appellant's case that he was employed as a cleaner/helper/assistant driver and possessed a valid driving licence [Ex. PW1/6 (OSR)] at the time of the motor accident. The learned counsel for the appellant submits that no questions were asked or doubt raised about the genuineness or validity of the said licence, in the proceedings before the learned Tribunal. It was proven that he was employed. He further submits that the compensation awarded to the appellant was based on minimum wages applicable to an unskilled workman. However, the Court would note that the appellant possessed a driving licence which certified his skills to drive a motor vehicle, therefore, his compensation should have been on the

basis of minimum wages applicable to a skilled workman, which at the relevant time was Rs. 8,528/-. Therefore, the order is modified to this extent that Rs. 8,528/- shall be considered as the monthly salary.

5. The learned counsel for the appellant next argues that the appellant was 25 years and 3 months old at the time of the motor vehicular accident, therefore, the multiplier of 18 would be applicable instead the multiplier of 17, because the latter multiplier would be applicable only when a person has attained the age of 26 years. The contention is valid. Accordingly, multiplier of 18 shall be applied.

6. In terms of the dicta of the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi & Ors* (2017) 16 SCC 680, the appellant would also be entitled to and is granted compensation towards 'loss of future prospects' @ 40%, since he was under the age of 40 years.

7. Since the appellant was a bachelor at the time of the motor vehicular accident, his matrimonial prospects would be seriously hampered. Accordingly, Rs. 7 lacs is granted to him towards 'loss of marriage prospects'.

8. The Court would note that a meager compensation of Rs. 80,000/- has been granted towards 'pain and suffering'. The same is enhanced to Rs. 3 lacs. No compensation has been granted towards 'disfigurement'. Accordingly, Rs. 3 lacs is granted towards the same.

9. The amount payable to the appellant shall be:-

S.No.	Particulars	Amount
1.	Loss of earning capacity [(Rs. 8,528/- (minimum wages applicable to a skilled workman) x 12 (months) x 18 (multiplier) x 140/100]	Rs. 19,34,150/-

	(loss of future prospects) x 75/100 (75% functional disability)	
2.	Loss of marriage prospects	Rs. 7,00,000/-
3.	Pain and suffering	Rs. 3,00,000/-
4.	Disfigurement	Rs. 3,00,000/-
	TOTAL	Rs. 32,34,150/-

10. The aforesaid amount, alongwith interest @9% p.a. from the date of filing of the claim petition till its realization, shall be deposited by respondent nos. 3 and 6 equally, before the learned Tribunal, within three weeks from the date of receipt of a copy of this order, to be released to the beneficiary of the Award in term of the scheme of disbursement specified therein. The amount already deposited shall be set-off against the enhanced amount.

11. Since the appellant had suffered injuries almost 8 years ago, the learned counsel for the appellant seeks release of Rs. 3 lacs right away. Let Rs. 3 lacs be released to the appellant in a Bank account maintained near his place of residence.

12. The appeal stands disposed-off in the above terms.

NAJMI WAZIRI, J

JANUARY 14, 2020

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