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

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Decided on: 18.02.2020

+ MAC. APP. 1162/2018

GIRIRAJ

... Appellant

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

versus

MAHESH CHAND RATHORE & ORS (NATIONAL INSURANCE
CO. LTD.)

..... Respondent

Through: Mr. Pankaj Seth, Adv.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

NAJMI WAZIRI, J. (Oral)

1. This appeal impugns the award of compensation dated 30.05.2018 passed by the learned MACT in petition no. 76465/2016. The learned counsel for the appellant states that the petitioner has suffered 90% permanent physical disability apropos his left upper limb and right lower limb. He also suffered significant cognitive impairment. The Court is of the view that when there is an issue of cognitive impairment like in the present case, the injured is rendered virtually 100% functionally disabled. Accordingly, the compensation should be computed in terms of *Parminster Singh vs. New India Assurance Co. Ltd. & Ors.*, (2019) SCC OnLine SC 802 and the injured is entitled to and is hereby granted an addition of 50% towards 'loss of future prospects'.

2. The learned Tribunal has granted Rs. 20,000/- and Rs. 30,000/- towards Conveyance and Food (Special Diet) respectively, for a person who has been rendered completely disabled and is in a near vegetative state i.e. where two limbs of his body i.e. one left upper limb and one right lower limb have been paralysed. He surely would not be able to take care of his affairs by himself and requires one attendant in addition to proper conveyance. His mobility needs to be optimized in accordance to his needs. The accident happened in the year 2010, i.e. a decade ago. Surely he must have expended monies on his treatment and continuing care. Accordingly, a lump sum conveyance charges of Rs. 1,00,000/- is granted to him. Meaningful compensation for special diet for a person so debilitated would be necessary, therefore, a lump sum of Rs. 1,50,000/- is granted towards Special Diet. Furthermore, the attendant charges of Rs. 50,000/- as granted by the Tribunal, needs to be revised because of his need for an assistant throughout his life. Therefore, in term of this Court decision in *Reliance General Insurance Co. Ltd. vs. Avtar Singh & Ors.* MAC APP. No. 1015/2018 decided on 15.01.2020. Monies shall be paid to the claimant towards attendant charges as under:-

Years	Minimum Wages (Unskilled worker)	Amount
2010	Rs. 5,278/- x 2 (months)	Rs. 10,556/-
2011	[Rs.6,084/- + Rs. 6,422 + Rs. 6,656/- ÷ 3 x 12 (months)]	Rs. 76,648/-
2012	[Rs. 7,020/- + Rs. 7,254/- ÷ 2 x 12(months)]	Rs. 85,644/-
2013	[Rs. 7,722/- + Rs. 8,086/- ÷ 2 x 12(months)]	Rs. 94,848/-
2014	[Rs. 8,554/- + Rs. 8,632/- ÷ 2 x 12(months)]	Rs. 1,03,116/-

2015	[Rs. 9,048/- + Rs. 9,178/- ÷ 2 x 12(months)]	Rs. 1,09,356/-
2016	[Rs. 9,568/- + Rs. 9,724/- ÷ 2 x 12(months)]	Rs. 1,15,752/-
2017	[Rs. 13,584/- x 12(months)]	Rs. 1,63,008/-
2018	[Rs. 13,896/- + Rs. 14,000/- ÷ 2 x 12(months)]	Rs. 1,67,376/-
2019	[Rs. 14,468/- + Rs. 14,842 ÷ 2 x 12(months)]	Rs. 1,75,860/-
	TOTAL	Rs. 11,02,164/-

3. For pain, suffering and trauma, the 42 years old has been granted only Rs. 1,00,000/-. In such cases the suffering is not the personal suffering of the injured but also of his family, since he would be unable to do anything for them or spend meaningful and memorable moments with the family. He would not be the same father for his children, same spouse for his wife, same son for his parents and brother for his siblings as he was before the accident. In the circumstances, compensation for 'pain and suffering and trauma' is enhanced to Rs. 3,00,000/-. For 'loss of amenities' Rs. 4,00,000/- is granted.

4. Let 50% of the aforesaid amount be paid to the claimant alongwith interest accrued @ 9% per annum from the date of filing of the claim petition till its realization within three weeks from the date of receipt of copy of this order. The remaining amount shall be released in terms of the schedule of disbursement specified in the award.

5. The insurer has been granted right of recovery against the registered owner and driver of the offending/insured vehicle, which it may pursue apropos recovery of such amounts as paid to the claimant.

6. The petition is disposed off in the above terms.

NAJMI WAZIRI, J

FEBRUARY 18, 2020/kb

