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

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Judgment delivered on: 22.09.2021

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MAC. APP. 164/2021

DR. V.P. APPAN

..... Appellant

versus

**SECRETARY, (DLSA SOUTH-EAST), DISTRICT COURT,
SAKET**

.....Respondent

Advocates who appeared in this case:

For the Petitioner:

Mr. Karri Venkata Reddy, Advocate.

For the Respondent:

Mr. Sarfaraz Khan, Advocate (Through VC)

Ms. Shilpi Singh, Secretary (Litigation), DSLSA
and Ms. Bhawna Gandhi, LR, DSLSA (Through
VC).

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 20.06.2019, passed by the Secretary, District Legal Services Authority, South-East recommending a compensation of Rs.2 lakh to the petitioner to be released as per the scheme of disbursal.

2. Petitioner had sustained injury on account of an accident on 29.05.2018. Untrace report was filed by the police, which was accepted by the Presiding Officer of the Motor Accident Claim

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Tribunal.

3. Thereafter, petitioner claimed compensation from the District Legal Services Authority, South-East District, under the Delhi Victim Compensation Scheme, 2015.

4. By the order impugned herein, a sum of Rs.2 lakhs has been awarded as compensation.

5. Learned counsel for the appellant submits that the compensation has been assessed on the lower side and a higher compensation should have been awarded. He further submits that disability of 39% has been taken whereas appellant has obtained a disability certificate from the All India Institute of Medical Science dated 22.07.2019, which has assessed disability at 67% permanent physical impairment in relation to his left lower limb.

6. Learned counsel appearing for the respondent objects to the maintainability of the present appeal. He submits that Section 173 of the Motor Vehicles Act, 1988 enables filing of an appeal impugning an order passed by the Motor Accident Tribunal. He submits that the appellant is impugning an order of the District Legal Services Authority which is an order passed under the Delhi Victim Compensation Scheme, 2015. He submits that subject order is not appealable.

7. Without prejudice to the said objection, he submits that

compensation has been awarded as per the schedule appended to the scheme. He further submits that when the application was filed, the disability of the appellant was examined by a medical board of Safdarjung Hospital and the Board had opined that appellant had sustained 39% permanent physical disability in relation to his left lower limb.

8. He submits that the disability certificate, which has been filed in this appeal has been obtained after the date of the impugned order and assesses the disability at 67% but it does not show that the disability certificate of Safdarjung Hospital has been taken into consideration.

9. He further submits that as per the scheme, the case of the appellant has been considered as per Sr. No.7 of the schedule and awarded maximum compensation awardable under the same schedule which is Rs.2 lakh.

10. Further, learned counsel for the respondent submits without prejudice, that even if the contention of the appellant were to be accepted and the subsequent medical certificate of AIIMS were taken into account, case of the appellant would fall in Entry 6 of the schedule, which permits compensation to be provided between Rs.1 lakh to Rs.3 lakhs and the case of the appellant would still be covered under the same as the compensation has been awarded at Rs.2 lakhs.

11. Entry 6 of the schedule pertains to permanent disability ranging between 40% to 80%. As per the disability certificate of Safdarjung Hospital appellant had suffered 39% disability which would be covered in category 7 and the maximum compensation awardable is Rs. 2,00,000/-. In case the disability certificate of AIIMS is taken into consideration the case would fall in category 6 where the disability covered is 40% to 80% and the amount awardable is Rs. 1,00,000/- to Rs. 3,00,000/-. Respondent has awarded a sum of Rs. 2,00,000/-.

12. In view of the above and in the facts and circumstances of the case, the order passed by the Secretary under the Delhi Victim Compensation Scheme, 2015, granting compensation of Rs.2 lakhs, does not warrant any interference.

13. Since on merits, I have found no ground to interfere with the impugned order, the objection as to maintainability of appeal against the order passed by the Secretary, DLSA under the Delhi Victim Compensation Scheme, is left open.

SANJEEV SACHDEVA, J.

SEPTEMBER 22, 2021/NA

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