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

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Judgment delivered on: 23.08.2021

+ MAC. APP. 224/2021 & CM APPL. 24357-58/2021

THE NEW INDIA ASSURANCE COMPANY LIMITED

..... Appellant

versus

SURAJ PRAKASH & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. R.K. Tripathi, Advocate.

For the Respondent:

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. The matter has been taken up today as 20.08.2021 was declared as holiday.
3. Appellant impugns award dated 05.04.2021 passed by the Tribunal, whereby Detail Action Report (DAR) has been disposed of and compensation awarded.

MAC. APP. 224/2021

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to HMJ Sanjeev Sachdeva.

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SACHDEVA
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4. The only challenge to the award is with regard to grant of compensation under the head of 'compensation for mental and physical shock', 'loss of amenities of life', 'disfiguration' and 'loss of marriage prospects', under which a sum of Rs.1 lakh each has been awarded.

5. Learned counsel for the appellant submits that the Tribunal should not have granted separate compensation under each of the heads.

6. Further challenge is to grant of interest @ 9% per annum.

7. The claimant/injured was travelling on a motorcycle with his friend sitting as a pillion. When they reached towards underpass at Okhla, near Crown Plaza Hotel, the offending vehicle, a truck came from back side which was being driven by its driver in a rash and negligent manner, suddenly turned left without slowing down on account of which the motorcycle of the petitioner was hit and claimant fell down. The claimant alongwith the Motorcycle was dragged with the truck for some distance on account of which he received grievous injuries on his both legs and sustained injuries all over his body. The claimant was then aged about 23 years.

8. Tribunal has noticed that medical evidence on record established that claimant had suffered 47% permanent physical impairment in relation to both his ankles and feet. Though the

claimant had sustained 47% permanent physical impairment in relation to both his ankles and feet, Tribunal has assessed the loss of earning capacity at 24%.

9. However, keeping in view the nature of injuries, in the category of 'non-pecuniary loss', Tribunal has awarded a sum of Rs.1 lakh as compensation for mental and physical shock, Rs.1 lakh for loss of amenities of life, Rs.1 lakh for disfigurement and Rs.1 lakh for loss of marriage prospects.

10. There is no material placed on record by the appellant to show that the assessment under the above heads of 'non-pecuniary loss' is on the higher side.

11. The claimant, a young boy of 23 years of age, has suffered 47% permanent physical impairment of both his ankles and feet. By no stretch of imagination, can it be said that the claimant would not have suffered mental and physical shock and would not sustain loss of amenities throughout his life. He has also suffered permanent disfiguration. His marriage prospects would definitely be affected.

12. No ground is made out for interfering with the award on the said count. Further, no material has been produced by the insurance company to show that the award of interest @ 9% is also on the higher side.

13. I am of the view that the award does not suffer from any infirmity on the said grounds. There is no merit in the appeal and the appeal is accordingly dismissed.

14. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

AUGUST 23, 2021

NA

