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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 11.05.2023

+ MAC.APP. 133/2019

RAMCHANDRA SHARMA @ CHANDAR SHARMA @ RAM
CHANDER Appellant

Through: Mr. Shrey Chathly, Adv.

versus

DHEERAJ & ORS Respondent

Through: Mr. Sameer Nandwani with Ms. Pooja
Tandon, Advs for R-3.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present appeal preferred by the claimant under Section 173 of the Motor Vehicles Act seeks to assail the award dated 15.03.2018 passed by the learned Motor Accidents Claims Tribunal in MACT No.56282/2016. Vide the impugned award, the learned Tribunal, after coming to the conclusion that the injuries suffered by the appellant were on account of the accident with the insured vehicle, directed the insurer to pay a sum of Rs.5,80,363/- as compensation to him.

2. The present appeal has been filed seeking enhancement of the compensation. In support of his plea that the compensation awarded by the learned Tribunal needs to be enhanced, the appellant has raised three primary grounds. The first being that the appellant, who was working as a

mason is unable to perform any job on account of the 46% permanent disability from which he is suffering as a result of the accident, the learned Tribunal ought to have taken his loss of earning capacity as 100% instead of 23%. Learned counsel for the appellant next submits that the learned Tribunal erred in not accepting the appellant's plea that he was drawing a monthly salary of Rs. 15,000/- thereby treating his monthly salary as being Rs. 8,632/- on the basis of minimum wages of an unskilled worker. He finally submits that the learned Tribunal has also erred in not granting him any enhancement towards loss of future prospects for which purpose he places reliance on the decisions of the Apex Court in *National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680* and *Parminder Singh v. National Insurance Co. Ltd. & Ors.[Civil Appeal 5123/2019]*. He additionally submits that compensation granted towards 'pain and suffering' and 'loss of amenities for life and enjoyment of life' are on the lower side.

3. After some arguments, he does not press the first two grounds but submits that the appellant would be satisfied if this Court were to grant an enhancement of 25% towards loss of future prospects which the learned Tribunal has failed to grant and also enhance the compensation towards pain and suffering and 'loss of amenities for life and enjoyment of life'.

4. In the light of the admitted position that the award does not grant any amount to the appellant towards loss of future prospects, Mr. Sameer Nandwani, learned counsel for the insurer is not in a position to deny that the appellant would be entitled to receive an enhancement of 25% towards loss of future prospects as per the decisions in *Pranay Sethi (supra)* and *Parminder (supra)*. He however submits that the

compensation awarded by the learned Tribunal towards ‘pain and suffering’ and ‘loss of amenities for life and enjoyment of life’ is adequate.

5. I have considered the submissions of the learned counsel for the parties and perused the record. Once both parties are ad idem that in accordance with decisions in *Pranay Sethi (supra)* and *Parminder (supra)*, the appellant, who was 48 years of age at the time of the accident and was working as a self-employed mason, is entitled to an enhancement of 25% towards “loss of future prospects”, the impugned award is liable to be modified. Consequently, the appellant would be entitled to receive an additional amount of Rs. 77,430/- (Rs. 8,632 X 12 X 13 X 23% X 25%) as compensation towards “loss of future prospects”.

6. I also find merit in the appellant’s plea that the compensation towards ‘pain and suffering’ and ‘loss of amenities for life and enjoyment of life’ awarded by the learned Tribunal was on the lower side. Taking into account the 23% functional disability, from which the appellant is suffering, the compensation towards ‘pain and suffering’ and ‘loss of amenities for life and enjoyment of life’ is enhanced from Rs.75,000/- to Rs.1,00,000/- respectively.

7. In the light of the aforesaid, the compensation payable to the appellant would stand enhanced from Rs.5,80,363/- to Rs.7,07,793/- under the following heads:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by the Tribunal</i>	<i>Compensation awarded by this Court</i>
1.	<i>Treatment expenses</i>	<i>Rs.18,854/-</i>	<i>Rs.18,854/-</i>
2.	<i>Pain and suffering</i>	<i>Rs.75,000/-</i>	<i>Rs.1,00,000/-</i>

3.	Conveyance and special diet	Rs.50,000/-	Rs.50,000/-
4.	Loss of income during treatment period	Rs.51,792/-	Rs.51,792/-
5.	Compensation on account of disability	Rs.3,09,717/-	Rs.3,09,717/-
6.	Future prospects	NIL	Rs. 77,430/- (Rs. 8,632 X 12 X 13 X 23% X 25%)
7.	Compensation on account of loss of amenities of life and enjoyment of life	Rs.75,000/-	Rs.1,00,000/-
Total		Rs.5,80,363/-	Rs.7,07,793/-

8. The appeal is, accordingly, allowed in the aforesaid terms by directing that the appellant would be entitled to receive the aforesaid sum of Rs.7,07,793/- as compensation along with interest @ 9% p.a. as already directed by the learned Tribunal.

(REKHA PALLI)
JUDGE

MAY 11, 2023
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