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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 13.09.2023

+ **MAC.APP. 1128/2018**
MOHAMMAD SADIQ

..... Appellant

Through: Mr. Navneet Goyal & Ms.
Sonia Kumari, Advocates.

versus

ANIL KUMAR & ANR (UNITED INIDA INSURANCE CO
LTD)

..... Respondents

Through: Mr. Pradeep Gaur, Advocate
(through VC)

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

1. This appeal has been filed by the appellant challenging the Award dated 24.07.2018 (hereinafter referred to as the 'Impugned Award') passed by the learned Motor Accidents Claims Tribunal (Pilot Court), Karkardooma Courts, Delhi (hereinafter referred to as the 'Tribunal') in MACT no. 15073/2015, titled *Mohammad Sadiq v. Anil Kumar & Ors.*

2. The limited challenge of the appellant to the Impugned Award is on the learned Tribunal not taking into account the future prospects while awarding compensation to the appellant towards future loss of income; and to the meager amount awarded to the appellant towards pain and suffering and towards loss of amenities and enjoyment of life.

3. Learned counsel for the appellant submits that the learned Tribunal has erred in not considering future prospects in terms of the judgment of the Supreme Court in *National Insurance*



Company Ltd. v. Pranay Sethi and Ors., (2017) 16 SCC 680.

4. The learned counsel for the respondent no. 3 is not in a position to seriously dispute the above challenge of the appellant.

5. As the appellant was aged 48 years and was admittedly in private service, an addition of 25% should have been made to the future prospects of the appellant, in view of the judgment of the Supreme Court in ***Pranay Sethi*** (Supra). It is ordered accordingly.

6. As far as the challenge to the award of compensation towards pain, shock and suffering, as also towards loss of amenities and enjoyment of life is concerned, it had been established on record that the appellant had suffered 75% permanent physical disability in relation to the left upper limb.

7. In ***Abhimanyu Partap Singh v. Namita Sekhon***, (2022) 8 SCC 489, while considering the disability of the injured/claimant therein and considering the suffering and the mental agony suffered by him, the Supreme Court had enhanced the amount awarded under the non-pecuniary heads, and held as under:

“26. Under the head “non-pecuniary damages”, the claimant has faced the pain, suffering and trauma as a consequence of injuries. It is to observe that to award compensation under the head “pain, shock and suffering”, multiple factors are required to be considered from the date of accident, which include the prolonged hospitalisation and regular medical assistance, nature of the injuries sustained, the operations underwent and the consequent pain, discomfort and



suffering. Simultaneously, he has to suffer post-accident agony for whole life, including the amenities of life, which he can enjoy as a normal man but unable to do so on account of permanent disability. In the era of competition, he can perform better as a normal man but is unable to compete with others. Therefore, under the head “pain, shock and suffering”, amount of compensation deserves to be granted.

27. The MACT awarded Rs 4,00,000 in the head of loss of expectation of life, loss of marital bliss, total loss of enjoyment of life and amenities of life, permanent disability, pain and sufferings while the High Court granted the same amount bifurcating it in the head of loss of amenities in life and marital bliss to Rs 3,00,000 while special diet Rs 1,00,000 making the total Rs 4,00,000.

28. Considering the facts and circumstances of the case and nature of injuries in our considered opinion, the appellant is entitled for a sum of Rs 4,00,000 in the head of loss of amenities of life and marital bliss, pain and sufferings, loss of enjoyment and loss of expectancy; Rs 1,00,000 as awarded by the High Court is maintained in the head of special diet. Thus, in the non-pecuniary heads, the compensation as determined comes to Rs 5,00,000.”

8. Keeping in view the above, in my opinion, the compensation awarded to the appellant towards pain, shock and suffering, as also towards the loss of amenities and enjoyment of life, together deserves to be enhanced to Rs.2,50,000/-.

9. Accordingly, the compensation awarded to the appellant towards future loss of income on account of disability suffered, and towards pain, shock and suffering, as also towards loss of amenities and enjoyment of life, is re-determined as under:

<u>Particulars</u>	<u>Trial Court</u>	<u>High Court</u>
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Future Loss of Income	Rs.9,46,062/-	$[(8086+25\%) \times 75\% \times 12 \times 13y]$ = Rs.11,82,577.50/-
Pain & Suffering	Rs.1,00,000/-	Rs.2,50,000/-
Loss of Amenities and enjoyment of life	Rs.50,000/-	
Servant/Attendant Charge	Rs.20,000/-	Rs.20,000/-
Conveyance & Special diet	Rs.50,000/-	Rs.50,000/-
Medical Bills	Rs.52,494/-	Rs.52,494/-
Loss of wages	Rs.48,516/-	Rs.48,516/-
Totals	Rs.12,67,072/-	Rs.16,03,587.50/-
<u>Enhanced Amount</u>		<u>Rs.3,36,515.50/-</u>

10. The Impugned Award shall stand modified to the above limited extent.

11. The respondent no.3 shall deposit the enhanced amount along with interest at the rate as awarded by the learned Tribunal in the Impugned Award, with the learned Tribunal within a period of six weeks from today. The same shall be released in favour of the appellant in accordance with the schedule of disbursement as prescribed by the learned Tribunal in the Impugned Award.

12. The appeal is disposed of in the above terms.

NAVIN CHAWLA, J

SEPTEMBER 13, 2023/SA/ss/AS

Signature Not Verified

Digitally Signed By: SUNIL

Signing Date: 16.09.2023

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