



2024:DHC:6103



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order: 24th July, 2024**
+ **MAC.APP. 27/2023**
DILIP KUMARAppellant

Through: In person.

versus

NATIONAL INSURANCE CO. LTD. AND ORS.Respondents
Through: Mr. Pradeep Gaur, Mr. Amit Gaur
with Ms. Sweta Sinha, Advocates for
insurance company.
Mr. Rakesh Raushan, Advocate for R-
3.

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The present appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 challenging the award dated 16th February, 2018 (hereinafter as the 'impugned award') passed by the learned Motor Accidents Claims Tribunal, South District, Saket Courts, New Delhi (hereinafter as the 'Tribunal') in MAC No. 75690/16.
2. The brief facts of the case are that the appellant suffered grievous injuries due to an accident caused by a truck bearing registration no. BR-11A-2043 (hereinafter as the 'offending vehicle'), which was being driven by respondent no. 2 in a rash and negligent manner. An FIR bearing no.



2024:DHC:6103



436/09 under Sections 279/337 of Indian Penal Code, 1860 was also registered against the respondent no. 2 at PS Madhepur for causing grievous injuries to the appellant.

3. Accordingly, a claim petition bearing no. 75690/16 has been filed by the appellant under Sections 166 and 140 of Motor Vehicle Act, 1988 before the learned Tribunal, seeking compensation for the grievous injuries sustained by the appellant due to the rash and negligent driving of the offending vehicle by respondent no. 2.

4. Pursuant to the completion of proceedings, the learned Tribunal passed an impugned order dated 16th February, 2018 in favor of the appellant, thereby holding that the respondent no. 2 was driving the offending vehicle in a rash and negligent manner, causing grievous injuries to the appellant and awarded Rs. 8,17,100/- to be recoverable from the respondent no. 1 along with an interest @ 9% per annum from the date of filing of the claim petition.

5. Aggrieved by the impugned order, the appellant filed the instant appeal before this Court, seeking reliefs sought therein.

6. Appellant appearing in person submitted that the learned Tribunal has erroneously passed the impugned order by awarding a lower compensation to the appellant, as the same is not passed based on the evidence on record.

7. It is submitted that the learned Tribunal erred in calculating the loss of future income based on the minimum wages of the graduate, rather than calculating on the prospective income of the appellant, as per the settled law.

8. It is further submitted that the learned Tribunal failed to allot any



2024:DHC:6103



compensation under the heads of marriage prospects and disfigurement, as the same is necessary when the appellant is permanently disabled.

9. It is submitted that the learned Tribunal has not considered the age, income and gravity of the injuries sustained by the appellant in determining the compensation of pain & suffering and loss of amenities, as the same is not enough in compensating the sufferance of the appellant.

10. In view of the foregoing submissions, it is submitted that instant appeal may be allowed, and impugned order be set aside.

11. *Per contra*, the learned counsel appearing on behalf of the respondent no. 1 submitted that the loss of income cannot be calculated on the basis of prospective income given the occupation, as the same is calculated on the basis of the income determined at the time of the accident.

12. It is submitted that the compensation under the heads of marriage prospects and disfigurement cannot be granted as the appellant is a disabled person prior to the accident and has incurred only simple injuries in the accident, therefore, the same is unwarranted based on the evidence on record.

13. Heard both the parties and perused the records.

14. The issue of quantum of compensation in the instant case has been already dealt with by this Court and the award dated 16th February, 2018 has been modified by the order of even date in MAC. APP. 1070/2018. Therefore, this Court deems it appropriate to dismiss the instant appeal.

15. Accordingly, the instant appeal stands dismissed along with the pending application(s), if any.



2024:DHC:6103



16. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

JULY 24, 2024

rk/sm/av

Signature Not Verified

Digitally Signed By: PRAVEEN
KUMAR BABBAR
Signing Date: 14.08.2024
18:47:08

MAC.APP. 27/2023

Page 4 of 4