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

+ **MAC.APP. 179/2023**

SUDHIR GARG & ANR.

.....Appellants

Through: Ms. Barkha Tiwari & Mr. Badal
Dwivedi, Advocates.

versus

SUNIL

.....Respondent

Through: Mr. Amit Srivastava, Ms. Uzma
Qureshi, Mr. Ankit Kr. Suryawanshi,
Mr. Ayush Kr., & Mr. Pradeep Rao,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

30.09.2024

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1. The present Appeal under Section 173 of the Motor Vehicle Act, 1988 has been filed on behalf of the appellants seeking to set aside the impugned Award dated 15.02.2023 passed by the learned Presiding Officer, MACT, North District, Rohini Courts, Delhi in MAC Petition No. 552/2019, whereby a compensation in the sum of Rs. 12,41,000/- along with interest @ 7% per annum has been granted in favour of the respondent from the date of filing of the Claim Petition i.e., 06.09.2019 till date of realisation, except for the period of delay from 24.03.2021 to 31.08.2022.

2. Learned counsel for the appellants submits that the appellants are aggrieved on two accounts. **Firstly**, the rate of income of the respondent has been taken as Rs. 22,000/- per month.

3. **Secondly**, the appellant are also aggrieved by the calculation of loss



of future income.

4. Learned counsel for the petitioner has submitted that the respondent in the FIR while his statement was recorded, he had stated that he was working as a motor mechanic in a shop of one Dharamchand. In the DAR, the respondent had given his income as Rs. 12,000/- per month. However, the learned Presiding Officer has taken the income of the respondent as Rs. 22,000/- per month, which is contrary to the statements made by the respondent at the time of registration of FIR and filing of DAR.

5. Learned counsel for the respondent has vehemently contended that though there is no documentary proof of the monthly income of the respondent but cogent evidence had been led by the respondent to establish his income, to which, there was no challenge made by the appellants in the cross-examination, except giving a bold suggestion in regard to respondent's income.

6. He further submits that in the impugned Award dated 15.02.2023, the learned Presiding Officer has in detail considered the evidence in regard to the income of the respondent and also referred to the monthly expenditure of the respondent which came to be Rs. 22,000/- per month. Having regard to the monthly expenditure, learned Presiding Officer has concluded that the income of the respondent as Rs. 22,000/- in his testimony cannot be disbelieved. In the light of the detailed findings of the learned Presiding Officer to calculate the income of the respondent as Rs. 22,000/- cannot be faulted.

7. Therefore, it is held that the learned Presiding Officer after due appreciation of the evidence has rightly taken the monthly income to be Rs. 22,000/- per month.



8. Accordingly, there is no merit to the challenge of the monthly income of the respondent as taken for calculation of the compensation.

9. It is submitted that the multiplier has erroneously been taken as 17 when, in fact, it should have been 16. Also, 30% of monthly income has not been calculated correctly.

10. The perusal of the record shows that the applicable multiplier is 16 as the injured-respondent was 32 years old at the time of accident. The calculation of loss of future income comes as under: -

$$\text{Rs. } 2,860 \times 140/100 \times 12 \times 16 = \text{Rs. } 7,69,305.6 \text{ (rounded off Rs. } 7,69,400/-).$$

11. Therefore, there being an error in calculating the loss of future income, the respondent is entitled to Rs. 7,69,400/-.

12. The impugned Award dated 15.02.2023 is modified to the extent that the total compensation amount thus comes to Rs. 11,93,034/- and rounded off to Rs. 11,93,100/-.

13. Accordingly, the present petition is disposed of in the above terms.

NEENA BANSAL KRISHNA, J

SEPTEMBER 30, 2024

S.Sharma