



\$~24

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 03rd December, 2024

+ MAC.APP. 190/2023

RAJ KUMARAppellant

Through: Mr. Anshuman Bal, Advocate

Versus

ICICI LOMBARD GEN INS CO. LTD. & ANR.Respondents

Through: Ms. Suman Bagga, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present appeal under *Section 173* of the *Motor Vehicles Act, 1988* has been filed against Award dated 05.01.2023 wherein compensation in the sum of Rs.1,25,000/- along with interest @6% per annum has been granted on account of the injury suffered by Sh. Raj Kumar in road accident dated 25.11.2021.

2. The *Appellant is seeking enhancement of the compensation* on the following grounds: -

- (i) that he was earning Rs.66,635/- per month and could not work for three months, and was entitled to '*Loss of Income*',
- (ii) compensation be awarded on account of *Pain and Sufferings*;
- (iii) compensation of Rs.30,000/- awarded under the '*Expenditure on Treatment*' is required to be enhanced; and
- (iv) Interest awarded at the rate of 6% is on the lesser side and is



required to be enhanced.

3. On the other hand, learned counsel *on behalf of the Insurance Company* has submitted that amount awarded under the heads of *Loss of Income and Expenditure on Treatment*, are as per medical record of the appellant, who remained in hospital from 25.11.2021 till 06.12.2021 and thus, suffered loss of income only for one month. The compensation has been fairly assessed and the Appeal has no merit.

4. **Submissions heard and record perused.**

5. ***Briefly stated***, on 25.11.2021 at about 07:30PM, the injured/Raj Kumar along with Rishikesh Kumar, was going from their Office to their home, on Scooty bearing No.DL-9S-BM-9519. When they reached G.L. Sikka Marg, a car bearing No. UP-14-DX-6260 came from behind at a very high speed in a rash and negligent manner and hit the Scooty because of which they both fell and suffered injuries. They were taken to the Max Hospital for treatment. He suffered *Tibial Plateau Fracture Left* and was admitted in the hospital from 30.11.2021 till 06.12.2021.

6. An *FIR No. 635/2021* was registered under *Section 279/337 of the IPC at P.S. Patel Nagar*. The Chargesheet after due investigations, was filed against the driver of the offending vehicle. The Claim/DAR was filed on 24.02.2022. Compensation was granted in the sum of Rs.1,25,000/- along with interest @ 6% per annum.

Loss of Income: -

7. The *first ground* on which enhancement of compensation is sought that *Loss of Income* should have been granted for three months. The appellant has fairly conceded that he remained on leave only for one month and thereafter, he resumed '*work from home*'.



8. Considering the nature of injuries and submissions made and in the facts of the case, *the appellant is granted Rs.67,000/- as “Loss of Salary” for one month.*

Expenditure on Treatment: -

9. The Ld. Tribunal has observed *qua* medical expenditure of the individual, that the though the Final Bill Summary, Ex. PW1/RX-1 notes the final bill of Rs.1,38,135.79/-, but Rs.1,34,427/- was paid by Vipul Medcorp Insurance TPA Pvt. Ltd. and the remaining Rs.3,709/- by the injured.

10. The Ld. Tribunal has rightly held that since the major Bill was paid by Vipul Medcorp Insurance from the compensation, the amount of Rs.3,709/- as paid by the Appellant, has been rightly granted.

11. *Thus, the Injured/Appellant is not entitled to any enhanced compensation for medical expenditure.*

Expenditure on Future Treatment: -

12. The expenditure on ***Future Treatment*** awarded at Rs.35,000/- *is enhanced to Rs.50,000/-* to enable him to remove the rod, in future.

Compensation for Pain and Suffering: -

13. The compensation of Rs.40,000 awarded under the head Compensation for mental and physical shock. *He is also granted compensation in the sum of Rs. 50,000/- for pain and suffering, having regard to the nature of injuries.*

Enhancement of rate of Interest: -

14. *Considering that the accident took place on 25.11.2021 and the prevailing interest rate, the interest awarded @6% on the compensation amount is increased to 9% p.a.*



15. The modified compensation is calculated as under:-

Sr. No.	Heads	Awarded by the Claims Tribunal	Awarded by this Court
11.	Pecuniary Loss		
(i)	Expenditure on Treatment	30,000/-	Rs.30,000/-
(ii)	Expenditure on Conveyance (no document)	10,000/-	Rs.10,000/-
(iii)	Expenditure on Special Diet (no document)	10,000/-	Rs.10,000/-
(iv)	Cost of Nursing/ attendant (no document)	Nil	Nil
(v)	Loss of earning capacity	Nil	Nil
(vi)	Loss of Income	Nil	Rs.67,000/-
(vii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	Rs.35,000/-	Rs.50,000/- (future treatment)
12.	Non Pecuniary Loss		
(i)	Compensation for mental and physical shock	Rs.40,000	Rs.40,000/-
(ii)	Pain and sufferings	Nil	Rs. 50,000/-
(iii)	Loss of Amenities	Nil	Nil
(iv)	Disfiguration	Nil	Nil
(v)	Loss of marriage prospects	Nil	Nil
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future	Nil	Nil



	life etc.		
13.	Disability resulting in loss of earning capacity		
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	Nil	Nil
(iii)	Percentage of loss of earning capacity in relation to disability	Nil	Nil
(iv)	Loss of future income (income x% earning capacity X multiplier)	Nil	Nil
14	Total	Rs.1,25,000/-	Rs.2,60,000/-
15.	Interest Awarded	6%	9%

Relief: -

16. The In view of the above, the Claimant is awarded total compensation of **Rs.2,60,000/-** along with the **interest @9% per annum** from the date of filing of the Petition till realization; to be disbursed in terms of the Award dated 05.01.2023. The Insurance Company is directed to deposit the enhanced Awarded amount within 30 days with the learned Tribunal.

17. The Appeal is allowed and disposed of accordingly along with the pending Application(s), if any.

NEENA BANSAL KRISHNA, J

DECEMBER 03, 2024

r