



2024:DHC:10046



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 11th December, 2024**+ **MAC.APP. 383/2019****BHOJRAJ**

.....Appellant

Through: Mr. S.N. Parashar, Advocate.

versus

1. **SH. DHARAMVIR** (Driver)

S/o Sh. Rati Ram

R/o H.No.66, VPO Chandpur, Delhi.

(Near Main Bus Stand)

2. **SH. DHARAMVIR** (Owner)

S/o Sh. Pakha Ram

R/o H.No.48/A-2, Village Mundaka, Delhi.

3. **HDFC ERGO GEN. INS. CO. LTD.** (Insurer)6th Floor, DCM Building, Barakhamba Road,

Connaught Place, New Delhi-110001.

.....Respondents

Through: Ms. Heeba Ansari, Advocate.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. An Appeal under *Section 173* of the *Motor Vehicles Act, 1988* has been filed on behalf of the Appellant for enhancement of the Compensation amount awarded in the sum of Rs.12,57,000/- along with interest @ 9% per annum to the Appellant/injured, on account of injuries suffered by him in a



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road accident on 08.09.2016.

2. It is submitted that the Appellant had suffered *Permanent Disability of 25% in respect to right lower limb* which has been considered as Functional Disability of 15%. It is argued that the Functional Disability should have been taken as 25% of the whole body.

3. *Learned counsel on behalf of the Respondent* has submitted that the Appellant was working as Head Constable and in fact, has not suffered any Loss of Income on account of the Permanent Disability, despite which Loss of Future Income has also been granted. The compensation granted is just and fair and does not merit any interference.

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

5. *Briefly stated*, on 08.09.2016 at about 09:00 A.M the Appellant/Injured, who was working at Head Constable, was going to his duty on his motorcycle bearing registration No.DL9SAH-8771. When he reached near Chandpur turn, Kanjhawala-Bawana road, a Santro Car bearing No. DL-8CN-8586 being driven at a high speed and in rash and negligent manner by Driver/Dharamvir hit the motorcycle of the Appellant, as a result of which he fell and sustained grievous injuries. He was shifted to Maharaja Agrasen Hospital, Punjabi Bagh where he remained hospitalized from 08.09.2016 to 20.09.2016. He was again admitted to hospital from 21.11.2016 to 28.11.2016.

6. Detailed Accident Report (DAR) was filed in the Court. *The learned Tribunal vide Order dated 06.10.2018 awarded a sum of Rs.8,38,000/- as compensation on account of injuries suffered by the Appellant in the accident.*

7. Learned counsel for the Appellant has sought enhancement of the



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compensation on the ground that the Appellant had suffered Permanent Disability of 25% in respect to right lower limb which has been considered as Functional Disability of 15%. However, it should have been taken as 25% of the whole body.

8. The Appellant as PW1, proved his medical documents i.e. the Discharge Summary and Prescription Slips *Ex.PW1/2 (colly.)*, which reflects that the Appellant had suffered “*Central Fracture Dislocation of Left Hip with Fracture of Tibial Spine Left Knee*”. During his cross-examination, the Appellant had admitted that he has not suffered any loss of income due to the alleged accident and has been promoted from Head Constable to Assistant Sub-Inspector. As per the *Identity Card Ex.PW1/5* the date of birth of the Appellant is 15.02.1971 and that he would retire from his service in the year 2031 and would also be getting pension on retirement.

9. The injured was working as a Head Constable and has admittedly not suffered any Loss of Income. The learned Tribunal has rightly assessed Functional Disability of 15% in relation to the whole body and the compensation has accordingly been calculated.

10. There is no ground for interference with the impugned Award.

11. The Appeal stands disposed of accordingly along with the pending applications(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 11, 2024

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