



2024:DHC:10049



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 13th December, 2024*+ **MAC.APP. 249/2023****SUBODH KUMAR**

S/o Ramveer Singh

R/o village Sikri, Bullandshar, Shahkarinagar,
U.P.-203150.

.....Appellant

Through: Mr. Jatinder Kamra, Advocate.

versus

1. **SANJAY KUMAR****Driver/R-1**

S/o Sh. Kishan Singh

R/o 65, Nangla Kashi, Thana Duhalana,
Distt. Hapur, U.P.2. **M/S BAGUD BEVERAGES PVT. LTD.****Regd. Owner/R-.2**

Through its Manager

S-2 and S-3, Malik Buildcon Plaza-1,
Plot No.2, PKT-6, Sector-12, Dwarka,
New Delhi.Also at: Khasra No.287-288-1 & 288-2,
Dfhan Mill Compound, Mehrauli,
New Delhi-74.3. **IFFCO TOKIO GENERAL INSURANCE CO. LTD. Insurer/R-**

Through its Manager,

6th Floor, Ansal Imperial Tower,
C-Block, Community Centre, Naraina Vihar,
New Delhi.

.....Respondents

Through: Mr. Brijesh Bagga and Ms. Jyoti,
Advocate for R-3.



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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 Vehicle Act, 1988* has been filed on behalf of the Appellant/injured seeking enhancement of the Compensation amount granted in the sum of Rs.4,23,427/- along with interest @ 7.5% per annum to the Appellant *vide* Award dated 19.01.2023, for the injuries suffered by him in a road accident on 31.07.2016.
2. The enhancement of compensation is sought, on the following grounds: -
 - i. That the Permanent Disability suffered by the injured was a labour, was assessed as 20% of his right lower foot, though the *Functional Disability has been taken as 10%* which should have been more;
 - ii. That Compensation of Rs.20,000/- granted on account of *Loss of Amenities* needs to be enhanced;
 - iii. That no compensation under the head of *Loss of Marriage Prospects* has been granted; and
 - iv. That *Interest* has been granted @ 7.5% which may be enhanced to 9% per annum.
3. *Learned counsel on behalf of the Insurance Company* has submitted that the compensation has been fairly assessed and does not warrant any interference.
4. **Submissions heard and record perused.**
5. *Briefly stated*, on 31.07.2016 at about 03:30 P.M the Appellant was travelling as a pillion rider on motorcycle bearing No. UP-16BA-5626,



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driven by one Sh. Ajay Singh, towards Bulandshahar from Noida. When they reached Village Dewla Petrol Pump, the *offending vehicle bearing registration No. DL-AGB-7981* which was being driven by Respondent No.1- Sanjay Kumar, in a rash and negligent manner, came from behind and hit the motorcycle because of which both the occupants of the motorcycle fell and suffered injuries. The Appellant/Injured was taken to Max Hospital and thereafter, shifted to Safdarjung Hospital for further treatment.

6. *FIR No.563/2016* under Sections 279/338/304-A IPC 1860 P.S. Surajpur, U.P was registered. On completion of investigations, Chargesheet was filed in the Court.

7. *DAR was filed before the Tribunal. The appellant also filed a Claim Petition under S.166 of the Motor Vehicle Act, 1988.*

8. *The Tribunal granted compensation in the sum of Rs. 4,23,427/- along with interest @ 7.5% per annum to the Appellant/Injured, vide impugned Award dated 19.01.2023.*

Loss of Future Earnings due to Disability :-

9. The Appellant has sought an enhancement of the compensation on account of the *Functional Disability* due to the injuries suffered in the road accident. As per the *Disability Certificate dated 23.12.2019-Ex.PW1/7*, the Appellant has suffered *Permanent Physical Disability* of 20% in relation to right lower limb on account of the injury to right ankle and foot (Heel Pad avulsion).

10. Considering that he is a young boy of 22 years and working as a labourer, it can be easily assessed that his *Functional Disability would be 20%.*



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11. Thus, the **Loss of Future Earnings** caused to the Appellant due to his Permanent Disability is re-calculated as Rs.4,29,891.84 [Rs.7,108 X 12 X 18 X 20/100 X 140/100] rounded off to **Rs.4,30,000/-**.

Non- pecuniary Heads :-

12. The **Loss of Amenities** have been granted in the sum of Rs.20,000/- which is enhanced to **Rs.50,000/-**.

13. The compensation towards **Loss of Marriage Prospects** is granted in the sum of **Rs.50,000/-**.

14. The compensation granted under the other heads are justified and do not warrant any interference.

Rate of Interest :-

15. Considering that it is an accident of 2016, in the peculiar facts and circumstance of this case, the **interest is enhanced** from 7.5% to **9%**.

Relief :-

16. The total compensation is thus, re-calculated as under:\

Sr.No.	Head of Compensation	Compensation awarded by the Tribunal	Compensation awarded/modified by this Court
1.	Medical or Treatment Expenses	3,049/-	3,049/-
2.	Loss of Actual Earnings	28,432/-	28,432/-
3.	Loss of Future Earnings due to Disability	2,14,946/-	4,30,000/-
4.	Mental & Physical Shock	40,000/-	40,000/-
5.	Pain & Sufferings	40,000/-	40,000/-
6.	Loss of Amenities	20,000/-	50,000/-
7.	Conveyance	33,000/-	33,000/-
8.	Special Diet	20,000/-	20,000/-



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9.	Attendant Charges	24,000/-	24,000/-
10.	Loss of Marriage Prospects	NIL	50,000/-
11.	Interest	7.5%	9%
TOTAL		Rs.4,23,427/-	Rs.7,38,481/-

17. In view of the above, the total compensation granted to the Claimant is enhanced to **Rs.7,38,481/- along with interest @ 9% per annum** from the date of the Claim till the disbursal of the amount, in terms of the Impugned Award dated 19.01.2023 of the learned Tribunal. The additional amount be deposited by the Insurance Company.

18. The Appeal stands disposed of along with the pending application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 13, 2024/va

Signature Not Verified

Digitally Signed By: VIKAS ARORA

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Signing Date: 24.12.2024
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