



2024:DHC:10047



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

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Date of decision: 12th December, 2024

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MAC.APP. 451/2019**RAJ KUMAR**

S/o Late Sh. Bablu Ram,
R/o 165, C-Block Tents, Punjabi Bagh,
Peeragarhi, Delhi.

.....Appellant

Through: Mr. Manish Maini and Ms. Divya
Saini, Advocates.

versus

1. **SH. JAGGA SINGH**
S/o Sh. Gurcharan Singh
R/o Village Dhola Singh Wala,
Distt. Sangrur, Punjab.
2. **SH. LUCKY BEDI**
S/o Sh. Harpal Singh Bedi,
R/o VPO Lambra Pind, Jalandhar,
Punjab.
3. **UNITED INDIA INSURANCE CO LTD.**
DRO-1, VIII Floor, Kanchanjunga Bldg.,
Barakhamba Road, New Delhi.

.....Respondents

Through:

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 seeking enhancement of the Compensation granted in the sum of Rs. 6,75,000/- along with interest @ 9% per annum, on account of the injuries suffered by him in the road accident on 24.08.2012.

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2. The *main grounds for seeking enhancement* are as under:
- that the medical documents of the injured shows that he remained under treatment till December, 2016 i.e. four years; the *Conveyance Charges* are required to be enhanced accordingly;
 - that the age of the injured has been taken as more than 60 years on the basis of the Aadhar Card, though in his Election Card and Permanent Disability Certificate and the medical documents, his age has been shown as 53 years. Accordingly, *multiplier of 11 instead of 7 should be applied* and future prospects of 10% be granted to him; and
 - no compensation on the ground of *Loss of Amenities* has been awarded.
3. Opportunity was granted to the Insurance Company to address arguments.
4. **Submissions heard and record perused.**
5. *Briefly stated*, on 24.08.2012 at about 07:30 P.M the Appellant Raj Kumar was going on his bicycle towards his house. When he reached near Peeragarhi Metro Station, Rohtak Road, a bus bearing registration No.PB-08-BN-3296 which was being driven at a high speed, in a rash and negligent manner by its driver Jagga Singh, hit he bicycle of the appellant from behind as a result of which the Appellant fell down and the offending bus ran over his left leg. The Appellant was taken to Sanjay Gandhi Memorial Hospital for treatment.
6. *FIR No.212/12 under Section 279/337 IPC* was registered at Police



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Station Mianwali Nagar. After investigations Chargesheet was filed in the Court.

7. The investigating Officer filed the DAR before the Tribunal, which was treated as the Claim Petition under S. 166 of Motor Vehicles Act, 1988.

8. **The learned Tribunal *vide* Award dated 19.12.2018 granted a compensation in the sum of Rs.6,74,346/-.** Aggrieved, the present Appeal has been preferred by the Appellant for enhancement of compensation.

Ascertaining the Multiplier: -

9. The *first ground of challenge* is that as per the Election Card, Permanent Disability Certificate and the medical documents the age of the Appellant was 53 years and not 60 years, accordingly, multiplier of 11 instead of 7 should be applied. Though the medical documents from 2013 onwards, record the age of the injured as 53 years, but pertinently, the Aadhar Card as well as all the medical documents prepared in the year 2012 when the accident occurred, has recorded the age of the injured as 60 years. In the light of discrepancy and there being no other cogent evidence except the assertions of the injured, it cannot be accepted that he would have got his Aadhar Card prepared by giving his age which was more than 7 years.

10. Considering the Aadhar Card and the initial medical documents and also that *there is no other cogent evidence, it is held that the age of the injured has rightly been taken as 60 years* and does not warrant any interference.

11. Learned counsel for the Appellant further submits that even if the age of the injured/Appellant is taken as 60 years, the multiplier applied should be 9 and not 7 as has been taken by the learned Tribunal.



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12. As per the case of Sarla Verma v. DTC, (2009) 6 SCC 121, the multiplier for the persons between the age of 56 to 60 years is 9 and the *multiplier is accordingly modified to 9.*

Loss of Income, Conveyance and Attendant Charges: -

13. It is further submitted the injured remained under active medical treatment for four years which is fully established from his medical record and, therefore, the compensation under the head of Conveyance Charges be enhanced.

14. The medical record has been perused which shows that since August 2012 when the Appellant met with accident, he remained under active treatment till about December, 2016. Considering the prolonged treatment and his regular admission and visits to the hospital, the compensation on account of **Conveyance Charges** is enhanced to **Rs.1,00,000/-**.

15. Considering the prolonged treatment, the compensation towards **Attendant Charges** is enhanced to **Rs.1,00,000/-**.

16. The compensation towards **Special Diet** is also enhanced to **Rs.50,000/-**.

17. Likewise, **Loss of Income** @ Rs.8528/- per month is granted for four years i.e. Rs.4,09,344/- (8528 X 48) rounded off to **Rs.4,10,000/-**.

Loss of Amenities: -

18. It is further asserted by learned counsel for the Appellant that no compensation has been granted on account of Loss of Amenities, though the injured has suffered Permanent Disability of 52%.

19. The **Loss of Amenities** are thus, awarded in the sum of **Rs.75,000/-**



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**Conclusion: -**

20. The compensation amount is thus, recalculated as under:

Sr. No.	Head of Compensation	Compensation awarded by the Tribunal	Compensation awarded/modified by this Court
1.	Expenses relating to treatment, hospitalization and medicines	68,050/-	68,050/- (same)
2.	Conveyance	20,000/-	1,00,000/-
3.	Food (Special Diet)	20,000/-	50,000/-
4.	Attendant Charges	20,000/-	1,00,000/-
5.	Loss of earning during the period of treatment	59,696/-	4,10,000/-
6.	Loss of future earning on account of permanent disability	2,86,600/-	2,86,600/- (Same)
7.	Pain, suffering & Trauma	1,00,000/-	1,00,000/- (Same)
8.	Disfigurement	1,00,000/-	1,00,000/- (Same)
9.	Loss of Amenities	NIL	Rs.75,000/-
TOTAL		Rs.6,74,346/-	Rs.12,89,650/-

21. The **total compensation of Rs.12,89,650/-** has thus been awarded to the Appellant **along with interest @ 9% per annum** as per the terms of the impugned Award dated 19.12.2018.

22. The compensation amount be deposited by the Insurance Company within four weeks.

23. The Appeal is accordingly allowed and disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 12, 2024/va

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