



2024:DHC:9762



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 11th December, 2024***+ **MAC.APP. 195/2024**

SH NEPAL SINGH KOLI

.....Appellant

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

versus

SH MUKESH CHAND & ANR.

.....Respondent

Through: Appearance not given.

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 for enhancement of the Compensation amount** granted in the sum of Rs.9,28,214/- along with interest @ 8% per annum, on account of injuries suffered in a road accident on 26.06.2017.*

2. The *grounds* on which the enhancement is sought are:

- i. that the Appellant suffered overall Permanent Disability to the extent of 26% in relation to his left lower limb as per Permanent Disability Certificate Ex.PW10/A, *which has been taken as Functional Disability of 13% which should have been taken at least, as equivalent to the Permanent Disability;*



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- ii. that the compensation granted under the *Non-Pecuniary Heads* be enhanced.
3. *Learned counsel on behalf of the Insurance Company* submits that considering the nature of disability which is essentially of right upper limb and there being no proof of Appellant being employed, the Functional Disability has been rightly assessed and does not merit any interference.
4. **Submissions heard.**
5. *Briefly stated*, on 26.06.2017 Shri Om Prakash (since deceased) along with his wife Smt. Rajbala, two sons Shri Sachin Kumar and Shri Nepal Singh Koli and daughter-in-law Manisha was travelling from Saharanpur to Delhi in a car bearing No.DL8CAP-3345 and when they reached at Khatauli Bypass, a Bus bearing No.UP11AT-0097 which was being driven by its driver/Respondent No.1 at a very high speed and in a rash and negligent manner, came from behind and hit their car, as a result of which all the occupants of the car including the Appellant received serious injuries. They were taken to Civil Hospital, Khatauli, Muzaffarnagar and then to SDS Global Hospital, Modipuram, Meerut for treatment.
6. A *FIR No.784/2017* under Sections 279/338/427 IPC was registered at P.S. Khatauli.
7. The Appellant filed a Claim Petition seeking compensation on account of the injuries suffered by her in the said road accident.
8. The learned Tribunal *vide* Award dated 16.08.2023 granted a compensation in the sum of Rs.9,28,214/- along with interest @ 8% per annum to the Appellant herein.
9. Aggrieved by the impugned Award, the present Appeal has been filed for enhancement of compensation.



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Functional Disability: -

10. The *main ground* on which the enhancement is sought is on account of the **Functional Disability**. PW6/Dr. I.K. Dhammi, Consultant, Department of Orthopedics, GTB Hospital, Delhi had proved the Disability Certificate of the Appellant Ex.PW10/A, where in it has been specified that the Appellant suffered 26% Permanent Disability in relation to his left lower limb. The learned Tribunal considering the nature of disability assessed as Functional Disability of 13%.

11. Though it has been found that the Appellant was working an Accountant. Considering the nature of his work and the nature of Permanent Disability with no evidence of there being any limitation on his working, the learned Tribunal has ***rightly assessed the Functional Disability of the Appellant/injured as 13%, which does not merit any interference.***

Non-Pecuniary Heads: -

12. The second ground of challenge is enhancement of compensation under non-pecuniary heads. Considering that only Rs. 25,000/- has been granted to the Appellant towards **Pain & Sufferings**, though he had suffered Permanent Disability, the same is enhanced to **Rs.1,00,000/-**. The compensation awarded towards **Loss of Amenities** is also enhanced to **Rs.50,000/-**.

Conclusion: -

13. The enhanced compensation awarded to the Appellant, is summarized as under:

Sr. No.	Head of Compensation	Amount awarded by the	Amount awarded/revised
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		Tribunal	by this Court
1.	Medical Expenses	1,26,420/-	Same
2.	Loss of Earning	49,404/-	Same
3.	Loss of Future Earnings	6,47,390/-	Same
4.	Special Diet	25,000/-	Same
5.	Conveyance Charges	20,000/-	Same
6.	Attendant Charges	10,000/-	Same
7.	Pain & Sufferings	25,000/-	1,00,000/-
8.	Loss of Amenities	25,000/-	50,000/-
TOTAL COMPENSATION		Rs.9,28,214/-	Rs.10,28,214/-

14. Thus, total compensation awarded to the Appellant comes to Rs.10,28,214/- along with interest @8% per annum as per the terms enunciated in the impugned Award dated 16.08.2023.

15. The Appeal is accordingly disposed of along with the pending application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 11, 2024

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