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

\+ MAC.APP. 509/2019 & CM APPL. 19996/2019

M/S SBI GENERAL INSURANCE CO LTD .....Appellant
Through: Ms. Niyati, Advocate.

versus

AMRJEET & ANR .....Respondents
Through: Mr. Pankaj Gupta, Advocate for R-1.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% **08.10.2024**

1. Appeal under Section 173 of the Motor Vehicle Act has been filed against the Award dated 15.02.2019 whereby the respondent No.1 injured, has been granted a compensation of Rs.10,68,000/- along with interest at the rate of 9% per annum on the amount of Rs.9,53,518.20/- by the petitioner w.e.f. 16.03.2019. The Insurance Company/Appellant is aggrieved on two accounts:-

(i) The minimum wages of Haryana instead of Delhi should have been taken; and

(ii) Multiplier of 14 instead of 15 should have been applied.

2. Learned counsel for the claimant submits that the claimant was working in Delhi and, therefore, the Minimum Wages of Delhi have been rightly taken. It is further submitted that since the injured was 38 years old at the time of the accident, the multiplier of 15 has been rightly applied for calculating the compensation.

Minimum Wages:-

3. In order to appreciate whether the wages of the claimant should have been calculated as per the Minimum Wages of Haryana, it would be pertinent to refer to the statement of the claimant, PW-1, Mr. Amarjeet in this petition. He in his cross-examination by Insurance Company has stated that he was in a private job, but was not getting any salary slip from the employer and was getting the salary in cash. The employer never gave any acknowledgement for the salary paid to him. It was a 12 hour job with weekly rest and duty hours were from 6 AM to 6 PM. The place of employment was 12 Kms from his residence and he used to commute with a bike. The residential address of the claimant has been stated as *Village Ferojpur Bangar, Sonipat, Haryana*.

4. Furthermore, the Claimant himself has filed an affidavit dated 13.11.2017 wherein while endorsing that the Medical Bills submitted by him, as true and correct, he had further stated that he was doing private profession as agriculturist and was earning Rs.15,000/- to 20,000/- per month but because of the accident he has not been able to work in the fields for about 8 months. Thereafter, the words "**as well Driver**" has been inserted in pen.

5. The documents and the testimony of the claimant clearly establish that he was resident of Haryana and was employed therein. It is rightly contended on behalf of the Insurance Company that for calculating the compensation, the Minimum Wages should have been taken as that of Haryana which were Rs.5342/- per month. The compensation is accordingly, recalculated by taking the minimum

wages as 5342/-.

6. The impugned Award is accordingly modified. The amount of **Loss of Future Income – (Income X % Earning Capacity X Multiplier)** is calculated as under:

Rs. 5342+40% [2136.80] = 7478.80 X 12 X 15 = 13,46,184 X 30/100 = **Rs.4,03,855.20/-**

(Earlier)

Rs. 9802 + 40% (3920.8.4) = 13,722.8 x 12x15= 24,70,104 x 30%/100) = **Rs.7,41,031.20**/-.

7. On the same principle, the amount of **Loss of Income for four months** during which the claimant remained under treatment is calculated as under:

Rs.21,368/- (Rs. 5342 x 4 months).

8. The earlier awarded amount of Rs. 39,208 (Rs. 9802 x 4) is reduced to Rs. 21,368/-.

Multiplier:-

9. The second ground of challenge was that the multiplier has not been calculated correctly. The claimant in his affidavit dated 13.11.2017 has stated that he was born in 1974 while the accident took place on 05.01.2014. The learned Tribunal has rightly applied the multiplier of 15 which does not need any modification.

Conclusion:-

10. The **Total Compensation** thus, comes as under:

S. No.	Heads	Rupees
1.	Expenditure on treatment	Rs. 83,279/-.
2.	Expenditure on special diet	Rs. 15,000/-.
3.	Expenditure on conveyance	Rs. 15,000/-
4.	Cost of nursing/attendant	Rs. 10,000/- lump sum for four months (2500 x 4)
5.	Loss of earning capacity	30% (qua whole body)
6.	Loss of income	Rs.21,368/- (Rs. 5342 x 4 months)
7.	Compensation for mental and physical shock	Rs. 25,000/-
8.	Pain and suffering	Rs. 25,000/-
9.	Loss of future income – (Income X % Earning Capacity X Multiplier)	Rs. 5342+40% [2136.80] = 7478.80 X 12 X 15 = 13,46,184 X 30/100 = Rs.4,03,855.20/-.
10	**Total Compensation**	Rs. 5,98,502/- (rounded off to Rs. 5,98,600/- along with interest @ 9% per annum w.e.f. 13.11.2017 till realization.

11. The impugned Award is accordingly modified and an amount of Rs. 5,98,600/- along with interest @ 9% per annum w.e.f. from 13.11.2017 till realisation.

12. The Appeal is disposed of accordingly.

NEENA BANSAL KRISHNA, J

OCTOBER 8, 2024
Rk/***S.Sharma***