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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **MAC.APP. 280/2020**  
**BHARAT**

.....Appellant  
Through: Mr. Girish Chander, Mr. S.N. Thakur,  
Mr. Vaibhav Gusain and Mr. Ashish  
Kandpal, Advocates.

versus

**RAJ KUMAR DIVER & ORS.**

.....Respondents  
Through: Mr. Nikhil, Adv for Insurance  
Company R3.

**CORAM:**  
**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**ORDER**  
**23.10.2024**

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1. An Appeal under Section 173 of the Motor Vehicle Act, 1988 has been filed on behalf of the Complainant for enhancement of the compensation as granted by the Award dated 05.03.2020.
2. It is submitted that he has not been granted any compensation on account of Loss of Income even though the claimant continues to be under treatment till date. The compensation granted on account of Conveyance, Special Diet are required to be enhanced. Despite the nature of injury, NIL compensation has been granted towards the Nursing Attendant. It is also asserted that the Compensation granted on account of Pain and Suffering, may also be enhanced. In addition, Loss of Future Income and Loss of Expectation of Life and Loss of Amenities may also be granted.



3. Learned counsel on behalf of the Insurance Company submits that there is no evidence or documents produced on behalf of the Claimant to show that his wife was unable to work or was attending to the claimant. There is also no evidence in regard to Loss of Income. Admittedly, he has been sitting at the shop from where he conducts his business. It is, therefore, submitted that the reasonable Compensation has been granted to the injured.

4. **Submissions heard.**

5. The injured had suffered “**degloving injury along with fracture of ankle**”. The medical record shows that though his hospitalization was for two days, he remained under prolonged treatment till about June, 2019, though the learned counsel has asserted that even now he is having follow up treatment.

6. Considering the nature of injury and the prolonged treatment, it is hereby held that he is entitle to Loss of Income for six months. Though it has been deposed by the claimant that he was owning a cart and was doing the business of mobile accessories and earning Rs.18,000/- per month, but no cogent evidence in this respect has been produced by him in regard to his income. Therefore, Minimum Wages for the Unskilled Worker which is Rs.14,000/- per month at the time of the accident, is hereby taken for calculating the Loss of Income of the claimant. The **Loss of Income** thus, comes to **Rs.84,000/-** (Rs.14000X6).

7. The **Conveyance Charges** have been granted by the Tribunal in the sum of Rs.15,000/- while the compensation towards Special Dies has been granted in the sum of Rs.10,000/-.

8. Considering the nature of injuries suffered by the claimant and also the prolonged treatment, whereby the claimant has been regularly going to



the hospital for follow up treatment, the **Conveyance Charges** are hereby enhanced to **Rs.50,000/-**. Likewise, the compensation towards **Special Diet** is enhanced to **Rs.25,000/-**.

9. The **Attendant Charges** have also not been granted. However, considering that the injured had suffered a fracture of ankle with degloving injury, it is quite evident that he would have required an attendant at least for six months. A sum of **Rs.30,000/-** has been granted to the Claimant towards **Attendant Charges @ Rs.5,000/- per month for six months**.

10. There is nothing granted on account of **Loss of Amenities**. Though, there is no Permanent Disability, but considering that the Claimant may have been unable to have a normal life for six months, he is granted **Rs.50,000/- towards Loss of Amenities of Life**.

11. The compensation granted by the Tribunal towards Pain and Suffering is Rs.15,000/-. Looking at the nature of injury, the amount towards **Pain and Suffering** is enhanced to **Rs.50,000/-**.

12. For the similar reasons, the compensation towards **Mental and Physical Shock** is enhanced to as **Rs.25,000/-**.

13. The claimant has also asserted that he may be granted compensation towards **Loss of Future Income**, since he had suffered **Temporary Disability of 23% in relation to right ankle and foot**. However, there is no document which has been produced by the claimant to show that he has been incapacitated beyond the period for which the compensation has been granted or has been unable to pursue his regular pursuits of life. Hence, nothing can be awarded under this head.

14. In all the compensations are enhanced/awarded as under:



| Computation of Compensation |                                                              |                         |                       |
|-----------------------------|--------------------------------------------------------------|-------------------------|-----------------------|
| Sr. No.                     | Heads                                                        | Awarded by the Tribunal | Awarded by this Court |
| (i)                         | Expenditure on Treatment                                     | Rs.1,61,396/-           | Same                  |
| (ii)                        | Expenditure on Conveyance                                    | Rs.15,000/-             | <b>Rs.50,000/-</b>    |
| (iii)                       | Expenditure on Special Diet                                  | Rs.10,000/-             | <b>Rs.25,000/-</b>    |
| (iv)                        | Cost of Nursing/Attendant                                    | NIL                     | <b>Rs.30,000/-</b>    |
| (v)                         | Loss of Earning Capacity                                     | NIL                     | Same                  |
| (vi)                        | Loss of Income                                               | NIL                     | <b>Rs.84,000/-</b>    |
| (vii)                       | Compensation for Mental and Physical Shock                   | Rs.10,000/-             | <b>Rs.25,000/-</b>    |
| (viii)                      | Pain and Suffering                                           | Rs.15,000/-             | <b>Rs.50,000/-</b>    |
| (ix)                        | Loss of Amenities of Life                                    | NIL                     | <b>Rs.50,000/-</b>    |
| (x)                         | Loss of Earning Capacity in relation of Temporary Disability | Rs.50,000/- lump sum    | Same                  |
|                             | <b>TOTAL COMPENSATION</b>                                    | <b>Rs.2,61,396/-</b>    | <b>Rs.5,45,396/-</b>  |



15. In view of the above, the compensation is enhanced to Rs.5,45,396/- with interest @ 9% per annum in terms of the Award.

16. The Appeal stands disposed of.

**NEENA BANSAL KRISHNA, J**

**OCTOBER 23, 2024/va**