



2024:DHC:9872



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 11th December, 2024**+ **MAC.APP. 574/2023**

SMT. MANI KAPOOR

W/O SH. PANKAJ KAPOOR

R/O 8/45, RAMESH NAGAR, DELHI-110015Appellant

Through: Mr. Ashish Sharma, Advocate.

versus

1. U.P.S.R.T.C. THROUGH ITS REGIONAL MANAGER
BHAEMSALI DEPOT, MEERUTRespondent No.12. SH. GOPINDRA SINGH
S/O SH. JAIPAL SINGH
R/O 38/2, KRISHNA LOK EXTENSION COLONY
MEERUTRespondent No.23. SH. VINEET KUMAR
S/O BABU RAM
R/O H.NO. -93,
RASULPUR ROHTA, MEERUT, U.P.Respondent No.34. CHOLA MS GENERAL INSURANCE COMPANY
THROUGH ITS MANAGER, OFFICE AT: PLOT NO.6,
1ST FLOOR, NEAR METRO PILLAR NO. 81,
MAIN PUSA ROAD, KAROL BAGH, DELHI-110005.
.....Respondent No.4

Through: Ms. Suman Bagga, Advocate for R-4.

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. The present Appeal under *Section 173* of the *Motor Vehicles Act, 1988* has been filed against the Award dated 28.07.2023 wherein



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compensation in the sum of Rs.10,38,612/- along with interest @ 7% per annum has been granted on account of the injury suffered by *Smt. Mani Kapoor*, in a road accident on 04.08.2017.

2. The grounds on which ***enhancement*** has been sought *on behalf of the Appellant* are as under:

- i. That the Appellant who was aged about 26 years suffered Permanent Disability of 24% of right lower limb but her *Functional Disability has been taken as 15%*;
 - ii. That the compensation granted under the *Non Pecuniary head* needs to be enhanced.
 - iii. That the *loss of income* has been calculated for two months which should have been for six months.
 - iv. That the lady was a housewife and was also taking tuitions and the *Minimum Wages for skilled worker should have been taken*.
3. Learned *counsel on behalf of the Insurance Company* has submitted that the functional disability has been rightly calculated as she suffered only the stiffness of right ankle. In so far as enhancement of compensation under Non Pecuniary head is concerned, the same may be considered in accordance with law.
4. **Submissions Heard. Record Perused.**
5. The *first aspect* is that the injured was 26 years old housewife. A housewife is expected to take care of the house hold work which is of a specialised nature and thus, *the income of the injured should have been taken in accordance with the Minimum Wages for skilled worker which is Rs.16,448/-*.



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6. The *Permanent Disability* was assessed as 24% of right lower limb. The nature of disability was stiffness of right ankle. ***The learned Tribunal has rightly calculated the functional disability as 15% which does not merit any interference.***

7. The compensation is recalculated on this basis **as under:**

$$\text{Rs.23,027.2/-} \times 12 \times 17 \times 15/100 = \text{Rs.7,04,632.32/-}.$$

Non Pecuniary Heads: -

8. The compensation under the head of *Pain and Suffering* granted in the sum of Rs.30,000/- is enhanced to Rs.75,000/-.

9. Expenditure on *Conveyance and Diet* is enhanced to Rs.10,000/- each. The Petitioner/Appellant remained under treatment for about two months. The *Attendant Charges* are enhanced from Rs.5000/- to Rs.10,000/-. The compensation under the *Head of Loss of Amenities* is enhanced to Rs. 50,000/- . Compensation given by the Tribunal under other heads has been rightly awarded and does not warrant any interference.

10. The compensation amount is recalculated as under:-

S. No.	Heads	Amount awarded by the Tribunal	Amount awarded by this Court
11.	Pecuniary Loss:		
(i)	Expenditure on treatment	Rs.69,559/-	Rs.69,559/-
(ii)	Expenditure on conveyance	Rs.5,000/-	Rs.10,000/-
(iii)	Expenditure on special diet	Rs.5,000/-	Rs.10,000/-



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(iv)	Cost of nursing/attendant	Rs.5,000/-	Rs.10,000/-
(v)	Loss of earning capacity	Rs.5,81,951/-	Rs.7,04,632.32/-
(vi)	Loss of income	Rs.27,168/-	Rs.32,896/-
(vii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life.	NIL	NIL
12.	Non-Pecuniary Loss:		
(i)	Compensation for mental and physical shock	Rs.50,000/-	Rs.50,000/-
(ii)	Pain and suffering	Rs.30,000/-	Rs.75,000/-
(iii)	Loss of amenities of life	Rs.30,000/-	Rs.50,000/-
(iv)	Disfiguration	NIL	NIL
(v)	Loss of expectation of life	Rs.30,000/-	Rs.30,000/-
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection, and unhappiness in future life etc.	NIL	NIL
13.	Disability resulting in loss of earning capacity:		
(i)	Percentage of disability assessed	24%	24%



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	and nature of disability as permanent or temporary		
(ii)	Loss of amenities or loss of expectation of life span on account of liability	-	(Already awarded above)
(iii)	Percentage of loss of earning capacity in relation to disability	15%	15%
(iv)	Loss of future income- (income X percentage earning capacity X multiplier)	As above	As Above
14.	TOTAL COMPENSATION	Rs.7,83,678/-	Rs.10,50,000/- (rounded off)

11. In view of the above, the Claimant is awarded total compensation of **Rs.10,50,000/-** along with the interest @7% per annum from the date of filing of the Petition till realization; to be disbursed in terms of the Award dated 28.07.2023. The Insurance Company is directed to deposit the enhanced Awarded amount within 30 days with the learned Tribunal.

12. The Appeal is allowed and disposed of accordingly along with the pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 11, 2024

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