2024:DHC:9958

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

% ***Date of decision: 4th December, 2024***

\+ **MAC.APP. 620/2024**

KRISHAN KUMAR
S/O Meer Singh,
R/O H.No.28b, Gall No.19,
Man Gal Bazar, Laxmi Nagar,
Delhi -110092. .....Appellant

Through: Mr. Aditya Rana, Advocate

Versus

(i) ARJUN RAJPUT (DRIVER)
S/o SH. DINESH KUMAR,
R/o H.No. N-52, STREETNo.14,
BRAHAMPURI, DELHI-110053

(ii) PRADEEP KUMAR (OWNER)
S/o Sh. Marak Singh,
R/o H.No.B-31, Gall No.3,
Durgapuri, Delhi-110094.

(iii) UNITED INDIA INSURANCE
Company Ltd. (Insurer),
Office At; Divisional Office No.15,
Second Floor, D-8,
Chandrashekarazad Marg,
Laxmi Nagar, Delhi-110092.

.....Respondents

Through: Advocate for respondent No.3

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T *(oral)*

CM APPLN. 70645/2024

1. For the reasons stated in the Application, delay of 150 days in re-filing is condoned.

2. Application is disposed of.

CM APPLN. 70642/2024

3. Delay of 154 days in filing the accompanying Appeal is condoned for the reasons stated in the application.

4. Application is disposed of.

CM APPLN. 70643/2024 & CM APPLN 70644/2024

5. Allowed subject to all just exceptions.

MAC.APP. 620/2024

6. The present Appeal under *Section 173* of the *Motor Vehicles Act, 1988* has been filed by the Appellant-injured seeking enhancement of the compensation awarded in the sum of Rs. 88,974/- along with interest @7.5% by the learned Motor Accident Claims Tribunal, for the injuries suffered by him in a road accident on 21.03.2021, *vide* impugned judgment dated 30.11.2023.

7. The main grounds on which the *enhancement* has been sought is that the learned Tribunal after referring to the MLC, had observed that the injured had suffered *facture of medial condyle with second tibial spine avulsion* and suffered multiple injuries in the whole body. Despite having observed that the injures were grievous, the compensation granted is Rs.88,974/- only.

8. Learned counsel submits that as per Permanent Disability Certificate, the Appellant had *suffered Permanent Disability of 6%,* which has not been considered while granting the compensation. *Also, no*

Future Prospects have been granted.

9. Learned counsel for Appellant submits that after the amendment of the MACT, minimum amount of Rs.2.5 lacs is recommended *as compensation for grievous injury*. Therefore, the compensation granted is inadequate.

10. Learned counsel appearing for Respondent No.3- Insurance Company submits that the compensation amount is fair and reasonable and the Award does not merit any interference.

11. **Submissions Heard and record perused.**

12. ***Briefly stated***, on 21.03.2021 at about 10:30 A.M. when the Appellant was coming towards Gate No.1 from the road in front of EDMC, a Motor Cycle bearing No. DL-5S-AX-2196 came from back side and hit him. Resultantly, the Appellant fell down on the road and suffered injuries.

13. *FIR No.101/2021 under Sections 279/337 IPC was registered at P.S. Patparganj Industrial Area, Delhi.* Upon completion of investigation, charge sheet was filed in the Court. *The Detailed Accident Report* was also filed before the learned Tribunal.

14. The Appellant also preferred a Claim Petition under S.166/ 140 M.V. Act before the learned Tribunal against the Driver and Owner of the offending vehicle. The learned Tribunal vide impugned Award dated 30.11.2023 awarded compensation in the sum of Rs.88,974/- along with interest @7.5% to the Appellant.

15. The Appellant by filing the present Appeal has sought enhancement of the compensation awarded, on the ground that he had suffered grievous injuries and also permanent disability of 6% in relation

to his lower limb. Also, he had produced the Medical Bills (Ex. PW1/10 collectively) but the learned Tribunal did not appreciate the medical bills and the documents while awarding the compensation.

16. The learned Tribunal in the impugned Award has observed that the Medical Bill dated 06.12.2021 in the sum of Rs.23,000/- did not have any corroborating prescription. Also, there was a huge gap between the date of the bill and the accident which took place on 21.03.2021. Considering the anomaly and the fact that this Bill was not supported with any prescription, the learned Tribunal rightly did not consider this Bill.

17. Likewise, another Bill was found to be food Bill and was rightly rejected. One Bill of Physiotherapy was not supported by any prescription of Physiotherapist or doctor and did not specify the period of treatment and the charges for each sitting. Also, another Bill of Rs.6,000/- was found to be doubtful and was not proved.

18. Considering these discrepancies in these bills, the learned Tribunal has considered the remaining bills amounting to Rs.7,974/- which has been awarded towards medical expenses.

19. *The Appellant has not been able to justify or explain the discrepancies in the Bills which have been rejected by the learned Tribunal and those medical bills which were found to be genuine, have been permitted to be reimbursed.* However, it cannot be overlooked that for the nature of injuries suffered by him, he may nave expenses on medical treatment for which he may not have been able to save the bills. Consequently, a sum of **Rs. 15,000/- is awarded *towards medical expenses.***

20. With regard to amount of compensation awarded under the

category *Pain and Sufferings*, the Appellant was treated at MAX Super Specialty Hospital, Delhi. The MLC bearing No.11455/2021 dated 21.03.2021 was prepared at the said Hospital, wherein it is mentioned that the *"Appellant suffered Fracture Medical Condyle with Second Tibial Spine Avulsion* and *multiple injuries on his body".* The Appellant remained under treatment from 21.03.2021 till 06.12.2021. The Appellant had deposed that he was not able to work and so he shifted to his parental place for recuperation. Considering the period of treatment of the Appellant, the learned Tribunal awarded compensation of Rs.25,000/- towards "Pain and Sufferings".

21. However, it cannot be overlooked that the Appellant had suffered multiple injuries and facture in lower limb and remained under treatment for nine months. He also suffered permanent disability of 6% of lower limb. ***Hence, the amount of compensation awarded towards "Pain and Sufferings" is enhanced to Rs.1,00,000/-.***

22. The Appellant has been granted compensation of Rs.5,000/- for *Conveyance and Special Diet*. Keeping in view the gravity of injuries sustained and prolonged period of treatment, ***the compensation under the head "Conveyance and Special Diet" are enhanced to Rs.20,000/- each i.e. Rs.40,000/-.***

23. The Appellant has been awarded compensation of Rs.5,000/- towards *Attendant Charges*. Considering the fact that the Appellant had suffered multiple injuries in his full body and fracture in lower limb, it is reasonable to consider that he would have taken at least four months to fully recover and heal. Though no cogent evidence has been led to prove that he had employed any attendant, however, it cannot be overlooked

that with the kind of injuries the Appellant suffered, he would have remained dependent upon some Attendant or Family Member and ***thus, he is awarded compensation @ Rs.8,000/- per month for four months i.e. Rs.32,000/- towards "Attendant Charges".***

24. The Appellant has also submitted that the learned Tribunal has not awarded any compensation towards "Future Prospects" despite the fact that he had suffered permanent disability of 6% of left lower limb.

25. The Appellant was working as a Security Guard with M/s Modern Veer Rays Security Force (India) Pvt. Ltd. and as per his testimony, he was earning Rs.25,000/- per month. Learned Tribunal has relied upon Bank Statement of the Appellant and from the various entries made therein, Appellant's average salary was taken as Rs.18,000/- per month.

26. The Appellant has been granted sum of Rs.36,000/- towards "*Loss of Income*" for two months. However, as already observed above, with the kind of injuries suffered by the Appellant, he would have taken at least four months to recover. ***Therefore, Loss of Income has to be assessed for four months i.e. Rs.18,000X4= Rs.72,000/-.***

27. So far as the *Loss of Future Prospects* on account of permanent disability is concerned, the learned Tribunal has rightly observed that petitioner in his testimony is silent as to how his disability has hampered his work or reduced his efficiency to work as a Security Guard. *Since there is no evidence on account of difficulty faced by the Appellant, no compensation for Loss of Future Prospects can be awarded.* ***However, a sum of Rs.1,00,000/- is awarded on account of his "Permanent Disability".***

28. For *"Loss Amenities"* the Appellant has been awarded

compensation in the sum of Rs.10,000/-, which is enhanced to Rs. 25,000/-.

29. With aforesaid, the modified compensation reads as under:-

Sl. No.	Head of Compensation	Amount (Awarded by the Tribunal)	Amount (modified Award by this Court)
1.	Medical Expenses	Rs.7,974/-	**Rs.15,000/-**
2.	Pain and Sufferings	Rs.25,000/-	**Rs.1,00,000/-**
3.	Conveyance and Special Diet	Rs.5,000/-	**Rs.40,000/-**
4.	Attendant charges	Rs.5,000/-	**Rs.32,000/-**
5.	Loss of Income during treatment	Rs.36,000/-	**Rs.72,000/-**
6.	Future Medical Expenses	Nil	Nil
7.	Loss of Amenities	Rs.10,000/-	Rs.**25,000/-**
	Total	Rs.88,974/-	**Rs.2,84,000/- (rounded off)**

Relief: -

30. In view of the above, the Claimant is awarded total compensation of **Rs.2,84,000/-** along with the interest @7.5% per annum from the date of filing of the Petition till realization; to be disbursed in terms of the Award dated 30.11.2023. The Insurance Company is directed to deposit the enhanced Awarded amount within 30 days with the learned Tribunal.

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

(NEENA BANSAL KRISHNA)
JUDGE

DECEMBER 04, 2024
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