



2024:DHC:9798



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 9th December, 2024*+ **MAC.APP. 997/2018, CM APPL. 47189/2018 (stay)****ROYAL SUNDARAM GENERAL INSURANCE CO LTD**

....Appellant

Through: Ms. Suman Bagga, Advocate.

versus

1. **PRADEEP KUMAR**
S/o Sh. Satya PrakashRespondent No.1
2. **DHARAM PAL**
S/o Sh. Gulab SinghRespondent No. 2
3. **SURENDER**
S/o Sh. Dilip Singh ...Respondent No.3
Through: Counsel for Respondents (appearance
not given)

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)****CM APPL. 47191/2018 (delay)**

1. An Application has been filed on behalf of the Appellant seeking condone the delay of 109 days in filing the accompanying Appeal.
2. For the reasons stated in the Application, the delay of 109 days in filing the accompanying Appeal, is condoned and the Application is allowed.



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3. The Application is disposed of accordingly.

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4. The Appeal under *Section 173* of the *Motor Vehicles Act, 1988* ('M.V. Act' *hereinafter*) has been filed on behalf of the *Appellant/Insurance Company* against the Award dated 10.04.2017 *vide* which the compensation in the sum of Rs.56,17,900/- along with the interest @9% p.a. has been awarded on account of the injuries suffered by the Respondent No. 1.

5. Essentially, the *ground* of challenge pressed is that the *Future Prospects* have been granted @50% instead of 40%.

6. *Learned counsel on behalf of the Claimant* submits that he was in permanent job and Future Prospects have been rightly calculated.

7. Submissions heard.

8. *Briefly stated*, on 19.08.2014 at about 2:30 PM the motorcycle bearing no. DL 1 SW 4976 being driven by Mr. Manjeet with Injured/petitioner sitting as a pillion rider, en route to Narela, near Sukhi Nahar, it was suddenly hit by an *RTV bearing No. DL-IVA 7063* being driven at a high speed in a rash and negligent manner, as a result of which the Respondent No. 1/Injured and the Driver fell and were grievously injured. Respondent No. 1/Claimant was taken to Maharishi Valmiki Hospital, Pooth Khurd, Delhi for treatment and was subsequently transferred to AIIMS Trauma Centre, Delhi.

9. The Petitioner filed *Claim Petition under Section 166 and 140 of the M.V. Act* for grant of compensation on account of Injuries suffered by him.

10. The Tribunal *vide* impugned Award dated 10.04.2017, granted the Respondent No. 1/Claimant a sum of Rs. 56,17,900/- along with interest @ 9% per annum.



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Loss of Future Prospects:

11. The primary *ground of challenge* on behalf of the Appellant/Insurance Company is that the Future Prospects have been granted at the rate of 50% instead of 40% which is erroneous as Respondent No. 1 was yet to join the services of RPF and was not drawing the Salary of Rs. 22,000/-p.m.

12. The Ld. Tribunal in the impugned Award referred to the testimony of PW-4, Mr. Deepak Bargal, Office Superintendent, Railway Protection Force, Chief Security Commission, RPF Office, Mumbai and observed that the Respondent No.1/Claimant had been selected as a constable in Railway Protection Force ('RPF' *hereinafter*) and was supposed to join Zonal Training Centre, Chinkhill Khurduwati, District Solapur, Maharashtra on 01.11.2014 but due to injuries suffered in the Accident, the Injured/Respondent No. 1 was unable to join the RPF. Consequently, the Ld. Tribunal took the potential salary of the Injured as Rs. 22,000/-p.m. (including allowances) per month and considering that the injured was 26 years old at the time of accident, held *the loss of future earnings* as Rs. 33,000/- (22,000 + 11,000 i.e. 50% future prospects).

13. In National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 the Apex Court has held that while determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made.

14. In the peculiar facts and circumstances of the present case, the Injured had qualified and was selected for the post of a Constable in the RPF and was supposed to join Zonal Training Centre, Chinkhill Khurduwati, District Solapur, Maharashtra on 01.11.2014 and the accident occurred on



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19.08.2014 due to which the Injured/Respondent No. 1 was unable to join the RPF. The factum of the appointment in RPF is corroborated by the Testimony of PW4, Mr. Deepak Bargal. The future prospect have been rightly taken as 50%.

15. Therefore, there is no infirmity in the findings of Ld. Tribunal, which does not warrant any interference.

16. The Appeal is accordingly disposed of along with the pending Application.

**(NEENA BANSAL KRISHNA)
JUDGE**

DECEMBER 9, 2024/RS