



2025:DHC:6503



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 15.07.2025

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MAC.APP. 561/2013

SUDHIR RANA

.....Appellant

Through: Mr. S.N Parashar, Advocate

versus

RAM RATTAN & ORS

.....Respondents

Through: Ms. Khushi Sachdeva and Ms. Shruti Jain, Advocates for Mr. Pankaj Seth, Advocate for R-3

CORAM:**HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 05.03.2013 [hereinafter referred to as "Impugned Award"] passed by learned Presiding Officer, MACT, (West), Delhi in Petition No. 715/09 titled as ***Sh. Sudhir Rana v. Sh. Ram Rattan & Ors.*** By the Impugned Award, a sum of Rs. 8,91,664/- was awarded to the Appellant/Claimant along with interest at the rate of 7.5% per annum.

2. The Appeal has been filed by the Appellant/Claimant seeking enhancement on the two grounds. Firstly, that the future prospects was awarded at 30%.

2.1 Secondly, it is contended that the disability has been reduced to 15% from 30% which was stated in the certificate of disability, which is not in



accordance with law. It is contended that as per the latest medical reports, the permanent disability of the Appellant has also now been increased to 60% with no chance of improvement. He seeks to rely upon a revised disability certificate dated 15.10.2018 in this behalf.

3. Learned Counsel appearing on behalf of the Appellant seeks to rely upon the paragraph 28 of the Impugned Award to submit that future prospects was awarded at only 30%. He further submits that in terms of the judgment of the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi and Ors.*¹, it is no longer *res integra* that for a person who is under the age of 40 years, the future prospects shall be calculated at 50%. He further submits that the injured was less than 30 years of age at the time of accident.

4. So far as concerns, the award on future prospects, concededly, this has been taken at the 30% in the Impugned Order as is shown in paragraph 28 which is set out below:

“28. Hence after averaging out, the income of deceased [Sic injured] comes out to be Rs. 16,251.3 p. (Rs. 12,501/- + Rs. 12,501/- x 30%).”

5. The Supreme Court in the judgment of *Pranay Sethi & Ors.* case has held that future prospects must be added to the income of the deceased to ensure just compensation. The Apex Court prescribed standardized additions based on age: 50% for salaried individuals below 40 years, and 40% for self-employed individuals in the same age group, with proportionate reductions for higher age brackets. It was further held that where the person has a permanent job and is below the age of 40 years, the addition should be 50%. The relevant extract is set out below:



59.3. 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. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

Emphasis Supplied

5.1 Undisputably, the Appellant was aged 28 years and was employed with the CRPF as a Constable. Thus, the Appellant would be entitled to future prospects at the rate of 50% in terms of the judgment in ***Pranay Sethi*** case.

6. So far as concerns the aspect of disability, the learned Tribunal despite giving a finding of physical disability of 30% has also found that the Appellant is not entitled for any pecuniary benefit arising out of a permanent disability since he is a government servant. The relevant portion of the Impugned Award in this behalf is set out below:

“21. Though the disability certificate contains the physical disability of 30% on the right eye visual disability but keeping in view the age of the petitioner as well as his nature of avocation, it appears to me that the 30% physical disability as contained in disability certificate shall affect entirely upon his working capacity.

22. Ld. Counsel for insurer submitted that petitioner is not entitled for any pecuniary benefit arising out of the permanent disability as he is a government servant.

¹ (2017) 16 SCC 680



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25. Taking corollary the aforesaid judgment , it appears to me that this court has considered the permanent disability to be as 30% permanent physical disability, but since the petitioner is a government servant and will not suffer[sic; suffer] for loss of income till his service and hence considering the aforesaid judgment of Hon'ble High Court of Delhi, I reduce the loss of earning capacity to half i.e. 15% in respect of whole body.

29. As per the office identity card of petitioner, the date of birth of petitioner is 01/04/1981. The date of accident was 31/05/2009. Accordingly the age of the petitioner was 28 years as on the date of accident for which the relevant multiplier 17 as mentioned in Sarla Verma Vs. DTC decided on 15.4.2009 in C.A. No. 3483/08. Therefore, the total loss of earning capacity comes out to be Rs. 4,97,289.78 p. rounded off to Rs. 4,97,290/- (= Rs. 16,251.3 p. × 12 × 17 × 15/100). I also award a sum of Rs. 25,000/- to the petitioner for loss of enjoyment and amenities of life.

[Emphasis Supplied]

7. The Supreme Court in the judgment of **Raj Kumar v. Ajay Kumar**,² laid out a three-step method to determine how permanent disability affects a person's earning capacity. It was held that compensation for loss of future earnings depends on how the disability affects the claimant's actual job, not just the percentage of physical disability. The relevant extract of **Raj Kumar** case is set out below:

“13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the

² (2011) 1 SCC 343



activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

14. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. ***On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of "loss of future earnings", if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity.***

15. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.

[Emphasis Supplied]

7.1 The learned Trial Court found that the Claimant is employed with the CRPF as a Constable and given the nature of the vocation of Job of a Constable, the requirement of physical fitness, agility and adaptability would be requisite. It was held that the Claimant suffered a 30% visual



disability in the right eye, this is likely to affect his ability to discharge his duties as a Constable. However, the learned Tribunal deciding the issue of loss of earning concluded that the Claimant would not suffer any loss of income solely because he is a government servant and awarded 15% in respect of the whole body.

8. The finding of the learned Tribunal that the disability would not entitle the Appellant for any pecuniary loss as he is a government servant cannot be sustained.

9. In view of the foregoing discussions and in view of the fact that the disability of the Appellant is required to be reassessed based on the fresh evidence, this Court deems it apposite to remand back the matter to the learned Tribunal for a fresh *de novo* adjudication on the aspect of future prospects and award on the basis of disability.

10. The Appellant shall file an additional affidavit and documents in support of both of his contentions within a period of four weeks from today.

11. The Respondent shall be at liberty to file his rebuttal evidence in this behalf as well, within four weeks thereafter.

12. The parties shall appear before the learned Tribunal on 27.08.2025.

13. The learned Tribunal is, however, at liberty to adjudicate any additional grounds based on the pleadings or documents placed on record by the parties.

14. The Appeal is disposed of in the foregoing terms.

15. The parties shall act based on the digitally signed copy of the order.



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TARA VITASTA GANJU, J

JULY 15, 2025
g.joshi/pa