

\$~9

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

% *Judgment delivered on: 28th February, 2014*

+ MAC.APP. 309/2012

AJEET SINGH @ JEET SINGH

..... Appellant

Represented by: Mr. Navneet Goyal, Adv.

Versus

NATIONAL INSURANCE CO LTD. & ORS.

..... Respondents

Represented by: Mr. Manoj R. Sinha,
Advocate for Respondent
No.1.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. The present appeal has been preferred against the impugned award dated 20.04.2011 whereby Ld. Tribunal awarded compensation as under:

“NON PECUNIARY DAMAGES:

- | | | | |
|----|--|---|----------------------|
| 1. | <i>Towards special diet</i> | : | <i>Rs.10,000/-</i> |
| 2. | <i>Towards conveyance allowance</i> | : | <i>Rs.10,000/-</i> |
| 3. | <i>Towards mental pain, agony,
loss of amenities of life, happiness,
frustration towards disfigurement
and enjoyment of life</i> | : | <i>Rs.2,00,000/-</i> |

PECUNIARY DAMAGES:

- | | | | |
|---------------------|---|---|-------------------------------|
| 1. | <i>Towards functional disability</i> | : | <i>Rs.2,15,804/-</i> |
| 2. | <i>Towards medical expenses</i> | : | <i>Rs.8673/-</i> |
| 3. | <i>Towards not being able to do his
Duties for 6 months</i> | : | <i>Rs.23,508/-</i> |
| <i>TOTAL</i> | | : | <i>Rs.4,67,985/- ”</i> |

2. Vide this appeal, appellant is seeking enhancement of the compensation amount as noted above.
3. Ld. Counsel appearing on behalf of the appellant submits that at the time of accident, appellant was 30 years of age and received 53% disability. However, Ld. Tribunal has not added any amount on the income of the appellant towards future prospects.
4. To strengthen his argument, Id. Counsel for the appellant has relied upon a case of ***Rajesh and Ors. Vs. Rajbir Singh and Ors. 2013 (6) SCALE 563***, wherein it is held as under:

*“11. Since, the Court in **Santosh Devi's case** (supra) actually intended to follow the principle in the case of salaried persons as laid in **Sarla Verma's case** (supra) and to make it applicable also to the self-employed and persons on fixed wages, it is clarified that the increase in the case of those groups is not 30% always; it will also have a reference to the age. In other words, in the case of self-employed or persons with fixed wages, in case, the deceased victim was below 40 years, there must be an addition of 50% to the actual income of the deceased while computing future prospects. Needless to say that the actual income should be income after paying the tax, if any. Addition should be 30% in case the deceased was in the age group of 40 to 50 years.”*

*12. In **Sarla Verma's case** (supra), it has been stated that in the case of those above 50 years, there shall be no addition. Having regard to the fact that in the case of those self-employed or on fixed wages, where there is normally no age of superannuation, we are of the view that it will only be just and equitable to provide an addition of 15% in the case where the victim is between the age group of 50 to 60 years so as to make the compensation just, equitable, fair and reasonable. There shall normally be no addition thereafter.*

5. On the other hand, learned counsel appearing on behalf of the respondent/Insurance Company submits that since the appellant could not prove that he was in permanent employment, therefore, Ld. Tribunal has rightly not added any amount towards future prospects and relied upon a case of ***Sarla Verma Vs. DTC and Ors. 2009 (6) SCC 12*** which has been further affirmed by the Full Bench of the Apex Court in the case of ***Reshma Kumari and Ors. Vs. Madan Mohan & Anr. (2013) 9 SCC 65***.

6. The issue of future prospects has been dealt by this court in the case bearing ***MAC. APP. No.846/2011*** titled as ***ICICI Lombard General Insurance Co. Ltd. Vs. Angrej Singh & Ors.*** wherein while relying upon the dictum of ***Rajesh & Ors. (Supra)*** it is held that the future prospects can be granted up to 50%, keeping in view the age of the deceased.

7. Admittedly, in the present case, appellant was 30 years of age at the time of accident. Therefore, I add 50% in his actual income towards future prospects.

8. Consequently, the compensation amount comes as under:-

Sr. No.	Heads	Calculation as per MACT	Calculation as per this Court
i.	Towards functional disability	Rs.2,15,804/-	Rs.3,23,705/-
ii.	Towards not being able to do his duties for six months	Rs.23,508/-	Rs.23,508/-
iii.	Towards medical expenses	Rs.8,673/-	Rs.8,673/-
iv.	Towards special diet	Rs.10,000/-	Rs.10,000/-

v.	Towards conveyance allowance	Rs.10,000/-	Rs.10,000/-
vi.	Towards mental pain, agony, loss of amenities of life, happiness, frustration towards disfigurement and enjoyment of life	Rs.2,00,000/-	Rs.2,00,000/-
	TOTAL	Rs.4,67,985/-	Rs.5,75,886/-

Resultantly, the compensation is assessed as Rs.5,75,886/-.

9. Hence, an amount of Rs.1,07,901 is enhanced (Rs.5,75,886 – Rs.4,67,985).

10. The enhanced compensation shall also carry interest @ 8% *per annum* from the date of filing of the claim petition till realization.

11. The respondent /Insurance Company is directed to deposit the enhanced compensation amount with the Registrar General of this Court within a period of six weeks from today, failing which, appellant/claimant shall be entitled for penal interest @ 12% *per annum* on account of delayed payment.

12. On deposit, the Registrar General is directed to release the amount in favour of the appellant/claimant in terms of the impugned award dated 20.04.2011 passed by the learned Tribunal on taking necessary steps by him.

13. In view of the above, the appeal is allowed.

SURESH KAIT, J.

FEBRUARY 28, 2014/Jg/RS