

\$~R-20E

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

% *Judgment delivered on: 29th August, 2013*
+ **MAC A. NO. 838/2005**

RAVI OBEROI Appellant
Through: Ms. Nikita Aggarwal, Advocate.

Versus

RAM NIWAS & ORS. Respondents
Through: Mr. D.K. Sharma, Advocate for
Respondent No.3/Insurance
Company.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. The present appeal is preferred for enhancement of the compensation award against the impugned award dated 25.01.2005, whereby the learned Tribunal has awarded the compensation as under:-

“1.	<i>Towards pain & sufferings and loss of amenities of life</i>	- Rs. 40,000/-
2.	<i>Towards loss of income due to thirty Percent permanent disability suffered</i>	- Rs.1,94,400/-
3.	<i>Towards expenditure incurred on Medicines/treatment</i>	- Rs.53,382/-
4.	<i>Towards expenditure incurred on conveyance and special diet</i>	- Rs.20,000/-
	<i>TOTAL</i>	<hr/> - Rs.3,07,782/- <hr/> ”

2. Learned counsel appearing on behalf of the appellant has argued that while considering 30% disability, the learned Tribunal has assessed monthly income of the appellant as Rs.4,500/-, however, that it failed to award any compensation towards future prospects.

3. On this issue, learned counsel appearing on behalf of the respondent No.3/Insurance Company has submitted that though 30% disability has not been proved by the concerned doctor, however, the learned Tribunal has considered the functional disability as 30% qua the whole body.

4. Considering the facts and circumstance, the learned Tribunal has rightly assessed the functional disability as 30%. I note, the injured/appellant has not proved the profession or avocation, therefore, I do not find any reason to interfere in the assessment of functional disability.

5. Second issue argued by the counsel for the appellant is that at the time of the accident, the appellant was 37 years of age but the learned Tribunal has wrongly considered the multiplier of 12 in view of *Sarla Verma & Ors. Vs. DTC & Anr., (2009) 6 SCC 121*, the proper multiplier should have been taken as 15.

6. I find force in the submission made by the learned counsel for the appellant. Accordingly, in view of the aforementioned dictum of the Supreme Court, the proper multiplier would be 15.

7. Consequently, after applying the multiplier of 15, the compensation on account of loss of income due to permanent disability would be Rs.2,43,000/- (Rs.4,500 X 12 X 15 X 30/100).

8. Thus, the compensation amount is enhanced for Rs.48,600/- (Rs.2,43,000-Rs.1,94,400).

9. Third issue raised by the learned counsel for the appellant is that qua pain and sufferings and loss of amenities of life, the learned Tribunal has granted only Rs.40,000/- and prayed for enhancement of the said amount.

10. I note, the accident took place in the year 2000 and the impugned award was passed in 2005. Therefore, while granting compensation, the learned Tribunal has considered the inflation rate, accordingly, granted interest @ 9% *per annum*. So, I do not find any ground to enhance the compensation amount on this issue.

11. The enhanced amount of compensation of Rs.48,600/- shall carry interest @ 9% *per annum* from the date of filing of the petition till the date of realization.

12. Respondent No.3/Insurance Company is directed to deposit the enhanced compensation amount along with interest @ 9% *per annum* within five weeks from today with the Registrar General of this Court, failing which, appellant shall be entitled for penal interest @ 12% *per annum* on account of delayed payment.

13. On deposit, the Registrar General is directed to release the amount in favour of the appellant.

14. The instant appeal is allowed on the above terms.

15. There is no order as to costs.

SURESH KAIT, J.

AUGUST 29, 2013/sb