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

% *Judgment delivered on: 20<sup>th</sup> February, 2014*

+ **MAC.APP. No.667 /2013 & CM No.11182/2013**

RIYA DUTTA. .... Appellant  
Represented by: Ms.Nilofar Qureshi and Ms.Rehnuma,  
Advocates.

Versus

NEW INDIA INSURANCE CO. LTD. & ORS. .... Respondents  
Represented by: Mr.Kanwal Chaudhary, Advocate for  
Respondent No.1.

**CORAM:  
HON'BLE MR. JUSTICE SURESH KAIT**

**SURESH KAIT, J. (Oral)**

**MAC.APP. No.667 /2013**

1. The present appeal is preferred against the impugned award dated 30.11.2011, whereby the learned Tribunal has granted compensation as under:-

- |    |   |            |
|----|---|------------|
| “1 | <i>Compensation for loss of earning capacity on account of permanent disability</i> | <i>NIL</i> |
| 2  | <i>Compensation for the expenses incurred on Medical treatment</i>                  | <i>NIL</i> |

3	<i>Compensation for conveyance expenses and special diet</i>	<i>Rs.70,000/-</i>
4	<i>Compensation for pain and suffering</i>	<i>Rs.1,00,000/-</i>
5	<i>Compensation for loss of amenities of life</i>	<i>Rs.1,00,000/-</i>
6	<i>Compensation for physical disfigurement due to squeezing of right eye and neuralgia and persistent epiphora</i>	<i>Rs.2,00,000/-</i>
7	<i>Compensation for Reduction of Matrimonial prospects</i>	<i>Rs.2,00,000/-</i>
8	<i>Compensation for loss of studies</i>	<i>Rs.1,50,000/-</i>
	<b><i>Total</i></b>	<b><i>Rs.8,20,000/-</i></b>

Interest at the rate of 7.5% *per annum* from the date of filing of the petition till realization of the amount was also awarded by the learned Tribunal.

2. Vide the present appeal, the appellant is seeking enhancement of the compensation amount as noted above.

3. Learned counsel appearing on behalf of the appellant/claimant has submitted that in the absence of guidelines for determining the disability on account of squeezing of eyes and other ailments of the appellant especially in case of a young unmarried girl, the Board did not determine the percentage of the disability suffered by the appellant, therefore, the learned Tribunal did not award any compensation on account of loss due to permanent disability.

4. Learned counsel further submitted that the learned Tribunal failed to consider that the appellant being a young girl having whole life to live and to study, definitely the injuries received and subsequent disease to the appellant would put restrictions on the enjoyment of her life. She has to use spectacles after the accident otherwise she feels headache. Moreover, her right eye has squeezed.

5. Learned counsel submitted that though the appellant/claimant suffered a permanent disease, namely, Neuralgia and regular watering of eyes and due to the injuries sustained in the accident, she received physical disfigurement and reduction of facial beauty. Despite the facts noted above, the compensation granted by the learned Tribunal towards marriage prospects is very less.

6. Learned counsel further submitted that the learned Tribunal also failed to consider that because of Neuralgia, there are other complications like pain in her eyes; therefore, she is unable to concentrate on her studies. In addition, she missed her goal of life to go for MBBS/Engineering as she cannot give long sittings for studies. Despite, the learned Tribunal has granted a less amount towards loss of studies.

7. Admittedly, the appellant has not received any permanent disability. She has completed her Graduation and is pursuing BBA, as informed by the learned counsel for the appellant. She is presently about 24 years of age. The appellant has failed to prove that there has been any loss of study in a particular year or even thereafter due to the injuries received in the accident.

8. Keeping in view the above noted facts, the learned Tribunal has awarded Rs.1,00,000/- towards loss of amenities of life, Rs.2,00,000/- for physical disfigurement. Rs.2,00,000/- for reduction of matrimonial prospects and Rs.1,50,000/- for loss of studies.

9. In motor accident cases, the Tribunals and the Courts have to grant just compensation. It should not be a bounty or enrichment, however, has to be compensatory in proportion to the injuries received or losses occurred. In the present case, I am of the considered opinion that the learned Tribunal has granted just compensation.

10. In view of the above discussion, I do not find any ground to enhance the compensation as awarded by the learned Tribunal.

11. Hence, finding no merit in the instant appeal, the same is hereby dismissed.

**CM No.11182/2013 (for delay)**

With the dismissal of the appeal itself, this application has become *infructuous*. The same is accordingly dismissed.

**SURESH KAIT, J.**

**FEBRUARY 20, 2014**

**Sb/RS**