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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 5th December, 2011

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MAC APP. 210/2011

PRAHLAD Appellant

Through: Mr. S. N. Parashar, Adv.

Versus

RAMESH KUMAR & ORS. Respondents

Through: Mr. Abhishek Kumar, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE G.P.MITTAL

J U D G M E N T

G. P. MITTAL, J. (ORAL)

1. The appeal is for enhancement of compensation for the injury suffered by the Appellant in the motor accident, which took place on 03.08.2005. The Appellant suffered 20% disability in respect of his right lower limb. The Tribunal assessed a compensation of ₹ 46,862/- towards treatment expenses, ₹ 20,000/- towards pain & suffering, ₹ 5,000/- towards conveyance. The Tribunal found that 20% disability with respect to the left lower limb would be taken as 10% functional disability. Applying a multiplier of '15' on the assumed income of ₹ 6,165/- of an unskilled worker. The Tribunal awarded a sum of ₹ 56,970/- for loss of earning capacity.

2. The Appellant remained admitted in Safdarjung Hospital from 03.08.2005 to 13.08.2005 and an operation was performed in the Hospital. The Appellant was readmitted in a private hospital on 18.08.2005 and was discharged on 21.08.2005.

3. In the claim petition the Appellant stated that he was working as a washerman and was ironing clothes and earning ₹ 5,000/-. Though, no evidence in respect of the deceased's income was produced, yet the averments made in para 4, however, were not denied either specifically or by necessary implication. Thus, it can be assumed that the Appellant was working as a washerman and ironing clothes. His earning capacity would definitely be affected by 20% and the compensation needs to be enhanced under this head. Apart from the disability certificate the Appellant also produced two photographs during inquiry before the Tribunal, which indicate that apart from disfigurement the Appellant would have difficulty in running and lifting heavy weights. Some compensation for loss of amenities and disfigurement ought to have been granted. Considering the admission of Appellant in two Hospitals and two surgical operations, the compensation for pain and suffering needs to be enhanced from ₹ 20,000/- to ₹ 30,000/-. I will proceed to tabulate the compensation under various heads as follows: -

Sl. No.	Head of Compensation	Compensation granted by the Tribunal	Compensation granted by High Court
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1.	Treatment expenses	₹ 46,862/-	₹ 46,862/-
2.	Pain & Suffering	₹ 20,000/-	₹ 30,000/-
3.	Special diet & conveyance	₹ 5,000/-	₹ 5,000/-
4.	Loss of amenities		₹ 50,000/-
5.	Loss of earning capacity	₹ 56,970/-	₹ 1,13,940/-
	Total	₹ 1,28,832/-	₹ 2,45,802/-

4. There is overall enhancement of ₹ 1,16,970/-, which shall carry interest @ 7.5% per annum from the date of filing of the petition till the payment. Respondent No.3 New India Assurance Co. Ltd. is directed to deposit the enhanced compensation with UCO Bank, Delhi High Court Branch, New Delhi within six weeks. 25% of the amount along with interest shall be transferred in the Appellant's savings bank account, which he can withdraw at his will. Rest of the amount shall be held in the form of FDR for a period of 3 years. A copy of this order be communicated to UCO Bank, Delhi High Court Branch, New Delhi.
5. The appeal is allowed in above terms.

(G.P. MITTAL)
JUDGE

DECEMBER 5, 2011

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