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

% *Date of Decision: 27<sup>th</sup> January, 2025*

+ **MAC.APP. 339/2024 & CM APPL. 38815/2024, CM APPL. 56266/2024**

RELIANCE GENERAL  
INSURANCE CO LTD

.....Appellant

Through: Mr. A.K.Soni, Advocate.

versus

SIYA RAM SINGH & ORS.

.....Respondents

Through: Mr. Bhavesh Kumar  
Sharma and Mr. Surinder  
Kaliraman, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**AMIT MAHAJAN, J.**

1. With the consent of the parties, the appeal is taken up for final hearing.

2. By way of the present appeal, the appellant challenges the award dated 07.05.2024 (hereafter '**the impugned award**'), passed by learned Presiding Officer, Motor Accident Claims Tribunal-02 (Central), Tis Hazari Courts, Delhi, pursuant to which total compensation of ₹49,70,840/- was awarded in favour of the respondents. The award has been challenged essentially on two grounds:

i) The appellant contends that no evidence was produced to assess the functional disability as 100%.



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ii) The future medical expenses have been assessed on the higher side as ₹5,00,000/- without any evidence.

3. It is undisputed that Respondent No.1 suffered serious injuries on the intervening night of 13-14.03.2017 when the Respondent No.1 along with 3-4 persons who were travelling in a vehicle, met with an accident with a truck in which Respondent No.1 and other passengers have sustained injuries and were taken by the police to a hospital at Haryana. It is undisputed that Respondent No.1 went in COMA/Post-Traumatic Hydrocephalous, and was thereafter referred to Ram Manohar Lohia Hospital, New Delhi.

4. At the time of filing of the claim petition also Respondent No.1 was in the state of COMA/Post-Traumatic Hydrocephalous. He was 58 years of age at the time and was working as a coaching trainer/tutor. It was thus claimed that Respondent No.1 is not in a position to work in the future.

5. The offending vehicle in which Respondent No.1 was travelling was insured with the appellant. The appellant has not challenged its liability to pay. As noted above the impugned award is challenged on the ground that Respondent No.1 had not been able to bring any evidence in order to show his functional disability as 100%.

6. The learned Tribunal recorded the testimony of PW-1, who is the wife of the injured claimant/victim. It is noted that PW-1 was subjected to cross-examination. However, she remained consistent and deposed that her husband had become permanently disabled after the accident and has not been able to



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resume any work. It is noted that there is nothing on record that would make the testimony unreliable. The learned Tribunal also took note of the medical treatment documents which showed that the victim was in a continuous vegetative state since the date of the accident and there is no chance of recovery. The learned Tribunal thus assessed 100% functional disability.

7. The learned counsel for the appellant submits that the medical treatment documents are not evidence of the vegetative state of the victim or that he is likely to continue in such a state forever. He submits that no disability certificate was produced before the learned Tribunal.

8. It is relevant to note that Respondent No.1 had filed a counter affidavit in the present petition and along with disability certificate dated 06.09.2024 issued by the Lok Nayak Jai Prakash Hospital, New Delhi. It is the case of Respondent No.1 that the necessity to obtain the certificate arose, since the objection has been raised on behalf of the appellant. The veracity of the certificate is not disputed by the appellant. It is clearly opined that the patient has a locomotor disability of 90%. Locomotor disability has been defined by Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment – as a person's inability to do any activities associated with moving both himself and objects, from place to place. This inability is due to the problem in the musculoskeletal (muscles, bones and joints) system and/or nervous system.

9. It is not denied that the victim at the time of the accident was working as a tutor, thus, having a locomotor disability of



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90%, can safely be presumed to be 100% functional disability and it cannot be said that the victim having suffered 90% of locomotor disability would be in any position to work as a tutor/teacher.

10. Keeping in view the vocation of the claimant and the nature of the injuries suffered by him and also being guided by the dicta of the Hon'ble Apex Court in ***Raj Kumar v. Ajay Kumar and Anr.*** : (2011) 1 SCC 343, I find no fault of the learned Tribunal assessing the functional disability of the claimant as 100% to the whole body and there is no merit in the arguments taken by the appellant.

11. The Hon'ble Apex in the case of ***Jagdish v. Mohan & Ors.***: (2018) 4 SCC 571, observed that in cases involving severe permanent disability, future medical expenses are a necessary component of compensation to ensure that the injured party can access required treatment throughout their life. The Hon'ble Apex Court emphasized the importance of adequately compensating the victim for expenses related to ongoing and future medical treatment, particularly when the injury results in a complete loss of earning capacity and dependency on family members for daily activities. It was held as under:

*8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:*

- (i) Pain, suffering and trauma resulting from the accident;*
- (ii) Loss of income including future income;*
- (iii) The inability of the victim to lead a normal life together with its amenities;*
- (iv) **Medical expenses including those that the victim may be***



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**required to undertake in future; and**

*(v) Loss of expectation of life.*

*(emphasis supplied)*

12. While awarding the future medical expenses, the learned Tribunal observed that Respondent No.1's ongoing treatment necessitates continuous medical expenditure. The learned Tribunal rightly recognized that the injuries are serious. The patient, in such circumstances, loses his ability to perform his daily activities and earn income, and the patient becomes dependant on his family members. It cannot be denied that two medical opinions (RML and LNJP hospital) state that Respondent No.1 suffers from 90% Locomotor disability. His medical condition is even worse since he is debilitated below the stomach and would need medical attention throughout his life, Therefore, in the opinion of this Court, compensation for a sum of ₹5,00,000/- towards future medical expenses awarded by the learned Tribunal is just and fair.

13. In view of the above, the present appeal is dismissed. Pending applications also stands disposed of.

14. The statutory amount deposited at the time of finding the present appeal is directed to be released in favour of the appellant.

15. The date of 01.05.2025 stands cancelled.

**AMIT MAHAJAN, J**

**JANUARY 27, 2025**

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