

**Lal Chand Vs. Prem and ors**

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**SooperKanoon Citation :** [sooperkanoon.com/1140428](http://sooperkanoon.com/1140428)

**Court :** Delhi

**Decided On :** May-15-2014

**Judge :** Suresh Kait

**Appellant :** Lal Chand

**Respondent :** Prem and ors

**Judgement :**

§~8 \* IN THE HIGH COURT OF DELHI AT NEW DELHI % Judgment delivered on:

15. h May, 2014 + MAC.APP. No.778/2012 LAL CHAND ..... Appellant  
Represented by: Mr. N.K. Jha, Adv. Versus PREM AND ORS ..... Respondents  
Represented by: Mr. D.D. Singh and Mr. Navdeep Singh, Advs. for R3. CORAM:  
HON'BLE MR. JUSTICE SURESH KAIT SURESH KAIT, J.

(Oral) 1. The present appeal has been preferred against the impugned award dated 31.03.2012, whereby, Ld. Tribunal awarded compensation for an amount of Rs.5,25,685/- with interest @ 7.5% per annum from the date of filing of the Claim Petition till realization of the amount.

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

3. Mr. N.K. Jha, Ld. Counsel appearing on behalf of the appellant submits that the appellant is a self-employed person and was earning Rs.7,000/- per month. Since he failed to prove his avocation and salary, Ld. Tribunal assessed his monthly income at Rs.5,278/- as per the Minimum Wages Act, 1948 applicable to the unskilled person at the prevalent time. The appellant was 56 years of age on the date of accident and received 70% permanent disability. Despite, the Ld. Tribunal, has not added any amount in his actual income towards future prospects.

4. To strengthen his arguments on the above issue, Id. Counsel has relied upon a case of Rajesh and Ors. Vs. Rajbir Singh and Ors. 2013 (6) SCALE563 wherein 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. Mr. Jha further submits that despite the permanent disability received by the appellant, Ld. Tribunal has awarded Rs.25,000/- towards pain and sufferings and Rs.10,000/- towards conveyance and special diet on lower side.

6. On the other hand, Mr. D.D. Singh, Ld. Counsel appearing on behalf of the respondent / Insurance Company submits that the appellant failed to prove his avocation and salary. Therefore, Ld. Tribunal has rightly not added any amount towards future prospects while relying upon the dictum of Sarla Verma Vs. DTC and Ors. 2009 (6) SCC121 which has been further affirmed by the Apex Court in the case of Reshma Kumari and Ors. Vs. Madan Mohan & Anr. (2013) 9 SCC65 7. Mr. Singh further submits that keeping in view the facts of the case, Ld. Tribunal has adequately granted the compensation towards nonpecuniary damages.

8. He further submits that though the appellant produced a medical bill of Rs.940/-, the Ld. Tribunal has awarded Rs.10,000/- towards the same.

9. I have heard Ld. Counsel for the parties.

10. The issue of future prospects has been dealt by this court in the case bearing MACA No.846/2011 titled as ICICI Lombard General Insurance Co. Ltd. Vs. Angrej Singh & Ors., decided on 30.09.2013 while relying upon the dictum of Rajesh & Ors. (Supra).

11. Thus, keeping in view the age of the claimant as 56 years on the date of accident, I award 15% towards future prospects.

12. As far as the issue of non-pecuniary damages are concerned, admittedly, the appellant received 70% permanent disability and the same has been considered by the Ld. Tribunal while calculating the compensation.

13. The appellant got crush injuries in his right foot. The amputation of his right leg below knee had to be done by the Doctors in order to save his life. He remained in hospital for 41 days. Therefore, I am of the considered opinion that Ld. Tribunal has awarded compensation towards non-pecuniary damages on lower side.

14. Keeping the injuries into view and the treatment received by the appellant, I award Rs.1,00,000/- towards pain and suffering and Rs.50,000/towards conveyance and special diet.

15. As far as the issue of medical expenses are concerned, this issue has been dealt by the Ld. Tribunal in Para 15 of the award, wherein it is recorded that generally people during treatment do not maintain the bills etc. and they are not aware of this benevolent legislation having provisions of compensation. Therefore, I am of the considered opinion that Ld. Tribunal has rightly awarded Rs.10,000/- towards medical expenses.

16. Consequently, the compensation amount comes as under: Sr. Heads No. Calculation as per MACT Calculation as per this Court i. Treatment Expenses Rs.10,000/- Rs.10,000/- ii. Pain and sufferings Rs.25,000/- Rs.1,00,000/- iii. iv. v. vi. Conveyance and Special diet: Compensation towards loss of income during treatment period: Rs.10,000 Rs.50,000/- Rs.31,668/- Rs.31,668/- Compensation on account of disability: Loss of enjoyment of life Rs.3,99,017/- Rs.4,58,869/- Rs.50,000/- Rs.50,000/- Rs.5,25,685/- Rs.7,00,537/- Total Resultantly, the compensation is assessed at Rs.7,00,537/17. Accordingly, an amount of Rs. 1,74,852/- is enhanced (Rs.7,00,537 Rs.5,25,685).

18. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of the claim petition till realization.

19. The respondent No.3/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 shall be entitled for penal interest @ 12% per annum on account of delayed payment.

20. On deposit, the Registrar General is directed to release the amount in favour of the appellant on taking necessary steps by him.

21. In view of the above, the appeal is allowed. SURESH KAIT, J MAY15 2014/jg/RS