



2026:DHC:5721



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 17th July 2026

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+ **MAC.APP. 181/2018**UTTAR PRADESH STATE ROAD TRANSPORT
CORPORATION

.....Appellant

Through: Mr. Ratneswar Das, Ms. Barnali
Deka Das, Ms. Swati Singh,
Advocates.

versus

SANJAY KUMAR JAIN

.....Respondent

Through: Mr. S.N. Parashar, Mr. Ritik Singh,
Advocates.

(10)

+ **MAC.APP. 237/2018**

SANJAY KUMAR JAIN

.....Appellant

Through: Mr. S.N. Parashar, Mr. Ritik Singh,
Advocates.

versus

PARVIND KUAMR & ANR

.....Respondents

Through: Mr. Ratneswar Das, Ms. Barnali
Deka Das, Ms. Swati Singh,
Advocates.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. These are cross-appals which have been filed assailing the impugned award dated 31st October 2017, passed by the Motor Accident



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Claims Tribunal, North-East District, Karkardooma Courts, Delhi (*MACT/Tribunal*) in *MACT No.190/2016* awarding Rs. 16,13,032/- along with 9% interest p.a. While *MAC.APP. 181/2018* has been filed by the owner of offending vehicle *i.e.* Uttar Pradesh State Road Transport Corporation (*UPSRTC*) seeking modification of the impugned award, *MAC.APP. 237/2018* has been filed by the injured claimant seeking enhancement of compensation.

2. The accident occurred on 6th August 2016 at about 8:30 pm when the injured claimant was travelling from Sahibabad, Ghaziabad to his home on his scooter no. DL 7SBY 8396. When he reached near Sani Temple, District Ghaziabad, a U.P. Roadway bus bearing registration no. UP-11T-9996 (hereinafter, '*offending vehicle*'), being driven in a rash and negligent manner, hit the injured claimant from behind. As a result of this, he fell down on the road and sustained crushed injury and other multiple injuries.

3. *Mr. Ratneswar Das*, counsel appearing on behalf of UPSRTC, contends that loss of future income, calculated on the basis of functional disability of 20%, was exaggerated, considering that the injured claimant had been working continuously and no proof of loss of income was provided. Further, non-pecuniary damages awarded by the MACT were also amplified and should be reduced.

4. On the contrary, *Mr. S.N. Parashar*, counsel for injured claimant, claims that functional disability ought to have been taken at a higher level, considering that permanent disability was certified at 70% in relation to the upper right limb and further, Rs.4,00,000/- granted towards prosthetic limb was inadequate, considering that he was 47 years of age on the date of accident *i.e.* 06th August 2016.



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5. MACT had noted that injured claimant was a case of amputation of right limb below elbow, as per the Disability Certificate, which noted 70% permanent disability in relation to right upper limb. Testimony of *Dr. Apoorv Sehgal, Senior Resident, Department of Orthopaedics, GTB Hospital, Delhi ('PW3')* was also noted, who confirmed the findings of Disability Certificate. No cross-examination was conducted by UPSRTC.

6. Moreover, in relation to the prosthetic limb, *Mr. Gaurav Saini, Senior Prosthetist & Orthotist, Endolite India Ltd. ('PW5')* had given his testimony by submitting a quotation of *Endolite India Ltd.*, stating that the present cost of limb was *Rs.3,34,057/-* with an average life of about 4 to 5 years and the average annual maintenance was about *Rs.30,000/-* after the expiry of one year warranty period.

7. MACT assessed the issue of functional disability in *paragraph 7.2* of the impugned award. It was noted that injured claimant could not attend to his business from the date of accident due to the amputation. However, the MACT did not find it to be a convincing aspect. MACT had made a strange observation that, "*in any case claimant was/is duty bound to make an attempt to engage himself in other activities/business so as to earn his livelihood.*" This observation made by MACT, which subsequently informs the conclusion, has been made without any basis and purely speculative and pedantic.

8. Notwithstanding this finding, no specific evidence was placed on record either by injured claimant or by UPSRTC to indicate any lack of attempt to earn livelihood. In the case of amputation of right hand of a person, the natural assumption would be that their livelihood would be grossly affected. Injured claimant (*'PW1'*) had stated in his evidence by



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way of affidavit that he was a businessman, running business for supplying spare parts of trucks and was earning about Rs.4,00,000/- per annum. He stated he had to close his business, due to the amputation/injuries sustained in the accident and was rendered jobless due to his permanent disability and was unable to continue his work. In the cross-examination conducted by UPSRTC, he stated that he used to supply the spare parts of trucks from his house. No other aspect has been recorded in the evidence that would have a bearing on the issue of loss of earning.

9. In the opinion of this Court, the subsequent observation made by MACT, that it cannot be said that due to the accident, injured claimant was permanently unable to engage himself in any other activity, is also an overly speculative observation. It appears that MACT was concerned about injured claimant's capacity for not being inspired to earn any income and, therefore, granted functional disability of 20%, which is less than even half of what has been applied by Tribunals, pursuant to the principle enunciated by the Supreme Court in **Raj Kumar v. Ajay Kumar** (2011) 1 SCC 343.

10. It has been made clear by the Supreme Court in various decisions that principles of **Raj Kumar** (*supra*) do not automatically lead to calculating functional disability at 50% of the permanent disability, but has to be assessed on the basis of triple test given by the Supreme Court in **Raj Kumar** (*supra*), which takes into account the nature of vocation and the injured claimant's ability to engage in other pursuits.

11. In the case at hand, it can easily be considered that after the amputation of his right arm, injured claimant's ability to carry on regular business would have been sorely impeded and even though some other engagement may have been employed by him in order to continue earning



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his livelihood, it would certainly not be akin to a normal state of living.

12. The contention raised by UPSRTC, in this regard, to not award loss of future income is, therefore, completely untenable. Quite to the contrary, functional disability which has been granted at 20%, ought to be taken at 35% in order to accommodate for the disability suffered by the injured claimant.

13. As regards the prosthetic/artificial limb, MACT had awarded Rs.4,00,000/- as lumpsum. No evidence has been placed on record that the prosthetic/artificial limb has been used in the past eight years, since the matter has been pending before this Court.

14. In this regard, reliance may be placed upon the decision of Supreme Court in **Mohd. Sabeer v. U.P. SRTC**, (2023) 20 SCC 774 where the Court was ascertaining the compensation towards prosthetic limb and its maintenance. Relevant findings of the Court are extracted as under:

“23. As per the current compensation given for the prosthetic limb and its maintenance, it would last the appellant for only 15 years, even if we were to assume that the limb would not need to be replaced after a few years. The appellant was only 37 years at the time of the accident, and it would be reasonable to assume that he would live till he is 70 years old if not more. We are of the opinion that the appellant must be compensated so that he is able to purchase three prosthetic limbs in his lifetime and is able to maintain the same at least till he has reached 70 years of age. For the prosthetic limbs alone, the appellant is to be awarded compensation of Rs 7,80,000 and for maintenance of the same he is to be awarded an additional Rs 5,00,000.”

(emphasis added)



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15. Notwithstanding, considering that the injured claimant is 57 years of age at present and would approximately require two more prosthetics till the age of 70, as considered by the Supreme Court in *Sabeer (supra)* and there would have been inflation in the cost of artificial/prosthetic limb, an amount of Rs.10,00,000/- will be deposited in a separate account out of which reimbursements will be given, only if actual bills, invoices and proof is produced by injured claimant for the use of artificial/prosthetic limb. It is further clarified that no interest shall be given on the said amount granted towards prosthetic limb. Therefore, this Court is inclined to accept the contention raised by *Mr. Parashar*, counsel for injured claimant to that extent.

16. As regards future prospects, same shall have to be aligned with the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680. Considering that the injured claimant was 47 years of age and was not working in a permanent job, future prospects shall be awarded at 25%.

17. Accordingly, revised computation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1.	Expenditure on treatment (A)	Rs. 1,75,381/-	Rs. 1,75,381/-
2.	Expenditure on special diet/conveyance/attendant charges (B)	Rs. 45,000/-	Rs. 45,000/-
3.	Income of injured (C)	Rs. 3,42,328/-	Rs. 3,42,328/-
4.	Add: Future prospects (D)	Rs. 1,02,698.4/-	Rs. 85,582/-
5.	Multiplier (E)	13	13
6.	Functional disability (F)	20%	35%



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7.	Loss of income (G)	Rs. 85,582/-	Rs. 85,582/-
8.	Loss of future income/future earnings $[(C+D) \times E \times F] = (H)$	Rs. 11,57,068.64/-	Rs. 19,46,990.5/-
NON-PECUNIARY LOSS			
9.	Pain and suffering (I)	Rs. 75,000/-	Rs. 75,000/-
10.	Disfigurement (J)	Rs. 75,000/-	Rs. 75,000/-
11.	Total compensation $(A + B + G + H + I + J) = K$	Rs. 16,13,032/- (rounded off)	Rs. 24,02,954/- (rounded off)
12.	Interest awarded	9%	9%
13.	Prosthetic Limb	Rs. 4,00,000/-	Rs. 10,00,000/-

Directions

18. For the aforesaid reasons, compensation has been enhanced by Rs. 7,89,922/-. (*'enhanced amount'*)

19. Enhanced amount, along with accrued interest will be deposited before the Registrar General of this Court within the next six weeks. It is directed that it be released as a lump sum amount, within a period of two weeks thereafter.

20. As directed above in *paragraph 15*, owner/UPSRTC shall deposit Rs. 10,00,000/- in a separate account before the Registrar General of this Court, out of which reimbursements will be given, subject to proof of bills and invoices produced by injured claimant for the use of artificial/prosthetic limb. No interest shall be accrued on this amount.

21. By order dated 22nd February 2018, this Court had directed owner/UPSRTC to deposit Rs.10,00,000/- along with 9% interest before the Registrar General of this Court, subject to which the execution of impugned award was stayed. Further directions for depositing the balance



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amount, along with up to date interest before the Registrar General of this Court, were given by this Court on 10th May 2018. Thereafter, by order dated 05th August 2019, 50% of the amount was directed to be released in terms of the scheme of impugned award. Remaining amount from the original compensation shall be disbursed as per the directions of MACT.

22. Appeals are disposed of in the above terms.

23. Pending applications, if any, are rendered infructuous.

24. Copy of this judgment be sent to the concerned bank for information and compliance.

25. Statutory deposit, if any, shall be refunded to owner-UPSRTC, only if the order of deposit has been complied with.

26. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 17, 2026/ak/sp