



2026:DHC:5428



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 07th July 2026+ MAC.APP. 553/2023

DEVENDER MEHTO

.....Appellant

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

versus

SH SANTOSH GUPTA & ORS.

.....Respondents

Through: Mr. J.P.N. Shahi, Advocate for
Respondent no.3/ Insurance
Company.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Patiala House Courts, New Delhi ('*MACT/Tribunal*') by impugned award dated 12th September 2023 in MACP No. 456/2016 at Rs. 14,97,740/- along with 7.5% interest per annum.
2. The accident in question occurred on 28th July 2015 at about 6 pm, when appellant/claimant, aged 37 years old, was travelling from *Pusa Gate* to *Charak Palika Hospital, Moti Bagh*, New Delhi on an *Eicher* Tempo loaded with refrigerators. When they reached near *Charak Palika Hospital*, all of a sudden, the tempo, being driven rashly and negligently, hit a tree



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branch due to which the appellant/claimant was crushed under the loaded refrigerators. As a result of the accident, appellant/claimant suffered *permanent spinal and bladder injuries*.

3. *Mr. S.N. Parashar*, counsel for appellant/claimant, seeks enhancement of compensation on three counts.

4. **Firstly**, *functional disability* was determined at 50% in context of permanent disability certified at 42% i.e. 20% due to *L-2 and L-3 lumber vertebrae* and 25% due to involvement of bladder, following an injury to the spinal cord. Considering that, appellant/claimant was working as a labourer and was actively involved in loading and unloading, his vocation was completely affected; **secondly**, the rate of interest was inadequately considered at 7.5%; and **thirdly**, compensation awarded towards non-pecuniary compensation is inadequate.

5. *Dr. Satish Kumar*, Consultant, Orthopaedics and Chairman, Medical Board, Dr. RML Hospital, New Delhi, (**'PW-4'**) stated that the patient cannot do labour work i.e. loading and unloading of heavy objects and his bladder function was completely de-arranged leading to dribbling of urine.

6. In these circumstances, *Mr. Parashar* has relied not only upon the principles enunciated in ***Raj Kumar v. Ajay Kumar*** (2011) 1 SCC 343, but also the recent judgment of Supreme Court in ***M. Paramesh v. VRL, Logistics Ltd & Anr.*** 2026 INSC 655, where Supreme Court ascertained functional disability in case of a mason at 100%.

7. The Supreme Court in ***M. Paramesh*** (*supra*) was dealing with an appeal for enhancement of compensation, in case of a mason who had suffered amputation of his right leg. Relying upon the decision in ***Raj Kumar*** (*supra*), the Court categorically stated that depending on the nature of



vocation carried out by the injured-claimant prior to the accident, functional disability may be assessed at a higher percentage, including 100%. It was noted that the nature of work carried out by a mason involves continuous use and support of both legs and the injury had rendered the mason incapable of carrying out the manual work, which constituted his only source of livelihood. Therefore, the loss of earning capacity cannot be restricted to 70% on the basis of physical disability. Relevant observations of the Court are extracted as under:

“22. From the above observations in Raj Kumar (supra), it becomes crystal clear that though the physical disability may be assessed at a particular percentage, the functional disability affecting earning capacity may, depending upon the nature of avocation carried on by the injured, be assessed at a higher percentage including 100%. The assessment of compensation in cases of permanent disability cannot be undertaken by mechanically applying the percentage of physical disability as the percentage of economic loss.

23. There is no dispute with regard to the fact that the appellant was working as a mason at the time of the accident. The work of a mason is essentially a physical and manual avocation requiring continuous use and support of both legs. The material on record further reveals that on account of the injuries suffered in the accident, the appellant underwent amputation of his right leg above the knee.

24. By virtue of the aforesaid amputation, the appellant has effectively lost his capacity to continue the work of a mason which was admittedly the sole avocation being pursued by him for earning his livelihood. It is not even the case of the respondents that the appellant was engaged in any other sedentary occupation or that despite the amputation suffered by him, his earning capacity remained unaffected.

25. The amputation of the right leg above the knee has



not merely caused physical disability to the appellant but has rendered him incapable of effectively carrying on the manual and physical work which constituted his only source of livelihood. In such circumstances, restricting the loss of earning capacity to 70% merely on the basis of physical disability would not be justified.”

(emphasis added)

8. Mr. J.P.N. Shahi, counsel for respondent no.3/Insurance Company counters the grant of 100% towards functional disability, as pleaded by Mr. Parashar, submitting that there will be no difference between people with some functionality and those with *paraplegia*. He, therefore, states some consistency has to be there in the parameters which are applied by the Courts in context of what was stated in **Raj Kumar** (*supra*) which provided a triple test for calculating functional disability. Relevant finding of the Supreme Court is extracted as under:

“13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn



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or can continue to earn his livelihood”

(emphasis added)

9. Considering the testimony of **PW-4** and the decision of Supreme Court in **M. Paramesh** (*supra*), the Court is of the opinion that functional disability has to be increased, considering that appellant/claimant was doing labour work, therefore, would be completely impeded in continuing his vocation.

10. Further, the impediment faced by appellant/claimant in his bladder functions would also disable him from doing many other jobs which would require continuous presence and attendance. Accordingly, the Court is inclined to proportionately increase *functional disability* to 75%.

11. As regards the issue of interest, reliance may be placed the decision of Supreme Court in **Kaushnuma Begum v. New India Assurance Co. Ltd.** (2001) 2 SCC 9, wherein, while interpreting the powers of MACT under Section 171 of MV Act to award simple interest on compensation from the date of institution of the claim petition, it was observed that the rate of interest awarded by nationalised banks on fixed deposits ought to serve as the guiding factor while determining the rate of interest payable on compensation amounts. Considering that the long-term fixed deposit rates offered by nationalised banks during 2015-16 *i.e.* at the time of filing the claim petition were between 7-7.5%, this Court is not inclined to interfere with the rate of interest awarded by the MACT.

12. As regards the plea for increasing compensation towards non-pecuniary damages, Court is inclined to increase amount granted towards *pain and suffering* to Rs.1,00,000/-.

13. Accordingly, revised computation is as under:



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Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1.	Expenditure on treatment (A)	Rs. 13,404/-	Rs. 13,404/-
2.	Expenditure on conveyance (B)	Rs. 30,000/-	Rs. 30,000/-
3.	Expenditure on special diet (C)	Rs. 50,000/-	Rs. 50,000/-
4.	Nursing/Attendant Charges (D)	Rs. 60,000/-	Rs. 60,000/-
5.	Income of injured (E)	Rs. 9,048/-	Rs. 9,048/-
6.	Add: Future prospects @ 40% (F)	Rs. 3,619.2/-	Rs. 3,619.2/-
7.	Multiplier (G)	15	15
8.	Functional disability (H)	50%	75%
9.	Loss of income (Rs. 9,048/- x 6) (I)	Rs. 54,288/-	Rs. 54,288/-
10.	Loss of future income/future earnings [(E + F) x 12 x G x H] = (J)	Rs. 11,40,048/-	Rs. 17,10,072/-
NON-PECUNIARY LOSS			
11.	Mental and physical shock (K)	Rs. 50,000/-	Rs. 50,000/-
12.	Pain and suffering (L)	Rs. 50,000/-	Rs. 1,00,000/-
13.	Loss of amenities of life (M)	Rs. 50,000/-	Rs. 50,000/-
14.	Total compensation (A + B + C + D + I + J + K + L + M) = N	Rs. 14,97,740/-	Rs. 21,17,764/-
15.	Interest awarded	7.5%	7.5%

Directions

14. For aforesaid reasons, compensation has been enhanced by Rs.6,20,024/- [***‘enhanced amount’***].

15. Enhanced amount along with 7.5% interest per annum from the date of filing the petition shall be deposited by respondent no.3/Insurance Company before the MACT within a period of four weeks, which shall be released as lumpsum to the appellant/claimant within a period of two weeks



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thereafter.

16. Accordingly, appeal is disposed of in the above terms.
17. Pending applications, if any, are rendered infructuous.
18. Copy of this judgment be sent to the concerned MACT.
19. Copy of this judgment be sent to the concerned bank for information and compliance.
20. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 7, 2026/ak/sp