



\$~1

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

+ **MAC.APP. 194/2016**

UNITED INDIA INSURANCE CO LTD Appellant

Through: Mr. Sankar N Sinha, Advocate.

versus

SANTOSH KUMAR & ORS Respondents

Through: Mr. Alok Dev, Advocate

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
23.07.2026

%

CM APPL. 44414/2026

1. This application has been filed by *Mr. Alok Dev*, counsel for claimant, seeking waiver of costs imposed by order dated 21st April 2026, on account of lack of diligence on his part in seeking an adjournment without informing the opposing counsel.
2. In support of his plea, *Mr. Alok Dev* has filed the marriage card of his chamber junior whose wedding was scheduled for 28th April 2026. He submits that, owing to the marriage, his entire office, including the staff, was not available and, therefore, he could neither properly inform the other side's counsel nor could he move an adjournment slip. He has apologised for his conduct and states that it will not be repeated again.
3. In these circumstances, the application is allowed, and the cost is waived of.
4. Application stands disposed of.



MAC.APP. 194/2016

1. This appeal assails the impugned judgment dated 08th January 2016 passed by the Motor Accident Claims Tribunal, Patiala House Courts ('*MACT/Tribunal*'), whereby compensation of Rs. 36,74,057/-, along with interest @ 9% per annum, was awarded. The accident occurred on 30th July 2012 at Outer Circle, Connaught Place, when the injured claimant, who was riding his motorcycle, was hit by a DTC bus. As a result of the impact, he fell on the road and sustained grievous injuries. It is alleged that the offending vehicle did not stop and crushed both the legs of the claimant.
2. Injured-claimant was admitted to *RML Hospital*, and his leg was amputated. The Professor, Department of Orthopaedics from the hospital testified that the claimant had suffered 80% permanent physical impairment in relation to the left lower limb and would not be able to perform jobs which require running on account of disability suffered by him. He further deposed that the injured-claimant would, however, not have difficulty in sitting and squatting, and would be able to perform a desk job which requires sitting.
3. *Mr. Shankar N Sinha*, counsel for Insurance Company, contends that the claimant's functional disability ought to have been assessed at 40%, applying the principles laid down in *Raj Kumar v Ajay Kumar & Anr.* (2011)1 SCC 343. However, the Court notes that the injured claimant was self-employed and was doing job work in the name and style of *M/s Deepa Enterprises (Aluminium Fabricator)*. In his cross-examination, the claimant stated that he had been engaged in aluminium fabrication work since 1985-1986 and was 37 years of age on the date of the accident.
4. Considering the nature of his work, the MACT was not amiss in assessing the functional disability at 60% in relation to the whole body, as the vocation in which the claimant was engaged would require a lot of physical



movement and was not merely managerial in nature.

5. Accordingly, the aforementioned plea of the Insurance Company is not merited.

6. The other issue pertains to the award of future prospects at 50%, despite the claimant being self-employed and engaged in his own business.

7. In terms of the principles enunciated in *National Insurance Company Ltd. vs. Pranay Sethi & Ors.* (2017) 16 SCC 680, the future prospects is reduced to 40%. In this regard, the Insurance Company's plea is accepted.

8. The revised compensation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1	Expenditure on Medical Bills and medical treatment (A)	Rs.1,18,437/-	Rs.1,18,437/-
2	Expenditure on conveyance and special diet (B)	Rs.30,000/-	Rs.30,000/-
3	Attendant charges (C)	Rs.20,000/-	Rs.20,000/-
4	Disfigurement of body (D)	Rs.1,00,000/-	Rs.1,00,000/-
5	Income of injured per month(E)	Rs.18,346/-	Rs.18,346/-
6	Loss of Income (F) [10 months]	Rs.1,83,460/-	Rs.1,83,460/-
7	Add: Future prospects (G)	50%	40% of Rs.18,346/- = Rs. 7,338.40/-
8	Multiplier (H)	15	15
9	Functional disability (I)	60%	60%
10	Loss of future income/future earnings [(E+G) x 12 x H x I] = (J)	Rs.29,72,160/-	Rs. 27,73,915.20/-
NON-PECUNIARY LOSS			
11	Pain and suffering (K)	Rs.2,00,000/-	Rs.2,00,000/-
12	Loss of amenities of life (L)	Rs.50,000/-	Rs.50,000/-
13	Total compensation (A + B + C + D + F +J) = M	Rs.36,74,057/-	Rs. 34,25,812.20/- (rounded to Rs. 34,25,812)
14	Interest awarded	9% p.a.	9% p.a.
15	Reduced Compensation	Rs. 1,98,245/-	



9. Accordingly, the compensation is reduced by Rs. 1,98,245/-.
10. The reduced amount, along with accrued interest thereon, be refunded to the Insurance Company in their designated bank account.
11. *Vide* order dated 29th February 2016, the Court directed the Insurance Company to deposit the entire awarded amount, of which 40% was directed to be released to the claimant.
12. Considering the matter pertains to an accident that occurred more than 14 years ago, it is directed that the balance amount along with accrued interest thereon, in terms of the revised compensation, be released to the injured claimant in a lump sum by liquidating all the FDRs.
13. Accordingly, the appeal is disposed of. Pending applications, if any, are rendered infructuous.
14. Statutory deposit, if any, be refunded.
15. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JULY 23, 2026/sm/bp