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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 06th July 2026*+ MAC.APP. 113/2025 & CM APPL. 8255/2025

NATIONAL INSURANCE CO LTD Appellant

Through: Ms. Seema Gulati, Adv.

versus

SANTOSH KUMAR SINGH & ORS. Respondents

Through: Mr. S N Parashar & Mr. Ritik Singh,
Adv. for R-1.**CORAM:**
HON'BLE MR. JUSTICE ANISH DAYAL**JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the Insurance Company assailing impugned award dated 02nd August 2024 passed by the Motor Accidents Claims Tribunal [*‘MACT/Tribunal’*], Tis Hazari Courts in MACT Petition No.1087/2018 awarding compensation of Rs.45,24,155/- along with interest at the rate of 8% per annum.

2. Respondent no.1/Injured was working as a TSR driver and was involved in an accident which occurred on 29th July 2018, resulting in 36% permanent disability in relation to his left eye. *Dr. S. K. Narang* (*‘PW-2’*) from *Aruna Asaf Ali Hospital* was examined, who was a member of the Medical Board and supported the Disability Certificate by stating that, “*due to the said accident, vision of his left eye (respondent no.1/injured) is*



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completely lost vision and the other eye may be effected.” He further stated that “*after visual review examination we can give our opinion that the patient is fit for getting drive or not*”. Nothing further was elicited in the cross examination of **PW-2**.

3. *Ms. Seema Gulati*, counsel for appellant/Insurance Company argues that, from a perusal of the evidence of *Mr. Sumit Dhankhar* (**‘R3W1’**), officer from Delhi Transport Office (**‘DTO’**), Mall Road, Delhi who had brought on record the driving licence (**‘DL’**) of respondent no.1/injured, it transpired that a renewal application was made online on 30th January 2021, which was subsequently granted and the driving license remained active as on the date of testimony *i.e.* 21st September 2023. However, post the said testimony, in follow-up testimony recorded on 27th February 2024, the status of driving licence was treated as suspended with effect from 07th November 2023, at the request of respondent no.1/injured.

4. *Ms. Gulati*, counsel for appellant/Insurance Company, therefore, submits that in-between the testimonies recorded on 21st September 2023 and 27th February 2024, respondent no.1/injured must have gone ahead to get his driving license suspended, but certainly held the driving license prior to that.

5. Moreover, she relies upon *Section 15 of the Motor Vehicles Act, 1988*, which mandates submission of a medical certificate for applicants above the age of 40 years applying for renewal of a driving license. She therefore, contends that considering respondent no.1/injured was born in 1979 and applied for renewal of DL in 2021, at more than 40 years of age, he would have submitted his medical certificate. On this basis, *Ms. Gulati*, states it can be safely presumed that he had continued to drive and



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therefore, the finding of functional disability at 100% considered by the MACT, cannot be sustained.

6. *Mr. Parashar*, counsel for respondent no.1/injured, relies upon the impugned award and the observations made in *paragraph no.22*, which relate to disability. This issue about renewal of DL was also argued before the MACT and MACT stated that the renewal of DL may have been done to try and work, since a person who has suffered loss of income, tries his best to make sure to earn something for himself and his family members. Therefore, on this basis, the plea of appellant/Insurance Company was dismissed.

7. In the opinion of this Court, reliance may be placed upon the decision of Supreme Court in ***Rajkumar v. Ajay Kumar*** (2011) 1 SCC 343 where the Supreme Court enunciated a threefold test and held that the Tribunal must assess not merely the extent of permanent disability, but its actual impact on the claimant's earning capacity, which may differ from the medical percentage of disability. This requires evaluating the claimant's pre-accident vocation, the functions affected, and whether livelihood can still be earned despite the disability. The Court emphasised that disability and loss of earning capacity are distinct concepts, except in cases where evidence shows they coincide. Relevant finding of the 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,



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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 or can continue to earn his livelihood.”

(emphasis added)

8. Considering that he was a TSR driver, and as per testimony of **PW-2** there was complete loss of eyesight in the left eye and with the right eye being effected, it would have been virtually impossible for respondent no.1/injured to be driving on the road and particularly, a commercial vehicle. The MACT may not be amiss in observing that he would have applied for renewal of DL, some way or the other in order to sustain the driving license, since possessing a DL is otherwise considered useful as an identity document. How he managed to procure the DL with a medical certificate, whether the medical certificate was valid or not, need not be examined by the Court.

9. Certainly, pursuing any other vocation which could be carried out with lesser strain on his eyesight would have been possible for respondent no.1/injured and therefore, functional disability being assessed at 100% may not be apposite.

10. In the opinion of this Court, loss of eyesight is a critical issue, even though partial, since it disables a person from being accepted to do any vocation, except possibly some kind of self-employment to earn a livelihood. In these circumstances, the Court considers assessing functional



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disability at 72% to be an appropriate measure.

11. However, in the opinion of the Court, non-pecuniary losses under the heads of *pain and suffering* and *loss of amenities* should be enhanced to Rs.1,00,000/- each to reflect the impediment suffered by respondent no.1/injured of substantive loss of eye-sight.

12. Accordingly, the revised computation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1	Expenditure on treatment (A)	Rs. 365/-	Rs. 365/-
2	Expenditure on conveyance (B)	Rs. 35,000/-	Rs. 35,000/-
3	Expenditure on special diet (C)	Rs. 35,000/-	Rs. 35,000/-
4	Nursing/Attendant charges (D)	Rs. 35,000/-	Rs. 35,000/-
5	Income of injured (E)	Rs. 16,858/-	Rs. 16,858/-
6	Add: Future prospects (F)	Rs. 6,743.2/-	Rs. 6,743.2/-
7	Multiplier (G)	15	15
8	Functional disability (H)	100%	72%
9	Loss of income/Wages (I) [Rs. 16,858 x 3]	Rs. 50,574/-	Rs. 50,574/-
10	Loss of future income/future earnings [(E+F) x 12 x G x H] = (J)	Rs. 42,48,216/-	Rs. 30,58,716/-
NON-PECUNIARY LOSS			
11	Pain and suffering (K)	Rs. 50,000/-	Rs. 1,00,000/-
12	Loss of amenities of life (L)	Rs. 35,000/-	Rs. 1,00,000/-
13	Disfiguration (M)	Rs. 35,000/-	Rs. 35,000/-
14	Total compensation (A + B + C + D + I + J+ K + L + M) = N	Rs. 45,24,155/-	Rs. 34,49,655/-
15	Interest awarded	8%	8%



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Directions

13. Accordingly, in view of the above, compensation payable to respondent no.1/injured has been reduced by Rs. 10,74,500/- along with interest at 8% as awarded by the MACT.

14. By order dated 12th February 2025 and 14th May 2025, this Court had directed deposit of the entire amount of compensation along with accrued interest with the Registrar General of this Court and further, 60% amount was directed to be released to respondent no.1/injured, which stands confirmed by *Mr. Parashar*, counsel for respondent no.1/injured.

15. Accordingly, considering the revised computation, in case any excess amount has been deposited by appellant/Insurance Company, same shall be refunded to them, along with accrued interest thereon. Respondent no.1/injured shall be entitled to release of the balance amount along with accrued interest.

16. Appeal stands disposed of in above terms.

17. Pending application is rendered infructuous.

18. Statutory deposit, if any, be refunded to appellant/Insurance Company, only if the order of deposit has been complied with.

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

**(ANISH DAYAL)
JUDGE**

JULY 06, 2026/sm/sp