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

CNR No. DLHC011278582016

+ **MAC.APP. 373/2016**

UNITED INDIA INSURANCE COMPANY LTD. Appellant

Through: **Mr. Pradeep Gaur, Advocate.**

versus

SUSHIL KUMAR MISHRA & ORS. Respondent

Through: **Mr. S.N. Parashar, Advocate with Mr.
Ritik Singh, Advocate for R-1.**

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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25.08.2026

1. This appeal has been filed by the Insurance Company assailing impugned award dated 14th March 2016 passed by the Motor Accident Claims Tribunal [***MACT/Tribunal***] West, Delhi in Case no. 299/2013, whereby, compensation of *Rs.23,78,038/-* along with interest at 9% per annum was awarded.

2. The accident in question occurred on 16th November 2012 near *Kakrola Police Picket*, when the claimant was travelling on his motorcycle and was hit by a TATA Tempo bearing registration no. HR-63B-6990 ('hereinafter, '***offending vehicle***'). As a result of the accident, claimant suffered grievous spinal injuries and permanent physical disability was certified at 75% with respect to the whole body.



3. The MACT assessed the functional disability at 40%. Considering that the offending commercial vehicle did not possess a valid license, recovery rights were granted to the Insurance Company.
4. *Mr. Gaur*, submits that the driver and owner of offending vehicle did not defend their position before the MACT, nor before this Court in appeal. The essential argument raised by *Mr. Gaur*, counsel for appellant/Insurance Company, is that, since there was evidence that the claimant continued to earn even in 2015, as admitted in his cross-examination, there was no loss of future income. This is apart from the loss of income during the treatment period, with regard to which appellant/Insurance Company has no quarrel. He therefore contends that, once there is evidence demonstrating continued earning, even from private employment, loss of future income cannot be granted as a matter of course.
5. To this, *Mr. Parashar*, counsel for claimant counters, that loss of future income is awarded on a notional basis and not necessarily on the basis of actual loss, as is evident from cases involving minors who have not yet commenced employment. He further submits that the Disability Certificate certified the permanent physical disability at 75% with respect to the whole body, on account of *quadriplegia*. However, the Tribunal substantially reduced the functional disability to 40%.
6. *Mr. Parashar*, further contends that this is not a case involving a government employee with job security, where compensation is granted for the loss of income post-retirement. Rather, the claimant was in private employment, where there was no certainty that his employment would continue. He therefore submits that the present case was a fit case for awarding compensation towards loss of future income.



7. *Mr. Pradeep Gaur*, relies upon the decision of Madurai Bench of the Madras High Court in ***The Divisional Manager v. I.Royappan*** C.M.A.(MD) No.580 of 2016, dated 29th June, 2017, which dealt with the issue of an Engineer employed with Southern Railways, aged 40 years who had sustained injuries.

8. As regards the compensation, Court had noted that the injured was a government employee and had been continuing in service even after the accident, therefore, there was no question of *future loss of income* after retirement being awarded to the injured.

9. The same was upheld by the Supreme Court in ***I.Royappan v. Divisional Manager, United India Insurance***, CA No. 19840/2017 and a lumpsum enhancement of Rs. 1,00,000/- was awarded.

10. *Mr. Gaur*, essentially states that *future loss of income* cannot be granted, where there is evidence of income continued to be earned.

11. *Mr. Parashar*, however, states that there is a distinction between a person working in private employment and a person working in government employment. With respect to private employment, there is an insecurity of employment due to the disability suffered. In order to continue with the livelihood, there is a possibility that some employment will be taken up by the claimant and, therefore, there would be decrease in the income.

12. In this regard, reference may be made to decisions of Supreme Court, which have taken this into account and endorsed the compensation awarded on the basis of *loss of future income*. In ***Dinesh Singh v Bajaj Allianz General Insurance Company***, CA No. 8215-8216/2009, the Supreme Court was adjudicating the appeal of a claimant who had suffered 100% permanent disability and amputation of his left leg. Before the accident, he was



working as a Quality Engineer and earning monthly, however, the Court noted that he had to resign from the job and take up a desk job in Industrial Development Bank of India.

13. An argument was raised by the Insurance Company that, since he had taken up a desk job, he had not suffered any loss of income. The Court held that, considering the nature of permanent disability, the claimant, who was an Engineer by profession, could not take up such a profession which requires moving from one place to another and, therefore, it cannot be said that no financial loss had been suffered by the claimant pursuant to taking a desk job.

14. The Supreme Court noted that, *“once the permanent disability is fixed, taking into consideration, its impact on the employment/profession of the claimant, the compensation has to be awarded.”*

15. In ***Sandeep Khanuja v Atul Dande and Anr.*** (2017) 3 SCC 351, the Court was considering the issue of compensation awarded to the claimant who was aged 30 years of age, had suffered 70% permanent disability and was working as a Chartered Accountant. While traversing the law on the application of multiplier method, the Court noted as under:

“12. While applying the multiplier method, future prospects on advancement in life and career are taken into consideration. In a proceeding under Section 166 of the Act relating to death of the victim, multiplier method is applied after taking into consideration the loss of income to the family of the deceased that resulted due to the said demise. Thus, the multiplier method involves the ascertainment of the loss of dependency or the multiplicand having regard to the circumstances of the case and capitalising the multiplicand by an appropriate multiplier. The choice



of the multiplier is determined by the age of the deceased or that of the claimant, as the case may be. In injury cases, the description of the nature of injury and the permanent disablement are the relevant factors and it has to be seen as to what would be the impact of such injury/disablement on the earning capacity of the injured. This Court, in U.P. SRTC v. Trilok Chandra [U.P. SRTC v. Trilok Chandra, (1996) 4 SCC 362] justified the application of multiplier method in the following manner : (SCC p. 369, para 13)

“13. It was rightly clarified that there should be no departure from the multiplier method on the ground that Section 110-B of the Motor Vehicles Act, 1939 (corresponding to the present provision of Section 168 of the Motor Vehicles Act, 1988) envisaged payment of “just” compensation since the multiplier method is the accepted method for determining and ensuring payment of just compensation and is expected to bring uniformity and certainty of the awards made all over the country.”

The multiplier system is, thus, based on the doctrine of equity, equality and necessity. A departure therefrom is to be done only in rare and exceptional cases.”

(emphasis added)

16. Thereafter, taking into account the issue of mobility of the injured claimant, the Court opined as under:

“14. The crucial factor which has to be taken into consideration, thus, is to assess as to whether the permanent disability has any adverse effect on the earning capacity of the injured. In this sense, MACT approached the issue in the right direction by taking into consideration the aforesaid test. However, we feel that the conclusion of MACT, on the application of the aforesaid test, is erroneous. A very myopic view is taken by MACT in taking the view that 70% permanent



disability suffered by the appellant would not impact the earning capacity of the appellant. MACT thought that since the appellant is a Chartered Accountant, he is supposed to do sitting work and, therefore, his working capacity is not impaired. Such a conclusion was justified if the appellant was in the employment where job requirement could be to do sitting/table work and receive monthly salary for the said work. An important feature and aspect which is ignored by MACT is that the appellant is a professional Chartered Accountant. To do this work efficiently and in order to augment his income, a Chartered Accountant is supposed to move around as well. If a Chartered Accountant is doing taxation work, he has to appear before the assessing authorities and appellate authorities under the Income Tax Act, as a Chartered Accountant is allowed to practice up to Income Tax Appellate Tribunal. Many times Chartered Accountants are supposed to visit their clients as well. In case a Chartered Accountant is primarily doing audit work, he is not only required to visit his clients but various authorities as well. There are many statutory functions under various statutes which the Chartered Accountants perform. Free movement is involved for performance of such functions. A person who is engaged and cannot freely move to attend to his duties may not be able to match the earning in comparison with the one who is healthy and bodily abled. Movements of the appellant have been restricted to a large extent and that too at a young age. Though the High Court recognised this, it did not go forward to apply the principle of multiplier. We are of the opinion that in a case like this and having regard to the injuries suffered by the appellant, there is a definite loss of earning capacity and it calls for grant of compensation with the adoption of multiplier method, as held by this Court in *Yadava Kumar v. National Insurance Co. Ltd.* [*Yadava Kumar v. National Insurance Co. Ltd.*,



(2010) 10 SCC 341]:

“9. We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. The whole idea is to put the claimant in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered.

10. In some cases for personal injury, the claim could be in respect of lifetime's earnings lost because, though he will live, he cannot earn his living. In others, the claim may be made for partial loss of earnings. Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum. The conventional basis of assessing compensation in personal injury cases—and that is now recognised mode as to the proper measure of compensation—is taking an appropriate multiplier of an appropriate multiplicand.”

(emphasis added)

17. Taking this into account, the Supreme Court effectively held that even as a Chartered Accountant who continued to earn income, considering that his permanent disability was 70%, his earning capacity would be affected and impeded, therefore, the principle of multiplier was applied.

18. Basis the above, the Court is of the opinion that in cases where the claimant is working in private employment and there is no security of employment, it cannot be predicted over the lifetime of claimant who has



suffered a serious disability, whether he will continue to earn, even though he may be earning at the stage of adjudication before the Tribunal.

19. This forms the logical basis for adoption of the multiplier method, considering the unpredictability of life, as has been adumbrated by the Supreme Court in decisions extracted above.

20. In this view of the matter, the appeal of Insurance Company cannot be sustained and is accordingly dismissed.

21. By order dated 03rd May 2016, this Court had directed the Insurance Company to deposit the entire compensation amount, along with accrued interest before the MACT and further directed release of 30% of the deposited amount. Considering that the accident took place in 2012 and the appeal has been pending since 2016, the balance compensation amount along with accrued interest will be released to the claimant as lumpsum.

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

23. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 25, 2026/RK/sp