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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 08th July 2026

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MAC.APP. 513/2018**KIRPAL SINGH****.....Appellant****Through: Mr. Navneet Goyal, Advocate.****versus****QUTABUDDIN & ORS (UNITED INDIA INSURNACE CO LTD)****.....Respondents****Through: Mr. Kingar Vijay, Advocate for
Respondent nos.1 & 2.****Ms. Shruti Jain, Mr. Pankaj Seth,
Advocates for Respondent no.3.****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, Karkardooma Courts, Delhi (*'MACT/Tribunal'*) vide impugned judgment/award dated 12th March 2018 in DAR No.14513/2015 at Rs.8,73,000/- along with interest at 9% per annum.

2. The accident occurred on 13th October 2014, when appellant/injured claimant- *Kirpal Singh*, who was working as a TSR driver, sustained injuries when he was crossing the road at Power House, Main Pusta Road, Delhi and was hit by a scooter bearing registration no. DL-14-SA-5794



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(hereinafter, '**offending vehicle**') allegedly being driven in a rash and negligent manner. As a result of the accident, he fell down on the road and sustained grievous injuries and underwent surgeries with steel implants in his right leg and right pelvis. As per the Disability Certificate, he suffered 67% permanent locomotor impairment in relation to his right lower limb and right upper limb.

3. *Mr. Navneet Goyal*, counsel for appellant/injured claimant, seeks enhancement principally on two counts. **Firstly**, functional disability was considered at 40%, despite permanent disability being 67% in relation to his right upper and lower limb, due to which he was unable to pursue his occupation as a TSR driver and; **secondly**, income was considered at minimum wages of an unskilled worker, whereas, proof to the effect that he was working a TSR driver was placed on record, therefore, minimum wages of a skilled worker at Rs.10,478/- ought to be considered.

4. *Ms. Shruti Jain*, counsel appears for respondent no.3/Insurance Company and *Mr. Kinger Vijay*, counsel appears for respondent nos. 1/driver and respondent no.2/owner.

5. As regards the first issue, *Mr. Navneet Goyal*, counsel for appellant/injured claimant draws attention to the evidence of *Dr. Mrudul Shah*, Senior Resident, GTB Hospital, Delhi (**'PW2'**) who testified that the Disability Certificate bore his signatures, as per which permanent disability was certified at 67%.

6. *Dr. Ashok Makhija*, M.S. Orthopaedics, Durga Hospital, Mukherjee Nagar (**'PW-3'**), had treated the appellant/injured claimant. **PW-3** opined that appellant/injured claimant would require *ortho plasty of right hip* and



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also *plasty of right knee*, and the approximate cost of surgery and hospitalization would be Rs.8,00,000/-. Even after the treatment, the patient will have persistent permanent disability of about 40% in relation to right lower limb.

7. *Mr. Navneet Goyal*, states on instructions, that no further surgery took place, since a long passage of time has passed since the accident took place. He further points to two documents on record relating to appellant/injured claimant's vocation, which is the Registration Certificate of TSR issued in favour of appellant/injured claimant (*Ex. PW1/4*), as well as, the vehicle badge (*Ex. PW1/6*) issued by the Transport Department, Government of National Capital Territory of Delhi ('*GNCTD*') with badge no. 05234.

8. Further reliance is placed on the testimony of appellant/injured claimant ('*PW1*'), who stated that he was working as a TSR driver and was earning Rs.20,000/- per month on the date of the accident and he has since become permanently crippled due to the injuries and cannot lift any weight, squat, run, climb stairs and walk properly. He stated that he has been unable to drive any vehicle. In cross-examination, his testimony was not diluted in any manner whatsoever, nor was any suggestion placed that he was not a TSR driver.

9. *Ms. Shruti Jain*, counsel for respondent no.3/Insurance Company, points out to *paragraph nos.13 & 14* of the impugned award, stating that no proof in support of his vocation as a TSR driver has been filed. However, considering the facts above, this contention is untenable.

10. In this view of the matter, MACT's finding on assessing income on



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the basis of minimum wages of an unskilled worker cannot be sustained and will therefore, be enhanced to minimum wages of a skilled worker at Rs.10,478/- per month.

11. As regards functional disability, considering his vocation was that of a TSR driver, reliance may be placed upon decisions of the Supreme Court in ***Chanappa Nagappa Muchalagoda v. Divisional Manager, New India Insurance Co. Ltd.*** (2020) 1 SCC 796 and ***Gurudev Singh v. Reliance General Insurance Co. Ltd. & Ors.*** SLP (C) No. 5351 of 2019.

12. In ***Chanappa*** (*supra*), the claimant was a heavy vehicle driver aged 33 years at the time of the accident and was permanently incapacitated due to an injury to his right leg, resulting in complete disability from continuing his vocation. Considering that he required the support of a walking stick to walk, needed assistance to ensure mobility, and had lost the prospect of securing any other manual employment, therefore, the Supreme Court assessed his functional disability at 100%. Relevant findings of the Court are extracted as under:

“12. In K. Janardhan v. United India Insurance Co. Ltd. [K. Janardhan v. United India Insurance Co. Ltd., (2008) 8 SCC 518 : (2008) 2 SCC (L&S) 733] this Court examined the loss of earning capacity in the case of a tanker driver who had met with an accident, and lost one of his legs due to amputation. The Commissioner for Workmen's Compensation assessed the functional disability of the tanker driver as 100% and awarded compensation on that basis. The High Court, however, referred [United India Insurance Co. Ltd. v. K. Janardhan, 2001 SCC OnLine Kar 841] to Schedule I to the Workmen's Compensation Act, 1923, and held that loss of a leg on amputation resulted in only 60% loss of earning capacity. This Court set aside the judgment [United India Insurance Co. Ltd. v. K.



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Janardhan, 2001 SCC OnLine Kar 841] of the High Court, and held that since the workman could no longer earn his living as a tanker driver due to loss of one leg, the functional disability had to be assessed as 100%.

13. In S. Suresh v. Oriental Insurance Co. Ltd. [S. Suresh v. Oriental Insurance Co. Ltd., (2010) 13 SCC 777 : (2011) 1 SCC (Civ) 807 : (2011) 2 SCC (Cri) 423] this Court held that: (SCC p. 780, para 9)

“9. We are of the opinion that on account of amputation of his right leg below knee, he is rendered unfit for the work of a driver, which he was performing at the time of the accident resulting in the said disablement. Therefore, he has lost 100% of his earning capacity as a lorry driver, more so, when he is disqualified from even getting a driving licence under the Motor Vehicles Act, 1988.”

14. The aforesaid judgments are instructive for assessing the compensation payable to the appellant in the present case. As a consequence of the accident, the appellant has been incapacitated for life, since he can walk only with the help of a walking stick. He has lost the ability to work as a driver, as he would be disqualified from even getting a driving licence. The prospect of securing any other manual labour job is not possible, since he would require the assistance of a person to ensure his mobility and manage his discomfort. As a consequence, the functional disability suffered by the appellant must be assessed as 100%.”

(emphasis added)

13. In **Gurudev Singh** (*supra*), the Supreme Court was considering the award of 100% functional disability of a driver by the MACT on the basis of his Disability Certificate and his avocation. The High Court, on the other



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hand, arrived at the conclusion that functional disability was not more than 30% by placing reliance on the Disability Certificate. The Supreme Court set aside the High Court's finding and assessed functional disability at 100%. Relevant observations are extracted as under:

"A perusal of the same would indicate that the MACT on taking note of the evidence has recorded a finding of fact with regard to the nature of disability and keeping in view the disability assessed by the Doctor at 30% has concluded that it would affect his avocation as a driver and therefore related the said disability to the functional disability.

As against the finding recorded by the MACT, a perusal of the consideration made by the High Court would indicate that no other contrary material has been appreciated nor the available records have been re-appreciated to record a finding of fact. The High Court, in fact, has only taken note of the decision of this Court which indicate the manner in which the disability is to be considered and has abruptly arrived at the conclusion that the functional disability was not more than 30%. We are of the opinion such conclusion reached by the High Court is only in the nature of presumption which cannot be sustained.

In that view, in the present facts, the disability is to be reckoned at 100% and the compensation is to be recalculated..."

(emphasis added)

14. Accordingly, taking into account the above decisions of Supreme Court and considering the vocation of appellant/injured claimant, this Court is inclined to consider his *functional disability* at 70%.

15. Additionally, grant of future prospects shall have to be aligned with the principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi*,



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(2017) 16 SCC 680, therefore, considering that appellant/injured claimant was 55 years old, 10% towards future prospects shall be granted.

16. 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. 1,33,458/-	Rs. 1,33,458/-
2.	Expenditure on conveyance (B)	Rs. 10,000/-	Rs. 10,000/-
3.	Expenditure on special diet (C)	Rs. 10,000/-	Rs. 10,000/-
4.	Nursing/Attendant Charges (D)	Rs. 10,000/-	Rs. 10,000/-
5.	Income of injured (E)	Rs. 8,632/-	Rs. 10,478/-
6.	Add: Future prospects @ 10% (F)	Nil	Rs. 1,047.8/-
7.	Multiplier (G)	11	11
8.	Functional disability (H)	40%	70%
9.	Loss of income (I)	Rs. 1,03,585/-	Rs. 1,25,736/-
10.	Loss of future income/future earnings [(E + F) x 12 x G x H] = (J)	Rs. 4,55,774/-	Rs. 10,64,984/-
NON-PECUNIARY LOSS			
11.	Pain and suffering (K)	Rs. 1,00,000/-	Rs. 1,00,000/-
12.	Loss of amenities of life (L)	Rs. 50,000/-	Rs. 50,000/-
13.	Total compensation (A + B + C + D + I + J + K + L) = M	Rs. 8,72,817/-	Rs. 15,04,178/-
14.	Interest awarded	9%	9%

Directions

17. For aforesaid reasons, compensation has been enhanced by Rs. 6,31,361/- [*‘enhanced amount’*].



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18. Enhanced amount along with 9% 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 lump sum to appellant/claimant within two weeks thereafter.
19. Accordingly, the appeal is disposed of in the above terms.
20. Pending applications, if any, are rendered infructuous.
21. Copy of this judgment be sent to the concerned MACT.
22. Copy of this judgment be sent to the concerned bank for information and compliance.
23. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

JULY 8, 2026/ak/sp