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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **MAC.APP. 1136/2013 & CM APPL. 29493/2023**
THE ORIENTAL INSURANCE CO LTD Appellant
Through: Mr. A.K. Soni, Advocate.

versus

SONIA VERMA & ORS Respondents
Through: Mr. Ashok Kumar Singh, Advocate.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
17.07.2026

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1. This appeal has been filed by the Insurance Company, assailing quantum of compensation awarded by the impugned judgment dated 10th September 2013 passed by the Motor Accident Claims Tribunal, South District, Saket Courts, Delhi (*'MACT/Tribunal'*) in *MACT No. 174/2011* at Rs. 9,01,700/- along with interest at 9% per annum.
2. The accident occurred on 13th November 2010 at about 07:30 a.m., when respondent no.1/injured claimant was travelling to her office in *Sector 126, Noida, U.P. at HCL Technology* where she was working as a Senior Analyst. When she reached near Lotus Valley School, Sector-126, Noida, a collision occurred with a *Tata 407* truck bearing registration no.HR-38J-0336 (*'offending vehicle'*), resulting in multiple injuries, as a result of which she had to go undergo medical treatment. According to the Disability Certificate, she suffered 15% permanent disability in respect of her upper right limb. She was 27 years of age on the date of the accident.



3. *Mr. A. K. Soni*, counsel for appellant/Insurance Company, contends that *loss of future income* ought not to have been granted since, admittedly, respondent no.1/injured claimant continued to work and receive salary from her employer. For this, he places reliance upon the cross-examination of respondent no.1/injured claimant (*'PWI'*) where she stated that she is working at the same place and for the same project and further, that she was given full pay during the period of her leave by the company.

4. However, it was also noted in her cross-examination, that due to the permanent disability in her right upper limb, respondent no.1/injured claimant could not pick up her baby, who was one-year-old at that time. She was not given any promotion due to her disability. Further, she rebutted the suggestion that her promotion had not been affected due to her injury.

5. *Mr. Soni*, states that no evidence was placed on record from her employer stating that her work been compromised in any way.

6. After a perusal of the material on record, the Court does not find any merit in the plea taken by appellant/Insurance Company for the reason that respondent no.1/injured claimant was 27 years of age, admittedly, working as a Senior Analyst in HCL Technology and was a graduate in *M.SC. (Computer Science)*. The nature of her work is such that it would clearly require application on computer terminals which would affect her lifelong future. Having suffered 15% permanent disability in her upper right limb, it would have been difficult for her to manage work on a computer and would therefore, affect her promotional capabilities and possibilities.

7. In this regard, reliance may be placed upon the decision of Supreme Court in *Raj Kumar v. Ajay Kumar* (2011) 1 SCC 343, where the Supreme



Court 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 paragraphs are extracted as under:

“11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:



(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

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 or can continue to earn his livelihood.”

(emphasis added)

8. Considering the Court’s view in ***Raj Kumar*** (*supra*), it is apposite to consider the vocation of injured claimant, which in this case, is qualification in Masters in Computer Science, along with working as a Senior Analyst in a technology company. Therefore, in view of the above decision, this Court is in agreement with the MACT’s assessment of functional disability at 15%.

9. Therefore, MACT’s assessment is not amiss on any account and the Court does not find any merit in the plea of the Insurance Company. Contention raised by *Mr. Soni*, counsel for appellant/Insurance Company, as regards the assessment of loss income, is hereby, rejected.

10. Accordingly, the appeal stands dismissed. Pending applications are rendered infructuous.

11. Recovery rights, as has already been granted by the MACT in *paragraph 29* of impugned order, shall remain intact.

12. By order dated 13th December 2013, Court had directed deposit of the entire awarded amount before the Registrar General of this Court and further directed release of 70% of amount and balance amount was to be retained in FDRs to be renewed periodically.

13. Considering that, since the accident had occurred more than 16 years ago, there is no reason as to why respondent no.1/injured claimant should not receive the entire compensation amount. Accordingly, the balance amount, along with accrued interest, will be released as a lump sum to respondent



no.1/injured claimant by the Registrar General of this Court/UCO Bank, Delhi High Court Branch within a period of four weeks.

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

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

ANISH DAYAL, J

JULY 17, 2026/ak/sp