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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Date of decision: 10<sup>th</sup> August 2026*

# CNR No. DLHC012080192014

+ MAC.APP. 262/2015

DEVINDER YADAV

.....Appellant

Through: Mr. Navneet Goyal, Advocate.

versus

PRAVEEN KHANNA & ANR (NATIONAL INSURANCE  
COMPANY)

.....Respondents

Through: Ms. Shruti Jain, Advocate for Mr.  
Pankaj Seth, Advocate for Insurance  
Company.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed seeking enhancement of compensation awarded *vide* judgment/award dated 09<sup>th</sup> July 2014 passed by the Motor Accident Claims Tribunal, Patiala House Courts, New Delhi (*'MACT/Tribunal'*) in MACT No.95/2011, awarding compensation of Rs.7,88,553/- along with 7.5% interest.

2. The accident in question occurred on 04<sup>th</sup> April 2010 at about 06:40 a.m., when appellant/injured claimant, was travelling in TSR. When he reached near K.G. Marg, India Gate Outer Circle, one *Santero* car bearing registration no. DL-6CG-8692 (hereinafter, *'offending vehicle'*) driven in a rash and negligent manner at a high speed, hit the TSR causing the TSR to



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overturn. Appellant/injured claimant sustained grievous spinal injuries resulting in 90% permanent physical impairment.

3. *Mr. Navneet Goyal*, counsel for appellant/injured claimant, claims enhancement of compensation on the following counts: **first**, functional disability has been assessed at 45%, despite having suffered 90% permanent physical impairment arising out of a fracture of the spine. Appellant/injured claimant was 19 years of age, working as a peon at the time of the accident. **Second**, that the non-pecuniary damages for loss of amenities and pain and suffering have been awarded at Rs.50,000/- only, despite the appellant/injured claimant having suffered 90% permanent physical impairment. **Third**, that the attendant charges have not been awarded despite injuries resulting in *paraplegia*.

4. Disability certificate is exhibited as **Ex.PW1/2** which states that, “*Mr. Devender Yadav is a case of fracture of D12 vertebra with complete paraplegia with bowel and bladder involvement. His permanent disability is 90%*”. The impugned award noted in *paragraph 17* that appellant/injured claimant had a long treatment record. MACT considered **Ex.PW1/2** and assessed the functional disability at 45%.

5. In ***Raj Kumar v. Ajay Kumar*** (2011) 1 SCC 343, 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



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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)

6. In ***Raj Kumar v. Ajay Kumar*** (*supra*), the Court summarized the principles, which are extracted as under:

*“19. We may now summarise the principles discussed above:*

*(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*

*(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning*



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capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”

(emphasis added)

7. In the opinion of this Court, the testimony of appellant/injured claimant must be sustained, considering the nature of his injuries. Considering that he had been diagnosed with *paraplegia* with bowel and bladder movement with 90% permanent physical disability, it would be in the fitness of things that the permanent disability is considered at 90% itself. Considering that the claimant would not have any opportunity to get involved in any vocation, whatsoever, aside from working as a peon, which was his vocation at the time of the accident.

8. Considering the nature of his injuries, non-pecuniary compensation awarded for *pain and suffering* and *loss of amenities* is highly inadequate and ought to be enhanced to Rs.2,00,000/- each.

9. As regards the issue of attendant charges, reliance may be placed upon the decision of Supreme Court in ***Kajal v. Jagdish Chand***, (2020) 4



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SCC 413, which was a case involving injuries sustained by a minor child, which had rendered her bedridden for life. Her disability was assessed at 100%, noting that she was left with a very low IQ, severe weakness in all four limbs, hysteria and urinary incontinence. In order to award just compensation, while assessing compensation towards attendant charges, the Supreme Court applied the multiplier method, recognizing it to be reasonable and realistic method. Relevant paragraphs are extracted as under for ease of reference:

***“Attendant charges***

**22.** *The attendant charges have been awarded by the High Court @ Rs 2500 per month for 44 years, which works out to Rs 13,20,000. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various factors are taken into consideration. When compensation is paid in lump sum, this Court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges, etc. This system was recognised by this Court in Gobald Motor Service Ltd. v. R.M.K. Veluswami [Gobald Motor Service Ltd. v. R.M.K. Veluswami, AIR 1962 SC 1]. The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method has been recognised as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of “just compensation” within the meaning of the Act.*

**23.** *It would be apposite at this stage to refer to the observation of Lord Reid in Taylor v. O'Connor [Taylor v. O'Connor, 1971 AC 115 : (1970) 2 WLR 472 (HL)] : (AC p. 128)*



*“Damages to make good the loss of dependency over a period of years must be awarded as a lump sum and that sum is generally calculated by applying a multiplier to the amount of one year's dependency. That is a perfectly good method in the ordinary case but it conceals the fact that there are two quite separate matters involved — the present value of the series of future payments, and the discounting of that present value to allow for the fact that for one reason or another the person receiving the damages might never have enjoyed the whole of the benefit of the dependency. It is quite unnecessary in the ordinary case to deal with these matters separately. Judges and counsel have a wealth of experience which is an adequate guide to the selection of the multiplier and any expert evidence is rightly discouraged. But in a case where the facts are special I think that these matters must have separate consideration if even rough justice is to be done and expert evidence may be valuable or even almost essential. The special factor in the present case is the incidence of income tax and, it may be, surtax.”*

**24.** *This Court has reaffirmed the multiplier method in various cases like MCD v. Subhagwanti [MCD v. Subhagwanti, AIR 1966 SC 1750], U.P. SRTC v. Trilok Chandra [U.P. SRTC v. Trilok Chandra, (1996) 4 SCC 362], Sandeep Khanuja v. Atul Dande [Sandeep Khanuja v. Atul Dande, (2017) 3 SCC 351]. This Court has also recognised that Schedule II of the Act can be used as a guide for the multiplier to be applied in each case. Keeping the claimant's age in mind, the multiplier in this case should be 18 as opposed to 44 taken by the High Court.*

**25.** *Having held so, we are clearly of the view that the basic amount taken for determining the attendant charges is very much on the lower side. We must remember that this little girl is severely suffering from*



incontinence, meaning that she does not have control over her bodily functions like passing urine and faeces. As she grows older, she will not be able to handle her periods. She requires an attendant virtually 24 hours a day. She requires an attendant who though may not be medically trained but must be capable of handling a child who is bedridden. She would require an attendant who would ensure that she does not suffer from bedsores. The claimant has placed before us a notification of the State of Haryana of the year 2010, wherein the wages for skilled labourer is Rs 4846 per month. We, therefore, assess the cost of one attendant at Rs 5000 and she will require two attendants which works out to Rs 10,000 per month, which comes to Rs 1,20,000 p.a., and using the multiplier of 18, it works out to Rs 21,60,000 for the attendant charges for her entire life. This takes care of all the pecuniary damages.”

(emphasis added)

10. Considering that appellant/injured claimant was *paraplegic* for his life, requirement of an attendant would be essential. Accordingly, in view of the decision in **Kajal** (*supra*), attendant charges shall be awarded by considering minimum wages of a skilled worker of UP as on the date of accident at Rs.3,290/- and a multiplier of ‘18’ shall be considered, since he was 19 years of age on the date of accident. Therefore, attendant charges shall be awarded at Rs. 7,10,640/- (Rs. 3,290 x 12 x 18).

11. Ms. Shruti Jain, Advocate for the Insurance Company enters appearance at a later stage.

12. It may also be noted that future prospects have been awarded at 50%, which shall be awarded at 40% in view of the decision in **National Insurance Co. Ltd. v. Pranay Sethi** (2017) 16 SCC 680, considering that deceased was employed in a private job.



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13. Accordingly, the revised compensation shall be as under:

| Sr. No.                   | Heads                                                              | Awarded by the Tribunal | Awarded by this Court  |
|---------------------------|--------------------------------------------------------------------|-------------------------|------------------------|
| <b>PECUNIARY LOSS</b>     |                                                                    |                         |                        |
| 1.                        | Expenditure on treatment (A)                                       | Rs. 2,345/-             | Rs. 2,345/-            |
| 2.                        | Expenditure on conveyance (B)                                      | Rs. 20,000/-            | Rs. 20,000/-           |
| 3.                        | Expenditure on special diet (C)                                    | Rs. 10,000/-            | Rs. 10,000/-           |
| 4.                        | Attendant Charges (D)                                              | Nil                     | Rs. 7,10,640/-         |
| 5.                        | Income of injured (E)                                              | Rs. 4,500/-             | Rs. 4,500/-            |
| 6.                        | Add: Future prospects (F)                                          | Rs. 2,250/-             | Rs. 1,800/-            |
| 7.                        | Multiplier (G)                                                     | 18                      | 18                     |
| 8.                        | Functional disability (H)                                          | 45%                     | 90%                    |
| 9.                        | Loss of income (I)                                                 | Nil                     | Nil                    |
| 10.                       | Loss of future income/future earnings [(E + F) x 12 x G x H] = (J) | Rs.6,56,208/-           | Rs. 12,24,720/-        |
| <b>NON-PECUNIARY LOSS</b> |                                                                    |                         |                        |
| 11.                       | Pain and suffering (K)                                             | Rs. 50,000/-            | Rs. 2,00,000/-         |
| 12.                       | Loss of amenities of life and disfigurement (L)                    | Rs. 50,000/-            | Rs. 2,00,000/-         |
| 13.                       | Total compensation (A + B + C + D + J + K + L) = M                 | <b>Rs. 7,88,553/-</b>   | <b>Rs. 23,67,705/-</b> |
| 14.                       | Interest awarded                                                   | 7.5%                    | 7.5%                   |

### Directions

14. For aforesaid reasons, compensation has been enhanced by Rs. 15,79,152/- (*'enhanced amount'*).

15. It is therefore directed that enhanced amount along with accrued interest be deposited before the MACT within a period of four weeks. It is directed that a lump sum amount of Rs.5,00,000/- shall be released in favour of claimant from the deposit of enhanced amount within a period of two weeks thereafter. Remaining enhanced amount, along with accrued



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interest till date, shall be kept in Fixed Deposit Receipts (**FDRs**) of Rs. 25,000/- each for periods of 3 month, 6 months, 9 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

16. The originally awarded amount shall continue to be released in favour of the claimant in terms of the directions passed by the MACT *vide* impugned award.

17. Appeal is disposed of in the above terms.

18. Pending applications, if any, are rendered infructuous.

19. Copy of this judgment be sent to the concerned MACT/bank for information and compliance.

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

**(ANISH DAYAL)**  
**JUDGE**

**AUGUST 10, 2026/ak/sp**