



2026:DHC:5417



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 07th July 2026+ MAC.APP. 817/2016 & CM APPL. 48370/2025

RAMESH CHOUDHARY @ RAMESH KUMAR Appellant

Through: Mr. A.K. Choudhary, Advocate.

versus

BRIJ MOHAN & ORS (M/S NEW INDIA ASSURANCE CO LTD)

.....Respondents

Through: Mr. Ravi Sabharwal, Advocate for
Respondent no.3 (Insurance
Company).**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed assailing impugned award dated 22nd July 2016 passed by the Motor Accident Claims Tribunal, Central District, Tis Hazari Courts, Delhi (*'MACT/Tribunal'*) in Suit No.357574/2016, awarding compensation of Rs.18,14,630/- along with 9% interest.

2. The accident in question occurred on 17th June 2013 at about 09:30 p.m. when appellant/claimant, along with one, *Mukesh Kumar* was plying his fruit *rahri* at *Chowki No. 2 Singhora Kalan*, Delhi. It was claimed that a Maruti car bearing registration No. DL-9CM-8469 (hereinafter, *'offending vehicle'*), driven by respondent no.1 in a rash and negligent manner and at a high speed came from *Nangia Park, Shakti Nagar* towards the extreme



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left side of the road and without blowing any horn dashed against the appellant/claimant with great force. Due to the said accident, appellant/claimant was thrown 10-15 feet ahead on the road and received heavy injuries. He was unconscious and in coma from the date of accident for about a year and became 100% permanently disabled and has been bed-ridden since then.

3. The testimony of *Dr. L. N. Gupta*, Head of Department (Neurosurgery) RML Hospital (**PW-1**) noted that appellant/claimant was treated, both by the neurosurgery department, as well as, by orthopaedics. According to the disability certificate dated 27th June 2014, appellant/claimant suffered 90% permanent physical impairment in relation to his left upper limb and both lower limbs.

4. *Mr. A. K. Choudhary*, counsel for appellant/claimant, assails the award on the issue of deduction of 50% towards *contributory negligence* attributed to appellant/claimant. *Mr. A. K. Choudhary*, counsel for appellant/claimant and *Mr. Ravi Sabharwal*, counsel for Insurance Company, have relied upon the site plan, testimony of *Mukesh Kumar (PW-3)* and analysis done by the MACT.

5. As regards the issue of contributory negligence, the assessment done by MACT in the impugned award has to be taken into account. While deciding *Issue no.1*, MACT noted that it was the admitted case that appellant/claimant had parked his fruit *rahri* in one corner of the busy road.

6. MACT relied upon the site plan at *Point A* noting that, "...clearly shows that the *rahri* was in the middle of one corner of the road where the accident took place". Reliance was also placed on the testimony of *Mukesh Kumar (PW-3)*, who stated that he had also parked his *rahri* in a similar



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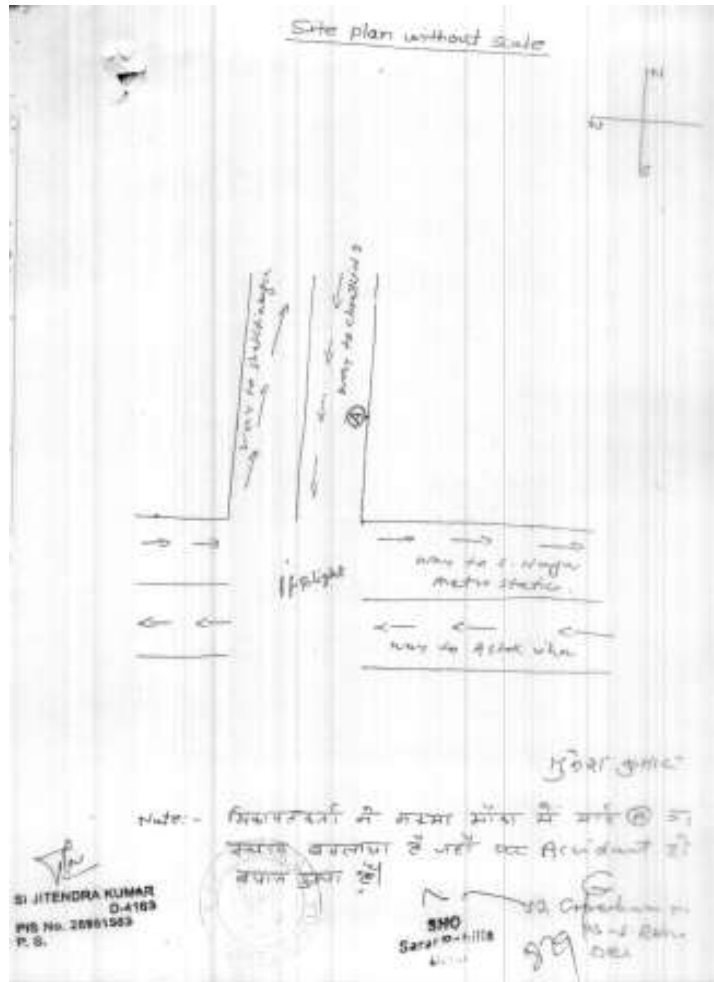
manner on the road, and spot was neither a *Teh Bazari* site nor a market place.

7. On this basis, MACT observed that this was in contravention of traffic rules and appellant/claimant was “*obstructing the free flow of the traffic and accordingly was negligent on his own in doing so.*” It was also stated that driver of the offending vehicle, “*could not have expected such a rahri to be parked on the road itself, still while driving the vehicle, respondent no.1 should have taken all the necessary precautions to anticipate the unanticipated*”. Accordingly, 50% was granted towards contributory negligence.

8. Court has examined the site plan and finds that reasoning of the MACT is quite amiss in this regard. Extract of the site plan is provided as under for reference:



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9. Considering that the collision occurred at 'Point A' which was quite a bit away from the corner of the road and was located much prior to the T-point junction, on the extreme left side, the Court disagrees with the reasoning of MACT that the *rahris* were parked in the 'middle of one corner' and that they were 'obstructing the traffic'. To the contrary, the point of collision shows that the *rahris* were parked on extreme left side of the road and there was no reason for the offending vehicle to crash into the *rahris*.

10. In this regard, the testimony of *Mukesh Kumar (PW-3)* becomes relevant. *PW-3* was also a fruit vendor, who had been plying his *rahri*,



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along with the appellant/claimant at that point. In his evidence by way of affidavit, **PW-3** mentioned that a Maruti car (*offending vehicle*), being driven at very high speed, rashly and negligently, without blowing any horn, after changing road lanes, suddenly came towards the extreme left side and dashed against the appellant/claimant with great force.

11. In cross examination, he further stated that it was correct that the road was busy and they were plying their *rahris* attached with the road, but not on the *patri*. He further reiterated that the offending vehicle was being driven in high speed and appellant/claimant was thrown *15 metres* away on the road.

12. Taking the testimony of **PW-3** into account, it clearly seems that the impact of the accident was so extreme that the appellant/claimant was thrown *10-15 metres* away, which prompts the Court to assume that the offending vehicle was being driven in quite high speed. *Rahris* were on the extreme left side of the road and not near the T-junction or any blind spot, which could not have been avoided by the offending vehicle.

13. Considering that respondent no.1/driver was driving at such a high speed and was changing lanes, it is obvious that the offending vehicle was being driven negligently and respondent no.1/driver did not take into account the *rahris* plied on the side of the road. Moreover, the accident occurred at 09:30 p.m., which would have been a busy traffic time and there was no reason, as to why the offending vehicle was being driven in such a rash and negligent manner.

14. Accordingly, the plea made by appellant/claimant is accepted. The finding of *contributory negligence* awarded at 50% is set aside.

15. *Mr. A. K. Choudhary*, counsel for appellant/claimant, raised an



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additional ground that future prospects were not awarded by the MACT. Considering that appellant/injured was 19-year-old, *future prospects* as per *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680 will be taken at 40%.

16. It is pertinent to note that the MACT has not awarded compensation towards loss of income on the ground that compensation awarded towards earning capacity will cover the same. However, after the accident, appellant/claimant was in coma for a year. Therefore, this Court is inclined to grant Rs. 92,664/- (Rs. 7,722/- x 12) towards loss of income.

17. 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. 2,50,654/-	Rs. 2,50,654/-
2.	Expenditure on conveyance (B)	Rs. 50,000/-	Rs. 50,000/-
3.	Expenditure on special diet (C)	Rs. 50,000/-	Rs. 50,000/-
4.	Attendant Charges (D)	Rs. 30,000/-	Rs. 30,000/-
5.	Income of injured (E)	Rs. 7,722/-	Rs. 7,722/-
6.	Add: Future prospects @ 40% (F)	Nil	Rs. 3,089/-
7.	Multiplier (G)	18	18
8.	Functional disability (H)	100%	100%
9.	Loss of income (Rs. 7,722/- x 12) (I)	Nil	Rs. 92,664/-
10.	Loss of future income/future earnings [(E + F) x 12 x G x H] = (J)	Rs. 16,67,952/-	Rs. 23,35,176/-
11.	Less: Contributory negligence @ 50% (K)	Rs. 8,33,976/-	Nil



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NON-PECUNIARY LOSS			
12.	Pain and suffering (L)	Rs. 3,00,000/-	Rs. 3,00,000/-
13.	Loss of amenities, expectation of life and marriage prospects (M)	Rs. 3,00,000/-	Rs. 3,00,000/-
14.	Total compensation (A + B + C + D + I + K + L + M) = N	Rs. 18,14,630/-	Rs. 34,08,494/-
15.	Interest awarded	9%	9%

Directions

18. For aforesaid reasons, compensation has been enhanced by Rs. 15,93,864/- [*‘enhanced amount’*].

19. 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 six weeks. It is directed that a lump sum amount of Rs.3,00,000/- shall be released to appellant/claimant within a period of two weeks thereafter. Remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (**FDRs**) of Rs. 25,000/- each for periods of 3 months, 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 appellant/claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of appellant/claimant upon due verification.

20. Appeal is disposed of in the above terms.

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

22. Copy of this judgment be sent to the concerned MACT.

23. Copy of this judgment be sent to the concerned bank for information and compliance.



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

(ANISH DAYAL)
JUDGE

JULY 7, 2026/ak/sp