$~12

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

% ***Date of Decision: 29.07.2025***

\+ MAC.APP. 511/2019 & CM APPL. 20140/2019

ORIENTAL INSURANCE CO LTD .....Appellant

Through: Mr. Abhishek Gola and Mr. Anshul Mehral, Advocates.

versus

HIMMAT SINGH & ANR .....Respondents

Through: Mr. Manish Kr. Sekhri, Advocate for R-2.

CORAM:
HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

1. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 seeking to challenge the order dated 19.12.2018 passed by the learned ADJ, Presiding Officer, MACT (South East), Saket Courts, New Delhi [hereinafter referred to as "Impugned Order"]. By the Impugned Order, a sum of Rs.29,39,418/- along with interest at the rate of 9% per annum was awarded by the learned Trial Court.

2. Learned Counsel for the Appellant submits that the Appellant had at the time of issue of Notice restricted his Award to only one challenge. He submits that the Award of loss of amenities has been awarded twice by the learned Trial Court. In the first instance, the Award is made for Rs.50,000/- for while in the second instance, it is made for Rs.1,00,000/-.

3. Learned Counsel for the Appellant further submits that the entire awarded amount has already been disbursed to the Respondent No.1/Claimant and that only the balance amount of Rs.50,000/- has not been disbursed.

4. Learned Counsel for the Appellant thus submits that the Appeal can be disposed of by grant of Award for loss of amenities in the sum of Rs.1,00,000/- and that the additional Rs.50,000/- which has been granted as a duplication be set aside.

5. Learned Counsel for Respondent No.2/Driver concurs with the contention of learned Counsel for the Appellant.

6. None appears for Respondent No.1/Claimant despite service.

7. A perusal of the Impugned Award shows that as is stated by the learned Counsel for the parties in the Paragraph for compensation, a payment for loss of amenities of life has been granted at two places, one under non-pecuniary loss : loss of amenities of life at Rs.50,000/- and secondly, disability resulting in loss of earning : loss of amenities or loss of expectation of life on account of disability in the sum of Rs.1,00,000/-.

8. The compensation awarded against both these categories is although different, however the categories are exactly the same. It is apposite to set out Paragraph 25 under the sub-heads:- 2: Non-Pecuniary Loss and 3: Disability resulting in loss of earning capacity in the following terms:

"25. Compensation:-

Sl. No.	***Pecuniary loss:-***	***Quantum***
…		

2.	***Non-Pecuniary Loss :***	
	(i) Compensation of mental and physical shock : *Claimant has suffered severe head injury which led to 25% of neurological disability He would have undergone mental and physical shock.*	*Rs.50,000/-*
	(ii) Pain and suffering : *Compensation for pain and suffering is to be awarded keeping in mind the nature of injuries suffered by the claimant.*	*Rs.50,000/-*
	(iii) Loss of amenities of life : Claimant has suffered severe head injury which led to 25% of neurological disability.	***Rs.50,000/-***
	(iv) Disfiguration: *Claimant has suffered severe head injury which led to 25% of neurological disability. Due to injuries suffered on head, there is a permanent scar on his head.*	*Rs.1,00,000/-*
	(v) Loss of marriage prospects : *The injured was unmarried boy of 23 years of age at the time of accident The injury has caused neurological disability to the extent of 25% to him which will certainly hamper his marriage prospects.*	*Rs.3,00,000/-*
	(vi) Loss of earnings, inconvenience, hardships, disappointment, frustration, mental stress, dejectment and unhappiness in future life etc.	*Already covered above*
3.	***Disability resulting in loss of earning capacity***	
	(i) Percentage of disability assessed and nature of disability as permanent or temporary	*Claimant has suffered 25% of neurological disability.*
	(ii) Loss of amenities or loss of expectation of life span on account of disability : Claimant has suffered severe head injury which led to 25% of neurological disability.	*Rs.1,00,000/-*
		...

[Emphasis supplied]

9. Undisputably, the loss of amenities/loss of expectation of life span on account of disability has been awarded twice, once at Rs.50,000/- and once at Rs.1,00,000/- *albeit* in different categories of compensation.

10. The Supreme Court in ***Raj Kumar v. Ajay Kumar & Anr.***[1] held that a person is entitled to compensation not only for the physical injury sustained but also for the consequent losses arising from such injury. The Court further clarified that compensation in personal injury cases is awarded under two broad heads: ***Pecuniary Damages*** and ***Non-Pecuniary Damages***. It was held that compensation for "loss of amenities" falls under the category of ***Non-Pecuniary Damages***. However, such compensation for "loss of amenities" is granted only in serious cases of injury, and only when specific medical evidence corroborates the claimant's testimony. It is apposite to set out the relevant extract of the ***Raj Kumar*** case in this behalf herein below:

> *"5. **The provision of the Motor Vehicles Act, 1988 ("the Act", for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner**. The Court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability **and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned**. [See C.K. Subramania Iyer v. T. Kunhikuttan Nair [(1969) 3 SCC 64 : AIR 1970 SC 376] , R.D. Hattangadi v. Pest Control (India) (P) Ltd. [(1995) 1 SCC 551 : 1995 SCC (Cri) 250] and Baker v. Willoughby [1970 AC 467 : (1970) 2 WLR 50 : (1969) 3 All ER 1528 (HL)] .]*
>
> ***6. The heads under which compensation is awarded in personal injury cases are the following**:*
>
> ***Pecuniary damages (Special damages)***

[1] (2011) 1 SCC 343

(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

7. ***Assessment of pecuniary damages under Item (i) and under Item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses—Item (iii)—depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages—Items (iv), (v) and (vi)—involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant****. Decisions of this Court and the High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability—Item (ii)(a). We are concerned with that assessment in this case.*"

[Emphasis Supplied]

11. Moreover, the Supreme Court in ***Gobald Motor Service Ltd. & Anr.***

vs. R.M.K. Veluswami & Ors.[2] held that in awarding damages under more than one heads, there shall not be duplication of the same claim. It is apposite to set out the relevant extract of the ***Gobald*** case:

> *"12. The law on this branch of the subject may be briefly stated thus : The rights of action under Sections 1 and 2 of the Act are quite distinct and independent.* ***<u>If a person taking benefit under both the sections is the same, he cannot be permitted to recover twice over for the same loss. In awarding damages under both the heads, there shall not be duplication of the same claim, that is, if any part of the compensation representing the loss to the estate goes into the calculation of the personal loss under Section 1 of the Act, that portion shall be excluded in giving compensation under Section 2 and vice versa.</u>****"*
>
> [Emphasis Supplied]

12. Learned Counsel for the Appellant fairly submits that he is not challenging the amount of Rs.1,00,000/- as awarded in sub-clause 3(ii) of Paragraph 25 of the Impugned Award. His challenge is only limited to the amount of Rs.50,000/- as awarded in sub-clause 2(iii) of Paragraph 25.

13. In view of what is stated above, the Appeal is allowed to the limited extent of a reduction of the principal amount of compensation by Rs.50,000/-. The sum of Rs.50,000/- along with interest awarded by the Impugned Order is set aside.

14. Since the Respondents/Claimants have already received the awarded amounts, no further directions are requisite.

15. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 29, 2025/pa

[2] 1961 SCC OnLine SC 36.