



2025:DHC:11168



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**IN THE HIGH COURT OF DELHI AT NEW DELHI***Decided on: 08.12.2025*

+ MAC.APP. 170/2018 &amp; CM APPL. 37948/2024

FAHAD AHMED SIDDIQUI

.....Appellant

Through: Mr. Bijay Kumar, Advocate.

versus

MAHESH KUMAR &amp; ANR (STATE BANK OF INDIA (SBI)

GENERAL INSUREANCE CO LTD)

.....Respondents

Through: Ms. Niyati, Advocate for R-2.

**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. By way of this appeal, the appellant, who was the claimant before the Motor Accident Claims Tribunal ["Tribunal"] in MACT No. 4880/16, seeks enhancement of the compensation awarded to him by the impugned award dated 06.06.2017.

2. The facts of the case, as they appear from the award, are that the appellant was walking on the road near the main gate of Galgotias College, Noida, Uttar Pradesh, when he was struck by a car bearing registration No. HR-55-U-5988 ["insured vehicle"]. The appellant sustained grievous injuries as a result of the accident, for which he was treated first at Kailash Hospital, New Delhi, and then at the Trauma Centre, All India Institute of Medical Sciences, New Delhi.



3. The appellant's injury resulted in permanent disability, as certified by a disability certificate dated 15.12.2016, issued by Pandit Madan Mohan Malaviya Hospital, which was exhibited before the Tribunal as Exhibit PW-1/H. The certificate shows that his disability was assessed at 85% permanent physical impairment in relation to his right lower limb. The condition was assessed to be non-progressive and not likely to improve. It is also undisputed that the appellant underwent an above knee amputation of the right leg, as a result of the accident.

4. The accident also resulted in criminal proceedings against the driver of the insured vehicle, who was arrayed as respondent No.1, both before the Tribunal and in this appeal. FIR No. 203/16, under Sections 279 and 338 of the Indian Penal Code, 1860, dated 24.07.2016 at P.S. Knowledge Park, Gautam Budh Nagar, Uttar Pradesh, was registered against the driver. After investigation, a chargesheet was filed in the criminal proceedings.

5. Alleging rash and negligent driving against respondent No.1, the appellant instituted proceedings for compensation before the Tribunal. The Tribunal returned a finding in favour of the appellant on the question of negligence, and proceeded to assess compensation of Rs.24,39,350/- under the following heads:

| Sr. No. | Heads                                           | Amount          |
|---------|-------------------------------------------------|-----------------|
| 1.      | Medical expenses                                | Rs.25,000/-     |
| 2.      | Pain and suffering                              | Rs.40,000/-     |
| 3.      | Attendant charges, special diet, and conveyance | Rs.30,000/-     |
| 4.      | Loss of future earning capacity /future income  | Rs. 10,54,350/- |
| 5.      | Loss of amenities and enjoyment of life         | Rs.20,000/-     |



|    |                                 |                       |
|----|---------------------------------|-----------------------|
| 6. | Disfigurement                   | Rs.50,000/-           |
| 7. | Loss of income during treatment | Rs.70,000/-           |
| 8. | Artificial limb                 | Rs. 11,00,000/-       |
| 9. | Loss of marriage prospects      | Rs.50,000/-           |
|    | <b>Total</b>                    | <b>Rs.24,39,350/-</b> |

6. Mr. Bijay Kumar, learned counsel for the appellant, submits that the compensation ought to be enhanced on the following grounds:

- a. The Tribunal's assessment of functional disability at 42% for computation of loss of earning was wholly inadequate, having regard to the nature and extent of the appellant's injuries.
- b. While assessing loss of earnings, the Tribunal has omitted to provide for enhancement of income on account of future prospects, as required by the judgment of the Constitution Bench in *National Insurance Company Limited v. Pranay Sethi and Others*<sup>1</sup>.
- c. Although the appellant has admittedly undergone amputation of his right lower limb, and the Tribunal has granted compensation for provision of a prosthetic limb, it has not provided for future medical treatment or for replacement of the prosthesis.
- d. Non-pecuniary damages have been awarded only to the extent of Rs. 40,000/- for pain and suffering, Rs. 20,000/- for loss of amenities and enjoyment of life, and Rs. 50,000/- each for disfigurement and loss of marriage prospects, which, according to Mr. Kumar, are wholly inadequate.

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<sup>1</sup> (2017) 16 SCC 680 [hereinafter, "*Pranay Sethi*"].



7. I have heard Mr. Kumar and Ms. Niyati, learned counsel for respondent No. 2 – State Bank of India General Insurance Company Limited [“Insurance Company”], on each of the above aspects.

**A. ASSESSMENT OF FUNCTIONAL DISABILITY**

8. The assessment of functional disability, in accordance with the judgment of the Supreme Court in *Raj Kumar v. Ajay Kumar*<sup>2</sup>, requires an analysis of the nature and extent of the disability suffered by the injured victim, and an assessment of the likely impact on his future income, in the context of his particular vocation.

9. Although no medical evidence was produced before the Tribunal with regard to the effect of the appellant’s disability, the undisputed disability certificate and medical records demonstrate permanent impairment in the right lower limb to the extent of 85%, and also establish that the appellant had to undergo amputation of his leg.

10. As far as the appellant’s vocation is concerned, in his affidavit of evidence before the Tribunal [which was marked as Exhibit PW-1/1], he stated as follows:

*“8. That at the time of the accident, the deponent was working as computer operator at Nehru place and was earning a total sum of Rs. 15,000/- per month and was thus contributing to the expenses of his family.*

*9. The petitioner is well qualified he was pursuing diploma in civil engineer from Galgotis University, all his education related documents of his qualification is also Ex PW -1/G (colly).”*

11. The appellant was cross examined by learned counsel for the Insurance Company. There was no cross examination challenging his evidence with regard to his vocation. In fact, in the course of cross

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<sup>2</sup> (2011) 1 SCC 343.



examination, he reiterated that he was studying at Galgotias University, and that, at the time of the accident, he was enrolled in college, and also working at E-Series, Nehru Place, New Delhi, from 6:30 p.m. to 10:30 p.m. every day. He reiterated that he was earning Rs.15,000/- per month from this job.

12. While assessing loss of income, the Tribunal has held that the appellant failed to produce documentary proof, with regard to his alleged income of Rs.15,000/- per month. It, therefore, assessed his monthly income on the basis of minimum wage for a matriculate in Delhi, being Rs.11,622/- per month. In assessing loss of future earnings, the Tribunal considered 85% permanent disability, as functional disability of approximately 42% of the whole body, and proceeded to compute loss of earnings on this basis.

13. I am of the view that the Tribunal's assessment on this aspect is erroneous. There is no attempt in the impugned judgment to correlate the appellant's injury with his vocation. The evidence of the appellant was clear, that he was pursuing a diploma in Civil Engineering from Galgotias University, and also working as a Computer Operator. The impact of an accident with such severe consequences, would, in my view, have a significant effect on the appellant's ability to realise his true earning potential in the context of his training as a Civil Engineer, and his ongoing employment as a Computer Operator. The appellant's testimony on this account remained unbroken in cross examination.

14. Having regard to these aspects, I am of the view that the appropriate measure of functional disability would be 60%, upon which loss of future income ought to be computed.



**B. ADDITION OF FUTURE PROSPECTS**

15. The Tribunal declined to apply any enhancement towards future prospects, on the ground that the appellant's income was being assessed on the basis of minimum wages. Ms. Niyati concedes that this approach is erroneous, having regard to the Constitution Bench decision in *Pranay Sethi*.

16. For a person under 40 years of age, who does not have a permanent job, *Pranay Sethi* stipulates an enhancement of 40% towards future prospects. The said provision would be applicable to the appellant's case as well.

**ASSESSMENT OF COMPENSATION FOR LOSS OF FUTURE EARNINGS**

17. The Tribunal assessed compensation for loss of future income at Rs.10,54,350/-. Applying the aforesaid modifications to this computation, the compensation on this ground, as awarded to the appellant, is re-computed as follows:

| Heads                                                                                        | Amount             |
|----------------------------------------------------------------------------------------------|--------------------|
| Monthly income [on the basis of minimum wages]                                               | Rs. 11,622/-       |
| Annual Income [Rs. 11,622/- x 12]                                                            | Rs. 1,39,464/-     |
| Addition of future prospects [40% of Rs. 1,39,464/-]                                         | Rs. 55,785.60/-    |
| Annual income after addition of future prospects<br>[Rs.1,39,464 + Rs. 55,785.6]             | Rs. 1,95,249.60/-  |
| Loss of future earnings after accounting for<br>functional disability [Rs. 1,95,249.6 x 60%] | Rs. 1,17,149.76/-  |
| Loss of future earnings after applying the applicable<br>multiplier [Rs. 1,17,149.76/- x 18] | Rs. 21,08,695.68/- |



**C. FUTURE MEDICAL EXPENSES AND COST OF ARTIFICIAL LIMB**

18. The Tribunal has awarded a sum of Rs. 11,00,000/- towards provision of prosthetic limb, based on a quotation from P&O International Inc., Vimhans Artificial Limbs Centre, New Delhi. Mr. Kumar relies upon the judgment of the Supreme Court in *Mohd. Sabeer v. Regional Manager, U.P. State Road Transport Corporation*<sup>3</sup>, which has been followed by this Court in *The Oriental Insurance Co. Ltd. v. Master Anshu Kumar @Bhola*<sup>4</sup>, to submit that an artificial limb has a limited life span and the appellant's prosthetic limb would require several replacements during the course of his life, as he was only 19 years old at the time of the accident.

19. While Mr. Kumar's reliance on these judgments establishes the proposition advanced, unfortunately the factual basis for such a claim has not been substantiated by evidence. Neither the appellant nor the representative of the vendor, who testified before the Tribunal as PW-2, provided any estimate with regard to the life span of the prosthesis offered or the cost of its replacement. Faced with this situation, Mr. Kumar submits that the matter may be remanded to the Tribunal for recording further evidence on this aspect.

20. Having regard to the judgments referred to above, and bearing in mind the principle that the Tribunal, as well as this Court in appeal, must attempt to award just and reasonable compensation, I am of the view that it is appropriate to accept Mr. Kumar's suggestion in this regard.

**D. NON-PECUNIARY DAMAGES**

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<sup>3</sup> (2023) 20 SCC 774.

<sup>4</sup> 2023 DHC 6241.



21. As noted above, the Tribunal has awarded non-pecuniary damages for pain and suffering [Rs.40,000/-], loss of amenities and enjoyment of life [Rs.20,000/-], disfigurement [Rs.50,000/-], and loss of marriage prospects [Rs.50,000/-].

22. In view of the fact that the appellant has suffered grievous injury resulting in the amputation of a leg, I am of the view that these damages are inadequate. The appellant was only 19 years of age at the time of the accident. He was pursuing a Diploma in Civil Engineering and holding down a part-time job. With a long life ahead of him, the quantum of compensation awarded by the Tribunal is not commensurate with the consequences of the accident on his life.

23. The awards on these accounts is modified to the following extent:

- a. Pain and suffering: Rs. 2,00,000/-.
- b. Loss of amenities and enjoyment of life: Rs. 2,00,000/-.
- c. Disfigurement: Rs. 1,00,000/-.
- d. Loss of marriage prospects: Rs. 50,000/-.

**E. CONCLUSION**

24. As a result of the above discussion, the compensation awarded to the appellant under the following heads stands enhanced:

| Heads                                   | Awarded by the Tribunal | Awarded by the Court | Difference            |
|-----------------------------------------|-------------------------|----------------------|-----------------------|
| Loss of future earnings                 | Rs. 10,54,350/-         | Rs. 21,08,695.68/-   | (+) Rs.10,54,345.68/- |
| Pain and suffering                      | Rs.40,000/-             | Rs. 2,00,000/-       | (+) Rs.1,60,000/-     |
| Loss of amenities and enjoyment of life | Rs.20,000/-             | Rs. 2,00,000/-       | (+) Rs. 1,80,000/-    |
| Disfigurement                           | Rs.50,000/-             | Rs. 1,00,000/-       | (+) Rs.50,000/-       |
| Loss of marriage                        | Rs.50,000/-             | Rs. 50,000/-         | Nil                   |



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|              |                       |                          |                                        |
|--------------|-----------------------|--------------------------|----------------------------------------|
| prospects    |                       |                          |                                        |
| <b>Total</b> | <b>Rs.12,14,350/-</b> | <b>Rs.26,58,695.68/-</b> | <b>(+)</b><br><b>Rs.14,44,345.68/-</b> |

25. I am informed that the Insurance Company has already deposited the awarded amount with the Tribunal. It is directed to deposit the balance amount, in terms of this judgment, alongwith up-to-date interest at the rate of 9% per annum, as awarded by the Tribunal, within eight weeks from today.

26. The Tribunal had directed release of a lump sum amount to the appellant, with the balance amount of Rs. 20,00,000/- to be kept in 20 fixed deposits of Rs. 1,00,000/- each. Approximately eight years have lapsed since. While the original awarded amount will be disbursed to the appellant in terms of the directions of the Tribunal, the further amount to be deposited in terms of this judgment may be released in the following manner.

- a. Rs. 2,44,346/- to be released forthwith.
- b. The balance amount be invested in fixed deposits of Rs.1,00,000/- each for the period of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 years. The principal amount of each fixed deposit, alongwith interest accrued thereon, will be released to the appellant upon maturity.

27. The matter is remanded to the Tribunal, for a decision as to the award of future medical expenses and the lifetime cost of the prosthetic limb. The Tribunal is at liberty to record additional evidence in this regard.

28. The parties will appear before the Tribunal on 22.12.2025 for further proceedings.



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29. The appeal, alongwith pending application, is disposed of with these directions.
30. The statutory deposit, if any, be refunded to the appellant.

**PRATEEK JALAN, J**

**DECEMBER 8, 2025**  
Dy/SS/KA/