



2025:DHC:5688



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

% ***Date of Decision: 09.07.2025***

+ **MAC.APP. 416/2025 & CM Appl.39671/2025**

GO DIGIT GENERAL INSURANCE CO.LTD.Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

MOHD JAVED THROUGH SHEHNAZ AND ORS.....Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CM Appl.39672/2025/Exemption from filing certified copy of the Award]

1. Allowed, subject to just exceptions.
2. The Application stands disposed of.

MAC.APP. 416/2025 & CM Appl.39671/2025/Stay/

3. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 [hereinafter referred to as “MV Act”] impugning the award dated 30.04.2025 passed by the learned Presiding Officer, MACT, Central District, Tis Hazari Court, Delhi [hereinafter referred to as “Impugned Award”]. By the Impugned Award, the compensation in the sum of Rs. 56,77,706/- along with 9% interest per annum has been granted to the Petitioners.

4. The challenge in the Impugned Award is made by the Appellant essentially on three grounds. Firstly, he submits that the testimony of the



2025:DHC:5688



Investigating Officer [hereinafter referred to as “IO”] in the case does not inspire confidence. Secondly, it is contended that recovery rights have been wrongly granted by the learned Trial Court. Lastly, it is contended that the future medical expenses, attendant charges and special diet has been made on a speculative basis by the learned Tribunal.

5. So far as concerns the award of recovery rights, clearly that appears to be an inadvertent error by the learned Trial Court since, after the amendment to Section 166(3) of the MV Act with effect from 01.04.2022 which is the provision for grant of recovery rights is no longer available in the statute book.

5.1 So far as concerns the second ground taken by the learned Counsel for the Appellant that the testimony of the IO does not inspire confidence, the Court has examined the testimony of the IO [CW-1], dated 16.04.2025. The testimony sets out that the PCR call was received by the IO which was responded to. During the investigation, IO got the colour of the vehicle as well as the registration number and obtained the complete number of the offending vehicle in pursuance of which notices were issued to the owner of the vehicle.

5.2 The witness was examined by the Appellant and he had denied the suggestion that the vehicle was planted. It is apposite to extract the relevant extract of the part of the testimony of IO/CW-1 which is set out below:

“ ...

It is correct that in the substance of PCR call, Auto is mentioned as the offending vehicle. (Vol. However, while the statement of the said caller was recorded, he disclosed that he did not see himself the accident but he called promptly to the police after seeing the injured lying on the road



informing an accident). After registration of FIR during investigation, I got to know about the digits of registration number of the offending vehicle and its colour from eye witness and thereafter, upon my search and efforts through some informer, I came to know about the full number of the offending vehicle. I tried to find out the CCTV footage of the spot but there was no CCTV camera installed around the spot. Near the spot, no thelas or shops are found and also no residence. The moment I received the complete number of the offending vehicle, I issued noticed under Sec. 133 of M.V. Act to its owner to provide the details of the driver, production of vehicle and its documents. (Vol. I had to serve three notices to the owner for the said purpose on different dates, then he gave the required information.) I have not made any complaint against owner for not presenting himself before me with the required information twice as he verbally sought time. I might have recorded the same in my case diary. It is correct that I have issued four notices under Sec.133 of M.V. Act as due to lapse of time, I failed to recollect properly about their number. It is wrong to suggest that I have not initiated any action against the owner for defines of three consecutive notices of different dates as I made all the notices together on one date in the month of November 2022 and got his signatures on ante-dated notices. It is correct that I have not shown the seized e-rickshaw to the eye witness Tajudeen to ascertain its identity. (Vol. I was sure about the identity of the vehicle.) It is wrong to suggest that I have not investigated the case properly. It is wrong to suggest that I have implicated the wrong vehicle in the present case. It is wrong to suggest that I have not received any information from the informer regarding the full number of the offending vehicle. It is wrong to suggest that I prepared the ante-dated documents and statements to substantiate my investigation. It is wrong to suggest that I have not filed FAR as I was in the process of planting some vehicle to help the victim's family. I took extension as the owner was delaying in giving the reply of notices 133 M. V. Act for considerable time."

[Emphasis supplied]

5.3 The examination/cross-examination of the IO does show that the delay in providing the details was in view of the fact that three (3) notices were sent under Section 10(3) of the MV Act and thus, it took some time. This has also been examined by the learned Tribunal and the learned Tribunal, by way of the Impugned Award, has found no reason to disbelieve the testimony. In any event, there is no rebuttal of this by the



owner and driver of the vehicle [Respondent Nos. 5 and 6] since they did not step into the witness box. Thus, the contention *qua* unreliability of the testimony of the IO is without merit.

6. Lastly, it is the contention of the learned Counsel for the Appellant that the award of future medical expenses in the sum of Rs. 10,00,000/- is in excess.

7. A perusal of the Impugned Award shows that the learned Tribunal has recorded that the injured/Respondent No.1 is in a vegetative state and following the accident, he has severe injuries, his skull bone was fractured and he is bed ridden. The relevant extract is below:

"10. As already discussed above, the wife of petitioner examined herself as PW-1 in order to prove the factual averments regarding the occurrence of accident. PW-1 has clearly and categorically stated that at the relevant date, time and place, the petitioner went to his home from his tailor shop but unfortunately he was hit by the Battery-E-Rickshaw bearing registration number DL-11-EA-5626 (hereinafter referred to as "offending vehicle") behind the Gali No. 9, Ram Ghat, Wazirabad, It is further stated that after the accident, the injured fell down on the road and got unconscious and on the same time, the injured person took to the Trauma Centre, Delhi Govt. Hospital, Civil Lines, Delhi and he was admitted there as he was unconscious and the doctor told to his wife that skull bone got fractures and he is very serious. It is further stated that he had to go through an operation/ surgery and was admitted on 24/07/2022 and in between doctors operated the injured head and removed the broken bone from his head and it was observed that he is still unconscious (Coma) and the doctors informed his wife that the injured need to go through another surgery in coming days. It is further stated that in between these months he had to gone through so many medications and therapies to recover from the trauma and accident. It is further stated that the accident in question had taken place entirely due to rash and negligent riding on the part of rider of E-Rickshaw. He seeks compensation to the tune of Rs. One Crore on account of the injuries sustained by him the vehicular accident. It is further stated that at the time of accident he was 45 years of age and was tailor and was earning Rs.30,000/- per month. She further deposed that he suffered 90% permanent locomotor disability with respect to his whole body which



is permanent in nature and reassessment is not required and he has become unemployable permanently. Petitioner claims compensation on account of special pecuniary damage relating to treatment, hospitalization, medicine, transportation, diet, loss of earning during the period, he was injured, loss of earning during the period of treatment, loss of future earning on account of permanent disability, future medical expenses, non-pecuniary damages, damages for pain suffering and trauma, loss of amenities and loss of expectation of life. PW-I was subjected to a brief cross-examination by Ld. Counsel for R-3/ Insurance Company. However, he remained consistent and seems to have withstood the test of cross-examination. He has declined all the suggestions of R-3/Insurance Company imputing the occurrence of accident to his own negligence. There is nothing on record which betrays any falsity or untruth in the oral testimony of PW-I. As such, it could be safely held that the oral testimony of PW-I is reliable and trustworthy.

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14. In view of the disability certificate, medical treatment documents placed on record by the petitioner, no dispute is left regarding the nature of injuries sustained by him in the above accident.

25. As per evidence, the petitioner is in vegetative state after the accident following severe injuries and his skull bone was fractured and he is very serious and bed ridden. Petitioner has to have an attendant all the time for taking care of him and his medical treatment would continue, therefore, for his future medical treatment and attendant a sum of Rs.10,00,000/- each is awarded towards his future attendant charges and medical treatment."

[Emphasis supplied]

8. Clearly, in view of these contentions, the injured would have to require a full-time attendant. This Court in the case of **Bishan Singh v. Chinki & Ors. (Bharti AXA General Insurance Co. Ltd.)**¹ while relying on the judgment of the Supreme Court in **Kajal v. Jagdish Chand and Others**² to submit where there is 100% disability, the requirement would clearly be of at least two attendants. The relevant extract of **Bishan Singh** case in this behalf is set out below:

¹ MAC. APP. 87/2020 decided on 01.07.2025



*“26. The Supreme Court in case of **Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.**, held that when an injured person is dependent on an attendant for their daily routine tasks, they require special care and attention from a skilled professional attendant, who is there daily and is aware of what is required to be done given the condition of the injured. The relevant extract is as follows:*

“46. We find that, the approach of the High Court on appreciation of the evidence that the appellant would only be requiring a part time attendant is erroneous. On the contrary, we are of the opinion that the appellant, would be dependent on an attendant throughout her life and on a full-time basis. Considering her medical situation, the attendant would have to be skilled and not unskilled. The appellant would be requiring special care and attention which can only be provided by a skilled attendant. It was, therefore, incorrect on the part of the High Court to proceed on the basis that the appellant could be taken care of by an unskilled attendant and that too on a part-time basis.”

[Emphasis Supplied]

27. Given the law as settled in this behalf, this Court is unable to agree with the findings of the learned Tribunal for attendant charges. In the first instance, given the fact that there was no dispute on the condition of the deceased Appellant prior to his demise and the nature of work involved and the settled law in this behalf, the attendant charges should have been awarded as those of a skilled labour, which the Court is informed at the rate of Rs. 11,154/- per month or Rs. 2,67,696/- per annum.

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28.1 Given the round the clock care that was required by the Appellant and in terms of the judgment in the Kajal case, the Appellant required two attendants and accordingly, the Claimants should be awarded compensation for two attendants. The Supreme Court in the Kajal case and the Abhimanyu Pratap Singh case has held that injuries of such nature would require at least two attendants. It is likely that two attendants could not be afforded by the Appellant and thus, the son of the Appellant was required to quit his job to take care of his father. In these circumstances, this Court does not agree with the findings of the learned Trial Court.”

[Emphasis Supplied]

² (2020) 4 SCC 413



2025:DHC:5688



9. Given the nature of the injuries described above, the award of Rs.10,00,000/- of future medical expenses cannot be said to be in excess.
10. At this stage, learned Counsel for the Appellant submits that he will limit his challenge to the grant of recovery rights, and that the Appellant may be permitted to withdraw the present Appeal to take appropriate steps before the learned Tribunal in this behalf.
11. The Appeal is accordingly disposed of. The pending Application also stands closed. Liberty is however, granted to the Appellant to approach the learned Tribunal on the aspect of wrongful grant of recovery rights, albeit in accordance with law.
12. The Appellant is also permitted to withdraw its statutory amount deposited with this Court.
13. The parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 9, 2025/r