



2025:DHC:484



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 28th January, 2025*+ **MAC.APP. 359/2022 & CM APPL. 49196/2022**RELIANCE GENERAL INSURANCE
COMPANY LTD

.....Appellant

Through: Mr. Rajeev M. Roy,
Advocate.

versus

GAURAV

(REPRESENTED BY HIS MOTHER)Respondent

Through: Mr. Ankush Bhardwaj &
Mr. Sandeep Kataria,
Advocates.**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The appellant challenges the award dated 02.08.2022 (hereafter '**the impugned award**'), passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Saket Courts, New Delhi in MACT No. 226/2021 pursuant to which total compensation of ₹72,01,875/- was awarded in favour of Respondent No.1. The award has been challenged essentially on two grounds:

- i) The appellant contends that the compensation awarded under the head 'Pain and suffering' is excessive;
- ii) The appellant contends that the compensation awarded towards 'Attendant charges' amounting to ₹21,60,000/-, lacks adequate basis.

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2. It is undisputed that Respondent No. 1 suffered grievous injuries on 15.09.2019, at about 7:15 PM, when he was hit by a tempo van while he was travelling by his motorcycle. As a result, he was admitted in Department of Emergency Medicine, JPNA Trauma Centre, New Delhi and as per the medical records, he was diagnosed with post head injury Sequelae MRS-5 – disability 100% to the whole body. Notably, the Appellant company has not disputed the accident and admitted that the offending vehicle was insured with it.

3. At the time of filing the claim petition, Respondent No. 1 was 20 years old and employed as a field worker. Due to his injuries, he was rendered permanently incapacitated and unable to work. His mother, testifying before the learned Tribunal as PW-1, confirmed his inability to resume professional duties and the extent of his dependency.

4. It is noted that PW-1 was subjected to cross-examination wherein, she deposed that her son has become permanently disabled after the accident and has not been able to resume any work. It is noted that there is nothing on record that would make the testimony unreliable. The learned Tribunal also took note of the medical treatment documents which showed that the victim was in a continuous vegetative state since the date of the accident and there is no chance of recovery. The learned Tribunal thus assessed 100% functional disability.

5. As noted above, the appellant challenges the impugned award firstly, on the ground of excessive compensation under the head **pain and suffering**. Learned counsel for the appellant



submits that once the functional disability has been assessed at 100%, the need to award compensation separately towards loss of amenities or towards pain or suffering cannot be justified.

6. I am unable to agree with the submission made the learned counsel for the appellant. The Hon'ble Apex Court in ***Abhimanyu Partap Singh v. Namita Sekhon and Another : (2022) 8 SCC 489***, held that the compensation can be assessed under the pecuniary heads like loss of future earnings, medical expenses including the future medical expenses, attendant charges etc., as also under the non-pecuniary heads for mental and physical shock, pain and sufferings in the present and in future, loss of amenities of life, including loss of marital bliss, loss of expectancy in life, inconvenience, hardship, discomfort etc. The Hon'ble Apex Court, in similar circumstances, where the functional disability was assessed as 100% observed as under :

“26. Under the head “non-pecuniary damages”, the claimant has faced the pain, suffering and trauma as a consequence of injuries. It is to observe that to award compensation under the head “pain, shock and suffering”, multiple factors are required to be considered from the date of accident, which include the prolonged hospitalisation and regular medical assistance, nature of the injuries sustained, the operations underwent and the consequent pain, discomfort and suffering. Simultaneously, he has to suffer post-accident agony for whole life, including the amenities of life, which he can enjoy as a normal man but unable to do so on account of permanent disability. In the era of competition, he can perform better as a normal man but is unable to compete with others. Therefore, under the head “pain, shock and suffering”, amount of compensation deserves to be granted.”

7. In the present case, the learned Tribunal has awarded only a sum of ₹3,00,000/- towards pain and suffering to Respondent

No.1. Looking into the nature of the injury suffered by
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Respondent No.1, the period of hospitalization, the medical treatment undergone by him, the same cannot be stated to be unreasonable or exorbitant. It cannot be ignored that the learned Tribunal has not awarded any compensation under the head of loss of amenities. I, therefore, find no merit in the challenge of the appellant on this account.

8. Secondly, the learned counsel submits that the learned Tribunal has erred in granting a sum of ₹21,60,000/- towards attendant charges, even though no proof of the same was placed on record by the mother of Respondent No.1 before the learned Tribunal. I am unable to find any merit in the submission made by the learned counsel for the appellant. The learned Tribunal, while awarding a sum of ₹21,60,000/- towards attendant charges has observed as under :

“17. In the present case the no document has been placed on record on behalf of the injured with regard to his special diet, conveyance charges. Petitioner, the mother of the injured who has represented the injured has placed on record a document Mark A which is the payment receipt to the attendant wherein it has been mentioned that the Rs. 18,000/- have been paid monthly for the attendant charges w.e.f. 15.10.2019 to 11.05.2020 which comes to total of Rs. 1,23,000/-. However, the document does not support with the certificate under Section 65-B of the Indian Evidence Act. Moreover, the injuries on the person of the injured Gaurav are such that he must have been taking the special diet for his recovery. It is also a matter of fact that the injured Gaurav is complete bed ridden and 100% disabled and he must have been spending the amount on his conveyance to the hospital and attendant for looking after him. Without assistance, he cannot perform everyday functions. The claimant with seriously impaired cognitive and physical capabilities would surely need full time assistance even for the confined life that he is leading. In such circumstances, the disabled claimant cannot be expected to rely only upon gratuitous services of his well-wishers and family members. Consequently, bearing in mind the 'need for assisted living



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and what was said in Kajal vs. Jagdish Chand and Others, it is found necessary to add the expenses for service of an attendant for the claimant. It is therefore deemed appropriate to quantify the annual expenses at Rs. 1,20,000/- and applying the multiplier of 18, the additional compensation payable under the bystander head is quantified at Rs. 21,60,000/- towards attendant charges.”

9. The learned Tribunal has appropriately concluded that, given the nature and extent of injuries sustained by Respondent No. 1, his impaired cognitive and physical capabilities, he requires the assistance of an attendant for his daily routine activities. This assistance could be provided either through hired professional help or as gratuitous care extended by family members. Regardless of the source, Respondent No. 1 is entitled to compensation to account for these essential caregiving needs. In ***Abhimanyu Partap Singh v. Namita Sekhon and Another*** (*supra*), the Hon’ble Apex Court, determined the compensation payable for attendant charges on the basis of the minimum wages notified and by applying the multiplier method. Judged by that standard, the award of ₹21,60,000/- towards attendant charges to Respondent No.1 for his life can by no stretch be said to be unreasonable or unwarranted.

10. In view of the above, the present appeal is dismissed. Pending applications also stands disposed of.

11. The statutory amount deposited at the time of finding the present appeal is directed to be released in favour of the appellant.

AMIT MAHAJAN, J

JANUARY 28, 2025

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