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

% *Date of decision: 19th March, 2025*

(1) + **MAC.APP. 160/2022 & CM APPL. 27064/2022**

U.P. STATE ROAD TRANSPORT CORPORATION ...Appellant
Through: Mr. Shadab Khan, Advocate

Versus

1. KASIM, S/O ZAHIR AHMAD
R/O E-13/C-234, T HUTS, NEAR S.S SCHOOL,
NUMBER IIND, J BLOCK, NEW SEELAMPUR,
NORTH EAST DELHI-53
2. AJAB SINGH S/O MAHAVEER SINGH
R/O VILLAGE KHADOA, PS PALIMUKEEMPUR,
DISTRICT ALIGARH, UP
Through: Mr. S.N. Parashar, Advocate

(2) + **MAC.APP. 161/2022 & CM APPL. 27068/2022 & CM
APPL. 35822/2022**

U.P. STATE ROAD TRANSPORT CORPORATION
...Appellant
Through: Mr. Shadab Khan, Advocate

Versus

1. IMRAN S/O ZAHEER AHMAD
R/O E-13/C-234, T HUTS, NEAR SS SCHOOL,
NUMBER IIND, J BLOCK, NEW SEELAMPUR,
NORTH EAST DELHI-53
3. AJAB SINGH S/O MAHAVEER SINGH
R/O VILLAGE KHADOA, PS PALIMUKEEMPUR,
DISTRICT ALIGARH, UP



Through: Mr. S.N. Parashar, Advocate

(3) + **MAC.APP. 162/2022 & CM APPL. 27073/2022**

U.P. STATE ROAD TRANSPORT CORPORATION

...Appellant

Through: Mr. Shadab Khan, Advocate

Versus

1. SMT. FARHA
W/O LATE SADDAM HUSSAIN @ SAMEER
2. MASTER ARHAM (MINOR SON)
S/O OF LATE SADDAM HUSSAIN @ SAMEER
3. MOHD. MIYAN S/O LATE ALAUDDIN
ALL R/O E-16/K-412, NEAR EK MINAR MASJID
NEW SEELAMPUR, GARHI MENDU, SEELAMPUR,
NORTH-EAST DELHI -53
4. AJAB SINGH S/O MAHAVEER SINGH
R/O VILLAGE KHADOA, PS PALIMUKEEMPUR,
DISTRICT ALIGARH, UP

.....Respondents

Through: Mr. S.N. Parashar, Advocate

(4) + **MAC.APP. 400/2022**

IMRAN S/O ZAHEER AHMAD

R/O E-13/C-234, T HUTS, NEAR SS SCHOOL,
NUMBER IIND, J BLOCK, NEW SEELAMPUR,
NORTH EAST DELHI-53

.....Appellant

Through: Mr. S.N. Parashar, Advocate

Versus

1. UPSRTC



THROUGH ITS REGIONAL MANAGER
GHAZIABAD REGION, KAUSHAMBI,
GHAZIABAD, UP

2. AJAB SINGH S/O MAHAVEER SINGH
R/O VILLAGE KHADOA, PS PALIMUKEEMPUR,
DISTRICT ALIGARH, UP

.....Respondents

Through: Mr. Shadab Khan, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The aforesaid three Appeals bearing **MAC.APP. 160-62/2022** filed by the Appellant/UPSRTC and **MAC. APP. 400/2022** filed by Injured/Sh. Imran, are being decided together as they arise from the same accident dated 03.02.2019.
2. **MAC.APP. 160/2022 & MAC.APP. 161/2022** pertain to the *two injured* namely, *Sh. Kasim* and *Mr. Imran* who have been granted compensation in the sum of Rs. 1,30,513/- & Rs. 20,89,600/- respectively, along with the interest @9% p.a.
3. The Cross-Objections *vide* **MAC. APP. 400/2022** have been filed by Injured/Sh. Imran, seeking enhancement of the compensation granted to him.
4. **MAC. APP. 162/2022** pertains to the compensation granted to *deceased*, Mr. Sameer Hussain @ Saddam, whose claimants have been granted compensation in the sum of Rs. 38,23,300 /- along with the interest @9% p.a.
5. ***Briefly stated***, on 03.02.219, at about 7:15 p.m., Sh. Imran and Sh.



Kasim were travelling, as passengers along with three others, in Wagon R Car bearing *Registration no. DL-2CAA- 4942*, being driven by Saddam @Sameer from Village Kareeb to Delhi. When they reached near Shikarpur Madarsa Bypass, the *Offending Bus bearing registration No. UP-81- AF-1965*, being driven by Driver/ Sh. Ajab Singh came from the side of Bulandshahar, in the wrong direction and collided with the Wagon R car from the front side. Consequently, all the six persons sustained grievous injuries. They were taken to CHC Shikarpur Hospital where Harun and Sameer were declared “*Brought Dead*”.

6. *FIR No. 56/2019 u/s. 279/337/338/304-A/427 IPC 1860*, was registered at PS Shikarpur, against the Bus Driver/Sh. Ajab Singh. After investigations, Charge Sheet was filed against him. The *Offending Bus* was owned by the Appellant/UPSRTC.

7. *Claim Petitions bearing MACT No. 198/2019 & MACT No. 199/2019* were filed by *Mr. Imran* and *Mr. Kasim*, the two injured to claim compensation for the injuries sustained by him. They were granted compensation *vide* Impugned Award dated 08.02.2022 & 01.02.2022 respectively.

8. *Claim Petition bearing MACT No. 200/2019* was filed by the Claimants/Legal heirs of the deceased, Mr. Sameer Hussain @Saddam, who had been granted compensation *vide* Impugned Award dated 31.01.2022.

9. Aggrieved by the findings of the Impugned Awards, UPSRTC has filed the three Appeals bearing **MACT No. 160-62/2022**.

10. The ***common grounds*** of challenge in all the three Appeals, are as under: -



- (i) The learned Tribunal has erred in observing that it is a case of sole *negligence of the Offending Bus Driver*; rather the UPSRTC Bus was standing and its passengers were deboarding, when the Victim Car/WagonR came from the opposite direction and collided head-on with the front side of the bus. The sole negligence was of the WagonR driver or at best, it is a case of contributory negligence of the Bus Driver, and the Car Driver/Sh. Saddam Hussain @ Sameer;
- (ii) That the *rate of interest of 9%* is on the higher side and the same should be reduced to 6% p.a.

11. ***In Appeal bearing MAC. APP. 160/2022***, pertaining to injury claim of *Mr. Kasim*, additional grounds have been taken to challenge the quantum of compensation, which are as under: -

- a) *No Loss of Income* has been proved by the Claimant;
- b) The amount granted towards the *medical expenses* was not proved by examining any doctor; and
- c) The amount granted under the *non-pecuniary heads* is also on a higher side.

12. ***In Appeal bearing MAC. APP. 161/2022***, pertaining to injury claim of *Mr. Imran*, following additional grounds have been taken to challenge the quantum of compensation, -

- a) The medical record reflects that *date of the accident was 05.02.2019 instead of 03.02.2019*, which indicates that the injuries had been suffered by the Petitioner in some other accident and are not attributable to the accident which took



place on 03.02.2019;

- b)* *No Loss of Income* has been proved by the Claimant;
- c)* The amount towards the *medical expenses is not proved on record*; and
- d)* The amount granted under the *non-pecuniary heads* is on a higher side.

13. ***Appeal bearing No. MAC. APP. 400/2022, is the Cross Objections under Order XXI Rule 22 read with Section 151 CPC, 1908*** filed on behalf of the *Injured/ Mr. Imran*, wherein he has sought enhancement of compensation on the following grounds: -

- a)* Though the permanent disability of the injured was assessed as 81% in relation to right upper limb and left lower limb, the Tribunal fell in error in assessing *his functional disability as 40%*, which at least should have been assessed as 81% in terms of Disability Certificate;
- b)* The *Attendant Charges* granted are on lower side and do not take into account future attendant charges; and
- c)* The Compensation under the *Non-Pecuniary Heads* need to be enhanced.

14. ***In Appeal bearing MAC. APP. 162/2022***, pertaining to death claim of *Mr. Saddam Hussain@ Sameer*, additional grounds have been taken to challenge the quantum of compensation, which are as under: -

- a)* The deduction towards personal and living expenses has been made *1/4th instead of 1/3rd* by considering the father as dependant; and



b) The amount towards *Loss of Consortium* has not been granted in accordance with the Law laid in *National Insurance Company v. Pranay Sethi*, (2017) 16 SCC 680.

15. ***Per Contra***, the learned Counsel for the Claimants has argued that there is no merit in the Appeals filed by the Appellant/UPSRTC and are liable to be dismissed.

16. **Submissions heard and record perused.**

Negligence of the Driver of the Offending Truck: -

17. Learned counsel on behalf of UPSRTC has vehemently contended that it was the Wagon R Car which was being driven by the deceased driver, Mr. Saddam Hussain @Sameer, in a rash and negligent manner, who came from the wrong side and rammed car from the front, into the Stationary Bus that was halted on the correct side of the road for deboarding the passengers.

18. Thus, the Learned Counsel for Appellant has contended that the manner in which the accident is proved to have taken place, no negligence whatsoever can be attributed to the stationary Bus and the learned Trial Court fell in error in assessing it to be a case of sole negligence of the Offending Bus Driver.

19. The factum of accident and the involvement of the Offending Bus has not been disputed and has been admitted by ***RIW1/ Sh. Ajab Singh-*** the Driver of the Bus.

20. To analyze the manner of accident and the negligence of the Offending Truck Driver, the testimony of the *Injured/Sh. Imran* and *Injured/Sh. Kasim*, i.e. the eyewitnesses, may be considered.

21. ***PW1/Sh. Kasim (in MACT 199/2019) & PW-1/Sh. Imran (in MACT***



198/2019), the two injured, deposed *vide* their *Affidavit of Evidence Ex. PW1/A respectively*, that on 03.02.219, at about 7:15 p.m., they were travelling along with Sameer, Harun, Abnan and Bhura, in Wagon R Car bearing *Registration no. DL-2CAA- 4942*, being driven by Saddam Hussain @Sameer at a normal speed and on the correct side of the road. When they reached near Shikarpur Madarsa Bypass, the *Offending Bus bearing registration No. UP-81- AF-1965, came from Bulandshahar/opposite direction*, being driven by Driver/ Sh. Ajab Singh, *in rash and negligent manner, at a very high speed in the wrong direction, in violation of traffic rules and without blowing any horn. The bus changed its driving lane and collided with the WagonR car from the front side.* The accident took place due to the sole negligence of the Bus driver and if he had been vigilant and careful, the accident could have been averted.

22. In their cross-examination, they further stated that Sh. Sameer @ Saddam was holding a valid driving license and Sh. Kashim was seated on the co-driver seat, while four others were sitting on the back seat of the car. The speed of the car was 40-45Kmph and there was no divider on the road. They were on the left side of the road and the Bus *was coming from the opposite direction* on the right side of the road. They *denied the suggestion that any passengers were deboarding the bus on the correct side of the road or the accident occurred because they were overtaking another vehicle due which the Wagon R collided with the Bus.*

23. *The comprehensive reading of the testimony of Sh. Imran and Sh. Kasim respectively reveals that it was the UPSRTC Bus, which came from the opposite direction, which collided with the Wagon R car, leading to the*



death/injuries of the passengers. There is nothing culled out from the cross-examination to shake the credibility of the statements of the eyewitnesses.

24. However, **RIW1/ Sh. Ajab Singh**, has taken a stance in his Affidavit of Evidence Ex. R1W1/A, that on 03.02.2019, that he along with Mr. Sabir Khan, the bus conductor, was plying the bus on the on the route of Kisrauli-Delhi, at a normal speed, on the correct side by following the traffic rules. The front glass of conductor side of the bus was broken at Dadri. Due to this, the vehicle was being taken to Atrauli from Dadri. At about 19:15, when the bus reached in front of Madarsa Sikarpur Bypass, the deponent stopped the bus at correct side for deboarding the passengers, when the Wagon R car came from opposite direction, being driven by the driver at a very high speed, and as it tried to over-take an unknown vehicle rashly and in negligent manner, the driver lost control of his car, came in the bus lane and hit in the stationary bus from front side. All the passengers in the car sustained grievous injury.

25. He also stated that VTS system is installed in the bus and as per VTS report i.e. Ex. R1W1/I, the location of bus was Shikarpur town which was running at a normal speed at the time of accident. He also deposed that he had been implicated falsely for which he made a complaint dated 04.02.2019 which are Ex. R1W1/2 and Ex. R1W1/3.

26. In his cross-examination, RIW1 admitted that FIR No. 56/2019 dt. 03.02.2019 u/s 279/338/304-A IPC, 1860 was lodged in which chargesheet has been filed against him. He further admitted that he had moved an application before the concerned Id. Magistrate to surrender himself and he



was granted bail. The case is still pending in which he is facing trial and charge has already been framed.

27. **R2W1/Sh. Sabir Khan**, the bus conductor, also tendered his Evidence by way of Affidavit as *Ex. R2W1/A* and took a similar defense as that of Sh. Ajab Singh. In his cross-examination, R2W1 admitted the factum of accident and registration of FIR No. 56/2019 dated 03.02.2019 u/s. 279/338/304-A IPC, 1860. He also admitted that the bus driver is facing trial as chargesheet had been filed against him.

28. **Both R1W1 and R2W1** stated in their cross-examination that the bus was seized by the police at the spot. They admitted that there is no documentary proof to show that front glass of bus was already broken before the accident. They also admitted that there were passengers in the offending Bus at the time of accident and that no passenger has been made an independent witness in the case who could have deposed that the accident had occurred due to fault of driver of the car in which petitioners were travelling. The explanation given was that since none of the passengers of bus got any injury, they were not made witness.

29. **R1W1/Sh. Ajab Singh** also admitted that he had not written the complaint and the same was written by his conductor/Sh. Sabir Khan. He further admitted that complaint was not pursued before the concerned Authorities after sending the complaint by post.

30. Thus, the cross-examination of R1W1 and R2W1 clearly demolishes the stand taken by the Driver as neither any independent witness, though available, has been examined by the Appellant nor any other evidence has been placed on record to prove the manner of accident as deposed by him.



31. Further, it becomes apposite to note that even the site plan belies the case set up by R1W1 an R2W1, as there is no bus stop/stand depicted to show that the bus was halted to drop the passengers; rather, the spot of accident is in the middle of the road.

32. Even the VTS Report relied upon by the Driver, does not lend credence to his case, as the same does not disclose the basis or the device as per which the same is generated. The same also does not disclose if it pertains to the bus in question. In any case, the report cannot be of any assistance to the driver, to exonerate him in any manner.

33. ***Thus, the Appellant has clearly failed to establish that the accident occurred due to the negligence of the driver of the Wagon R Car i.e. Sh. Saddam@ Sameer.***

34. Pertinently, admittedly the Chargesheet had been filed in this case against the offending Bus. In the case of Mangla Ram vs. The Oriental Insurance Company Ltd., AIR 2018 SC 1900, it has been held that filing of Chargesheet is sufficient proof of the negligence and involvement of the Offending Vehicle. This judgement was followed by the Coordinate bench of this Court in National Insurance Co., vs Pushpa Rana 2009 ACJ 287 Delhi.; United India Insurance Co. Ltd. v. Deepak Goel and Ors., 2014 (2) TAC 846 Del, and Amanti Devi and Ors. v. Maheshwar Rai, MAC Appeal no. 831/2015 decided on 19.11.2022)

35. ***Hence, from a detailed appraisal of the testimony of the eyewitnesses and the evidence placed on record, along with the criminal investigation documents, it is clearly established that the accident occurred due to the sole negligence of the Offending Bus Driver and the***



driver of the Wagon R car cannot be held liable for Contributory Negligence in any manner.

36. *There is no ground made out for interfering in the observations of the three Impugned Awards, in this regard.*

Rate of Interest: -

37. The interest has been granted @9% in the three Impugned Awards, which has been challenged by the Appellant/UPSRTC stating that the interest should not have been more than 6% p.a.

38. In the present case, the unfortunate accident happened on 03.02.2019 and the Award was passed in 2022. In the case of Oriental Insurance v. Reena Raghav, 2023 SCC OnLine Del 6695 of the Coordinate Bench, wherein the interest was granted @9% p.a. in the Award of Compensation in the Year 2023. The aspect of interest was challenged by the Appellant/Insurance Company on the ground of being exorbitant and that it be reduced to @7.5% p.a. This Court refused to interfere with the rate of interest by observing that the Appellant/Insurance Company had only orally made a submission claiming the prevalent rate of interest to be 7.5% p.a. and that too, on the basis of Google search while no document had been placed to support the plea of interest being too high.

39. In light of the above judgment and considering that in the present appeal as well, apart from making a bald claim on the prevailing rate of interest, the Appellant has not filed on record any document to show the rate of interest that was prevailing between the year 2019 to 2022.

40. *Thus, there is no reason to interfere with the rate of interest*



awarded, @9% p.a. by the learned Tribunal.

MAC.APP. 160/2022: Challenge to Quantum of Compensation granted to Sh. Kasim (Injured): -

41. The Appellant/UPSRTC has challenged the quantum of compensation granted to *Sh. Kasim (Injured)*.

A. Loss of Income during the period of treatment: -

42. The Injured- Sh. Kasim has deposed that at the time of the accident he was about 33 years old, and was working as a Driver (freelancer) and earning about Rs. 15,000/- to 20,000/- per month. He further stated that he has not been able to resume work since the date of his accident, on account of Permanent Disability.

43. The Insurance Company has argued that no loss of income is proved to the injured and thus, compensation in the sum of Rs. **Rs. 42,000/-** towards loss of income, has been wrongly assessed.

44. It is no more *res-integra* that where the claimant fails to prove his income or salary, the same has to be calculated in the basis of the Minimum Wages prevailing in the State at the time of accident.

45. ***Therefore, the Learned Tribunal has rightly assessed the Income of the Injured/ Sh. Kasim on the basis of the Minimum Wages of Unskilled Worker i.e. Rs. 14,000/-.***

46. The *Medical Treatment Record Ex. PW1/1 (Colly)* reveals that the injuries sustained by the injured are of his facial bones and on the head. It is further reflected that he has undergone surgery of his face at Safdarjung Hospital. The OPD Card reflects that he has undergone treatment for a



period of 2 months. Further, post surgery, he could not have been in a position to work for another 1 month.

47. *Thus, the Learned Tribunal has rightly granted a sum of Rs. 14,000/- x 3 months = Rs. 42,000/- towards loss of Income, which does not warrant any interference.*

B. Compensation towards Medical Expenses: -

48. The Injured has placed on record the Medical Bills which are *Ex. PW1/2 (Colly)*.

49. The argument that the Bills towards the *medical expenses* was not proved by examining any doctor, is not tenable as the Medical Bills were duly exhibited by the Injured in his evidence which are sufficient to prove the expenses incurred in his treatment. There is no evidence led by the Appellants that the Bills were not genuine.

50. Learned Tribunal has rightly granted ***Rs. 38,531/-, which does not warrant any interference.***

C. Conveyance and Special Diet and other Non-pecuniary Heads: -

51. It has come on record that the injured had to visit several hospitals for his treatment and thus, considering that he would have incurred certain expenses for commuting for his follow-ups and regular checkups, the Learned Tribunal has reasonably granted ***Rs. 20,000/-*** towards conveyance charges.

52. Further, the factum of injury has not been disputed by any party. Since he has undergone surgery of his face, it would be reasonable to assume that he would have required an attendant to assist him or some



family member must be rendering their services to support the injured. Thus, the Learned Tribunal has reasonably granted **Rs. 5,000/-** for attendant charges.

53. Considering the nature of injuries, the parts of body affected, the surgeries undergone and the time of confinement in the hospital, the Learned Tribunal has rightly granted an amount of **Rs. 20,000/-** toward Pain and Suffering and **Rs. 5,000/-** towards Mental and Physical Shock.

D. Conclusion: -

54. ***Therefore, no interference is warranted in the total amount of Compensation Rs. 1,30,351/- along with interest @9% p.a. granted to Injured/Sh. Kasim.***

MAC.APP. 162/2022 - Challenge to Quantum of Compensation granted to Legal Heirs of Sh. Saddam Hussain @ Sh. Sameer (Deceased): -

55. The Appellant/UPSRTC has challenged the quantum of compensation granted for the death of ***Sh. Saddam, in the Road accident.***

A. Loss of Dependency: -

56. The only grievance of the Appellant/UPSRTC is that the Learned Tribunal has deducted 1/4th towards personal expenses by considering that there were four dependents.

57. ***PW1- Smt. Farha***, the wife of the deceased has deposed that her husband/Sh. Saddam was 26 years old at the time of the accident and was working as a Field Executive with Punjab Freight Cargo Pvt. Ltd. and was getting Rs. 18,500/- per month as Salary. He left behind Smt. Farha, his 23-years-old wife; Master Aham, his 2-years-old minor son, Smt. Nanni, his



67-year-old mother and Mohd. Miyan, his 72 years old father, who were all completely dependent upon the Income of the deceased as he was the sole earning member of the household and they did not have any other source of income.

58. In the recent judgment of Sadhana Tomar and Ors. v. Ashok Kushwaha and Ors., Civil Appeal No. 3763 of 2025, decided *vide* Order dated 24.01.2025, the Appellants/Claimants had challenged the Judgment dated 19.09.2022, passed in Misc. Appeal No. 5231 of 2021, of the High Court of Madhya Pradesh at Gwalior, *vide* which the High Court had affirmed the findings the Ld. MACT that the Father and the younger sister were not dependent upon the income of the deceased. The Apex Court allowed the Appeal of the Claimants and enhanced the compensation amount by observing that ***the father as well as the younger sister were dependent upon the income of the deceased.*** It was held that:

“14. Recently in *N. Jayasree v. Cholamandalam MS General Insurance Company Ltd.* [(2022) 14 SCC 712], this Court observed that:

“16. In our view, ***the term “legal representative” should be given a wider interpretation for the purpose of Chapter XII of the MV Act and it should not be confined only to mean the spouse, parents and children of the deceased.*** As noticed above, the MV Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the MV Act calls for a liberal and wider interpretation to serve the real purpose underlying the enactment and fulfil its legislative intent. We are also of the view that in order to maintain a claim petition, it is sufficient for the claimant to establish his loss of dependency. ***Section 166 of the MV Act makes it clear that every legal representative who suffers on account of the death of a person in a motor vehicle accident should have a remedy for realization of compensation.***”



15. In our view, in furtherance of the above exposition of law, the appellant Nos.4 and 5 being **the father** and younger sister of the deceased, **both not financially independent**, would fall under the definition of legal representatives for the purpose of claiming the compensation under the Motor Vehicles Act, 1988, **and they were considered as dependents upon the income of the deceased, as he was doing wholesale business of selling fruits to meet the day-to-day expenses of the family.** Therefore, the deduction made towards the personal expenses of the deceased should be 1/4th as the number of dependent family members is five.

59. In the present case, there is cogent evidence led by **PW1- Smt. Farha**, that father-Mohd. Miyan, aged 72 years, was also dependent on the income deceased as he was the sole earning member of the family. It must not be over looked that compensation is payable under Motor Vehicle Act, 1988 not only to legal heirs but to the dependents/Legal representatives, irrespective of their subsisting status as per the laws of succession.

60. Thus, the Learned Tribunal has rightly made a deduction of 1/4th towards personal and living expenses as per Sarla Verma & Ors. v. Delhi Transport Corporation & Anr. (2009) 6 SCC 121 by observing that the father was also a dependent upon the income of the deceased.

61. **The same does not warrant any interference** as there is nothing placed on record by the Appellant/UPSRTC to show that the four legal heirs were not dependent upon the deceased or were having any separate source of income.

B. Loss of Consortium: -

62. Since the deceased left behind 4 legal heirs, each would have been entitled to Rs. 40,000/- towards loss of Consortium in lieu of the judgment of Pranay Sethi (Supra). Therefore, the learned tribunal has rightly granted



Rs. 1,60,000 i.e. 40,000 x 4 towards Loss of Consortium and the objection of the Insurance Company is not tenable.

C. Conclusion: -

63. *Therefore, no interference is warranted in the total amount of Compensation Rs. 38,23,300 /- granted @9% p.a. to the legal heirs of Sh. Saddam Hussain @ Sameer.*

MAC.APP. 161/2022 & MAC APP. 400/2022: Challenge to Quantum of Compensation granted to Sh. Imran (Injured): -

64. The Appellant/UPSRTC has challenged the quantum of compensation granted to *Sh. Imran (Injured)*, while he has sought enhancement of compensation.

A. Dispute regarding the Date of Accident: -

65. The Learned Counsel for the Appellant/UPSRTC has vehemently relied upon Medical Record of VMMC and Safdarjung Hospital wherein the date of accident has been stated as 05.02.2019, to contend that the injuries for which the compensation has been claimed, do not relate to the accident in the present case, which happened on 03.02.2019.

66. This argument of the Appellant is clearly belied by the deposition of the Witnesses. *PW1-Sh. Kasim* has categorically deposed that he was travelling in the Wagon R car in which Sh. Imran was also present and all the passengers of the car sustained grievous injuries on 03.02. 2019.

67. *PW1-Sh. Imran* has also deposed that he sustained grievous injury in the accident dated 03.02.2019 i.e. Closed Traumatic Fracture Dislocation



Left Hip Copsterior Hip Dislocation with Posterior Wall Fracture with 7 ZMC fracture (R) with (RT) and other injuries.

68. He has also clarified in his cross-examination dated 27.08.2021 that the six passengers apart from himself, in the WagonR car were namely, Sh. Kasim, Sh. Harun, Sh. Saddam, Sh. Abnan and Sh. Bhura who were taken to District hospital, Bulandshahr, UP in an Ambulance. Further, he was referred to Noida hospital and thereafter, to Safdarjung hospital, Delhi.

69. The Chargesheet filed with respect to FIR No. 56/2019, also corroborates with the testimony of the witnesses that Sh. Imran along with other injured persons, sustained grievous injuries in the accident dated 03.02.2019.

70. **PW1-Sh. Imran**, in his cross examination dated 27.08.2021, had denied the suggestion that he did not suffer grievous injuries in the accident on 03.02.2019 and was discharged from Bharat hospital on 04.02.2019. He voluntarily explained that he was referred to Safdarjung hospital from Bharat Hospital, Noida and his treatment was continued for long time in Safdarjung hospital, Delhi.

71. This is supported by the Medical Record which reflects that the Claimant/Injured Imran after suffering injuries, was first taken to Bharat Hospital, Noida where he was admitted on 03.02.2019 and discharged on 04.02.2019. Thereafter, he was taken to Safdarjung Hospital, New Delhi, hospitalized from 12.02.2019 to 05.03.2019, 27.03.2019 to 17.04.2019, 28.08.20219 to 28.08.2019 and 11.02.2020 to 16.03.2020.

72. The Discharge Summary of Safdarjung Hospital mentions the date of injury as “05.02.2019” but there appears to be some over-writing in the digit



“05”.

73. When cross-examined on this aspect, **PW1-Sh. Imran** had denied the suggestion that the medical treatment documents and Discharge Summary of Safdarjung hospital is regarding some other accident which occurred on 05.02.2019 and not of the accident dated 03.02.2019. *He voluntarily explained that the concerned officials of Safdarjung Hospital might have mentioned the wrong date of accident inadvertently, whereas the actual date of accident was 03.02.2019 and no accident occurred on 05.02.2019 and all the treatment documents filed by him pertained to injuries suffered by him in accident dated 03.02.2019.*

74. From the Charge Sheet where his name is mentioned as one of the injured, coupled with the chain of his medical documents, coupled with the testimony of Sh. Kasim and Sh. Imran, it is evident that incorrect date got mentioned in the Discharge Summary of Safdarjung hospital, as in all other medical document the date of accident/injury, is mentioned as 03.02.2019. Even the subsequent documents of Safdarjung Hospital and Primus Super Specialty Hospital, from where the injured took the follow up treatment, records the date of accident as 03.02.2019.

75. *Thus, it is clearly established from the chain of documents, the testimony of the witnesses and the criminal investigations that the injuries were suffered by the injured-Sh. Imran in the accident dated 03.02.2019.*

B. Loss of Income during the treatment period: -

76. **PW1- Sh. Imran** has deposed that he has studied upto 8th standard. At the time of the accident, he was engaged in embroidery work with Mr. Akshay and was earning approximately ₹15,000 per month.



77. Pertinently, no documentary evidence of his income/ salary or educational qualification has been placed on record. It is settled that in absence of any documentary proof of income, the same can be assessed on the basis of the Minimum Wages. ***Thus, the Learned Tribunal has rightly assessed the Income of the Injured as ₹14,000 per month,*** on the basis of Minimum Wages of Unskilled Worker, for calculating the Loss of Income.

78. Furthermore, the medical record reflects that Injured/Imran required multiple hospital admissions over a period of eight months due to his injuries. Thus, after consideration of the medical record and the nature and severity of the injuries suffered by the Injured/Imran, ***the Learned Tribunal has rightly granted the Loss of Income for 12 months i.e. Rs. 1,68,000/- which does not require any modification.***

C. Compensation for Medical Expenses: -

79. Along with the Original Medical Record, the Injured has placed on record the Original Medical Bills which are *Ex. PW1/2 (Colly)*. The argument that the amount of compensation granted towards the *medical expenses* was not proved by examining any doctor, is not tenable as the medical bills are documents exhibited by the Injured, the authenticity of which has not been questioned by the Appellant.

80. The Learned Tribunal has rightly granted ***this amount of Rs. 1,16,306/- towards Medical Expenses, which does not warrant any interference.***

D. Loss of Future Income/prospects due to disability: -

81. The injured has suffered Closed Traumatic Fracture Dislocation Left



Hip copsterior Hip Dislocation with Posterior Wall Fracture with 7 ZMC fracture (R) with (RT) other multiple injuries.

82. The Disability Certificate Ex. PW-1/3 shows that the Claimant has Brachial Plexus Injury in Right upper limb and Avascular Necrosis in left hip and thus has, **81% permanent disability in relation to right upper limb and left lower limb.**

83. *The Assessment Performa for Upper Extremity Appendix 1, Form A*, reflects that after considering several parameters such as Range of movement and muscle strength of shoulders, elbows wrist, the Disability of Right upper limb is 74%.

84. *It further* reflects that after considering several parameters such as Range of movement and muscle strength of hip, knee, ankle and foot, the Disability of Left lower limbs is 42%.

85. **PW1/Sh. Imran, injured**, has deposed that he was working as a Karigar (Embroidery Work) and has not been able to resume work since the date of the accident and he has been rendered jobless. He has also deposed that he shall not be able to continue his vocation in future and he does not know any other skilled work. He is unable to move/walk after the accident and is facing difficulty in performing his daily routine work as well.

86. The injured/Imran, in his cross-examination dated 27.08.2021, has further explained that he is unable to raise his right hand and he needs the support of his left hand as he cannot do any work with his right hand. His left leg is shorter by 6 inches as compared to my right leg and he cannot walk without a stick.

87. **PW2/Dr. Binod Kalita, Orthopaedics Specialist, Jag Pravesh**



Chandra Hospital was also examined who proved the proved *the Disability Certificate in respect of Upper and Lower Extremity as PW2/1*. He deposed that the disability of Sh. Imran vis-a-vis his right upper limb (right arm and right hand) is 74% and the disability qua his left lower limb (from hip to toe) is 42%. The left hip of Sh. Imran is also affected and he can sit on the chair up to 35 degree and the movement of hip is not complete as of the normal person. The disability is permanent and his health is not likely to improve with time.

88. It has not been disputed that Sh. Imran has suffered 81% permanent disability in relation to upper and lower limb which have resulted in severe permanent locomotor disabilities, significantly affecting his ability to perform daily activities and pursue his vocation.

89. Though there is no proof adduced to prove that the injured was working as a Karigar/Embroidery worker, it cannot be overlooked that the injuries suffered have led to substantial functional impairment and the combination of right-hand dysfunction and left-leg shortening render him unfit for both sedentary and physical labor jobs. Avascular Necrosis of the Left Hip restricts the blood supply to the femoral head leading to progressive joint deterioration. The injured also faces restricted mobility such as inability to squat or sit cross-legged, walk, stand for long periods, climbing stairs. Brachial Plexus Injury in Right Upper Limb would result in loss of arm functions and reduced grip strength and likely loss of fine motor skills, making it impossible to hold objects, write, or perform intricate tasks.

90. Thus, the learned Tribunal fell in error in assessing the functional disability of Sh. Imran as 40% by overlooking the above discussed factors



and that Sh. Imran does not have any other vocational skills. The injury suffered by Sh. Imran significantly reduces functional ability and employment prospects, and ***thus, the functional disability is re-assessed as 81%.***

91. ***Therefore, the Loss of Future Salary/Prospects is re-calculated as Rs. 30,49,000 / - (i.e. Rs. 14,000 x 140/100 x 12 x 81/100 x 16).***

E. Attendant Charges: -

92. The learned Tribunal, has granted Rs. 30,000/- as Attendant Charges by observing that the Injured must have required the services of attendant for about one year.

93. However, considering that the Claimant has suffered 81% of Permanent Disability of upper limb and lower limb and is unable to perform his day-to-day activities, it can reasonably be estimated that he would require an Attendant on a regular basis in the future as well.

94. Considering the totality of circumstances, it can essentially be held that he would require an Attendant for 12 hours a day. The Claimant had not adduced any evidence whatsoever to prove that any Attendant has ever been engaged to take care of him, but it cannot be over looked that even if there is no formal attendant who has been engaged, some family member would be doing extra work to provide support to her.

95. Therefore, taking Rs. 7,000/- per month as Attendant Charges, it can be estimated that the Appellant would be spending Rs. 84,000/- per annum on the Attendant Charges. However, it cannot be overlooked that this is expenditure to be incurred in future and taking into account the interest



component on this future expenditure, the amount is taken as 42,000/- p.a. i.e. 50% of the due amount.

96. As per the judgment of *Sarla Verma v. DTC*, (2009) 6 SCC 121 the appropriate multiplier would be 16 and the ***Attendant Charges thus, awarded to the Claimant is enhanced from Rs. 30,000/- to Rs. 6,72,000/-*** (42,000 X 16).

97. The Total Compensation of Rs. ***Rs. 6,72,000/-*** is awarded to the injured towards ***Attendant Charges***.

F. Special Diet and Conveyance Charges: -

98. It also emerges from the record the Claimant has undergone medical treatment for approximately one year and thus, the Learned Tribunal has reasonably granted ***Rs. 25,000 towards conveyance expenses***.

99. Similarly, after considering the severity of his injuries and keeping in mind that he would have required a special diet for healing, the Learned Tribunal has rightly granted ***Rs. 20,000 for special diet expenses***.

100. ***These amounts do not warrant any modification.***

G. Non-pecuniary Heads: -

101. The Appellant/UPSRTC has also raised a challenge to the amount granted towards the non-pecuniary heads.

102. Considering the nature of injuries, the parts of body affected, the surgeries undergone and the time of confinement in the hospital, the Learned Tribunal has rightly granted an amount of ***Rs. 1,00,000/-*** toward Pain and Suffering.

103. Keeping in mind that the permanent disability would hinder the daily



activities of the injured, the Learned Tribunal has reasonable granted **Rs. 1,00,000/-** towards Loss of Enjoyment of Life and Amenities and **Rs. 25,000/-** towards Mental and Physical Shock.

104. *The compensation so granted under these Heads, do not warrant any interference.*

H. Relief: -

105. Therefore, the total Quantum Compensation for Claimant/Sh. Imran is **enhanced** as under: -

S. No.	Heads	Granted By Ld. Tribunal	Modified by this Court
1.	Medical Expenses	Rs. 1,16,306/-	Rs. 1,16,306/-
2.	Conveyance Charges	Rs. 25,000/-	Rs. 25,000/-
3.	Special Diet	Rs. 20,000/-	Rs. 20,000/-
4.	Loss of Income	Rs. 1,68,000/-	Rs. 1,68,000/-
5.	Loss of Future Income	Rs. 15,05,280/-	Rs. 30,49,000/-
6.	Attendant Charges	Rs. 30,000/-	Rs. 6,72,000/-
7.	Pain and Suffering	Rs. 1,00,000/-	Rs. 1,00,000/-
8.	Mental and Physical Shock	Rs. 25,000/-	Rs. 25,000/-
9.	Loss of Enjoyment of Life and Amenities	Rs. 1,00,000/-	Rs. 1,00,000/-
	TOTAL COMPENSATION	Rs. 20,89,586/-	Rs. 42,75,306/-

106. Therefore, the quantum of compensation is accordingly enhanced to **Rs. 42,76,000/-** along with interest @ 9 % p.a., from filing of Claim till the date of deposit, to be disbursed as per the Impugned Award dated 08.02.2022.



Conclusion: -

107. The Appeals bearing **MAC. APP. 161-162/2022** filed by UPSRTC are hereby ***dismissed***.

108. The ***Cross-Objections*** vide Appeal bearing **MAC. APP. 400/2022**, is hereby ***allowed*** and the compensation granted to ***Sh. Imran is enhanced to Rs. 42,76,000/- along with interest @ 9 % p.a.,*** from filing of Claim till the date of deposit, to be disbursed as per the Impugned Award dated 08.02.2022. The enhanced amount be deposited within 4 weeks, by the Appellant/ UPSRTC.

109. The statutory deposit be returned to the Appellants in accordance with law.

110. The Appeals are accordingly disposed of, along with the pending Application(s), if any.

**(NEENA BANSAL KRISHNA)
JUDGE**

MARCH 19, 2025

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