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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ MAC.APP. 65/2026, CM APPL. 4542/2026, CM APPL. 4543/2026
& CM APPL. 4544/2026

ORIENTAL INSURANCE CO LTDAppellant

Through: Mr. D. N. Singhal, Advocate.

versus

SH HARENDRA BHATIRespondent

Through: Ms. Priyanka Sethia, Ms. Poonam
Sherawat, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

% **ORDER**
22.01.2026

1. This appeal has been filed under Section 173 of the Motors Vehicles Act, 1988 (*'MV Act'*) by insurance company challenging the order dated 05th August 2025, in MACT Case No. 226/2018.
2. By the said impugned order, compensation to the sum of Rs. Rs.40,57,733/-, along with interest, was awarded to the respondent-injured, who suffered an amputation of the leg in the accident which had occurred on 26th September 2017.
3. The claimant was travelling on his scooter from *Delhi* to his residence at *Dadri* and when he joined the main road, while coming from a service road, a *Honda Amaze car* came from behind and hit his scooty and as a result he sustained the injuries.



4. An FIR was registered under Section 279/338/427 of Indian Penal Code, 1860 (**'IPC'**) at PS Dadri, U.P. The matter was investigated and the chargesheet was filed holding that the accident had happened due to the rash and negligent driving of the *Honda Amaze Car*.

5. *Mr. D.N. Singhal*, counsel for appellant/Insurance Company, challenges this Award on following grounds:

5.1 *First*, there was evidence of contributory negligence on the part of claimant while joining suddenly from the service road to the main road and, therefore, the collision occurred. The claimant has been examined as **PW-1** and tendered his evidence by way of affidavit, as annexed as **Ex. PW-1/A**. He testified that when he reached *Halka OP Kasba Bypass Dadri*, *Honda Amaze car* came from behind and hit him. He was removed to *Yashoda Super Speciality Hospital, Noida*, for treatment. He sustained injuries over left upper limb and lower limb. He underwent four surgeries, then was transferred to *Mohan Swarup Hospital* and was finally discharged from *Yashoda Hospital* on 7th October 2017.

5.2 Subsequently, he was admitted again to *Yashoda Hospital* and admitted and discharged on three further occasions.

5.3 During his treatment, the mid foot of his left leg was amputated. **PW-1** deposed that he was 31 years old at the time of accident and was doing the job of milk supply and earning *Rs.25,000* per month. Due to this accident, he became permanently disabled.

5.4 The aspect of contributory negligence has been dealt with in the impugned award while determining this issue. It is stated that during cross-examination, the suggestion as to contributory negligence of petitioner was put up. However, the Tribunal noted that it was not specifically put as to in



what manner the petitioner contributed to the negligence. This assessment by the Tribunal in the impugned award seems to be correct. Having perused the cross-examination of **PW-1**, there is nothing suggested in the cross-examination by the Insurance Company that there was a specific contributory negligence on account of the claimant. Even now, a general vague submission is made in this regard. This ground, therefore, cannot be sustained.

5.5 *Secondly*, computation has been challenged on the ground that, on account of grant of expenses for a prosthetic, the natural corollary would be that the claimant would be able to substantially run his life in a normal manner.

5.6 *Mr. D. N. Singhal*, learned counsel for the Insurance Company, provides the example of paralympic athletes who have managed to win medals for the country with the aid of prosthetics. While that may indeed be the case in exceptional circumstances, it cannot provide a broad, general measure applicable to all. For a common person trying to earn his income through milk delivery, an amputation of the left leg would seriously hamper his prospects of continuing his vocation in a full sense.

5.7 In fact, the impugned award has considered the availability of a prosthetic while calculating the functional disability.

5.8 Reference may be made in *paragraph 18* of the impugned award, where the MACT has specifically mentioned as under:

“18. In the present case, petitioner has relied upon disability certificate issued by the office of the Chief Medical Officer, Gautam Budh Nagar, U.P. Ex.PW-1/5 noticing permanent disability of 70% with post traumatic amputation through left below knee upto 8 cm of left leg. In his testimony, petitioner has also sought



compensation towards expenses for implanting artificial limb. Though no evidence has been led to prove the estimate expenses of artificial limb the fact that upon implantation of an artificial limb, the functional disability is likely to reduce rendering a person capable of pursuing his daily routines and at least pursue the nature of work that petitioner was allegedly carrying at the time of accident, he would certainly remain incapable of performing rigorous work involving his leg.

Accordingly, his functional disability is taken as 30%. This reduction of functional disability is consciously assessed keeping in view that the petitioner is entitled to expenses towards implantation of prosthetic limbs and it would be unjust to award double benefit to him on account of functional disability as well as of expenses towards prosthetic limb, both at the same time.”

5.9 This Court does not find this computation exaggerated in the facts and circumstances, and, therefore, this ground raised by appellant is also dismissed, and accordingly, the appeal stands rejected. The impugned award stands confirmed.

6. Pending applications (if any) are rendered infructuous.

7. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 22, 2026/RK/bp