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

% ***Date of decision: 9th February 2026***

Date of uploading: 13th February 2026

\+ **MAC.APP. 111/2021**

DEVENDER .....Appellant

Through: Mr. S.N. Parashar & Mr. Ritik Singh, Advocates.

versus

RAMAN SHARMA & ORS. .....Respondents

Through: Mr. Sankar N. Sinha, Adv. R-3/Insurance Company.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J: (ORAL)

1. This appeal has been filed by claimant seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal ["***Tribunal***"] *vide* judgment dated 18th July 2020 in *MACT NO. 715/2017* for a sum of *Rs. 23,44,000/-* along with interest @ 9% per annum ["***impugned award***"].

Incident

2. Accident occurred on 14th July 2017, at about 01:00 A.M, wherein appellant, along with his friend *Manish*, was going to *Haridwar* from *Delhi* on a motorcycle bearing no '*DL-13SM-9485*', with the appellant being the *pillion* rider. When the appellant reached near *Meerut*, a car bearing no. '*DL-*

1YE-4483' [*offending vehicle*], being driven rashly and negligent by respondent no.1/driver, hit the motorcycle.

3. Appellant fell down and suffered grievous injuries to his right leg, resulting in amputation of the right leg below knee. A criminal case was registered against respondent no.1/driver *vide* FIR No. 307/2017 under Sections 279/338/427 of the Indian Penal Code 1860 [***IPC***].

Impugned Award

4. While assessing the issue of negligence, the Tribunal held that the accident occurred due to the rash and negligent driving of the offending by respondent no.1/driver, as a result of which the appellant sustained grievous injuries. The Tribunal further held that there was no contributory negligence attributable to the appellant, who was travelling as a pillion rider on the motorcycle.

5. At the time of the accident, appellant was aged about 22 years. It was claimed that he was working as a '*Sales Executive*'; however, no documentary proof of employment or income was produced. Accordingly, the Tribunal assessed his income on the basis of minimum wages applicable to an *unskilled worker*, which were *Rs.13,350/-* per month as on the date of the accident.

6. As per the medical record, appellant was initially taken to *SDS Global Hospital, Meerut*, and thereafter referred to *Guru Teg Bahadur Hospital, Delhi*, where he remained admitted from 15th July 2017 to 07th September 2017. During the course of treatment, his right leg was amputated below the knee on 03rd August 2017. The treatment record and medical evidence were duly proved through **PW-2** and **PW-3**.

7. The disability certificate issued by the competent Medical Board records that the appellant suffered 76% permanent physical disability in

relation to his right lower limb on account of below-knee amputation with a stiff knee. However, considering the absence of proof regarding vocation, the Tribunal assessed the functional disability with respect to the whole body at 50%.

8. The Tribunal applied the multiplier of '*18*', having regard to the age of the appellant, and awarded compensation towards *loss of future earning capacity* after adding *future prospects* at the rate of 40%, in terms of the judgment of the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi,*** (2017) 16 SCC 680.

Compensation Awarded

9. The Tribunal awarded a sum of *Rs.4,838/-* towards *medical expenses*, taking note of the fact that the appellant was treated in a government hospital and had incurred limited expenditure on medicines.

10. Towards *conveyance*, *special diet* and *attendant charges*, the Tribunal awarded *Rs.20,000/-, Rs.15,000/- and Rs.25,000/-* respectively, considering the nature of injuries and the prolonged treatment undergone by the appellant.

11. On account of permanent disability and loss of future earning capacity, the Tribunal computed compensation at *Rs.20,19,000/-* by assessing the functional disability at 50%, applying the appropriate multiplier of '*18*', and adding *future prospects*.

12. Under the non-pecuniary heads, the Tribunal awarded *Rs.1,00,000/-* towards *pain and suffering*, *Rs.75,000/-* towards *loss of amenities and disfigurement*, and *Rs.1,00,000/-* towards *loss of marriage prospects*.

13. In addition, the Tribunal directed that in the event the appellant requires a prosthetic limb or replacement thereof in future, the expenses shall be borne by the insurer subject to production of original medical bills.

14. Accordingly, the Tribunal awarded a total compensation of *Rs.23,43,838*/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till realisation.

15. Calculation made by the Tribunal appears to have a typographical and arithmetic error, whereby, instead of *Rs.23,58,838*/-, the total compensation has been computed as *Rs.23,43,838*/-. The error has occurred due to an incorrect calculation under the heads of *conveyance*, *special diet* and *attendant charges*.

16. The compensation awarded by the Tribunal is summarised as under:

S.NO	HEADS	AWARD BY MACT
1.	Medical Expenses	Rs.4838/-
2.	Conveyance	Rs.20,000/-
3.	Special Diet	Rs.15,000/-
4.	Attendant Charges	Rs.25,000/-
5.	Loss of future earning on account of permanent disability	Rs.20,19,000/-
6.	Pain & Suffering	Rs.1,00,000/-
7.	Loss of Amenities & Disfigurement	Rs.75,000/-
8.	Loss of Marriage Prospects	Rs.1,00,000/-
TOTAL		**Rs.23,58,838/-**
INTEREST		**9%**

Analysis

17. Counsel for appellant raises two sets of issues: ***firstly***, that the permanent disability which was certified at 76%, was reduced to 50% by the Tribunal while computing loss towards future income. In this regard, reference is made to the assessment made by Tribunal in *paragraph no.22* of the impugned award, wherein it is noted that though the appellant/claimant

claimed that, at the time of accident, he was working as a "*Sales Executive*" with '*Gupta Ji Chandni Chowk Wale'*, no documents *qua* his employment were filed. This aspect is confirmed by the counsel for appellant. Accordingly, the functional disability with respect to his whole body was assessed at 50%.

18. In order to buttress his arguments, counsel for appellant points out to evidence of *Dr. Naresh Chandra*, **PW-3**, who was an *Orthopaedic Specialist* at *Guru Gobind Singh Government Hospital*, *Raghubir Nagar, Delhi*, and had examined the appellant as one of the members of the Medical Board. He clearly stated that "*disability sustained by the appellant is amputation below knee, right side with stiff knee joint*".

19. Appellant/Injured, while deposing as **PW-1,** stated that he worked as a '*Sales Executive*' with the said firm and was drawing a salary of *Rs.16,500/-* per month.

20. Countering this, counsel for Insurance Company/respondent no.3 points to cross examination of **PW-1,** wherein he admitted that the disability certificate does not find mention of '*amputation*', nor is it mentioned in the Medico Legal Case Report [***MLC***] as well. A perusal of **Exhibit PW-1/3** would bear this out.

21. It is, however, noted in the disability certificate dated 20th May 2019 issued by the *Guru Gobind Singh Government Hospital, New Delhi*, placed on record, which records the diagnosis of disability as "*below knee amputation, right side with stiff knee joint.*"

22. ***Second*** issue raised by the counsel for appellant relates to the calculation of minimum wages. Considering that there was no proof of employment, wages of an *unskilled worker* at *Rs.13,350/-* per month were adopted.

23. In ***Raj Kumar v. Ajay Kumar*** (2011) 1 SCC 343, the Supreme Court held that the Tribunal must assess not merely the extent of permanent disability but its actual impact on the claimant's earning capacity, which may differ from the medical percentage of disability. This requires evaluating the claimant's pre-accident vocation, the functions affected, and whether livelihood can still be earned despite the disability. The Court emphasised that disability and loss of earning capacity are distinct concepts, except in cases where evidence shows they coincide. Relevant paragraphs are extracted as under:

> "***11.*** *What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])*
>
> ***12.*** *Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:*
>
> *(i) whether the disablement is permanent or temporary;*

<u>(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;</u>

<u>(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.</u>

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. <u>But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.</u>

***13.** Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.*"

(emphasis added)

In ***Raj Kumar v. Ajay Kumar*** (*supra*), the Court summarized the principles, which are extracted as under:

> "***19.*** *We may now summarise the principles discussed above:*
>
> *(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*
>
> *(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).*
>
> *(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.*
>
> *(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.*"
>
> (emphasis added)

24. In light of fact that there is an amputation and permanent disability of 76%,, there ought to be some enhancement of functional disability assessed at 50% by the Tribunal.

25. In the opinion of this Court, with respect to the whole body, the functional disability ought to be assessed at about 60% instead of 50%, which was awarded only on account of the appellant being unable to prove his

vocation. Compensation be enhanced accordingly.

26. There were claims for *attendant charges* and for prosthetic limb; however, counsel for appellant has not been able to point out any proof of such expenses having been incurred by the appellant. Therefore, the Court is not inclined to entertain the enhancement sought on account of *attendant charges*, which have already been awarded as *Rs.20,000/-*. There being no proof of prosthetic limb being used or any claim in that regard, no further enhancement is permitted.

27. In *paragraph 29* of the impugned award, it has been stated that if claimant requested a prosthetic limb or needs replacement of any component of thereof, the expenses for the same, if any, shall be borne by the Insurance Company [*respondent no.3*], subject to production of original medical bills.

28. This appeal has been pending since 2021; however, nothing has been produced by appellant in this regard which would persuade this Court to grant further amounts on account of a prosthetic limb.

29. Other claims made for enhancement of *conveyance*, *special diet* etc., are also not tenable, considering that no proof has been placed on record in that regard. However, towards *loss of amenities and disfigurement*, an amount of *Rs.75,000/-* has been awarded. Considering the extent of disfigurement, in the opinion of this Court, same is enhanced to *Rs.2,00,000/*, keeping in view that the appellant was only 22 years of age at the time of accident. Also *Rs.2,00,000/-* each is enhanced towards *pain and suffering and loss of marriage prospects*.

30. Accordingly, the impugned award stands modified and the compensation recalculated is as under:

SR. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
	PECUNIARY LOSS		
1	Expenditure on treatment (**A**)	Rs.4838/-	Rs.4838/-
2	Expenditure on conveyance (**B**)	Rs.20,000 /-	Rs.20,000 /-
3	Expenditure on special diet (**C**)	Rs.15,000 /-	Rs.15,000 /-
4	Cost of nursing / attendant (**D**)	Rs. 25,000/-	Rs. 25,000/-
5	**Loss of earning capacity (E)**	**50%**	**60%**
6	Loss of income (**F**)	Nil	Nil
7	Any other loss which may require any special treatment or aid to the injured for the rest of his life (**G**)	Nil	Nil
8	Future Medical Expenses	Prosthetic limb subject to bills	Nil
	NON PECUNIARY LOSS		
9	Compensation for mental and physical shock (**H**)	Included	No change
10	Pain and suffering (**I**)	Rs.1,00,000 /-	Rs. 2,00,000 /-
11	Loss of amenities of life and Disfiguration (**J**) + (**K**)	Rs.75,000 /-	Rs. 2,00,000 /-
12	Loss of marriage prospects (**L**)	Rs.1,00,000 /-	Rs. 2,00,000 /-
14	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejectment and unhappiness in future life etc. (**M**)	Nil	Nil
	DISABILITY RESULTING IN LOSS OF EARNING CAPACITY		
15	Percentage of disability assessed and nature of disability as permanent or temporary	76 %	76%
16	Loss of amenities or loss of expectation of life span on account of disability	Considered	Enhanced
16	Percentage of loss of earning capacity in relation to disability	50%	60%
17	Loss of future income (Income **x** % Earning capacity **x** Multiplier)	Rs.20,19,000/- [Rs.18,690/- **x** 50%	Rs.24,22,224/- [Rs.18,690/- **x**

		x 18]	60% x 18]
TOTAL COMPENSATION		**Rs.23,58,838 /-**	**Rs. 30,87,062/-**
INTEREST AWARDED		**9%**	**9%**

Conclusion

31. For the aforesaid reasons, the award of the Tribunal is enhanced by *Rs.7,28,224/-*. Said amount shall be deposited by the Insurance Company along with accrued interest at the rate of 9% per annum, within eight weeks from today, before the Tribunal.

32. Compensation to be disbursed to the claimant as per the directions passed by the Tribunal.

33. List before Tribunal on 13th April 2026.

34. Accordingly, this Appeal is partly allowed in above terms.

35. Pending applications (if any), be rendered as infructuous.

36. Statutory deposit (if any), shall be refunded to appellant.

37. Judgement be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

FEBRUARY 9, 2026/sm/*tk*