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

% ***Date of decision: 10th April 2026***

\+ **<u>MAC.APP. 195/2016</u>**

ANKIT SHARMA .....Appellant

Through: Mr. K Harshvardhan, (DHCLSC) with Ms. Divija Majahan & Ms. Komal Pandey, Advs.

versus

RAKESH KUMAR & ORS (THE NEW INDIA ASSURANCE CO LTD) Respondents

Through: Ms. Vandana Surana, Adv. for R-3/ Insurance Co.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This appeal has been filed seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Central, Delhi ["***MACT***"] by impugned judgment dated 18th December 2015 in ***MACP 374/2014***, whereby a compensation of *Rs.4,60,000/-* along with interest @ 9% per annum was awarded in favour of claimant/injured [*appellant herein*].

2. Facts of the case relate to an accident which occurred on 4th January 1997 at about 02:10 p.m., when appellant/claimant was travelling along with his *mother* and *brother* and boarded a bus of Route No. 429, bearing registration no. *DL-1LP-5005*, from *Old Delhi* to *Ashram Chowk*, which was being driven by driver [*respondent no.1 herein*] in a rash and negligent

manner struck against a divider and overturned. Appellant/Claimant was a minor aged *10 years* at the time of accident. FIR No.2/97 under Sections 279/337 of Indian Penal Code 1860 ["***IPC***"].

3. MACT, upon considering the nature of injuries and the Disability Certificate reflecting *68%* permanent physical disability in relation to the *right upper limb* [taken as *34%* with reference to the whole body], awarded compensation under various heads, namely: *Rs.15,000/-* towards *medical expenses*, *Rs.4,00,000/-* towards *pain and suffering*, *mental and physical shock, hardship, inconvenience, and loss of amenities* on account of permanent disability, *Rs.25,000/-* towards *discomfort*, *inconvenience*, and *loss of earnings of the parents during the period of hospitalization*, and *Rs.20,000/-* towards *loss of studies*, aggregating to a total compensation of *Rs.4,60,000/-* along with interest @ 9% per annum from the date of filing of the petition.

Analysis

4. Counsel for claimant states that, the Disability Certificate [**Exhibit PW3/3**] was obtained on 21st December 2012, certifying 68% permanent disability with respect to his *right upper limb*. Upon attaining majority, claimant filed a claim petition before MACT, which assessed functional disability at **34 %**; however, MACT did not grant any compensation towards *loss of future income*, nor did it provide any discussion on the same. It is contended that compensation only under *non-pecuniary heads* was granted, totalling *Rs.4,60,000/-*.

5. *Mr. K. Harshvardhan*, Counsel appearing through Legal Aid, assisted by *Ms. Divija Majahan*, Advocate, appears for appellant/claimant, and contends that enhancement is sought considering that there is a serious loss of employment suffered by claimant in his adult life as his *right hand* was disfigured and 68% permanent disability was caused.

6. He submits that appellant is a Master of Business Administration [“***MBA***”] graduate and was offered employment with ‘*Genpact*’ but had to give up after one year because of his disabilities and is not in suitable employment. It is contended that appellant is presently earning money through consultancy services. It is fairly submitted by appellant’s counsel that appellant was left-handed. This has been taken note of by the Court.

7. On the contrary, *Ms. Vandana Surana*, Counsel for Insurance Company, contends that there could have been no impediment due to disability since, even after accident, appellant did his MBA and his lack of sustained employment would be due to reasons other than the accident.

8. Plea of appellant for enhancement hinges solely on his testimony that he is unable to sustain his employment due to disfigurement. There is no further evidence placed on record in that regard, either by way of letters of appointment or termination.

9. On this count, this Court is not inclined to award compensation under ‘*loss of future income*’, particularly in the circumstances that this claim petition was filed on 12th January 2012, when appellant attained majority and was about 23 years of age.

10. However, the Court considers it fit to enhance the non-pecuniary compensation awarded, placing reliance on ***Raj Kumar v. Ajay Kumar &***

Anr. (2011) 1 SCC 343, wherein the Supreme Court has clarified that in cases of permanent disability, compensation under non-pecuniary heads is to be assessed having regard to (i) *pain, suffering and trauma* as a consequence of the injury, (ii) *loss of amenities and enjoyment of life* on account of the disability suffered, and (iii) *loss of expectation of life and allied disadvantages* including impairment in normal prospects such as social interaction and marriage. For ease of reference, relevant paragraphs is extracted under:

> "**5.** *The provision of the Motor Vehicles Act, 1988 ("the Act", for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. [See C.K. Subramania Iyer v. T. Kunhikuttan Nair [(1969) 3 SCC 64 : AIR 1970 SC 376] , R.D. Hattangadi v. Pest Control (India) (P) Ltd. [(1995) 1 SCC 551 : 1995 SCC (Cri) 250] and Baker v. Willoughby [1970 AC 467 : (1970) 2 WLR 50 : (1969) 3 All ER 1528 (HL)] .]*

6. The heads under which compensation is awarded in personal injury cases are the following:
Pecuniary damages (Special damages)
(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.
(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:
(a) Loss of earning during the period of treatment;
(b) Loss of future earnings on account of permanent disability.
(iii) Future medical expenses.
Non-pecuniary damages (General damages)
(iv) Damages for pain, suffering and trauma as a consequence of the injuries.
(v) Loss of amenities (and/or loss of prospects of marriage).
(vi) Loss of expectation of life (shortening of normal longevity).
In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.
7. Assessment of pecuniary damages under Item (i) and under Item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses—Item (iii)—depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages—Items (iv), (v) and (vi)—involves determination of lump sum amounts with reference to circumstances such as age,

nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant. Decisions of this Court and the High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability—Item (ii)(a). We are concerned with that assessment in this case.

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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."

11. In the present case, considering that appellant suffered 68% permanent disability in relation to the *right upper limb* at a young age of about *10 years*, which continued to impact him into adulthood, the compensation awarded by MACT under *non-pecuniary heads* warrants suitable enhancement to meet the ends of justice and to ensure *just compensation*.

12. Accordingly, compensation is recomputed as under:

SR. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
PECUNIARY LOSS			
1.	Expenditure on treatment (A)	Rs.15,000/-	Rs.15,000/-
2.	Expenditure on conveyance (B)	Nil	Nil
3.	Expenditure on special diet (C)	Nil	Nil
4.	Cost of nursing / attendant (D)	Nil	Nil
5.	Loss of earning capacity (E)	Nil	Nil
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	Nil	Nil
NON-PECUNIARY LOSS			
9.	Compensation for mental and physical shock (H)	Included in Pain and Suffering	Included in Pain and Suffering
10.	Pain and suffering (I)	Rs.4,00,000/-	Rs.5,00,000/-
11.	Loss of amenities of life (J)	Included in Pain and Suffering	Rs 2,50,000/-
12.	Disfiguration (K)	Nil	Nil
13.	Loss of marriage prospects (L)	Nil	Rs.1,00,000/-

14.	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejectment and unhappiness in future life etc. (M)	Rs.25,000/-	Included in Loss of amenities of life
15.	Loss of Studies	Rs.20,000/-	Included in Loss of amenities of life
TOTAL COMPENSATION		**Rs.4,60,000/-**	**Rs.8,65,000/-**
INTEREST AWARDED		**9%**	**9%**

13. For aforesaid reasons, compensation has been enhanced by *Rs.4,05,000*/- ["***enhanced amount***"].

14. It is therefore directed as under:

i. Enhanced amount along with *9%* interest per annum from the date of filing the petition shall be deposited before MACT within a period of four weeks. It is directed that a lump sum amount of *Rs. 1,00,000/-* shall be released to claimant from the deposit of enhanced amount within a period of two weeks thereafter. Remaining enhanced amount, along with accrued interest till date, shall be kept in Fixed Deposit Receipts (***FDRs***) of *Rs. 25,000/-* each for periods of 3 month, 6 months, 9 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

ii. The originally awarded amount, shall be disbursed as per the directions of MACT, in the impugned Award.

15. Accordingly, the appeal stands disposed of with above directions.

16. Pending applications, if any, are rendered infructuous.

17. Copy of this judgement be sent to concerned MACT.

18. Copy of this judgement shall also be sent to concerned bank.

19. Judgment be uploaded on the website of this Court.

ANISH DAYAL
(JUDGE)

APRIL 10, 2026/*sm*/tk