



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

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Reserved on : 17th January 2026
Pronounced on : 10th March 2026
Uploaded on : 10th March 2026

+ **MAC.APP. 153/2021**

RAVINDER KUMAR

.....Appellant

Through: Mr. S.N. Parashar and Mr. Ritik
Singh, Advs.

versus

DEEPAK DAHIYA & ORS.

.....Respondents

Through: Ms. Niyati Jadaun, Adv. for Insurance
Company.

+ **MAC.APP. 158/2021 & CM APPL. 12906/2021**

SUMIT KUMAR

.....Appellant

Through: Mr. S.N. Parashar and Mr. Ritik
Singh, Advs.

versus

DEEPAK DAHIYA & ORS.

.....Respondents

Through: Ms. Niyati Jadaun, Adv. for Insurance
Company.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This common judgment shall dispose of the above captioned appeals filed under Section 173 of Motor Vehicles Act, 1988 (*'MV Act'*) seeking

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enhancement of compensation. Since a common award had been passed, the appeals were tagged together and are being disposed of *vide* this common judgment.

2. **MAC.APP. 153/2021** has been preferred by *Ravinder Kumar*/injured claimant for enhancement of compensation awarded by Motor Accidents Claims Tribunal [**MACT**] Tiz Hazari Courts, Delhi in Claim Petition No.77251/2016 *vide* judgment dated 19th February 2018 awarding compensation of Rs.8,69,732/- along with interest @ 9% per annum.

3. **MAC.APP. 158/2021** has been preferred by *Sumit Kumar*/injured claimant seeking enhancement of compensation awarded by MACT in Claim Petition No.77250/2016 *vide* judgment dated 19th February 2018 awarding compensation of Rs.10,85,017/- along with interest @ 9% per annum.

The Accident

4. In the intervening night of 27th and 28th March 2013 at about 12:15 a.m., *Rahul* (since deceased), along with his friends *Ravinder Kumar*/injured claimant and *Sumit Kumar*/injured claimant was going to *Nihal Vihar* from *Kunwar Singh Nagar* on a motorcycle bearing no. DL-9SP-4948 being driven by *Sumit Kumar*/injured claimant. When they reached near *Ration Office, 50 foota road, Nihal Vihar*, a vehicle bearing registration no.HR-10-S-8855 (hereinafter, '**offending vehicle**') came at a very high speed, allegedly in a rash and negligent manner and hit the motorcycle. Due to the impact, the motorcycle was dragged for a considerable distance and they were removed to *Sanjay Gandhi Memorial Hospital*. While all of them



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sustained grievous injuries, *Rahul* succumbed to his injuries on 02nd April 2013.

5. The offending vehicle was being driven by *Deepak Dhaiya*/respondent no.1 (**‘driver’**), owned by *Harsh Dahiya*/respondent no.2 (**‘owner’**) and insured with HDFC ERGO General Insurance Co. Ltd/respondent no.3 (**‘insurer’**).

Impugned Award

6. Analysing the claim petitions, joint written statements filed by the driver and owner, as well as, by the insurer, MACT concluded that injuries sustained by the claimants were due to negligence of the driver and accordingly, HDFC ERGO General Insurance Company/respondent no.3 was held liable to pay the compensation.

7. MACT awarded the following compensation to *Ravinder Kumar*/injured claimant:

S.No.	Heads	Amount
1.	Treatment, hospitalization and medicines	Rs. 2,90,520/-
2.	Conveyance	Rs. 15,000/-
3.	Special Diet (Food)	Rs. 15,000/-
4.	Attendant Charges	Rs. 8,000/-
5.	Loss of earning during the period of treatment	Rs. 35,256/-
6.	Loss of future earning on account of permanent disability	Rs. 4,75,956/-
7.	Future Medical Expenses	Nil
8.	Pain, Suffering & Trauma	Rs. 30,000/-

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Total	Rs. 8,69,732/-
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8. MACT awarded the following compensation to *Sumit Kumar*/injured claimant:

S.no.	Heads	Amount
1.	Treatment, hospitalization and medicines	Rs. 5,45,283/-
2.	Conveyance	Rs. 15,000/-
3.	Special Diet (Food)	Rs. 15,000/-
4.	Attendant Charges	Rs. 8,000/-
5.	Loss of earning during the period of treatment	Rs. 52,884/-
6.	Loss of future earning on account of permanent disability	Rs. 4,18,850
7.	Future Medical Expenses	Nil
8.	Pain, Suffering & Trauma	Rs. 30,000/-
Total		Rs. 10,85,017/-

Submissions on behalf of Claimants

9. In case of *Ravinder Kumar*/injured claimant, *Mr. S N Prashar*, Advocate stated that he has suffered permanent disability to the extent of 50% with respect to his right lower limb, as per the Disability Certificate. He was aged 20 years at the time of accident and studied upto Class XII. He was doing a private job and earning monthly salary of *Rs.10,000/-*.

10. MACT assessed his functional disability at 25%, reducing it from 50% without assigning any cogent reason. It was further contended that no future prospects were granted and compensation under non-pecuniary heads

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are liable to be enhanced, on account of being inadequate, while compensation under some of the non-pecuniary heads like, loss of amenities of life, mental and physical shock, disfigurement and loss of marriage prospects was not granted at all.

11. As regards *Sumit Kumar*/injured claimant, *Mr. S N Prashar*, Advocate argued that he was 23 years of age at the time of accident and had studied upto Class X. He was working with *M/s Nibbles Computer Saksartha Kendra* and was earning a monthly salary of *Rs. 12,000/-*. It was contended that MACT reduced his disability from 45% to 22%, while assessing functional disability without any cogent reason. Further, no future prospects were granted and compensation granted under non-pecuniary heads were highly depressed, while compensation under some of non-pecuniary heads like loss of amenities of life, mental and physical shock, disfigurement and loss of marriage prospects was not granted at all.

Analysis

12. **Firstly**, an assessment of functional disability in respect of both the claimants will have to be done.

13. As regards *Ravinder Kumar*/injured claimant, his Disability Certificate certified that his injury was a case of, '*Arthoplesty of right hip joint, physically disabled and 50% permanent physical disability in relation to his right lower limb which was non-progressive and not likely to improve; re-assessment was not recommended.*'



14. MACT noted the testimony of **PW-4**, *Dr. Naresh Chandra, Specialist Orthopedics, Guru Govind Singh Hospital, Delhi* and observed that since he had not been able to prove his vocation, considered functional disability at 25%.

15. **PW-1**, *Ravinder Kumar*/injured claimant in his examination in chief stated that he had received multiple grievous injuries and other serious injuries on different parts of his body and had spent a huge amount on his treatment, but his pain and suffering continued. He stated that *“I think I have received permanent disability, because I do not doing any work properly”*.

16. In cross examination, he was not questioned regarding his functionality with respect to his regular life and he denied the suggestion that he had not spent a huge amount on his treatment or on conveyance charges, medicines and special diet.

17. 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;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(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.

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. 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.

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)

18. There being no further evidence in this regard, assessment done by the MACT cannot be considered amiss, particularly, since the Disability Certificate itself stated that injury was non-progressive.

19. Considering he suffered permanent disability of 50% in respect of his right lower limb and that there was no record of any amputation, it can be safely considered that he would be able to carry out other functions with respect to his vocation. Further no evidence has been placed on record



relating to his vocation, as also stated by him in his cross examination. Accordingly, minimum wages of a *matriculate* were rightly awarded basis his marksheet of Class XII examination.

20. As regards *Sumit Kumar*/injured claimant, the Disability Certificate certified 45% permanent disability in relation to right lower limb which was non-progressive and not likely to improve with reassessment not recommended. Testimony of Sumit Kumar as **PW-1** did not provide any evidence that he had been facing serious dysfunctionality in his work. Further, nothing was stated by him in his cross examination which would suggest any serious impediment.

21. Testimony of **PW-4**, *Dr. Naresh Chandra, Specialist Orthopedics, Guru Govind Singh Hospital, Delhi* was only with respect to proving the Disability Certificate and nothing else was placed on record to elaborate on this aspect. Though he had placed on record a certificate issued by *M/s Nibbles Computer Saksartha Kendra*, the employer was not produced as a witness in order to prove the said certificate. Moreover, there was nothing on record to show the nature of his job. Considering that *Sumit Kumar*/injured claimant would be computer savvy, disability would not come in the way of his vocation being completely or substantially impeded and the MACT was correct in assessing the disability at 22% in relation to the whole body.

22. Reliance in this regard may be placed on the observations made by Supreme Court in **Raj Kumar** (*supra*), which is extracted above.

23. As regards the plea of future prospects not being granted to either of the claimants, considering that they were 20 years and 23 years of age



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respectively, at the time of accident, the Court deems it fit to grant 40% to each of them in line with principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680.

24. As regards compensation awarded towards non-pecuniary heads, the Supreme Court in *Raj Kumar* (*supra*), has stated in paragraph 6 as under:

“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.”

(emphasis added)

25. Therefore, as per the above finding, non-pecuniary compensation may be awarded towards loss of amenities of life and loss of marriage prospects. To that extent, the Court is inclined to grant Rs.1,00,000/- each under these heads to both the claimants.

26. In view of evidence and other material on record with respect to injuries sustained by claimants, the Court is not persuaded to grant any compensation under loss of disfigurement.

27. Accordingly, the revised computation in case of *Ravinder Kumar*/injured claimant is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1.	Expenditure on treatment (A)	Rs. 2,90,520/-	Rs. 2,90,520/-
2.	Expenditure on conveyance (B)	Rs. 15,000/-	Rs. 15,000/-
3.	Expenditure on special diet (C)	Rs. 15,000/-	Rs. 15,000/-
4.	Attendant Charges (D)	Rs. 8,000/-	Rs. 8,000/-
5.	Income of injured (E)	Rs. 8,814/-	Rs. 8,814/-
6.	Add: Future prospects @ 40% (F)	-	Rs. 3,526/-



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7.	Multiplier (G)	18	18
8.	Functional disability (H)	25%	25%
9.	Loss of Income (I) [Rs. 8,814/- x 4]	Rs. 35,256/-	Rs. 35,256/-
10.	Loss of future income/future earnings [(E+F) x 12 x G x H] = (J)	Rs. 4,75,956/-	Rs. 6,66,360/-
NON-PECUNIARY LOSS			
11.	Pain, suffering and trauma (K)	Rs. 30,000/-	Rs. 30,000/-
12.	Loss of marriage prospects (L)	-	Rs. 1,00,000/-
13.	Loss of amenities of life (M)	-	Rs. 1,00,000/-
14.	Total compensation (A + B + C + D + I + J + K + L + M) = N	Rs. 8,69,732/-	Rs. 12,60,136/-
15.	Interest awarded	9%	9%

28. Revised computation in case of *Sumit Kumar*/injured claimant is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1.	Expenditure on treatment (A)	Rs. 5,45,283/-	Rs. 5,45,283/-
2.	Expenditure on conveyance (B)	Rs. 15,000/-	Rs. 15,000/-
3.	Expenditure on special diet (C)	Rs. 15,000/-	Rs. 15,000/-

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4.	Attendant Charges (D)	Rs. 8,000/-	Rs. 8,000/-
5.	Income of injured (E)	Rs. 8,814/-	Rs. 8,814/-
6.	Add: Future prospects @ 40% (F)	-	Rs. 3,526/-
7.	Multiplier (G)	18	18
8.	Functional disability (H)	22%	22%
9.	Loss of Income (I) [Rs. 8,814/- x 6]	Rs. 52,884/-	Rs. 52,884/-
10.	Loss of future income/future earnings [(E+F) x 12 x G x H] = (J)	Rs. 4,18,850/-	Rs. 5,86,397/-
NON-PECUNIARY LOSS			
11.	Pain, suffering and trauma (K)	Rs. 30,000/-	Rs. 30,000/-
12.	Loss of marriage prospects (L)	-	Rs. 1,00,000/-
13.	Loss of amenities of life (M)	-	Rs. 1,00,000/-
14.	Total compensation (A + B + C + D + I + J + K + L + M) = N	Rs. 10,85,017/-	Rs. 14,52,564/-
15.	Interest awarded	9%	9%

Conclusion

29. In view of the above directions, compensation has been enhanced to Rs. 12,60,136/- in case of *Ravinder Kumar*/injured claimant and Rs. 14,52,564/- in case of *Sumit Kumar*/injured claimant. Enhanced

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compensation alongwith 9% interest per annum from the date of filing the petition will be deposited before the Tribunal within a period of four weeks and shall be disbursed as per the directions given in the impugned award to both the claimants.

30. Accordingly, the Appeals are disposed of in above terms.
31. Pending applications are rendered infructuous.
32. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

MARCH 10, 2026/sm/sp