$~68

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

\+ MAC.APP. 277/2026, CM APPL. 27037/2026 CM APPL. 27038/2026 CM APPL. 27039/2026.

RELIANCE GENERAL INSURANCE CO LTD .....Appellant

Through: Mr Shoumik Mazumdar & Mr Kuwar Harsh Pratap Singh, Advs.

versus

PRAMOD KUMAR & ANR. .....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **23.04.2026**

1. This appeal has been filed by the Insurance Company for setting aside impugned award dated 26th December 2025 passed by Motor Accidents Claims Tribunal ['***MACT***'], South-West District, Dwarka Courts, Delhi in MACT No. 750/2021 whereby compensation to the tune of Rs.58,01,000/- along with interest at the rate of 7.5% per annum was awarded to respondent no.1/claimant.

2. Accident in question occurred on 6th October 2021 at Golf Link Road in front of Delhi Jal Board Office when the offending vehicle bearing registration no. DL-6CS-4503, driven by respondent no.2 hit respondent no.1/claimant, who was working as a sweeper. FIR No. 414/2021 was registered and charge-sheet was filed, resulting in criminal proceedings which are underway.

3. *Mr Shoumik Mazumdar*, counsel for appellant/Insurance Company has challenged the impugned award on the following grounds:

(i) Issue of negligence has not been properly considered by the MACT;

(ii) Functional disability was considered at 100%;

(iii) Attendant charges were awarded by applying multiplier of 14.

(iv) Rs.5,00,000/- have been awarded towards pain and sufferings;

(v) Future prospects were awarded at 25%

4. Each of these contentions are not sustainable in view of settled law in this regard.

5. As regards, the issue of negligence, it has been recently observed by this Court in ***Oriental Insurance Company Ltd. v. Sunita & Ors.*** 2026:DHC:3190 whereby the Court held that the MACT can rely upon testimonies made in a criminal proceeding, along with the factum of an FIR and chargesheet, to hold the driver of offending vehicle negligent. Such analysis shall be done on the principles of *res ipsa loquitor* and preponderance of probabilities. Reliance was also placed on the decision of Supreme Court in ***Ranjeet v. Abdul Kayam Neb***, 2025 SCC OnLine SC 497 and ***Meera Bai v. ICICI Lombard General Insurance Company Ltd. & Anr.*** 2025:INSC:600, where the Supreme Court has observed that in cases where the eyewitness was not examined, reliance on FIR and charge-sheet was enough for the finding of negligence to be established.

6. In the present case, MACT had placed reliance upon the testimony of eyewitness, Ajay, whose credibility could not be displaced in the cross examination conducted by appellant/Insurance Company. Therefore, the finding on negligence arrived at by the MACT is sustained.

7. As regards, the issue of functional disability, it may be noted that respondent no.1/claimant was a sweeper performing his duty when the

offending vehicle crashed into him resulting in 100% permanent disability, as certified by the Disability Certificate and proved by the doctor appearing as ***PW-3***.

8. In this view of the matter, the MACT has correctly assessed functional disability at 100%, considering that respondent no.1/claimant will not be able to do any work during his lifetime, due to his injuries.

9. In ***Raj Kumar v. Ajay Kumar*** (2011) 1 SCC 343, the Supreme Court held that the MACT 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.*
>
> *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)

10. As regards the issues regarding reduction of compensation for attendant charges, reliance may be placed on the decision of Supreme Court in ***Kajal v. Jagdish Chand***, (2020) 4 SCC 413 whereby the Court awarded compensation towards attendant charges by using the multiplier method, in case of an injured child with 100% functional and permanent disability. Relevant observation of the Court is extracted as under:

> *"**Attendant charges***
>
> ***22.** The attendant charges have been awarded by the High Court @ Rs 2500 per month for 44 years, which works out to Rs 13,20,000. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various factors are taken into consideration. When compensation is paid in lump sum, this Court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges, etc. This system was recognised by this Court in Gobald Motor Service Ltd. v. R.M.K. Veluswami [Gobald Motor Service Ltd. v. R.M.K. Veluswami, AIR 1962 SC 1] . The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method has been recognised as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of "just compensation" within the meaning of the Act."*
>
> (emphasis added)

11. As regard, compensation awarded towards pain and suffering, Rs. 5,00,000/- has been adequately awarded. Reliance in this regard may be placed on the decision of Supreme Court in ***K.S. Muralidhar v. R.***

Subbulakshmi and Anr. 2024 SCC Online SC 3385, where it was observed that "*pain and suffering*" cannot be captured by any fixed definition, drawing on legal, medical, and philosophical sources to emphasise its deeply subjective and life-altering nature. It recognised that translating such profound human loss into money is an inherently artificial exercise, yet courts must ensure fairness, consistency, and sensitivity to the victim's lifelong deprivation. The Court stressed that in cases of severe or 100% disability, compensation must meaningfully reflect the permanent rupture in the victim's physical, emotional, and existential well-being.

12. Moreover, MACT had been reasonable in granting Rs. 1,00,000/- under the head of loss of amenities.

13. Considering that respondent no.1/claimant was 41 years at the time of accident, future prospects awarded at 25% are in line with principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi,*** (2017) 16 SCC 680.

14. In view of the above observations, appeal is therefore dismissed.

15. Pending applications are rendered infructuous.

16. Compensation amount awarded by the MACT stands confirmed and shall be deposited and disbursed as per the directions given in the impugned award.

17. Statutory amount, if any, be refunded to appellant/Insurance Company.

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

ANISH DAYAL, J

APRIL 23, 2026/sm/*sp*