



2026:DHC:2668



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

% *Date of decision: 30th March 2026*

+ **MAC.APP. 515/2019, CM APPL. 20946/2019 & CM APPL. 20948/2019**

UNITED INDIA INSURANCE CO LTDAppellant

Through: Ms. Suman Bagga, Ms. Mouli Sharma, Advocates.

versus

NISHA & ORSRespondents

Through: Mr. Manish Maini, Ms. Aastha Chauhan, Advocates for Respondent No.1 along with Ms. Nisha in person.

(4)

+ **MAC.APP. 796/2019**

NISHAAppellant

Through: Mr. Manish Maini, Ms. Aastha Chauhan, Advocates along with Ms. Nisha in person.

versus

UNITED INDIA INSURANCE COMPANY LTD
& ORS

.....Respondents

Through: Ms. Suman Bagga, Ms. Mouli Sharma, Advocates for Respondent No.1.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. These cross-appeals have been filed by the Insurance Company and the claimant. MAC.APP. 515/2019 has been filed by the Insurance

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Company seeking modification of the impugned award dated 23rd January 2019 passed by the Motor Accident Claims Tribunal, South-West District, Dwarka Courts, New Delhi (*'MACT'*) in MACP No.1203/2017, wherein compensation of Rs.18,94,000/- was awarded along with interest @9% per annum from the date of the filing of claim petition till realization. Further, the impugned award also granted an additional amount of Rs.5,30,000/- towards *artificial limb/prosthesis*. MAC.APP. 796/2019 has been filed by the claimant seeking enhancement of compensation on various grounds.

2. The accident occurred on 20th August 2017, at about 10:20 a.m. when the claimant/*Nisha* was going to her office and while crossing the road near *Pillar no. 620, Najafgarh Road*, when a Delhi Transport Corporation (*DTC*) bus bearing registration no. DL-1PC-9745 coming from the side of *Uttam Nagar*, driven in a rash and negligent manner, hit the claimant resulting in her falling down on the road and her leg came under the wheels of the offending vehicle. Criminal proceedings were initiated and a claim petition was filed before the MACT.

3. On *Issue no.1*, the MACT held that injuries were sustained in the motor vehicle accident due to rash and negligent driving of the offending vehicle, driven by driver/*Ramesh*, owned by DTC and insured with *United India Insurance Co. Ltd.*

4. *Ms. Suman Bagga*, counsel for Insurance Company, assails the award on the ground that that the functional disability ought to have been assessed at 40% instead of 50% as assessed by MACT, considering that prosthesis was also allowed by the MACT and the permanent disability was certified at 80% in relation to left lower limb, as a result of amputation above knee.

5. *Mr. Manish Maini*, counsel for claimant, however, states that the



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MACT has rightly assessed the functional disability at 50% despite the fact that there was a post traumatic amputation at level of above knee up to lower 1/3rd of the left thigh.

6. The MACT has taken functional disability at 50% which, in the opinion of this Court, is not amiss, considering that it was a case of amputation and her functionality would have been greatly reduced, and potentiality to earn income depleted. The injured was 25 years of age at the time of the accident and, therefore, has a whole earning life ahead of her which would have been severely affected and impacted by the said amputation and disability.

7. *Ms. Bagga* has also raised an issue stating that notional income ought to have taken as per IInd Schedule of the Motor Vehicles Act, 1988 (*'MV Act'*) as it existed prior to the amendment. However, the MACT has taken minimum wages of an *unskilled* worker at Rs. 13,350/-. Considering that the law has evolved since, the minimum wages parameter is well accepted by the courts and therefore the same does not warrant any interference.

8. As regards the enhancement aspects, *Mr. Maini* states that the injured had passed Senior Secondary Examination/Class XII in First Division and adverts to the certificate on record. He, therefore, states that at least minimum wages of a *matriculate* ought to have been taken instead that of an *unskilled* worker. To that extent, the Court is of the opinion that considering her results in the Senior Secondary Examination held in 2013, she should be entitled to minimum wages of a *matriculate* as applicable on the date of accident i.e. Rs. 16,468/- per month.

9. As regards the issue of *Future prospects*, considering that claimant was 25 years of age at the time of accident, *future prospects* should be taken at 40% to align the same with principles enunciated in *National*



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Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680.

10. As regards the non-pecuniary damages, *Mr. Maini* claims enhancement of compensation for *pain & suffering, loss of amenities, mental & physical shock* as also for *disfiguration and marriage prospects*, for the latter two, no amounts being awarded.

11. As regards the issue of inadequate compensation for non-pecuniary damages, reliance may be placed on the judgment of the Supreme Court in ***K.S. Muralidhar v. R. Subbulakshmi and Anr.*** 2024 SCC Online SC 3385, 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. Relevant paragraphs are extracted as under:

“13. While acknowledging that ‘pain and suffering’, as a concept escapes definition, we may only refer to certain authorities, scholarly as also judicial wherein attempts have been made to set down the contours thereof.

13.1 The entry recording the term ‘pain and suffering’ in P. Ramanatha Iyer’s Advanced Law Lexicon⁹ reads as under:—

“Pain and suffering. The term ‘Pain and suffering’ mean physical discomfort and distress and include mental and emotional trauma for which damages can be recovered in an accident claim.



This expression has become almost a term of art, used without making fine distinction between pain and suffering. Pain and suffering which a person undergoes cannot be measured in terms of money by any mathematical calculation. Hence the Court awards a sum which is in the nature of a conventional award [Mediana, The, [1900] A.C. 113, 116]”

...
13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been highlighted in *Heil v. Rankin*¹⁶, as referred to in *Attorney General of St. Helena v. AB*¹⁷ as under:—

“23. This principle of ‘full compensation’ applies to pecuniary and non-pecuniary damage alike. But, as Dickson J indicated in the passage cited from his judgment in *Andrews v. Grand & Toy Alberta Ltd.*, 83 DLR (3d) 452, 475-476, this statement immediately raises a problem in a situation where what is in issue is what the appropriate level of ‘full compensation’ for non-pecuniary injury is when the compensation has to be expressed in pecuniary terms. There is no simple formula for converting the pain and suffering, the loss of function, the loss of amenity and disability which an injured person has sustained, into monetary terms. Any process of conversion must be essentially artificial. Lord Pearce expressed it well in *H West & Son Ltd. v. Shephard*, [1964] A.C. 326 when he said:

‘The court has to perform the difficult and artificial task of converting into monetary damages the physical injury and deprivation and pain and to give judgment for what it considers to be a reasonable sum. It does not look beyond the judgment to the spending of the damages.’

24. The last part of this statement is undoubtedly right. The injured person may not even be in a position to enjoy the damages he receives because of the injury



which he has sustained. Lord Clyde recognised this in *Wells v. Wells*, [1999] A.C. 345, 394H when he said: ‘One clear principle is that what the successful plaintiff will in the event actually do with the award is irrelevant.’

...

14. In respect of ‘pain and suffering’ in cases where disability suffered is at 100%, we may notice a few decisions of this Court:—

14.1 In *R.D Hattangadi v. Pest Control (India) (P) Ltd.* It was observed:

“17. The claim under Sl. No. 16 for ‘pain and suffering’ and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs. 3,00,000 each under the two heads. The High Court has allowed Rs. 1,00,000 against the claims of Rs. 6,00,000. When compensation is to be awarded for ‘pain and suffering’ and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs. 1,50,000 in respect of claim for ‘pain and suffering’ and Rs. 1,50,000 in respect of loss of amenities of life. We direct payment of Rs. 3,00,000 (Rupees three lakhs only) against the claim of Rs. 6,00,000 under the heads “‘pain and suffering’” and “Loss of amenities of life”.

14.2 This Judgment was recently referred to by this Court in *Sidram v. United India Insurance Company Ltd* reference was also made to Karnataka



SRTC v. Mahadeva Shetty (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed:

“18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned...”

(emphasis added)

12. In light of the observations of the Supreme Court noted above, this Court is of the opinion that, considering this is a case of amputation above knee, the grant of Rs. 1,00,000/- towards *pain and suffering* is inadequate. The Supreme Court has consistently adopted a liberal and realistic approach in such cases, as is evident from the judgment in **Mohd. Sabeer v. U.P. SRTC** (*supra*), wherein, in a similar situation involving amputation below the knee, the Supreme Court awarded Rs. 2,00,000/- towards *pain and suffering, disfigurement, and loss of amenities of life*. The Supreme Court observed as under:

“Non-pecuniary compensation

24... this Court is of the opinion that the compensation provided by the High Court for non-pecuniary heads is inadequate.

25. In R.D. Hattangadi v. Pest Control (India) (P) Ltd. [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250] dealing with the different heads of compensation in injury cases this Court held that : (SCC p. 556, para 9)

“9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as



pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant : (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include : (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in the future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

26. In light of the above decision of this Court and the facts and circumstances of the case at hand, the compensation to be awarded is as follows:

I. Compensation for pain and suffering — Rs 2,00,000

II. Compensation for loss of amenities of life — Rs 2,00,000

III. Compensation for disability and disfigurement — Rs 2,00,000

Conclusion

...

28. It is almost universally seen that persons from marginalised backgrounds often face an additional layer of discrimination due to bodily disabilities. This is because persons from marginalised sections of the society already face severe discrimination due to a lack of social capital, and a new disability more often than



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not compounds to such discrimination. In such circumstances, to preserve the essence of justice, it becomes the duty of the Court to at the very least restore the claimant as best as possible to the position he was in before the occurrence of the disability, and to do so must award compensation in a liberal manner.

29. While no material compensation can completely negate the trauma and suffering that the injured and his family faces, the law only knows the language of monetary compensation in such cases. It then becomes the duty of the court to translate the provisions of monetary compensation into a fabrication that helps the injured and his family in coping with their loss.”

(emphasis supplied)

13. Considering the observations of the Supreme Court and the fact that the present case involves amputation, the compensation awarded towards *pain and suffering, loss of amenities of life and disfigurement* is inadequate; therefore, Rs. 2,00,000/- is awarded under each of the heads and the same would be in line with the principle of just compensation

14. Further, considering that claimant was a bachelor on the date of accident and has suffered above knee amputation, the prospects of marriage of claimant have considerably been reduced. Accordingly, compensation of Rs. 2,00,000/- towards *loss of marriage prospects*.

15. There has been some discussion on the lump sum compensation of Rs.5,30,000/- for the *artificial limb*, Mr. Maini, on instructions, states that claimant had been using prosthetic which is now 9 years old and she is not in a position to continue wearing that prosthetic any further.

16. Relying on the decision in **Mohd. Sabeer v. U.P. SRTC**, (2023) 20 SCC 774, it has been argued by Mr. Maini that prosthetic change is required every five to six years and, therefore, considering that injured is 34



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years of age today and taking the potential life expectancy up to 70 years, she would require prosthetic for approximately another 35 years. Using that basis of calculation, at least seven replacements would be required from today, if the claimant chooses to take prosthetic. The cost of the prosthetic has been noted in order dated 16th July 2020, where the quotation was received for Rs.3,82,756.50/- with annual maintenance cost at Rs.15,000/- to Rs.20,000/-. However, the cost of Rs.3,82,756.50/- for prosthetic limb was for the year 2020, and it would be appropriate to account for inflation with a 10% increase, totalling to Rs. 4,21,032.15/-. Similarly, there would be an increase in the annual maintenance from the year 2020 as a result of inflation, accordingly the annual maintenance is taken as Rs. 22,000/- annually.

17. *Mr. Maini* also relies on the decision of this Court in ***Master Mukul (Thr Father Pradeep Kumar) v. Surender Kumar & Ors. (United India Insurance Co. Ltd.)***, 2025:DHC:10134 for the purpose of prosthetics.

18. On this basis, the amount for seven possible replacements of the prosthetic along with annual maintenance cost is calculated as under:

S. no.	Cost of Artificial Limb	Amount
1.	Cost of Prosthetic Limb (A)	Rs. 4,21,032.15/- x 7= Rs. 29,47,225/-
2.	Annual Maintenance (B)	Rs.22,000/- x 35= Rs. 7,70,000/-
3.	Total	Rs. 37,17,225/-

19. This additional amount for the prosthetic limb and annual maintenance will be deposited by the Insurance Company within a period of four weeks before the MACT which will be kept in an interest-bearing fixed deposit. Amount on actuals will be disbursed to the claimant only on production of original invoice/purchase document issued by authorized



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seller of prosthetic limb. Further, cost towards annual maintenance shall also be disbursed on production of invoice. If any amounts remain unutilized, the Insurance Company will be entitled to withdraw the same along with accrued interest.

20. As regards the compensation, the same is revised as under:

S. no.	Heads of Compensation	Awarded by tribunal	Awarded by the Court
Pecuniary Loss			
1.	Medicine and Treatment (A)	Rs. 225/-	Rs. 225/-
2.	Expenditure on special diet (B)	Rs. 40,000/-	Rs. 40,000/-
3.	Expenditure of conveyance (C)	Rs. 40,000/-	Rs. 40,000/-
4.	Attendant Charges (D)	Rs. 36,000/-	Rs. 36,000/-
5.	Income of injured per month (E)	Rs. 13,350/-	Rs. 16,468/-
6.	Future prospects @ 40% (F)	Nil	Rs. 6,587/-
7.	Loss of income (E) x 12=(G)	Rs. 1,60,200/-	Rs. 1,97,616/-
8.	Functional disability (H)	50%	50%
9.	Multiplier (I)	18	18
10.	Loss of future income [(E+F) x 12 x H x I]= J	Rs. 14,41,800/-	Rs.24,89,940/-
Non-pecuniary loss			
11.	Pain and suffering (K)	Rs. 1,00,000/-	Rs. 2,00,000/-
12.	Compensation for mental and physical shock (L)	Rs. 30,000/-	Rs. 30,000/-
13.	Loss of Amenities of Life (M)	Rs. 70,000/-	Rs. 2,00,000/-
14.	Disfigurement (N)	Nil	Rs. 2,00,000/-
15.	Loss of matrimonial prospects (O)	Nil	Rs. 2,00,000/-
16.	Interim Compensation (P)	Rs. 25,000/-	Rs. 25,000/-

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17.	Total (A+B+C+D+G+J+K+L+M+N+ O-P)=Q	Rs 18,94,000/-	Rs. 36,08,781/-
18.	Interest	9%	9%
19.	Prosthetic Limb	Rs. 5,30,000/-	Rs. 37,17,225/-

21. By order dated 3rd May 2019, the Court had passed directions for the Insurance Company to deposit the entire amount along with interest before the MACT and directed release of 80% of the deposited amount along with accrued interest, in terms of the scheme of disbursement specified in the impugned award.

22. Insurance Company is directed to deposit the enhanced compensation along with 9% interest per annum from the date of filing the petition before the MACT within a period of four weeks.

23. Further, it is directed that a lump sum amount of Rs. 2,00,000/- shall be released to the claimant within a period of two weeks thereafter. The remaining amount, along with the accrued interest, shall be kept in Fixed Deposit Receipts (**FDRs**) as per the scheme of the impugned award.

24. Appeal stands disposed of in above terms. Pending applications, if any, be refunded to the appellant.

25. Copy of this judgment be sent to MACT and the concerned bank.

26. Statutory deposit, if any, be refunded to the Insurance Company.

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

(ANISH DAYAL)
JUDGE

MARCH 30, 2026/ak/zb

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