



2026:DHC:1786



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 24th February 2026+ MAC.APP. 710/2019

DR TUSHAR GUPTA

.....Appellant

Through: Mr. Manish Maini and Ms. Anjali
Singh, Advocates.

versus

RANDHIR SINGH & ORS (UNITED INDIA INSURANCE CO
LTD)

.....Respondents

Through: Mr. Pankaj Seth & Ms. Shruti Jain,
Advocate for R-3/Insurance company.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed challenging award dated 23rd March 2019 passed by Motor Accident Claims Tribunal ('*MACT*'), Tis Hazari Courts, Delhi in *Suit No.77320/2016* where compensation to the tune of Rs.3,92,000/- was granted.

2. Appellant/Injured claimant-Dr. Tushar Gupta, a Senior Resident Doctor (Orthopaedic) with *JPN Trauma Centre AIIMS, Delhi*, met with an accident on 31st January 2012 when he was travelling in his car from Rohtak to AIIMS and upon reaching the crossing of *Ghewra Mor, main Rohtak*

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Road, Mundka, Delhi, a Delhi Transport Corporation ('DTC') bus bearing registration no. DL-IPC-8300 (hereinafter, '**offending vehicle**'), driven by respondent no.1/*Randhir Singh* in a rash and negligent manner collided with the appellant's/injured claimant's car, as a result of which the appellant/injured claimant suffered serious grievous injuries and was removed to *Sanjay Gandhi Hospital* for treatment. Offending vehicle was owned by respondent no.2/DTC and was insured with respondent no.3/United India Insurance Company Limited.

3. MACT concluded that the accident was caused due to rash and negligent driving of respondent no.1/ *Randhir Singh* and awarded the following compensation:

S.No.	Heads	Amount
1.	Expenses relating to treatment, hospitalization and medicines	Rs. 2,05,980/-
2.	Conveyance	Rs. 17,660.50/-
3.	Food (Special diet)	Rs. 15,000/-
4.	Attendant Charges	Rs. 15,000/-
5.	Loss of earning during the period of treatment	Nil
6.	Loss of future earning on account of permanent disability	Nil
7.	Pain, Suffering & Trauma	Rs. 75,000/-
8.	Disfiguration	Rs. 50,000/-
9.	Compensation towards mediclaim premium	Rs. 12,844/-

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Total	Rs. 3,92,000/- (Rs. 3,91,524.50 rounded off)
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4. *Mr. Manish Maini*, Counsel for appellant/injured claimant seeks enhancement of compensation primarily on two counts, *first*, loss of earning during the period of treatment has not been granted by the MACT. He states that appellant/injured claimant was under continuous treatment for about 21 months, through various hospitals viz., *Sanjay Gandhi Memorial Hospital* on 31.01.2012, *JPN Trauma Centre* from 31.01.2012 to 04.02.2012, *AIIMS Hospital* 04.02.2012 to 18.02.2012, *J.P. Surgical Hospital, Ambala* from 24.03.2012 to 19.04.2012, *Sri Onkar Eye & ENT Clinic* from 20.05.2012 to 26.03.2013 and *AIIMS Hospital* on 09.05.2012.

5. Appellant was examined by Medical Board of *Guru Gobind Singh Government Hospital, Delhi* which issued the certificate of Permanent Disability of 14% in relation to right lower limb. However, since the appellant/injured claimant had stated that he was still engaged with a private hospital, MACT did not grant him any compensation on account of *loss of earning capacity*. As regards other expenditures, MACT awarded the amounts, noted above.

6. *Mr. Manish Maini*, Advocate has asserted that 21 months of leave had been taken by appellant/injured claimant for which he ought to be compensated, taking into account the decision of Coordinate Bench of this Court in *New India Assurance Co. Ltd. v. R K Arora* 2016:DHC:482, in particular *paragraph nos. 7 and 8* where the Court stated that salary accumulated during leave is a privilege available under normal service rules

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and therefore, the value of period of leave amounts to a loss suffered by the claimant for which they need to be duly compensated.

7. However, during cross examination of appellant/injured claimant (**PW-3**) recorded on 27th November 2014, he categorically stated that “*it is correct that I had got my full salary during my period of leave on account of treatment*”. On this basis, in the opinion of this Court, there is no pecuniary loss on account of income for the period of leave that would have been taken by appellant/injured claimant, since it seems that *JPN Trauma Centre AIIMS, Delhi (employer)* continued to pay him salary during that period.

8. **Second**, Mr. Manish Maini, Advocate contends that appellant/injured claimant was in a contractual employment for three years at the time of the accident, from 2nd April 2011 till 1st April 2014 and his prospects of getting a job in Delhi reduced due to his disability. He refers to the statement of appellant/injured claimant recorded on 6th September 2017 where he stated that he was working as a *Consultant Doctor (Orthopaedics)* at *Rotary Cancer and General Hospital, Ambala Cantt, Haryana* on a monthly salary of *Rs. 1.5 lakhs*, on a contractual basis.

9. The salary earned by appellant/injured claimant during his contractual tenure during 2011 to 2014 at *JPN Trauma Centre AIIMS, Delhi* was *Rs. 69,192/-* per month and as per the statement recorded, it seems that his income per month increased reasonably and had not dropped. Therefore, to arrive at a conclusion that there was a loss of future earnings, in view of this Court, would be presumptuous and that exercise does not appear to be rational.

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10. Further contention raised by *Mr. Manish Maini*, Advocate is that the appellant/injured claimant ought to be awarded loss of future earnings at least, post his retirement. However, no evidence has been placed on record as to the loss which would have been caused post-retirement, nor is there any concept of retirement in a private job being asserted.

11. However, the Court has perused the evidence by way of affidavit of appellant/injured claimant where he has stated the nature of injuries suffered by him, as recorded in *paragraph 4*. Same is extracted as under for ease of reference:

“4. That in the accident I sustained the following injuries:

- *As per Discharge Slips & MLC - Grievous,*
- *Fracture both bones right leg – Inter Locking Nailing done,*
- *Fracture Nasal Bone - Leading to Facial and Nasal Deformity,*
- *Fracture Orbital Floor (Inferior) Right Side - Required reconstruction of Orbital Floor,*
- *Enophthalmos Right Orbit – Downward displacements of the eye ball into the maxillary sinus - sunken eye ball (R),*
- *Laceration Lip and Nose,*
- *Deep wounds on face, Septum Lacerated*
- *Collapsed right Ala, Tip depressed,*
- *Profusely bleeding,*
- *Abrasions and Blunt Injuries all over body.”*

12. Further, he stated in *paragraph 10* that he underwent a lot of pain and suffering on account of injuries sustained by him in the accident and he cannot stand continuously for long hours. *Paragraph 10* is extracted as under:

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“10. That I received serious / grievous injuries in the accident and I have suffered from Permanent Disability and Facial Deformity. I have undergone a lot of pains and sufferings on account of injuries sustained by me in the accident. Now I cannot stand continuously for long hours and I feel difficulty in performing operations. I cannot use required force for reduction of fracture as I am working as Orthopaedic Surgeon. I cannot walk and run properly, I am also facing difficulty in attending my clients due to facial deformity. I cannot lift weight. Now I am unable to do swimming and sports activity. I also cannot enjoy my married life fully. I feel difficulty in breathing due to Posterior Nasal Discharge continuously due to Nasal Deformity and blockage of sinus.”

13. The aspect of disfiguration has also been expanded by the appellant/injured claimant and for this purpose *paragraph 16* is reproduced below:

“16. That Due to the Grievous Injuries sustained by me on my face it has now become disfigured. Photographs before and after the accident running into 6 Photographs to prove my facial deformity are collectively Exh. PW1/8.”

14. On this count, non-pecuniary damages, which, though, have been granted by the MACT, seem to be quite inadequate and should be enhanced.

15. 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



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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 Lexicon 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



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highlighted in *Heil v. Rankin*, as referred to in *Attorney General of St. Helena v. AB* 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.’



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...

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



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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)

16. While enhancing compensation on account of disfigurement, the Supreme Court in ***Mohd. Sabeer alias Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation*** (2023) 20 SCC 774 encapsulated the impact of bodily disabilities on an individual. Enhancing the compensation to Rs. 2,00,000/-, the Court concluded that the law only knows the language of monetary compensation, it then becomes to 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. Relevant observation is extracted as under:

“28. It is almost universally seen that persons from marginalized backgrounds often face an additional layer of discrimination due to bodily disabilities. This is because persons from marginalized sections of the society already



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face severe discrimination due to a lack of social capital, and a new disability more often than 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 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 added)

17. Accordingly, in view of the above decisions, an additional sum of Rs.2,50,000/- each towards *pain and suffering, disfiguration and loss of amenities of life* with interest @ 9% per annum from the date of filing of claim till realisation, is awarded to appellant/injured claimant.

18. Revised computation is therefore, as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1	Expenditure on Medical treatment (A)	Rs. 2,05,980/-	Rs. 2,05,980/-
2	Expenditure on conveyance (B)	Rs. 17,660.50/-	Rs. 17,660.50/-
3	Expenditure on special diet (C)	Rs. 15,000/-	Rs. 15,000/-
4	Attendant Charges (D)	Rs. 15,000/-	Rs. 15,000/-

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5	Medicclaim Premium (E)	Rs. 12,844/-	Rs. 12,844/-
NON-PECUNIARY LOSS			
8	Pain and suffering (F)	Rs. 75,000/-	Rs. 3,25,000/-
9	Disfiguration (G)	Rs. 50,000/-	Rs. 3,00,000/-
10	Loss of Amenities of Life (H)	Nil	Rs. 2,50,000/-
11	Total compensation (A + B + C + D + E + F+ G+ H) = I	Rs. 3,92,000/-	Rs. 11,41,485/- (Rs. 11,41,484.5/- rounded off)
12	Interest awarded	9%	9%

19. Enhanced amount along with interest at 9% per annum from the date of filing of petition be deposited by the Insurance Company within a period of 4 weeks before the MACT and same shall be released to appellant/injured claimant within a period of three weeks thereafter, subject to verification.

20. Accordingly, appeal stands disposed of in above terms.

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

22. Copy of this Judgment be sent to the concerned MACT.

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

ANISH DAYAL
(JUDGE)

FEBRUARY 24, 2026/sm/sp

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