



2026:DHC:1061



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 09th February 2026***+ **MAC.APP. 276/2022**

MANISH KUMAR

.....Appellant

Through: Mr. S.N. Parashar, Mr. Ritik Singh
Advocates.

versus

RAMAN SHARMA & ORS.

.....Respondents

Through: Mr. Sankar N Sinha, Advocate for
R-3(Insurance Company).**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the claimant seeking enhancement of compensation awarded at Rs.42,83,000/- vide Award/Judgment dated 17th February 2022 passed by the Motor Accident Claims Tribunal, Karkardooma Courts, Delhi [*'Tribunal'*] in *MACT No. 618/2017*, essentially on the ground that the functional disability was assessed at 80%, whereas the permanent disability was 90% in relation to right upper and right lower limb.

Accident

2. Accident occurred on 14th July 2017, at about 01:00 A.M, wherein appellant, along with his friend *Devender*, was going to



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Haridwar from *Delhi* on a motorcycle bearing no. '*DL-13SM-9485*', with the appellant riding the bike. When the appellant reached near *Meerut*, a car bearing no. '*DL-1YE-4483*' [*offending vehicle*], being driven rashly and negligent by respondent no.1/driver, hit the motorcycle.

3. Appellant fell down and suffered grievous injuries to his right upper and lower limbs and became unable to move without assistance of another person. Appellant was 27 years of age at the time of the accident. A criminal case was registered against respondent no.1/driver *vide* FIR No. 307/2017 under Sections 279/338/427 of the Indian Penal Code 1860 [*IPC*].

Impugned Award

4. Tribunal, upon appreciation of oral and documentary evidence, including the testimony of **PW-1**, appellant/*Manish Kumar* and the site plan, concluded that the accident occurred due to rash and negligent driving of the offending vehicle by respondent no.1/driver. The Tribunal rejected the plea of contributory negligence raised on the ground that the claimant did not possess a valid driving licence.

5. Appellant was initially taken to *SDS Global Hospital, Meerut*, and thereafter referred to *Guru Teg Bahadur Hospital, Delhi*, where he remained hospitalised from 15th July 2017 to 04th September 2017, and subsequently on multiple occasions. The medical record indicated *fractures of the pelvis, tibia and fibula of the right leg, fracture of the right elbow joint*, and multiple other injuries.



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6. The disability certificate proved on record through **PW-2** reflected that the appellant had suffered 90% permanent physical disability in relation to his right upper limb and right lower limb. However, considering the educational qualification of the claimant and the nature of work he could still possibly perform, the Tribunal assessed the functional disability of the claimant with respect to the whole body at 80%.

Compensation awarded

7. Tribunal awarded a sum of *Rs.82,272/-* towards medical expenses on the basis of medical bills duly proved on record.

8. Towards pain, suffering and mental shock, having regard to the nature of injuries and prolonged treatment, the Tribunal awarded *Rs.2,00,000/-*.

9. A further sum of *Rs.3,00,000/-* was awarded towards loss of amenities and enjoyment of life, and *Rs.3,00,000/-* towards loss of expectation of life, considering the permanent and severe disability suffered by the claimant.

10. As regards loss of income during treatment, the Tribunal assessed the income of the claimant on the basis of minimum wages applicable to an unskilled worker, i.e. *Rs.13,350/-* per month, and awarded *Rs.1,60,200/-* for a period of twelve months.

11. For loss of future earning capacity, the Tribunal applied the multiplier of '17', assessed the functional disability at 80%, and granted future prospects at the rate of 40%, awarding a total sum of *Rs.30,50,288/-* under this head.



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12. Towards attendant charges, special diet and conveyance, the Tribunal awarded a consolidated sum of *Rs.90,000/-*, considering the prolonged treatment and extent of disability.

13. Additionally, the Tribunal awarded *Rs.1,00,000/-* towards loss of marriage prospects, noting that the claimant was unmarried at the time of the accident and had suffered permanent disability.

14. Accordingly, the Tribunal awarded a total compensation of *Rs.42,82,680/-*, which was rounded off to *Rs.42,83,000/-*, along with interest at the rate of 8% per annum from the date of filing of the claim petition till realisation.

15. The compensation awarded by the Tribunal is tabulated as under:

S.NO	HEADS	AWARD BY MACT
1.	Medical Expenses	Rs.82,272 /-
2.	Conveyance	Rs.30,000 /-
3.	Special Diet	Rs.30,000 /-
4.	Attendant Charges	Rs.30,000 /-
5.	Loss of Income	Rs. 1,60,200/-
6.	Pain & Suffering	Rs.2,00,000 /-
7.	Loss of Amenities of Life	Rs. 3,00,000/-
8.	Loss of Expectation of Life	Rs. 3,00,000/-
9.	Loss of Marriage Prospects	Rs.1,00,000 /-
10.	Loss of Future Income [Income x % Earning Capacity x Multiplier]	Rs. 30,50,208/-
TOTAL		Rs. 42,83,000 /- [Rs. 42,82,680/- Rounded off]
INTEREST		8%



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Analysis

16. The assessment by the Tribunal, as pointed out by *Mr. Ritik Singh*, counsel for appellant, is contained in *paragraph VI* of the impugned award, which deals with *loss of future income*. In this regard, the evidence of *Dr. Hitesh Sehrawat*, Senior Resident, *Guru Teg Bahadur Hospital [PW-2]*, is to be noted. He confirmed that the appellant had suffered *90% permanent disability* in relation to his right upper and right lower limb. In his cross-examination, he denied that the patient can carry out his daily needs independently.

17. **PW-2** [*Dr. Hitesh Sehrawat*] was also questioned as to what activities petitioner would be able to perform after suffering this disability. **PW-2** [*Dr. Hitesh Sehrawat*] responded that “*the petitioner will be able to walk with great difficulty with aid of crutches or walker. The petitioner will not be able to sit, kneel, squat on his own. The right lower limb of petitioner is stiff, and the petitioner will not be able to bend.*” The disability certificate [**Exhibit PW2/A**] has also been adverted to by counsel for appellant.

18. In this view of the matter, the assessment of functional disability at 80% would possibly not be a correct assessment, and the disability of the appellant ought to be computed at 90%. In *Raj Kumar v. Ajay Kumar*, (2011) 1 SCC 343, the Supreme Court has held that what is required to be assessed by the Tribunal is not merely the percentage of permanent physical disability but its actual impact on the earning capacity of the claimant, which may or may not correspond with the



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medical percentage of disability. The Court emphasised that the Tribunal must evaluate the claimant's vocation prior to the accident, the activities he can and cannot perform post-injury, and whether he can still earn a livelihood despite the disability. It was further held that although disability and *loss of earning capacity* are distinct concepts, in cases where the evidence demonstrates that the functional impact of the disability effectively coincides with the extent of permanent disability, the same percentage may be adopted for computation of loss of future earnings. Applying the said principles to the facts of the present case, and having regard to the uncontroverted medical evidence and the functional limitations suffered by the appellant, the functional disability assessed by the Tribunal warrants enhancement to 90%.

19. The other issues raised by the appellant's counsel is that minimum wages of an unskilled worker at Rs.13,350/- were awarded instead of a non-matriculate worker at Rs.14,698/-. He relies upon the Class VIII School Leaving Certificate [**Exhibit PW1/3**]. However, a perusal of the Class VIII certificate shows that the appellant could not complete his schooling and did not complete his Class VIII.

20. Accordingly, the Court does not find it fit to award minimum wages of non-matriculate as prayed for by the appellant.

21. Accordingly, the compensation awarded under the head *loss of future earning capacity* is directed to be recomputed by applying 90% functional disability in place of 80%, while keeping all other parameters unchanged, including income, applicable multiplier, and addition



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towards future income. The impugned award stands modified and the compensation recalculated is as under:

SR. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
PECUNIARY LOSS			
1	Expenditure on treatment (A)	Rs.82,272/-	Rs.82,272/-
2	Expenditure on conveyance (B)	Rs.30,000/-	Rs.30,000/-
3	Expenditure on special diet (C)	Rs.30,000/-	Rs.30,000/-
4	Cost of nursing / attendant (D)	Rs.30,000/-	Rs.30,000/-
5	Loss of earning capacity (E)	80%	90%
6	Loss of income (F)	Rs. 1,60,200/- [Rs. 13,350 x 12]	Rs. 1,60,200/- [Rs. 13,350 x 12]
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 + Pain and suffering (H) + (I)	Rs. 2,00,000/-	Rs.2,00,000/-
10	Loss of amenities of life (J)	Rs.3,00,000/-	Rs.3,00,000/-
11	Disfiguration (K)	Nil	Nil
12	Loss of marriage prospects (L)	Rs.1,00,000/-	Rs. 1,00,000/-
13	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in	Nil	Nil

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	future life etc. (M)		
DISABILITY RESULTING IN LOSS OF EARNING CAPACITY			
14	Percentage of disability assessed and nature of disability as permanent or temporary	80% Permanent	90% Permanent
15	Loss of amenities or loss of expectation of life span on account of disability	Rs. 3,00,000/-	Rs.3,00,000/-
16	Percentage of loss of earning capacity in relation to disability	80%	90%
17	Loss of future income (Income X% Earning capacity x Multiplier)	Rs. 30,50,208/- [Rs. 13,350 x 80% x 17 + 40%]	Rs. 34,31,484/- [Rs. 13,350 x 90% x 17 + 40%]
TOTAL COMPENSATION		Rs. 42,83,000/- [Rs. 42,82,680/- Rounded off]	Rs. 46,64,000/- [Rs. 46,63,956/- Rounded off]
INTEREST AWARDED		8%	8%

Conclusion

22. For the aforesaid reasons, the award of the Tribunal is enhanced by Rs.3,81,000/-. Said amount shall be deposited by the Insurance Company along with accrued interest at the rate of 8% per annum, within eight weeks from today, before the Tribunal.

23. Compensation to be disbursed to the claimant as per the directions passed by the Tribunal.

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24. List before Tribunal on 13th April 2026.
25. The appeal is, therefore, disposed of with the above directions.
26. Pending applications (if any) are rendered infructuous.
27. Statutory deposit, if any, be refunded to appellant.
28. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

FEBRUARY 9, 2026/ak/tk

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