



2026:DHC:4283



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 14th May 2026*+ MAC.APP. 229/2015 & CM APPL. 4022/2015

V N BANSAL

.....Appellant

Through: Mr. Shantnu Aggarwal, Ms. Sakshi
Garg, Advocates.

versus

SONIA ARORA & ANR (NATIONAL INSURANCE
COMPANY)

.....Respondents

Through: Mr. Pradeep Gaur & Ms. Sweta Sinha,
Advocates for Respondent no.2.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed seeking enhancement of compensation awarded at Rs. 1,20,376/- along with 7.5% interest by the Motor Accident Claims Tribunal, Dwarka Courts, New Delhi (*'MACT/Tribunal'*) vide award dated 27th October 2014 in MACP No. 182/13/14.

2. The accident occurred on 25th February 2013, when the claimant/*Mr. V. N. Bansal (appellant herein)* along with his wife, *Smt. Dropti Bansal* and two daughters-in-law, *Smt. Meena Bansal* and *Smt. Poonam Bansal* were going to Dade Dev Temple and had boarded a Delhi Transport Corporation (*'DTC'*) bus. When they reached *Sector 1, JJ Colony, Dwarka bus stand*, all the family members got down from the bus and started moving close to the footpath for



2026:DHC:4283



crossing the road through the zebra crossing. Suddenly, a *Sanstro* car bearing registration no. DL-4CR-3749 (hereinafter, '**offending vehicle**') driven by respondent no.1/*Sonia Arora* crashed into them, injuring *Mr. V N Bansal* and *Smt. Poonam Bansal*, while, *Smt. Dropti Bansal* and *Smt. Meena Bansal* succumbed to their injuries subsequently.

3. A common award was passed on 27th October 2014. Aside from seeking enhancement of compensation, counsel for claimant, has agitated the issue regarding fastening 10% contributory negligence on the claimant/*Mr. V. N. Bansal*, as also the other injured/*Smt. Poonam Bansal* and deceased/*Smt. Dropti Bansal* and *Smt. Meena Bansal*. For this, reference may be drawn to the assessment by the MACT particularly in *paragraph nos.10 & 11* of the impugned award, which are extracted as under:

“10. Sh. Sanjay Bansal and Poonam Bansal were also examined before the Tribunal. They have also narrated the same facts leading to the accident as stated by Sh. V. N. Bansal. The statement of Sh. V. N. Bansal and Poonam Bansal are absolutely believable for the simple reason that they were present at the spot and have witnessed the entire incident with their own eyes. The criminal case record further supports and corroborates their case. There is no manner of doubt that the accident had happened because of the rash and negligent driving of Sonia Arora as she drove her car perilously close to the pavement thereby hitting as many as four persons. As per site plan the accident had happened very close to the pavement. Mechanical inspection report also reveals that the car must have hit the persons from its front as there was lot of impact on the front portion of the car including front bumper and front grill.

11. From the statement of the witnesses alongwith site plan prepared by the police, it could be seen that all the persons were walking on the extreme left side of the road closer to the pavement after getting down from the bus. It was incumbent on



2026:DHC:4283



their part to have walked on the pavement instead of the road. It appears that all of them may be engaged in talking to each other and completely failed to observe that they should be walking on the pavement instead they chose to walk on the road itself closer to the pavement. Though it goes without saying that road belongs to the traffic and pedestrian should use the pavement. Mereso, when the pavement already exists for them.”

(emphasis added)

4. Mr. Shantnu Aggarwal, counsel for appellant/claimant, contends that the conclusion drawn by MACT that they ought to have been walking on the pavement, instead of the road and that they may have been engaged in talking to each other and failed to observe that they should be walking on the pavement, is mere speculation and not on the basis of any evidence. The issue of contributory negligence has neither been raised by the Insurance Company nor the driver/owner of the offending vehicle in the written statements. Cross examination has also not been done on this aspect.

5. In this regard, Mr. Aggarwal, counsel for appellant/claimant, has relied upon a decision of this court in ***New India Insurance Company v. Tanuj Sehrawat & Ors.*** 2026:DHC:324, where these aspects have been discussed and the Court has recorded as under:

“24. Applying these principles, it is evident that the appellant/Insurance Company did not raise any plea of contributory negligence of the Railways before the MACT nor adduce any evidence to lay the foundation for such a defence. In these circumstances, the Tribunal correctly refrained from examining contributory negligence.”

(emphasis added)

6. The Court has also examined the site plan and notes that all four family members were just next to the footpath on what appears to be a 30-foot-wide



2026:DHC:4283



road. On a perusal of the photographs which form a part of the Detailed Accident Report ('*DAR*') and have been appended, as also basis the site plan, it can be seen that road was *30-foot-wide*, giving ample opportunity for any passerby to avoid any pedestrian who may possibly be walking adjacent to the footpath. The question of contributory negligence, therefore, cannot arise since it was not, as if the claimants were standing away from the footpath or were indulging in jaywalking. In fact, they had alighted from a DTC bus at the bus stop and were walking towards a point where they could cross the road through a zebra-crossing, hence, showing that they were careful in complying with the traffic rules.

7. Blood spots in the photographs clearly shows that the accident had happened just adjacent to the footpath. The site of the accident is not such, where it would be providing any motorable way for any vehicle, particularly, considering it was a *30-foot-wide* road and there was ample space to pass by.

8. Considering these aspects and no evidence having been led, the MACT's assessment is purely a speculation and cannot be sustained, therefore, the aspect of 10% contributory negligence is set aside in appeals arising out of the impugned award.

9. As regards the computation of compensation, *Mr. Aggarwal*, counsel for appellant/claimant, has drawn attention to the fact that, while the accident occurred on 25th February 2013, appellant/claimant, who was then 73 years of age, had been admitted to hospital and was discharged on 28th February 2013, as per *Ex.PW1/3*. Subsequently, in December 2013, he received treatment on account of his head injury, as is evident from *Ex.PW1/6 (colly)*. *Dr. Anshul Gupta*, Neurosurgeon, has given a certificate stating that *Mr. V.N. Bansal* is



2026:DHC:4283



under regular treatment for his head injury and is gradually recovering and would probably require further four to six months of treatment.

10. Medical bills have been filed which show that the treatment has thereafter continued. However, despite this, only Rs.40,000/- has been granted as non-pecuniary damages for *pain and suffering*.

11. 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 the Supreme Court 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 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.



2026:DHC:4283



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, as referred to in Attorney General of St. Helenav. 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.’

...

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. As per the principles enunciated in **Raj Kumar v. Ajay Kumar** (2011) 1 SCC 343, compensation in cases of injuries can be granted for *pain and suffering, loss of amenities* and *loss of expectation of life*. While Rs.10,000/- has been granted towards *loss of amenities*, only Rs.40,000/- has been granted towards *pain and suffering*.

13. Considering the nature of the injuries suffered, treatment and the age of the claimant, in the opinion of this Court, compensation on account of these non-pecuniary heads should be collectively enhanced from a total of Rs.50,000/- to Rs.1,50,000/-.

14. Considering that appellant/claimant was 73 years of age at the time of accident and it has not been pleaded that he was earning any amount at the



2026:DHC:4283



time of the accident, the MACT has not accounted for loss of income arising out of his injury.

15. Accordingly, the revised computation is as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1	Expenditure on Medicines and Treatment (A)	Rs. 73,751/-	Rs. 73,751/-
2	Expenditure on conveyance (B)	Rs. 5,000/-	Rs. 5,000/-
3	Expenditure on special diet (C)	Rs. 5,000/-	Rs. 5,000/-
NON-PECUNIARY LOSS			
4	Pain and suffering (D)	Rs. 40,000/-	Rs. 75,000/-
5	Loss of amenities of life (E)	Rs. 10,000/-	Rs. 75,000/-
6	Total compensation (A + B + C + D + E)= (F)	Rs. 1,33,751/-	Rs. 2,33,751/-
7	Less: Contributory Negligence	Rs. 13,375.1	Nil
8	Compensation awarded	Rs. 1,20,376/-	Rs. 2,33,751/-
9	Interest awarded	7.5%	7.5%

Conclusion

16. For the aforesaid reasons, compensation has been enhanced by Rs. 1,13,375/-.

17. Enhanced compensation along with interest at 7.5% from the date of filing the petition shall be deposited by respondent no.2/Insurance company before the MACT within a period of four weeks. Considering that appellant/claimant is a senior citizen, the entire enhanced amount along with accrued interest will be released to appellant/claimant.



2026:DHC:4283



18. Appeals stand disposed of in above terms. Pending applications are rendered infructuous.
19. Copy of this judgement be sent to concerned MACT.
20. Copy of this judgement shall also be sent to concerned bank.
21. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

May 14, 2026/ak/sp