



\$~1

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

+ **MAC.APP. 694/2025 & CM APPL. 67845/2025**

SUDHIR KUMAR

.....Appellant

Through: Mr. Varun Sarin, Ms. Parul Dutta,
Advocates.

versus

**GOVIND & ORS. (RELIANCE GENERAL INSURANCE CO.
LTD.)**

.....Respondents

Through: Mr. A.K. Soni, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
23.01.2026

%

1. *Mr. Varun Sarin*, counsel for appellant, pleads that injury sustained by the appellant in the road accident on 03rd January 2016, caused due to rash and negligent driving of the vehicle owned by respondent no. 2, insured with respondent no.3, and driven by respondent no.1, led to award of compensation by the impugned judgment 16th April 2019.
2. At that stage, the assessment of loss of future income basis of disability was made based on the testimony of **PW-2**, *Dr. A.K. Mishra* from G.B. Pant Hospital. **PW2** had stated that the 50% temporary disability was required to be reviewed after three years, since there were chances of improvement.
3. In this regard, it may be relevant to extract *paragraph 15* of the award which records as under:



15. Loss of Future Income on account of disability and loss of

amenities : PW-2 Dr. A K Mishra stated that the petitioner has 50% temporary disability to be reviewed after three years. He further stated that the petitioner has chances of improvement. He further stated that the petitioner has crossed Hemiparesis (weakness of left upper limb and right lower limb), due to fracture of C2 Vertebrae and cervical cord compression near foramen magnum. He further stated that the petitioner was having 50% temporary disability and requires revaluation after three years to rule out any progression in disease process or improvement in weakness. He further stated that the percentage of chances in improvement of temporary disability cannot be predicted. He further stated that the chances of improvement are always there, however, deterioration may also occur due to de-generative changes in vertebrae. He further stated that since the petitioner is having weakness of left upper limb, hence the petitioner could write and perform normal routine activities like eating, signing, a little bit of writing, however, due to weakness in right lower limb, he will be having difficulty in walking. He further stated that the patient can lift his left upper limb to certain extent but cannot lift weight. On asking that whether in the present physical condition, the petitioner can work as a chef, he replied in negative.

Looking into the disability of the petitioner, I am of the view that this disability would affect the future prospects of the petitioner. In **Nizam's Institute of Medical Sciences Vs. Prasanth S. Dhananka (2009) 6 SCC 1**, the Apex Court made the following observations:

"We must emphasize that the Court has to strike a balance between the inflated and unreasonable demands of a victim



and the equally untenable claim of the opposite party saying that nothing is payable. Sympathy for the victim does not, and should not, come in the way of making a correct assessment, but if a case is made out, the Court must not be chary of awarding adequate compensation.

At the same time, we often find that a person lying in an accident leaves his family in great distress. The case of an injured and disabled person is, however, more pitiable and the feeling of hurt, helplessness, despair and often destitution ensues everyday. The support i.e. needed by a severely handicapped person comes at an enormous price, physical, financial and emotional, not only on the victim but even more so on his family and attendants and the stress saps their energy and destroys their equanimity".

4. *Mr. Sarin* points out that on this basis disability was assessed as temporary 50% and since there was a chance of improvement, the impugned award notes the same and grants a lump sum amount of *Rs. 3 Lakhs*.

5. In this respect *paragraph 19* of the impugned award is extracted herein for reference:

19. In the present case the petitioner has not suffered permanent disability and the Medical Board has assessed the disability @ 50% temporary. In this condition, in future, the petitioner may improve and his disability may be decreased or may remain intact or may even increase. PW-2 Dr. A K Mishra has also given opinion that chances of improvement are there in such condition but deterioration may also occur due to degenerative changes in vertebrae. Under these peculiar circumstances, the Tribunal has no option but to grant lumpsum amount to the petitioner towards disability.

As per the testimony of PW-2, due to the weakness, the petitioner is having difficulty in walking. He cannot lift the weight. Even he cannot do the job of chef. The petitioner was in the field of Hotel Management which requires all types of services including chef.



Keeping in view these facts, the Tribunal has to balance the things and grant such an amount to the petitioner which is neither exorbitant nor less. I therefore, award a lumpsum amount of Rs. 3,00,000/- to the petitioner on account of the above disability and for future treatment.

The petitioner was 26 years of age at the time of accident. Due to the injuries, he would not be able to participate in the normal activities of his daily life to pursue his talents, recreation interest, hobbies and evocations. The injuries would also have an affect on his social life. Looking into his age, injuries and facts and circumstances of the case, I award a sum of Rs. 75,000/- towards loss of amenities.

6. He states that thereafter, since the condition of the injured-appellant deteriorated considerably, a fresh assessment done by the *Civil Surgeon, Faridabad, Haryana*, and disability certificate dated 10th November 2023 has been handed over to the Court in that regard.

7. The said disability certificate is extracted here under for reference:



Department of Empowerment of Persons with Disabilities,
Ministry of Social Justice and Empowerment, Government of India

Disability Certificate

Civil Surgeon
Faridabad, Haryana



Certificate No.: HR2010619900089059

Date: 10/11/2023

This is to certify that I/we have carefully examined Shri Sudhir Kumar, Son of Shri Tej Singh, Date of Birth 10/01/1990, Age 33, M, Registration No. 0620/00000/2310/1392970, resident of House No. Hno-k 38, Neelam Bata Road, Ac Nagar Faridabad - 121001, Sub District Faridabad, District Faridabad, State / UT Haryana, whose photograph is affixed above, and I am/we are satisfied that:

(A) He is a case of **Locomotor Disability**

(B) The diagnosis in his case is **POST TRAUMATIC QUADRI-PARESIS**

(C) He has 70%(in figure) **Seventy** percent(in words) Permanent Disability in relation to his BOTH HAND, BOTH LEG as per the guidelines (Guidelines for the purpose of assessing the extent of specified disability in a person included under RPwD Act, 2016 notified by Government of India vide S.O. 76(E) dated 04/01/2018).

The applicant has submitted the following document(s) as proof of residence:

Nature of Document(s): Aadhaar card

Signature / Thumb Impression of the Person with Disability

Dr. Adhishet Varshney

Dr. Savita Yadav PMO

Dr. Vinay Gupta
Civil Surgeon, Faridabad

Signatory of notified Medical Authority Member(s)



Civil Surgeon
Faridabad, Haryana

MAC AFF. 074/2023

3 of 0

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 27/01/2026 at 12:14:18



8. In view of this, *Mr. Sarin* contends that, considering his disability is now assessed at 70% in relation to both hands and both legs, compensation to be awarded to the appellant may need a reassessment.

9. He, therefore, prays that the matter be remanded to the Tribunal for the limited purpose of enhancement based on the new disability certificate, with liberty to the parties to lead their respective evidence in this regard.

10. *Mr. A.K. Soni*, counsel appearing for Insurance Company, reserving his right to counter the contentions of appellant, states that he has no objection to the matter being remanded.

11. Accordingly, the matter is remanded back to the Tribunal on the specific issue of revisiting *reassessment of future income and the non-pecuniary compensation towards pain and suffering, as well as special diet, conveyance, and attendant charges*, considering the fresh evidence which may be placed by the parties in respect of the new disability certificate.

12. It is made clear that this Court has not expressed its view on the merits of the renewed claim of the appellant and it shall be open to the Tribunal to revisit the same in accordance with law basis the evidence led by the parties.

13. Accordingly, list on 16th February 2026 before the Tribunal at MACT, South District, Saket Courts.

14. The appeal is, accordingly, disposed of. Pending applications (if any) are also rendered infructuous.

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

ANISH DAYAL, J

JANUARY 23, 2026/RK/bp