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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 22nd January 2026*+ **MAC.APP. 802/2013**

ANIL KUMAR

.....Appellant

Through: Mr. Navneet Goyal, Adv.
versus

RAJEEV MEHTA & ORS

.....Respondents

Through: Mr. Rajeev Roy & Mr. P Srinivasan,
Adv. for R-3**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (Oral)**

1. This appeal has been filed by the claimant [appellant herein] seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal [**MACT**], Patiala House Courts, *vide* order dated 6th May 2013, in *MACT No. 144/2011*. The compensation awarded was of Rs.3,50,797/- along with 7.5% interest from the date of filing the petition till the realisation.

2. On 4th February 2009, at Purana Kila Road, T Point, when the claimant, *Anil Kumar*, driving his motorcycle, was injured when a car bearing no. '*DL 4CP 9088*', suddenly opened its door and hit the motorcycle. MACT held that rash and negligent act was attributable to the



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driver/respondent no.1, as proved on the preponderance of probabilities, on the basis of the FIR, charge-sheet and a mechanical inspection report.

3. Computation of the compensation awarded by the MACT is as under:

S.NO	HEADS	AWARDED BY MACT
1.	Medicine and Medical Treatment	Rs. 19,873/-
2.	Pain and Suffering	Rs. 50,000/-
3.	Loss of Amenities	Rs. 20,000 /-
4.	Conveyance and Special Diet	Rs. 20,000 /-
5.	Loss of Income on account of Disability	Rs. 2,40,924 /- [Unskilled wages Rs.3934 x 30% disability] 1181 x 12 x 17 (multiplier)
6.	Cost of Artificial Limb	Nil
Total Compensation		Rs. 3,50,797 /-
Rate of Interest		7.5%

4. For *loss of income* on account of disability, wages were taken as minimum wages of an unskilled worker since there was no proof which was given and the functional disability was calculated at 30%. On that basis, the multiplier applied was '17', the age being 28 years, loss of income was computed at Rs.2,40,924/-.

5. Counsel for the appellant seeks enhancement on the following grounds: *firstly*, that the *functional disability* ought to have been assessed at 60%, considering that his right leg had been amputated. For this purpose, he relies upon the Disability Certificate [Ex. PW-1/1], which shows that 60%, permanent physical impairment in relation to the *right lower limb* and *below-knee amputation up to the lower one-third of the leg*.



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6. The impugned award in *paragraph 27*, assesses the *functional disability*, in relation to the whole body at 30%, and therefore held the claimant entitled for compensation, accordingly with the multiplier.
7. Counsel for respondent no.3/*Insurance Company* states that this assessment would be appropriate, considering that the 60% physical disability relates to one leg and, therefore, when considered with respect to the whole body, 30% was appropriate.
8. Considering that the claimant's evidence that he was self-employed and earning up to *Rs.7,000/- to Rs.9,500/-* per month, relying on **Exhibit PW-1/2**, the certificate issued by *Sharma Refrigeration and Air Conditioning* to prove his employment with the said organization, the vocation of the claimant was that of an air conditioner mechanic.
9. In the opinion of this Court, considering his vocation was to repair air conditioners, and to continue such work would involve climbing ladders and stools and some vertical movement, it would be difficult for the claimant to carry on his vocation in the manner he previously did. Accordingly, in the assessment of this Court, the functional disability, applying the principles of ***Raj Kumar v. Ajay Kumar & Another*** (2011) 1 SCC 343, the *functional disability* percentage ought to have be in the range of 50%.
10. In ***Raj Kumar v. Ajay Kumar*** (*supra*), the Supreme Court held that the Tribunal must assess not merely the extent of permanent disability but its actual impact on the claimant's earning capacity, which may differ from the medical percentage of disability. This requires evaluating the claimant's pre-accident vocation, the functions affected, and whether livelihood can still be earned despite the disability. The Court emphasized that disability and loss



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of earning capacity are distinct concepts, except in cases where evidence shows they coincide. Relevant paragraphs are extracted as under:

“11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

- (i) whether the disablement is permanent or temporary;
- (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;
- (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further



and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.”

(emphasis added)

The Supreme Court summarized the principles, which are extracted as under:

“19. We may now summarise the principles discussed above:

- (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*
- (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning*



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capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”

(emphasis added)

11. The **second** ground raised by the counsel for appellant pertains to the application of wages of an unskilled worker, whereas, the claimant was a skilled worker, carrying on the vocation of an air conditioner mechanic and employed with *Sharma Refrigeration and Air Conditioning*. The wages of a skilled worker have been stated by counsel for claimant as Rs.4,358/-, whereas it has also been claimed that the appellant was earning Rs.9,500/- per month from the Company.

12. Considering that the certificate issued by *Sharma Refrigeration and Air Conditioning* has not been proved, however, as per the testimonies, it would be difficult to displace the conclusion that he was an air conditioner mechanic. In the opinion of this Court, minimum wages of a skilled worker



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ought to have been granted at Rs.4,358/-. As per the principles enunciated in *National Insurance Company Ltd. vs. Pranay Sethi & Ors.* (2017) 16 SCC 680, an increase of 40% for future prospects is also to be allowed.

13. During the proceedings, this Court had directed that evidence be led in relation to the requirement of prosthetics, which the claimant had not procured. Accordingly, evidence was placed on record on 5th December 2016 of appellant himself as **AW-1** and Sh. Rakesh Kumar form M/s *Endolite India Ltd.* as **AW-2**.

14. Appellant provided a quotation of Rs.1,61,500/- from *Vimhans Hospital* as **Ex. PW-1/184**, and, as additional evidence a quotation from M/s *Endolite India Ltd.* for Rs. 2,50,000/-. It has also come in evidence that one prosthetic would have a life span of about 5-7 years.

15. Appellant is about 44 years of age as of now and therefore, at best, if he does take a prosthetic, he would require four prosthetics which would amount to Rs. 10,00,000/- [Rs. 2,50,000 x 4].

16. Relying on the principle of “just compensation” as emphasised in *National Insurance Co. Ltd. v. Pranay Sethi* (supra) and *Sarla Verma v. DTC*, (2009) 6 SCC 121 which mandates a realistic assessment, the computation of the compensation awarded to claimants as per aforesaid directions is as under:

S. No	Heads of Compensation	Awarded by MACT	Awarded By This Court
1.	Medicine and Medical Treatment	Rs. 19,873/-	Rs. 19,873/-
2.	Pain and Suffering	Rs. 50,000/-	Rs. 50,000/-
3.	Loss of Amenities	Rs. 20,000 /-	Rs. 20,000 /-
4.	Conveyance and Special Diet	Rs. 20,000 /-	Rs. 20,000 /-



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5.	Loss of Income on account of Disability	Rs. 2,40,924 /- [Unskilled wages Rs.3934 x 30% disability] 1181 x 12 x 17 (multiplier)	Rs. 6,22,322/- [Skilled wages Rs.4,358 + 40% Future prospects] x 50% disability x12 x17 (multiplier)
Total Compensation		Rs. 3,50,797 /-	Rs. 7,32,195/-
Rate of Interest		7.5%	7.5%

17. The amount towards enhanced compensation will be deposited by the respondent/Insurance Company within a period of 6 weeks from today, before the Tribunal. The same shall be released to the claimant as per directions of the Tribunal.

18. The amount on account of cost of Artificial Limb/prosthetic i.e. Rs. 10,00,000/- [Rs. 2,50,000 x 4] shall also be deposited by respondent/Insurance Company within a period of 6 weeks from today, before the Tribunal and specific amount based on the purchase of a prosthetic shall be released to the appellant only on placing and verifying a purchase invoice of prosthetic; the balance amount shall be retained in an interest-bearing FDR, from which specific amount be released to the claimant subject to production and verification of a purchase invoice in future.

19. List before the MACT, Patiala House Courts on 20th February 2026. A copy of the order be sent to the concerned court.

20. The appeal stands disposed of in above terms.

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

22. The statutory deposit, if any, be refunded to appellant.



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

ANISH DAYAL, J

JANUARY 22, 2026/sm/tk