



2026:DHC:856



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

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Date of decision: 28th January 2026+ **MAC.APP. 1031/2013 & CM APPL. 61646/2024**

MANOJ SINGH

.....Appellant

Through: Mr. Shrey Chathly, Adv.

versus

GHADU MAL & ORS

.....Respondents

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

1. This appeal has been filed seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal (**'MACT'**) in Petition No.630/2010 by the claimant in respect of the accident which occurred on 05th November 2010, where the appellant was riding a bicycle and was hit from behind by a motorcycle which was being driven rashly and negligently by respondent no.1. As a result of the accident, claimant was hospitalized and later assessed to have suffered 50% permanent disability due to cervical spine injury.
2. Income of claimant was assessed on minimum wages. Though, the appellant had claimed that he was working as a plumber; however, he was



2026:DHC:856



unable to file any proof of employment on record.

3. The appeal has been preferred essentially on the ground that the functional disability ought to have been considered at 100%.

4. The assessment of permanent disability went through a division in the context of the following sequence of events:

- (i) *Dr. A.K. Singh*, examined as **PW-2** before the MACT on behalf of the Medical Board, stated during his cross-examination that the opinion given for disability certificate could only be given after seeking opinion of a neurologist as well as that of an orthopaedic, and neurologist was not a Member of the Board at the relevant time. Moreover, the Board had not got X-ray done of the injured patient at the time of examination for disability certificate. This aspect was noted in the impugned order, particularly in *paragraph 16*.
- (ii) During the proceedings in the appeal before this Court, this was noted in order dated 04th November 2024, and the Court directed the Medical Superintendent, AIIMS, to constitute a Medical Board comprising of one neurologist, in addition to other doctors, to make an assessment of the permanent disability suffered by the injured/claimant.
- (iii) The Medical Board has since provided its report under cover of letter dated 18th December 2024. The said report is on record of this Court and has been perused by the Court. The report states as under:



2026:DHC:856



92

ALL INDIA INSTITUTE OF MEDICAL SCIENCES
CARDIO-NEURO CENTRE

Ansari Nagar, New Delhi-110029.

No.F.-46-32/2024/MB-Estt. (CNC)

Date: 09.12.2024

Sub:- Report of Medical Board constituted at AIIMS, New Delhi (CNC) for issuance of disability certificate to Mr. Manoj Singh S/O Sh. Amika Singh

The Meetings of the medical board was held under Chairmanship of Dr. Vivek Tandon, Professor, Dept. of Neurosurgery on 9th December, 2024 at 09:30 A.M. in Seminar Room, 6th floor, CN Centre, AIIMS, New Delhi.

Disability Assessment Report

The Patient was evaluated on 9th December 2024 by the medical board. He is a known case of road traffic accident following which he developed quadriparalysis due to cervical injury. He was managed conservatively at GTB Hospital. At present he is found to be having 87% disability which is permanent in nature in relation to the whole body.

Medical Board Opinion: Patient has disability of 87% and which is permanent in Nature.


Dr. Vivek Tandon
Chairperson


Dr. Gita Handa Thakral
Member


Dr. Ashima Nehra
Member


Dr. Amandeep Rathi Jagdevan
Member


Dr. Manoj Phalak
Member


Dr. Rajesh Kumar Singh
Member


Dr. Thean Singh
Member Secretary

5. It is contended by the counsel for appellant that the medical opinion now records that claimant has developed *quadriparesis* due to cervical injury, which is debilitating semi-paralytic condition and is known to be progressive, a stage before *quadriplegia*.
6. He, therefore, contends that, considering the nature of the injury and the fact that the appellant was working as a plumber, an occupation requiring full physical mobility, the functional disability ought to have been considered at 100%.
7. Counsel for the respondent, however, contends that the assessment



2026:DHC:856



made by the Tribunal in the impugned award was correct and there is no reason for enhancing the functional disability beyond 50%, as assessed by the MACT.

8. In **Raj Kumar v. Ajay Kumar** (2011) 1 SCC 343, 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 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)

9. In **Raj Kumar** (*supra*), the 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 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)

Conclusion

10. In the opinion of this Court, having regard the comprehensive assessment done by the re-constituted Medical Board, which included a



2026:DHC:856



neurologist and revised assessment of claimant's permanent disability at 87%, keeping in mind that he would be unable to work in his vocation or any other similar occupation, and considering that he has been treated as an unskilled worker (minimum wages having been awarded on the ground of being an unskilled worker), applying principles laid down in **Raj Kumar** (*supra*), the functional disability ought to be considered at **100%**. *Quadriparesis* is the weakness of all four limbs causing reduced motor function and control. Progression could lead to *quadriplegia*, which is complete paralysis.

11. As regards the *50% future prospects*, considering that the age of the claimant was 32 years at the time of the accident, the future prospects ought to have been awarded at *40%*, in consonance with the principles laid down in **National Insurance Company Ltd. vs. Pranay Sethi & Ors.** (2017) 16 SCC 680.

12. As regards the attendant charges, counsel for the appellant has argued that in this condition, claimant would require an attendant for most of his life since he is *87%* permanently disabled and only *Rs.10,000/-* lump sum was awarded by the impugned award.

13. Counsel for the respondent has, however, argued that there was no proof placed on record by appellant with relation to engagement of an attendant.

14. Having regard to the nature and extent of disability as assessed by the Medical Board, this Court is of the view that it would be appropriate to award a lump sum amount of *Rs. 1,00,000/-* towards *attendant charges*, in lieu of recompense under the said head.



2026:DHC:856



15. The revised computation, therefore, is as under:

Sr. No.	Heads of compensation	Awarded by the Tribunal	Awarded by this Court
1	Medical Expenses	Rs. 20,115/-	Rs. 20,115/-
2	Cost of nursing / attendant	Rs. 10,000/-	Rs. 1,00,000/-
3	Percentage of loss of earning capacity in relation to disability	50%	100%
4	Loss of income (Rs.5,278/- X 4)	Rs.21,112/-	Rs.21,112/-
5	Future Prospect	50% of Rs.5,278/-	40% of Rs.5,278/-
6	Annual income	(7,917 X 12) = Rs. 95,004/-	(7,389.2 X 12) Rs. 88,670.40/-
7	Multiplier	16	16
8	Loss of future income	Rs. 7,60,032/-	Rs. 14,18,726.40/-
9	Towards better diet	Rs. 20,000/-	Rs. 20,000/-
10	Towards conveyance	Rs. 20,000/-	Rs. 20,000/-
11	Towards pain and suffering	Rs. 50,000/-	Rs. 50,000/-
12	Total compensation	Rs.9,01,259/-	Rs. 16,49,953.40/- Rounded to Rs. 16,49,953/-
13	Interest awarded	7.5% per annum	7.5% per annum

Directions

16. The enhanced amount shall be deposited before the MACT within 4 weeks and be disbursed to the claimant within two weeks thereafter, in terms of the directions of the MACT along with interest.

17. Copy of the judgment be sent to the MACT for further directions in terms of the re-computation.



2026:DHC:856



18. List before the Tribunal on 03rd March 2026.
19. Appeal stands disposed of with above directions. Pending applications, if any, are rendered infructuous.
20. Statutory deposit, if any, be refunded to appellant.
21. Judgment be uploaded on the website of this Court.

ANISH DAYAL, J

JANUARY 28, 2026/mk/bp