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

\# **CNR No. DLHC011946762018**

\+ MAC.APP. 725/2018 & CM APPL. 27931/2022

THE NATIONAL INSURNACE CO LTD .....Appellant

Through: Mr. Pradeep Gaur, Mr. Amit Gaur & Mr. Kaarrtikey Parashar, Advs.

versus

TASWAR @ TASABBAR & ORS .....Respondents

Through: Mr. Durgeesh K Pandey & Ms. Ritika Davis Franklin, Advs.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

O R D E R

% 05.10.2026

1. This appeal has been filed by the Insurance Company assailing the award dated 17th May 2018 passed by Motor Accident Claims Tribunal, North West, Rohini Courts [‘***MACT/Tribunal’***] in MACT No. 450489/2016 (OLD NO. 209/15/2008) awarding compensation of *Rs.14,71,058/-* along with interest at 9% per annum in relation to an accident which occurred on 25th September 2007, in which the claimant/respondent no.1 lost his right leg.

2. The accident occurred when the claimant was driving vehicle Tata 709 and was going from *Rurki, Haridwar* to *Gokulpuri*, Delhi. When he reached near *Mandola Village, District Ghaziabad*, he was hit by Tata 1109 bearing registration number HR 38J 7535 (‘***offending vehicle***’). Due to the impact of the accident, the driver of the offending vehicle ultimately passed away.

3. Insurance company settled the claim with the legal representatives of the deceased driver of the offending vehicle.

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4. As regards the claimant, compensation was awarded by treating his 75% permanent disability arising from amputation of the right leg as 100% functional disability, considering that he was a professional truck driver and was aged 27 years on the date of the accident.

5. *Mr. Pradeep Gaur*, counsel for the Insurance Company, argues that the functional disability ought not to have been assessed at 100% in these circumstances. However, as per the testimony of PW-1, the injured-claimant had suffered amputation of his right leg below the knee and, consequently, had completely lost his livelihood as a professional driver. Moreover, statement of **PW2**, *Dr. Mandeep Singh Bajaj*, who was working at Department of Orthopaedics, St. Stephens Hospital, deposed that the claimant had fractured both bones of the right leg with ankle dislocation and fracture of the shaft of right femur and fracture flow of left orbit and maxillary sinus. He underwent the procedures of external fixation application for right leg, below-knee amputation for right leg and intramedullary nailing for right femur. He was in the hospital for about 20 odd days.

6. In this regard, the Court is of the opinion that assessment of 100% functional disability in the case of a professional driver is justified and is in line with the decisions of the Supreme Court in ***Gurudev Singh v. Reliance General Insurance Company Ltd & Ors.***, Civil Appeal No. 3399/2023, ***Jakir Hussein v. Sabir***, (2015) 7 SCC 252, and of this Court in ***Sumer v. National Ins Co. Ltd***., 2023 SCC OnLine Del 5533.

7. Accordingly, this plea is rejected.

8. The other issue which has been claimed is with respect to contributory negligence on the part of claimant on the ground that he driver of the offending vehicle had also died in the accident. However, it is noted

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that the Insurance Company had already settled the claim with the legal representatives of the deceased driver. Moreover, there is no evidence on record, led by the Insurance Company, to establish any negligence on the part of the claimant. The MACT has also considered this aspect in detail in *paragraph 13* of the impugned award.

9. The Court does not find any infirmity with that assessment.

10. *Mr. Gaur* further argues that it is alleged that claimant was holding a fake Driving License (‘***DL’***) at the time of the accident. However, the MACT in *paragraph 28* has noted the circumstances in relation to the fake DL, as well as the affidavit of evidence of the owner of the offending vehicle exhibited as ***Ex. R1W1/A***, where he stated that he had taken a test drive and had undergone training and had 6 years of service as driver when the accident took place. Therefore, there was no breach of any condition of the insurance company and due diligence had been exercised by the owner.

11. Accordingly, the appeal stands dismissed.

12. The compensation was deposited pursuant to order dated 07th August 2018. It is informed that 50% of the deposited amount was directed to be released *vide* order dated27th February 2019.

13. Accordingly, since the appeal has been dismissed, the entire balance amount of compensation be released as a lump sum to the claimant.

14. Statutory amount, if any, along with accrued interest be refunded to the insurance company.

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

ANISH DAYAL, J

OCTOBER 5, 2026/sm/bp

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