



2026:DHC:2466



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 18th March 2026*+ MAC.APP. 612/2017

ANIL KUMAR

.....Appellant

Through: Mr. J.S. Kanwar, Adv.

versus

MOHD KAMIL & ORS (NATIONAL INSURANCE CO LTD)

.....Respondents

Through: Mr. Atin Shankar Rastogi and Mr.
Adil Vasudeva, Advs. for Insurance
Company.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by the claimant seeking enhancement of compensation awarded by Motor Accident Claims Tribunal, Karkardooma Courts, Delhi [*MACT*] *vide* impugned award dated 9th February 2017 passed in *MACT No.15381/2015*. The matter pertains to grievous injuries suffered by the claimant, who was aged 47 years at the time of accident that took place on 28th October 2014. Claimant boarded a bus bearing no. *UP 8 E 9207* [*“offending vehicle”*] from *Gajrola Chopla*, which took a sharp turn, and due to rash and negligent driving of respondent no.1/driver, resulted in grievous injuries to the claimant and ultimately in the amputation of his left upper limb.



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Compensation awarded

2. The MACT relied upon the testimony of **PW-1**, the disability certificate proving *83% permanent locomotor impairment* in relation to the left upper limb, and the criminal record, and concluded that negligence stood established on the touchstone of preponderance of probabilities.

3. For the purposes of computation of compensation, the MACT assessed the claimant's age as 47 years and, in the absence of documentary proof of income, adopted minimum wages applicable to an '*unskilled*' worker i.e. *Rs. 6,416/-* per month. Though the permanent disability in the left upper limb was certified at 83%, the MACT assessed functional disability at 60% in relation to the whole body, considering the nature of vocation of the claimant as a TSR driver. Applying multiplier '*13*', the MACT awarded *Rs. 6,00,535/-* towards *loss of future earning capacity*, besides *Rs. 25,664/-* towards *loss of wages during treatment*.

4. Under other heads, the MACT awarded *Rs. 50,000/-* towards *pain, shock and suffering*, *Rs. 25,000/-* towards *loss of amenities of life*, *Rs. 95,901/-* towards *medical expenses*, *Rs. 30,000/-* towards *conveyance and special diet*, and *Rs. 20,000/-* towards *attendant charges* thereby awarding a total compensation of *Rs. 8,47,100/-* with interest @12% per annum from the date of filing of the petition till realization. Liability to satisfy the award was fastened upon the insurance company, with directions regarding deposit and disbursement through fixed deposit receipts as per the scheme framed in the Award.

Analysis

5. Grounds taken by claimants for enhancement of compensation are threefold:



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- i. **Firstly**, that claimant was a TSR driver and yet, the wages have been taken those of an '*unskilled*' worker i.e. *Rs.6,416/-*, whereas, they ought to have been taken as those of a '*skilled*' worker.
- ii. **Secondly**, no *future prospects* have been granted on the income assessment, as per the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi*** (2017) 16 SCC 680, for a self-employed person would be 25% for the age group 40-50 years.
- iii. **Thirdly**, there is an issue relating to assessment of functional disability at 60% with respect to the whole body, whereas permanent disability of 83% in relation to the left upper limb had been certified as per the Disability Certificate. It is stated that since he was a TSR driver, his opportunity to continue the vocation of his choice would be highly impacted, therefore, assessment of 60% was a conservative estimate.

6. The Court has perused the documents on record in the evidence filed, **PW-1**/the injured-claimant stated that he was earning *Rs.18,000/-* per month by plying the TSR. The accident occurred when the claimant, who was travelling as a passenger in the offending vehicle, sustained grievous injuries as a result of the said accident, leading to amputation of his left upper limb and consequent permanent disability of 83% in relation to the left upper limb.

7. In the cross-examination, **PW-1** stated that he was the registered owner of a TSR bearing registration no. *DL-1RF-0719*, which used to be driven by him. However, he had neither filed the Registration Certificate [**RC**] of the vehicle, nor any proof regarding income, employment and driving license of the TSR. Since there was no proof, the MACT awarded minimum wages of an '*unskilled*' worker.



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8. It is, however, found that the driving licence provided by **PW-1** has been filed on record as **Exhibit PW1/3**, which notes that the licence includes authorisation to drive a TSR. Accordingly, it would be appropriate that the minimum wages of a 'skilled' worker be taken, which on that date of accident was Rs.10,478/- per month.

9. Further, in alignment with principles enunciated in *National Insurance Co. Ltd. v. Pranay Sethi (supra)*, particularly in paragraph no.58, considering the claimant was 47 years, 25% of future prospects would be awarded.

10. As regards the functional disability at 60%, considering that he was a TSR driver and his vocation would be grievously affected, the functional disability ought to be considered at a higher figure of 75%, considering that he had an amputation in his left upper limb.

11. As regards the interest is concerned, 12% interest was granted by the MACT, which was quite on the higher side; the interest should be realigned to 9% which is appropriate for compensation awarded during that period of time. This aspect has been discussed by the Supreme Court in *Kaushnuma Begum v. New India Assurance Co. Ltd.*, (2001) 2 SCC 9, in paragraph 24 where an interest rate of 9% was taken. For ease of reference, relevant paragraph is extracted as under:

“24. Now, we have to fix up the rate of interest. Section 171 of the MV Act empowers the Tribunal to direct that “in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as may be specified in this behalf”. Earlier, 12% was found to be the reasonable rate of simple interest. With a change in economy and the policy of Reserve Bank of India the interest rate has been lowered. The nationalised banks



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are now granting interest at the rate of 9% on fixed deposits for one year. We, therefore, direct that the compensation amount fixed hereinbefore shall bear interest at the rate of 9% per annum from the date of the claim made by the appellants. The amount of Rs 50,000 paid by the Insurance Company under Section 140 shall be deducted from the principal amount as on the date of its payment, and interest would be recalculated on the balance amount of the principal sum from such date.”
(emphasis added)

12. Accordingly, the compensation would stand recomputed as under:

SR. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
PECUNIARY LOSS			
1	Expenditure on treatment (A)	Rs.95,901/-	Rs.95,901/-
2	Expenditure on conveyance (B)	Rs.30,000 /-	Rs.30,000 /-
3	Expenditure on special diet (C)	Included with conveyance	Included with conveyance
4	Cost of nursing / attendant (D)	Rs.20,000 /-	Rs.20,000 /-
5	Loss of earning capacity (E)	60%	75%
6	Loss of income (F)	Rs.6,00,535/- [Rs. 6,416 X 12 X 13 x 0.60]	Rs.15,32,407.5/- [Rs.10,478/- x 12 x 13x 0.75 + 25%]
7	Any other loss which may require any special treatment or aid to the injured for the rest of his life (G)	Nil	Nil
8	Future Medical Expenses	Nil	Nil
NON PECUNIARY LOSS			
9	Compensation for mental and physical shock (H)	Nil	Nil
10	Pain and suffering (I)	Rs.50,000 /-	Rs.1,00,000/-
11	Loss of amenities of life (J)	Rs.25,000 /-	Rs.1,00,000/-
12	Disfiguration (K)	Nil	Nil
13	Loss of marriage prospects (L)	Nil	Nil

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14	Loss of wages. (M)	Rs.25,664/- (Rs. 6,416/- X 4)	Rs.41,912/- [Rs.10,478/- x 4]
DISABILITY RESULTING IN LOSS OF EARNING CAPACITY			
15	Percentage of disability assessed and nature of disability as permanent or temporary	83%	83%
16	Loss of amenities or loss of expectation of life span on account of disability	Nil	Nil
17	Percentage of loss of earning capacity in relation to disability	60%	75%
18	Loss of future income (Income X% Earning capacity x Multiplier)	Rs.6,00,535 /-	Rs.15,32,407.5/-
TOTAL COMPENSATION		Rs.8,47,100/-	Rs.19,20,221/- [Round of Rs.19,20,220.5/-]
INTEREST AWARDED		12%	9%

13. For the aforesaid reasons, the award of the MACT is enhanced by Rs.10,73,121/-.

14. Enhanced compensation along with 9% interest per annum from the date of filing the petition shall be deposited before the Registry of this Court, within a period of four weeks.

15. It is directed that a lump sum amount of Rs. 2,00,000/- shall be released to the claimant from the enhanced amount within a period of two weeks thereafter. The remaining amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (**FDRs**) of Rs. 25,000/- each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe calculated. The interest accruing on the said FDRs shall be credited to the designated Savings Bank Account of the claimant. The amount of FDRs on maturity



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would be released to the Savings Bank Account of claimant upon due verification.

16. By order dated 02nd May 2017, directions were passed upon issuing notice in the appeal that the originally awarded compensation amount along with accrued interest be deposited and be kept with the UCO Bank, Delhi High Court Branch.

17. Counsel for the claimant states that only 30% has been released in favour of the claimant *vide* order dated 06th July 2017.

18. Accordingly, now that appeal is disposed of, the originally awarded compensation shall be disbursed as per the directions passed by the MACT in the impugned award.

19. Accordingly, this Appeal stands disposed of with above directions.

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

21. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

MARCH 18, 2026/mk/tk