



\$~9

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

+ **MAC.APP. 840/2017 & CM APPL. 34036/2017**

DELHI JAL BOARD & ANRAppellants

Through: Mr. Amit Sharma, Adv.

versus

AFJAL & ANRRespondent

Through: Mr. Ram Dayal Shahalia & Mr. Manu
Luv Shahalia, Advocates for R-1

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

%

11.05.2026

1. The present appeal has been filed seeking setting aside the impugned Award dated 02nd December 2016, whereby the Motor Accident Claims Tribunal [*MACT*] adjudicated the compensation claims filed on behalf of one *Afjal* and minor *Subhana*. Compensation of Rs.8,46,300/- was awarded in favour of *Afjal* along with interest @ 8% per annum; however, 50% thereof was deducted towards contributory negligence, thereby reducing the payable amount to Rs. 4,23,150/-. In respect of *Subhana*, compensation of Rs.6,16,100/- along with interest @ 8% was awarded.

2. Appellant/ *Delhi Jal Board*, represented through *Mr. Amit Sharma*, Advocate, contends that as per *MACT* award, 41% permanent disability with respect to right lower limb was suffered by respondent no. 1 and functional disability was assessed at 20%. As regards respondent no.2, 16% permanent disability was certified and functional disability was also taken at



20% while, respondent no. 1 was 17 years of age, respondent no.2 was 12 years of age.

3. The Court has perused the impugned award and finds that the accident occurred on 15th October 2014 at about 02.00 p.m. at *Main Tigri Road* near State Bank of India due to rash and negligent driving of *Krishan Kumar*, driver of water tanker bearing registration no. DL-1LM-0364 (**‘offending vehicle’**). The said water tanker was owned by the appellant/ *Delhi Jal Board*, which hit the scooter that was being driven by *Affal*, due to which he fell down on the road and sustained grievous injuries. The Tribunal held that *Affal* was also liable for contributory negligence and therefore 50% of the claim amount was to be deducted from the compensation awarded.

4. As regard *Subhana*, she was 12 years of age at the time of the accident and studying in class 8th. She had suffered 16% permanent disability with respect to her right lower limb. Considering she was a student at that time, the functional disability resulting from the accident was judged with reference to nature of her activities at that time, and accordingly, her functional disability was assessed at 20%.

5. In view of the aforesaid, this Court does not find any infirmity in the MACT’s assessment, particularly considering the tender age of minor *Subhana*. The principles enunciated in ***Raj Kumar and Ajay Kumar.***, (2011) 1 SCC 343 have also been asserted by counsel for appellant in this regard. The said judgment lays down comprehensive guidelines for assessment of disability and provides that the nature of the disability and its effect on the life of the injured person must be considered while assessing functional disability.

6. In this view of the matter, the Court is not inclined to allow the appeal of appellant/ *Delhi Jal Board* in this regard.



7. The other issue canvassed by counsel for appellant/ *Delhi Jal Board* is that finding of composite negligence was made by the MACT in respect of *Subhana*, and therefore the liability ought to have been apportioned between the appellant/*Delhi Jal Board* and the driver of the scooter, namely *Affal*, who was a minor.

8. Considering that *Affal* was a minor at the relevant time and his uncle *Mohd. Sagir* was never made a party, MACT directed the compensation to be paid by appellant/ *Delhi Jal Board*.

9. This Court also finds no reason to interfere with the said finding, particularly since *Mohd. Sagir* has not been impleaded as a party even in the present appeal, which was filed in 2017. There is no justification at this stage to compel *Mohd. Sagir* to defend himself on the plea raised by the appellant/ *Delhi Jal Board*. Moreover, in cases of composite negligence, the liability is *joint and several*, and the claimant is entitled to execute the Award against either or both of the liable parties.

10. Therefore, the contention of appellant/*Delhi Jal Board* that they are not liable to pay the compensation amount cannot be sustained.

11. By order dated 18th September 2017, directions were given to appellant/ *Delhi Jal Board* to deposit the entire award amount along with up-to-date interest before the MACT, pursuant to which 20% of the awarded amount was directed to be released in favour of each of the claimants. Considering the appeal has now been disposed of in above terms, entire amount shall now be released to both of the claimants as per the directions of MACT in the impugned award.

12. Accordingly, the appeal is dismissed. Pending application is rendered infructuous.

13. Statutory amount, if any, deposited by the *Delhi Jal Board* shall be



refunded to them.

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

ANISH DAYAL, J

MAY 11, 2026/sm/zb