



2025:DHC:7256



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 22.08.2025***+ **MAC.APP. 531/2025 & CM Appl. 51880/2025**

GO DIGIT GENERAL INSURANCE CO.LTD. ....Appellant

Through: Mr. Sameer Nandwani, Adv.

versus

DILEEP KUMAR ALIAS DILIP &amp; ANR. ....Respondents

Through:

**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)****CM Appl. 51881/2025/Exemption from filing certified copies/**

1. Allowed, subject to just exceptions.
2. The Application stands disposed of.

**MAC.APP. 531/2025 & CM Appl. 51880/2025/Stay/**

3. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 impugning the award dated 14.05.2025 passed by the learned Presiding Officer, MACT-02, Central, Tis Hazari Courts, Delhi [hereinafter referred to as "Impugned Award"]. By the Impugned Award, the compensation amount in the sum of Rs. 44,66,622/- along with interest at the rate of 9% per annum has been awarded.
4. Learned Counsel for the Appellant has made three grounds of challenge in the present Appeal. Firstly, it is contended by the learned Counsel for the Appellant that the Detailed Accident Report (DAR) was filed beyond the statutory period of three months as prescribed under



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Section 159 of the MV Act since the accident occurred on 21.12.2022 and as per the Impugned Award, the DAR was filed on 05.04.2023. Secondly, it is contended that the learned Tribunal has awarded the loss of income for 21 months to the injured without there being adequate evidence in this behalf. Learned Counsel for the Appellant submits that Respondent No. 1 could not work for 21 months due to the injury, whereas there is no evidence was placed on record in support of the same.

4.1. The third ground of challenge that has been raised by the learned Counsel for the Appellant is on the grant of 60% permanent functional disability. He submits that the injured as suffered 30% permanent physical disability in his right lower limb.

5. An examination of the Impugned Award, the aspect of functional disability shows that this aspect was discussed in detail by the learned Tribunal. The Respondent No.1/Injured was 29 years of age at the time of accident and was working as Traffic Marshal with DMRC and was earning Rs. 22,000/- per month. The medical records that were produced by Respondent No. 1/Injured had shown that he sustained grievous injuries which resulted in 60% permanent physical disability to his right lower limb.

5.1 In support of his contention qua the disability, the Respondent No.1/Injured produced evidence to show that although the disability is non progressive, it is not likely to improve in the future. The learned Tribunal noted the fact that the Respondent No. 1/Injured was working as a traffic controller and during the course of his duty hours, he suffered injuries which has made him 60% disabled permanently with respect to his right lower limb and held that he cannot pursue the said vocation again and deemed it



apposite to grant functional disability of 60%. Paragraph 22 of the Impugned Award in this behalf is set out below:

*“22. Petitioner claimed in his affidavit Ex. PW1/A that he has become permanently disabled after the accident and could not perform his work by resuming his duties. As per disability certificate Ex. PW-1/9, the petitioner has suffered 60% **permanent physical impairment with respect to right lower limb which is non progressive and not likely to improve in future.** From the facts, it is forthcoming that the petitioner was working as a **Traffic Controller with DMRC. During the course of his duty hours** he suffered injuries by the negligent driving of the R-1. **The injuries have made him 60% disabled permanently with respect to his right lower limb. Consequently, he is unable to stand properly and he has to take the help of a stick for walking. His work profile has been finished by the said accident as he cannot pursue the said vocation again. Due to his physical condition/disability he has become unemployable in future for the said job.** Accordingly, it is evident from the facts that the petitioner has suffered **functional disability to a greater extent which has made him unemployable and also diminished his job prospects. Although, an exact assessment cannot be made, however, considering the totality of facts and circumstances, it would be appropriate to hold that functional disability be taken as 60%.** This Tribunal has already assumed the monthly income of petitioner to be Rs.17,336/- at the relevant time. As far as the age of petitioner at the time of accident is concerned, we may look into the photocopy of petitioner's Aadhar Card which is Ex. PW 1/1, as per the said document, the date of birth of petitioner was 31/12/1993. The date of accident is 21/12/2022. Going by the same, the age of petitioner as on the date of accident was around 28 years. Therefore, in view of the law laid down by the Hon'ble Supreme Court in case of Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.,(2009) 6 SCC 121, which has also been upheld by the Constitution Bench of the Hon'ble Supreme Court in a recent judgment dated 31.10.2017 given in the case of National Insurance Company Ltd. vs. Pranay Sethi & Ors. SLP (Civil) No. 25590 of 2014, the multiplier of '17' is held applicable for calculating the loss of future earnings of petitioner arising out of his above disability. The petitioner is also entitled to 50% future prospects as per the observations made by a Three Judge Bench of Hon'ble Supreme Court in Erudhaya Priya Vs. State Express Transport Corporation Ltd., MANU/SC/0545/2020 [please see para 7 (b)]. Thus, the loss of future earnings of petitioner due to his above injury and permanent locomotor disability comes to Rs.31,82,890/- (rounded off) (Rs.17,336/- X 150/100 X 60/100 X 12 X 17) and the same is awarded to him as compensation under this head.”*

[Emphasis supplied]



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6. Given the finding in this behalf which has been made after an examination of the record and the evidence placed by Respondent No.1/Injured, this Court finds that the challenge to the Impugned Award on functional disability to be without any merit.

7. Accordingly, issue Notice limited to other two grounds. On steps being taken, let Notice be issued to the Respondents *via* all modes. An affidavit of service be filed within two weeks.

8. Subject to the deposit of entire decretal amount inclusive of up-to-date interest within a period of 6 weeks, the operation of the Impugned Award shall remain stayed till the next date of hearing. In the event, there is any default in depositing the amount, the interim protection granted by this Court shall automatically stand vacated.

8.1 Upon deposit by the Appellant, 50% of the deposited amount inclusive of up-to-date interest shall be released to the Respondent No.1/Claimant in accordance with scheme, as is set out in the Impugned Award.

9. The Registry is directed to place on record the digital copy of the Trial Court Record duly paginated and book-marked in accordance with the rules of the High Court.

10. List before concerned Registrar on 17.11.2025 for completion of service.

11. The parties will act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**AUGUST 22, 2025/r**