



2025:DHC:3668



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:13.05.2025

+ **MAC.APP. 209/2023**

AJAY KUMAR

..... Appellant

versus

NAJENDRA SINGH & ORS.

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Pankaj Gupta, Advocate.

For the Respondents : Mr. Ravi Sabharwal, Advocate for R-3/Insurance Company.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter '**MV Act**') seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal *vide* award dated 08.08.2022 (hereafter '**the impugned award**'), passed in MACT No. 39/2020.

2. The brief facts of the case are that on 06.08.2019, when the appellant/ injured, who was travelling on his Scooty, reached near Paschim Vihar East Metro Station at Pillar No. 211, an Indian Gas



Truck came at a high speed in a rash and negligent manner and hit the appellant from behind. Due to the collision, the appellant fell down and came underneath the offending vehicle. The appellant sustained multiple grievous injuries. The incident led to registration of FIR No. 463/2019 dated 06.08.2019, at Police Station Paschim Vihar East, for offences under Sections 279/338 of the Indian Penal Code, 1860.

3. The learned Tribunal, after examining the pleadings, evidence, and documents on record, assessed the compensation at ₹15,55,344/- and awarded an interest at the rate of 6% per annum to the appellant. The details thereof are as under:

S.no.	Heads of Compensation	Amount
1.	Reimbursement of medical expenses	₹4,52,344/-
2.	Compensation on account of future treatment	₹1,00,000/-
4.	Pain and Suffering	₹50,000/-
5.	Conveyance	₹30,000/-
6.	Special Diet	₹25,000/-
7.	Attendant Charges	₹30,000/-
8.	Loss of Income during treatment period	₹70,000/-
9.	Compensation on account of disability	₹6,48,000/-
10.	Loss of amenities of life	₹50,000/-
11.	Loss of Marriage Prospects	₹1,00,000/-
	TOTAL	₹15,55,344/-

3. Aggrieved by the quantum of compensation awarded, the appellant has preferred the present appeal.



4. The learned counsel for the appellant submitted that the learned Tribunal failed to take into account that the appellant was a young boy of 25 years at the time of accident and he is entitled to receive future prospects of 40% as he had a fixed income at the time of the incident.

5. He further submitted that the appellant was crushed under the offending vehicle, resulting in grievous injuries to both his lower limbs, leading to a permanent disability quantified at 30% with respect to both lower limbs. He contended that the learned Tribunal committed an error in assessing the appellant's functional disability at only 30%, especially considering that as per the disability certificate, the condition of the appellant will not improve.

6. He submitted that the appellant was employed as a technician at the time of the accident and the functional disability ought to have been assessed at 60% for the purpose of calculating the loss of future income in view of the grievous nature of the injuries sustained and their impact on the appellant's ability to perform gainful employment. He submitted that due to the permanent disability, the likelihood of the appellant securing a job are very remote.

7. He further submitted that the learned Tribunal has erred in awarding less compensation towards future treatment even though the appellant is still under medication and visiting hospital on a regular basis.

8. He contended that the amount awarded under the head of loss of pain and suffering is very meagre and no compensation has been awarded under the head of Mental and Physical shock. He further



submitted that less compensation has been awarded towards other heads as well.

9. He further submitted that the awarded rate of interest of 6% per annum is very low and an interest of 9% per annum ought to have been awarded.

10. *Per Contra*, the learned counsel for the respondent insurance company submitted that the learned Tribunal had correctly assessed the appellant's functional disability at 30%, which was consistent with the permanent disability of 30% assessed in respect of both lower limbs.

11. He further argued that since the appellant was employed as a technician, he was not required to engage in physically intensive tasks that necessitated extensive use of his lower limbs and his employment prospects would not be adversely affected beyond the extent of the assessed disability of 30%.

12. He submitted that the compensation awarded under the other heads is adequate and the same warrants no interference.

ANALYSIS

13. The short question before this Court is whether compensation that has been awarded to the appellant ought to be enhanced or not.

14. The appellant has essentially assailed the impugned award on the following grounds:

- a. assessment of his functional disability as 30%;
- b. future prospects not having been awarded to the appellant;



- c. less compensation being awarded towards future treatment;
- d. no compensation awarded towards mental and physical shock and less compensation for pain and suffering;
- e. meagre compensation awarded under the heads of loss of special diet and conveyance, loss of amenities, loss of marriage prospects and attendant changes; and
- f. awarded rate of interest is on the lower side.

15. Conversely, the insurance company has contested all the averments made on behalf of the appellant apart from the argument in relation to entitlement of the appellant to future prospects.

16. Upon careful consideration of the rival submissions and a perusal of the impugned award, this Court finds merit in the appeal to a limited extent.

Functional Disability

17. Firstly, the appellant is essentially aggrieved by the computation of his functional disability as 30%. It is argued that the appellant has suffered 30% permanent disability in both lower limbs and his functional disability ought to be taken as 60%. The insurance company has contested the said submission. In the opinion of this Court, the learned Tribunal has rightly made the assessment. It has been taken into account that the condition of the appellant is not likely to improve.

18. As held by the Hon'ble Supreme Court in the case of ***Raj Kumar v. Ajay Kumar & Anr. : (2011) 1 SCC 343***, the extent of permanent disability of a limb, expressed as a percentage, does not



equate to the disability of the whole body. It was emphasised by the Hon'ble Apex Court that functional disability must be determined by considering the impact of the injury on the individual's overall earning capacity and ability to perform their occupation or daily activities. It was held that the percentage of disability mentioned for a specific body part cannot be directly assumed as a measure of total disability for the entire body. The relevant portion of the aforesaid judgment is reproduced hereunder:

“9. The percentage of permanent disability is expressed by the doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body...

10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity...

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)...

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.**

14. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of “loss of future earnings”, if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a



consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity.”

(emphasis supplied)

19. In the present case, as per the exhibited medical evidence and deposition of PW2 (Doctor who was member of the Board which assessed the appellant's disability), the appellant suffered 30% permanent disability in relation to both lower limbs, that is, this percentage pertains to the disability in respect of the respective limbs and not the entire body of the appellant. The disability is opined to be permanent in nature and is not likely to improve. The learned Tribunal has assessed the disability in relation to the whole body as 30% by considering that the job of the appellant is going to be hampered due to the nature of the disability.

20. As per the disability certificate, the condition is non-progressive and in the nature of locomotor disability. It is stated that the appellant was earlier carrying on the vocation of a technician. While the appellant is likely to face hindrance in securing a job and carrying out his prior vocation due to hampered mobility, however, it is not as if the appellant is entirely rendered incapable of performing any work due to the disability. It is also pertinent to note that as per the Lower Court Record, in the brief facts and written arguments filed on behalf of the appellant, the loss of income was proposed to be calculated by



taking the disability as 30%. Although the same in itself is no bar to preclude calculation of disability at a higher percentage, in the opinion of this Court, considering the facts of the case, the functional disability of the appellant has been rightly assessed as 30%.

Future Prospects

21. Secondly, the appellant is aggrieved that he was not granted future prospects by the learned Tribunal. The learned Tribunal has relied upon certain judgments and observed that future prospects are typically awarded in cases of death or total disability but not for partial disability. As the appellant's disability was partial and below 100%, the learned Tribunal concluded that future prospects cannot be granted to him by relying on certain judgments.

22. The issue in relation to grant of future prospects in case of permanent disability is no more *res integra*. In the case of ***Sidram v. United India Insurance Co. Ltd. : (2023) 3 SCC 439***, the Hon'ble Apex Court has observed that future prospects can be awarded in cases of permanent disability. The relevant portion of the judgment is reproduced hereunder:

“31. It is now a well-settled position of law that even in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects as well. We have come across many orders of different tribunals and unfortunately affirmed by different High Courts, taking the view that the claimant is not entitled to compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. That is not a correct position of law. There is no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in



permanent disablement. Such a narrow reading is illogical because it denies altogether the possibility of the living victim progressing further in life in accident cases — and admits such possibility of future prospects, in case of the victim's death.

32. This Court has emphasised time and again that “just compensation” should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives.”

23. It is pertinent to note that grant of the said component has not been denied by the respondent insurance company as well.

24. Insofar as the quantum of future prospects is concerned, this Court considers it apposite to refer to the judgment of the Hon'ble Apex Court in the case of *National Insurance Co. Ltd. v. Pranay Sethi : (2017) 16 SCC 680*. The relevant portion of the same is reproduced hereunder:

“59. In view of the aforesaid analysis, we proceed to record our conclusions:

xxx

59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50



to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”

(emphasis supplied)

25. As noted in the impugned award, the appellant was getting a monthly salary of ₹10,000/- and he was working with Saool Healthcare Pvt. Ltd. The appellant had placed an income certificate on record as well wherein it is stated that the appellant had been working with the aforementioned company since 03.08.2018. The same does not indicate that the nature of work of the appellant prior to the accident was in the nature of a permanent job but it is apparent that he had a fixed salary. The appellant has also argued for grant of 40% future prospects.

26. In view of the same, this Court deems it appropriate to award future prospects of 40% to the appellant.

Compensation on account of Future Treatment

27. The appellant is aggrieved by the award of ₹1,00,000/- towards future treatment. The learned Tribunal noted a number of precedents and granted the aforesaid sum as compensation by keeping in view the disability certificate of the appellant as well as the long duration of his treatment.

28. It is argued on behalf of the appellant that the aforesaid sum is on the lower end and the appellant is still under medication and visiting hospital on a regular basis. Certain medical receipts have also been placed on record to this effect.



29. While no specific material is put forth for computing the amount towards future treatment, considering that a lump sum is being awarded to the appellant and he has suffered injury in both his lower limbs at the mere age of 25, this Court has to take a holistic view and grant a sum that would serve the ends of justice and which would not leave the appellant wanting, especially considering that as per the disability certificate, the condition of the appellant is not likely to improve in the future.

30. In such circumstances, this Court considers it apposite to enhance the compensation for future treatment to ₹1,50,000/-.

Compensation for Pain and Suffering as well as Mental and Physical Shock

31. It is argued on behalf of the appellant that a meagre sum is awarded towards pain and suffering and no sum has been awarded towards mental and physical shock.

32. At this juncture, it is apposite to refer to the judgment in the case of *R.D. Hattangadi vs Pest control (India) Pvt. Ltd. & Ors* : (1995) 1 SCC 551, where the Hon'ble Apex Court has expounded on the pecuniary and non-pecuniary heads that can be awarded in cases of personal injury. The relevant portion of the judgment is reproduced hereunder:

“9. Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages... In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far non-pecuniary damages are concerned, they



may include (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

(emphasis supplied)

33. In the opinion of this Court, no separate amount needs to be awarded towards mental and physical shock. Although the sum is awarded under the heading of “Pain and suffering”, the same encompasses the purpose of compensation for mental and physical shock as well.

34. Insofar as the quantum for pain and suffering is concerned, the learned Tribunal has noted that judicial notice can be taken of the fact that since the appellant suffered the injuries, he would have suffered acute pain and sufferings owing to the injuries.

35. The evidence of the appellant also suggests that he was rendered incapable of performing basic tasks in the immediate aftermath of the incident. It also cannot be ignored that the appellant has been saddled with permanent disability in both his lower limbs due to the incident and he underwent treatment for a significant period of time due to the same. The medical documents that were placed on record by the appellant suggest that he had to seek regular dressings and skin grafting for treatment of his injuries. The suffering of the appellant cannot be discounted in such circumstances.



36. It is relevant to note that MV Act is a beneficial piece of legislation which purports to provide respite to victims of a motor accident. The standard of proof in the proceedings that emanate from claim petitions under the MV Act is of preponderance of probability so as to liberate the victims and claimants from the burden of an unduly high threshold of proving their loss. It is incumbent on the Court to take a holistic view and determine *just* compensations in the facts of the case to meet the ends of justice rather than being weighed by overtly pedantic concerns.

37. Even though it is impossible to compensate human suffering in monetary terms, as noted by the Hon'ble Apex Court in the case of ***Kajal v. Jagdish Chand : (2020) 4 SCC 413***, the Court has to make a judicious attempt to award damages by making an assessment that is neither very conservative so as to grant only token damages nor too liberal that the compensation is in the nature of a bounty. The degree of deprivation and loss caused by such deprivation should be the fulcrum of the assessment.

38. Thus, keeping in view the nature and extent of disability suffered by the appellant as well as the duration of his treatment and his age at the time of the incident, in the opinion of this Court, the compensation for pain and suffering deserves to be enhanced to ₹1,00,000/-.

Miscellaneous heads

39. A bald averment is made that meagre compensation is awarded towards other heads. In the opinion of this Court, the findings of the



learned Tribunal are consistent with the legal position and evidentiary material on record. In the absence of any specific averment as to why a higher sum ought to be awarded, this Court finds no reason to interfere with the amounts awarded under the other heads.

Rate of interest

40. The appellant is also aggrieved by the rate of interest of 6% per annum being awarded. The same appears to be on the lower side.

41. The appellant was merely 25 years of age when he suffered an injury to such an extent that has left him physically disabled in both his lower limbs.

42. It is pertinent to note that this Court in the case of *United India Insurance Company Ltd v. Smt. Mithlesh Kumari and Ors* : MAC. APP. 161/2025 had noted that the award of interest was a matter of judicial discretion, and that the same found its genesis in the forbearance of the claimants who are kept out of the money that they are entitled to at the time of filing of the claim petition. It was consequently noted that the award of @9% interest is a reasonable assessment.

43. While there is no set standard for the grant of rate of interest in every case, in the opinion of this Court, the rate of interest as awarded by the learned Tribunal is on the lower end and therefore, interest at the rate of 9% per annum is awarded to the appellant.

CONCLUSION

44. Keeping in view the facts and circumstances of the case, the



appeal is partly allowed. The matter is remanded back to the learned Tribunal for the limited purpose of re-determining the compensation by (i) awarding future prospects in determination of loss of earning capacity; (ii) taking into consideration the observations in relation to enhancement of compensation for future treatment and pain and suffering; and (iii) enhancing the rate of interest.

45. The findings of the Tribunal on all other issues are affirmed and shall remain undisturbed.

46. The learned Tribunal shall undertake this re-computation expeditiously, preferably within a period of four weeks from the date of the first listing of the Claim Petition before the learned Tribunal on remand.

47. The parties shall appear before the learned Tribunal on 19.05.2025.

48. The compensation amount so determined, on remand, shall be released in favour of the appellant in accordance with the schedule of disbursement which will be stipulated by the learned Tribunal.

49. The present appeal is partly allowed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 13, 2025