



2025:DHC:3880



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

% Judgment delivered on:16.05.2025

+ **MAC.APP. 636/2024**

**U.P. STATE ROAD TRANSPORT CORPORATION  
THROUGH ITS REGIONAL MANAGER** ..... Appellant

versus

**ARVIND KUMAR & ANR.** ..... Respondents

**Advocates who appeared in this case:**

For the Appellant : Mr. Shadab Khan, Adv.

For the Respondents : Mr. S.N. Parashar, Adv. for R1

**CORAM  
HON'BLE MR JUSTICE AMIT MAHAJAN**

**JUDGMENT**

1. The present appeal is filed against the award dated 06.08.2024 (hereafter '**impugned award**') passed by the learned Presiding Officer, Motor Accident Claims Tribunal, Saket Courts, New Delhi in MACT No. 4091/2016.

2. The brief facts of the case are that on 06.03.2012 at about 3:30 PM, the respondent along with his brother Dharamveer were going to Village Northa on a motorcycle when a bus bearing no. UP-81-AF-1146 being driven in a rash and negligent manner came from the front side and hit the motorcycle. As a result of the same, the respondent



fell down on the road and sustained grievous injuries including a fracture in the Tibia amongst other injuries.

3. Subsequently, FIR No. 44/2012 was registered under Sections 279/337/338 of the Indian Penal Code, 1860 and the chargesheet had also been filed against the appellant's driver. By the award dated 18.05.2016, the learned predecessor Tribunal awarded compensation for a sum of ₹1,93,324/- alongwith 9% interest per annum from the date of filing of the petition.

4. This Court, by order dated 24.01.2024, considering that the respondent had suffered permanent disability owing to the injuries sustained in the motor accident that occurred on 06.03.2012, remanded the matter to the tribunal to make a fresh assessment regarding the compensation to be awarded to the respondent under all possible heads.

5. Consequently, by the impugned award, the learned Tribunal awarded compensation for a sum of ₹19,67,946/- to the respondent along with interest @7.5% per annum from the date of filing of the claim petition.

6. The learned counsel for the appellant has limited his challenge to the amount of compensation on grounds that the learned Tribunal erroneously considered disability to the extent of 50% with respect to the whole body by relying on the disability certificate which reflected 70% permanent disability. It has been argued that the learned Tribunal



erroneously awarded ₹50,000/- towards conveyance charges and ₹50,000/- towards special diet without any bills/invoices.

7. He submitted that the learned Tribunal erred in awarding ₹50,000/- towards attendant charges without any bills/invoices. He submitted that the learned Tribunal erred in awarding a sum of ₹1,00,000/- towards loss of marriage prospects. He submitted that the sum of ₹1,42,740/- towards medical expenses has already been awarded to the respondent by the learned predecessor tribunal, and that the same should not be granted to the respondent again. He further submitted that the rate of interest @7.5% is excessive and prays that the same be reduced to @6%.

8. *Per contra*, the learned counsel for Respondent No. 1 opposed the reduction of compensation on the grounds as raised by the appellant. He submitted that the respondent, on the date of the accident, was only around 19 years old and submitted that the learned Tribunal after careful consideration awarded compensation to the respondent under the pecuniary and non-pecuniary heads. He, however, did not dispute the receipt of ₹1,42,740/- towards medical expenses.

### **Analysis**

9. The short question before this Court is whether the compensation that has been awarded to the respondent ought to be reduced or not. It is well-settled that the amount of compensation awarded under the Motor Vehicles Act, 1988 should be just and, to



the extent possible, should fully and adequately restore the claimant to a position as existed prior to the accident. The object being to make good the loss suffered as a result of the accident in a fair, reasonable and equitable manner.

10. By its very nature, when a tribunal or Court is tasked with determining the amount of compensation in accident cases, it inevitably involves a degree of estimation, hypothetical assessments, and a measure of compassion related to the severity of the disability sustained. However, all these factors must be evaluated with objective standards.

#### **Assessment of Functional Disability at 50%**

11. The primary contention of the appellant is that the learned Tribunal erred in treating the permanent physical disability of 70% in relation to the right lower limb as being equivalent to 50% functional disability and further contended that assessment of functional disability must be based on cogent evidence of the actual impact on earning capacity and not solely on the extent of physical disability.

12. The Hon'ble Apex Court in *Raj Kumar v. Ajay Kumar : (2011) 1 SCC 343* considered the effect of permanent disability on actual earning capacity. It was held that the Tribunal should first ascertain the activities the claimant could or could not do as a result of the accident and the effect of the disability on the activities he is likely to carry on in future. The nature of work before the accident and also the age of the victim were held to be relevant factors. The relevant portion of the judgment is reproduced hereunder:



*“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.”*

13. It is thus well settled that the functional disability is to be assessed with reference to the impact of the injury on the earning capacity of the claimant, and not merely on the percentage of physical disability.

14. A perusal of the impugned award reveals that the learned Tribunal has not proceeded solely on the basis of the disability certificate. The learned Tribunal also took into account the activities that the respondent would not be able to perform as a result of the disability. In doing so, the learned Tribunal considered the testimony of PW-2/Dr. Shrey Singhal who testified that due to the 70% permanent disability in the right lower limb and amputation below the right knee, the respondent could only walk with support on plain surface and slope. It was noted that the respondent had got an implantation of femur nail, and that the disability affected the capability of the respondent to stand on both legs, squat on floor, sit



cross-legged, kneel down or turn without support. It was also noted that the respondent plausibly would not be able to climb or board public buses without support.

15. The respondent stated that he was working as a salesman prior to the accident. While the factum of the job carried out by the respondent had not been proved, the learned Tribunal after considering the nature of injuries, the activities that the respondent would not be able to perform, the impact of the accident on the respondent's daily life and the age of the respondent being 19 years at the time of the accident assessed the functional disability @50%.

16. It is the case of the respondent that he was working as a salesman prior to the accident, and that on account of the injury suffered, he has not been able to join his duties or undertake any other job. It is pertinent to note that it is not the case of the Insurance Company that Respondent No.1 is educated or possesses any skill that would enable him to earn a livelihood equivalent to his pre-accident employment. It is common knowledge that job opportunities for semi-skilled or unskilled individuals with such impairments are limited and not always gainful.

17. Evidently, even with a prosthetic limb, the respondent may not be able to perform the work that he was doing at the time of the accident. The prosthetic limb may at best give him the means to live a dignified life but cannot be the basis to presume employment for a



unskilled worker when concededly, the opportunities to work are much less than the number of people available for such works.

18. The learned Tribunal has applied a realistic and pragmatic assessment in concluding that the functional disability would effectively be 50%, and I find no reason to interfere with the same.

### **Conveyance Charges and Special Diet**

19. The next contention of the learned counsel for the appellant is that the learned Tribunal erred in awarding ₹50,000/- towards conveyance charges and ₹50,000/- towards special diet, in the absence of any documentary proof. It is true that the learned Tribunal, in the impugned award noted the absence of receipts to this effect. However, in injury cases, some leeway must be accorded while assessing costs incurred for conveyance and diet, particularly in prolonged treatment involving grievous injuries.

20. The quantum awarded is within reasonable limits and does not call for interference.

### **Attendant Charges**

21. The award of ₹50,000/- towards attendant charges is assailed by the appellant on the ground that it is based on a notional estimate and unsupported by any receipts or documentary proof. However, this Court is not persuaded by such an objection, having regard to the realities that govern caregiving in the unorganised sector. It is well known that attendants engaged by injured persons are often informal



caregivers or even unpaid family members – without any formal contract, wage slips or any receipt. In such circumstances, absence of documentary proof cannot by itself disentitle the injured to just compensation for a need that is so evidently necessitated by the nature of disability.

22. In the present case, Respondent No. 1 suffered a below knee amputation of the right leg and was rendered functionally disabled to the extent of 50%. While there is an absence of specific proof of who was hired or what was paid, this Court cannot lose sight of the fact that an individual with such a disability would undeniably require substantial daily assistance, both during the initial recovery and as part of long term rehabilitation. Notably, that assistance, whether rendered by hired help or by family members, is compensable.

23. In light of the above, the learned Tribunal's assessment under this head is both fair and consistent and by no stretch can be said to be unreasonable and unwarranted.

#### **Loss of marriage prospects**

24. The learned counsel for the appellant contended that the learned Tribunal erred in awarding a sum of ₹1,00,000/- towards loss of marriage prospects. It is pertinent to note that the Hon'ble Apex Court in the case of *Sanjay Kumar v. Ashok Kumar and Another* : (2014) 5 SCC 330 while dealing with the said issue awarded a sum of ₹75,000/-, wherein the claimant was earning ₹3,500/- per month.



25. In the present case, considering that the respondent was only 19 years at the time of the accident, a sum of ₹1,00,000/- towards loss of marriage prospects is a reasonable amount and warrants no interference by this Court.

### **Rate of Interest**

26. The learned counsel for the appellant contended that the award of interest @7.5% by the learned Tribunal is on the higher side, and ought to be reduced to @6%.

27. 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 were entitled to at the time of filing of the claim petition. No worthy ground has been pleaded as to why the rate of interest should be reduced and brought down to @6%.

28. Consequently, in the opinion of this Court, the rate of interest as awarded by the learned Tribunal is reasonable and need not to be interfered with.

### **Medical expenses**

29. The learned Tribunal awarded a sum of ₹1,42,740/- as amount incurred towards medical expenses. It is pertinent to note that a sum of ₹1,42,740/- had also been awarded by the learned predecessor



Tribunal towards medical expenses. The fact that the same had been received by the respondent has not been disputed.

30. Since the charges towards medical expenses had already been awarded, and the same has also been stated to be paid, this Court deems it apposite to deduct the said amount from the total compensation.

### **Conclusion**

31. Upon a consideration of the totality of facts and circumstances, the only ground made out in favour of the appellant is that the medical expenses have been awarded twice to the respondent at a sum of ₹1,42,740/-.

32. The amount of ₹1,42,740/- is therefore deducted from the total compensation awarded at ₹19,67,946/- with 7.5% interest from the date of filing of petition. The appellant is directed to deposit the remaining compensation for a sum of ₹18,25,206/- along with interest in the manner as stipulated by the learned Tribunal in the impugned award within a period of four weeks from date.

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

**AMIT MAHAJAN, J**

**MAY 16, 2025**