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

% ***Date of decision: 06th April 2026***

\+ **MAC.APP. 275/2021& CM APPL. 36743/2021**

RESHMA & ANR. .....Appellant

Through: Mr. Umesh Kumar, Advocate with Ms. Sakshi Mishra, Advocates.

versus

SHRIRAM GENERAL INSURANCE CO. LTD & ORS. .....Respondent

Through: Mr. Kshitij Mittal, Advocate for respondent.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This appeal has been filed seeking enhancement of compensation awarded by the Motor Accidents Claims Tribunal (‘***MACT***’) Karkardooma Courts, New Delhi in MACT No. 65/2018 by award dated 27th February 2020 whereby *Rs.26,25,000/-* along with interest at the rate of 9% per annum from the date of filing of petition was awarded.

2. The accident occurred on 18th April 2016 near *GT Road, Mainpuri, Uttar Pradesh (‘**U.P.**’)*, when the appellant/*Reshma*, mother of injured claimant/*Rahul*, who has otherwise suffered mental disability post the

accident, was standing along with her children, when a tanker bearing registration no. HR-38T-6941, being driven by respondent no.2/driver, struck them causing grievous injuries to injured claimant/*Rahul*. He suffered *83%* locomotor disability in respect of his whole body, *100%* blindness and *90%* mental retardation in respect of his whole body, as per the disability certificate.

3. *Mr. Umesh Kumar*, counsel for appellants, contends that the minimum wages of U.P. have been considered for assessment of benchmark income, whereas, there was no evidence on record to state that injured claimant/*Rahul* was either a resident of U.P. or was working in U.P. To the contrary, appellant/*Reshma*, mother, as well as, injured claimant/*Rahul*, have given their address at *New Ganga Vihar, Gokalpuri, North East, Delhi- 110094*, which is also evident from the Aadhaar Card filed before the MACT.

4. Reference may also be made to the testimony of appellant/*Reshma* as ***PW-1***, where she had placed these documents on record. In her cross-examination, she stated that she had been living in Delhi for the last 10 to 15 years, her husband was working as a labourer in a toy-making factory in *Gokulpuri* and she was working as a maid servant. She had 3 children, *Rahul, Shweta*, and *Himanshi*, with whom she was travelling to her native village in *Mainpuri*, *U.P*, from Delhi, where the accident occurred. There is nothing in cross-examination to suggest and rebut the evidence of ***PW-1***.

5. In these circumstances, there is no reason for MACT to have considered the minimum wages of U.P. as benchmark income.

6. Counsel for Insurance Company has made a plea that no evidence

has been placed to suggest that he was working in Delhi, however, that may not be necessary, considering that minimum wages of an unskilled worker have been taken.

7. Minimum wages of an unskilled worker in Delhi on the date of accident were *Rs. 9,568/-* and should have been considered for computing the compensation.

8. *Mr. Kumar*, counsel for appellants, has raised an additional ground on inadequate non-pecuniary compensation awarded at *Rs.1,00,000/-* for *pain and suffering*. Considering the nature of the injuries, which included mental retardation, blindness, permanent disability, *loss for pain and suffering* should be enhanced.

9. The Supreme Court in ***K.S. Muralidhar v. R. Subbulakshmi and Anr.*** 2024 SCC Online SC 3385, observed that "*pain and suffering*" cannot be captured by any fixed definition, drawing on legal, medical, and philosophical sources to emphasise its deeply subjective and life-altering nature. It recognised that translating such profound human loss into money is an inherently artificial exercise, yet courts must ensure fairness, consistency, and sensitivity to the victim's lifelong deprivation. The Court stressed that in cases of severe or 100% disability, compensation must meaningfully reflect the permanent rupture in the victim's physical, emotional, and existential well-being. Relevant paragraphs are extracted as under:

> "***13.*** *While acknowledging that 'pain and suffering', as a concept escapes definition, we may only refer to certain authorities, scholarly as also judicial wherein attempts have been made to set down the contours thereof.*

13.1 The entry recording the term 'pain and suffering' in P. Ramanatha Iyer's Advanced Law Lexicon reads as under:—

*"**Pain and suffering.** The term 'Pain and suffering' mean physical discomfort and distress and include mental and emotional trauma for which damages can be recovered in an accident claim.*

This expression has become almost a term of art, used without making fine distinction between pain and suffering. Pain and suffering which a person undergoes cannot be measured in terms of money by any mathematical calculation. Hence the Court awards a sum which is in the nature of a conventional award [Mediana, The, [1900] A.C. 113, 116]"

…

13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been highlighted in Heil v. Rankin, as referred to in Attorney General of St. Helenav. AB as under:—

> *"23. This principle of 'full compensation' applies to pecuniary and non-pecuniary damage alike. But, as Dickson J indicated in the passage cited from his judgment in Andrews v. Grand & Toy Alberta Ltd., 83 DLR (3d) 452, 475-476, this statement immediately raises a problem in a situation where what is in issue is what the appropriate level of 'full compensation' for non-pecuniary injury is when the compensation has to be expressed in pecuniary terms. There is no simple formula for converting the pain and suffering, the loss of function, the loss of amenity and disability which an injured person has sustained, into monetary terms. Any process of conversion must be essentially artificial. Lord Pearce expressed it well in H West & Son Ltd. v. Shephard, [1964] A.C. 326 when he said:*

'<u>The court has to perform the difficult and artificial task of converting into monetary damages the physical injury and deprivation and pain and to give judgment for what it considers to be a reasonable sum</u>. It does not look beyond the judgment to the spending of the damages.'

24. The last part of this statement is undoubtedly right. The injured person may not even be in a position to enjoy the damages he receives because of the injury which he has sustained. Lord Clyde recognised this in Wells v. Wells, [1999] A.C. 345, 394H when he said: 'One clear principle is that what the successful plaintiff will in the event actually do with the award is irrelevant."

...

***14.** In respect of 'pain and suffering' in cases where disability suffered is at 100%, we may notice a few decisions of this Court:—*

14.1 In R.D Hattangadi v. Pest Control (India) (P) Ltd. It was observed:

*"**17.** The claim under Sl. No. 16 for 'pain and suffering' and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs. 3,00,000 each under the two heads. The High Court has allowed Rs. 1,00,000 against the claims of Rs. 6,00,000. <u>When compensation is to be awarded for 'pain and suffering' and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have</u>*

> *<u>been taken into consideration</u>. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs. 1,50,000 in respect of claim for 'pain and suffering' and Rs. 1,50,000 in respect of loss of amenities of life. We direct payment of Rs. 3,00,000 (Rupees three lakhs only) against the claim of Rs. 6,00,000 under the heads "'pain and suffering'" and "Loss of amenities of life".*
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> *14.2 This Judgment was recently referred to by this Court in Sidram v. United India Insurance Company Ltd reference was also made to Karnataka SRTC v. Mahadeva Shetty (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed:*
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> > *"18. <u>A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned</u>…"*
>
> (emphasis added)

10. Therefore, compensation on account of *pain and suffering* and *loss of general amenities and enjoyment of life* are enhanced from *Rs.1,00,000/- to Rs.2,50,000/-* each.

11. Counsel for Insurance Company, has raised objections to this, however, it may noted that the appeal filed by Insurance Company being

MAC No. 183/2020 was dismissed by this Court.

12. Revised compensation is, therefore, as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1	Expenditure on Medical Bills (A)	Rs. 2,892/-	Rs. 2,892/-
2	Expenditure on conveyance (B)	Rs. 10,000/-	Rs. 10,000/-
3	Expenditure on special diet (C)	Rs. 10,000/-	Rs. 10,000/-
4	Expenditure on nursing attendant (D)	Rs. 10,000/-	Rs. 10,000/-
5	Income of injured (E)	Rs.7,108/-	Rs. 9,568/-
6	Add: Future prospects (F)	Rs. 2,843/-	Rs. 3,827/-
7	Multiplier (G)	18	18
8	Functional disability (H)	100%	100%
9	Loss of income/Wages (I)	Rs. 42,648	Rs. 57,408/-
10	Loss of future income/future earnings [(E+F) x 12 x G x H] = (J)	Rs. 21,49,416/-	Rs. 28,93,320/-
NON-PECUNIARY LOSS			
11	Pain and suffering (K)	Rs. 1,00,000/-	Rs. 2,50,000/-
12	Loss of amenities of life (L)	Rs. 1,00,000/-	Rs. 2,50,000/-
13	Disfiguration (M)	Rs. 1,00,000/-	Rs. 1,00,000/-
14	Loss of marriage prospects (N)	Rs. 1,00,000/-	Rs. 1,00,000/-
15	Total compensation (A + B + C + D + I + J+ K + L + M + N) = O	**Rs. 26,24,956/- (rounded off to Rs. 26,25,000/-)**	**Rs. 36,83,620/- (rounded off to Rs. 34,84,000/-)**
16	Interest awarded	9%	9%
17	Enhanced amount	**Rs. 10,59,000/-**	

13. For the aforesaid reasons, compensation has been enhanced by *Rs.*

10,59,000/-.

14. It is therefore, directed as under:

(i) Enhanced compensation alongwith 9% interest per annum from the date of filing the petition will be deposited before the MACT within a period of four weeks. It is directed that a lump sum amount of *Rs. 5,00,000/-* shall be released to the claimant from the deposit of enhanced amount within a period of two weeks thereafter. Remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts ('***FDRs***') of *Rs. 25,000/-* each for periods of 3 months, 6 months, 9 months and so on, in succession as maybe calculated. Interest accruing on the said FDRs shall be credited to the designated Savings Bank Account of the claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

15. The appeal is allowed and disposed of accordingly. Pending applications, if any, are rendered infructuous.

16. Copy of this judgement be sent to concerned MACT.

17. Copy of this judgement shall also be sent to concerned bank.

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

(ANISH DAYAL)
JUDGE

APRIL 06, 2026/RK/*sp*