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

% ***Date of decision: 08th September 2026***

\# **CNR No. DLHC012645112018**

\+ **MAC.APP. 814/2018 & CM APPL. 37086/2018**

THE ORIENTAL INSURANCE CO LTD .....Appellant

versus

RAKESH SURTAN & ORS .....Respondents

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\# **CNR No. DLHC010229462019**

\+ **MAC.APP. 558/2019**

RAKESH SURTAN .....Appellant

versus

ORIENTAL INSURANCE COMPANY LTD & ORS .....Respondents

Appearance : Mr. Pankaj Seth, Ms. Shruti Jain & Ms. Vijay Laxmi Mr. Yuvraj Sharma, Advocates for Insurance Company.

Mr. Manish Maini & Ms. Aastha Chauhan, Advocates for claimant.

Mr. R.P.S. Bhatti, Advocate for respondent no.3/registered owner

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. These cross appeals have been filed assailing impugned award dated 07th June 2018, passed by the Motor Accident Claims Tribunal, East District, Karkardooma Courts [‘***MACT/Tribunal***’], in *Suit No. 220/2016*, whereby compensation of *Rs. 3,03,000/-*, along with interest at the rate of 9% per annum, was awarded, in relation to an accident which occurred on 15th July 2011 [‘***impugned award***’].

2. ***MAC.APP. 814/2018*** has been filed by the Insurance Company seeking *recovery rights* whereas ***MAC.APP. 558/2019*** has been filed by the injured/claimant seeking enhancement of the compensation.

3. The said accident resulted in injuries to one, *Rakesh Surtan*, who was *29 years* old at the time of the accident and was working as a ‘*Finance Manager*’ with a salary of *Rs.21,000/-* per month. As a result of the accident, he suffered grievous injuries in the form of ‘*fracture of both bones of his left leg*’, resulting in *16% permanent disability* in relation to his *left lower limb*.

4. *Mr. Pankaj Seth*, counsel for the Insurance Company, contends that the MACT ought to have granted *rights of recovery* to it, since *Vinay Kumar*/driver of the offending vehicle [*respondent no.2 in **MAC.APP. 814/2018***] was not holding a valid driving licence [‘***DL***’] at the time of the accident.

5. The Court has perused the analysis undertaken by the MACT, as set out in *paragraph nos. 42 to 48* of the impugned award, which details the evidence led before the Tribunal regarding verification of the DL. It examined **R1W1**,

Deo Mani Bhartiya, Assistant Regional Transport Officer [‘***ARTO***’], Farrukhabad, Uttar Pradesh [‘***U.P.***’], who relied upon the report, exhibited as **Ex. R3W1/1**, showing that the original record was sent to the Regional Transport Office [‘***RTO***’], Kanpur, and was being examined by a 7 member committee for irregularities. However, there was no specific information in writing in that regard. To the contrary, **R2W2**, *Sanjay Kumar Jha*, Senior ARTO, Enforcement, Farrukhabad, U.P., deposed that the license was subsequently renewed and the RTO Office was maintaining the record of *Vinay Kumar*’*s* DL on its computer system.

6. In view of the above, this Court is not inclined to accept the plea of the Insurance Company.

7. As regards enhancement of the compensation, *Ms. Aastha Chauhan*, counsel for injured/claimant, points out that the MACT did not award any compensation towards ‘*loss of future income*’, on the ground that he was earning *Rs. 36,000/-* per month at the time of the MACT proceedings, which was higher than the income being earned by him at the time of the accident, i.e. *Rs.21,000/-* per month.

8. *Ms. Aastha Chauhan*, counsel for injured/claimant, counters the aforesaid reasoning adopted by the MACT and contends that, at the very least, the loss of his potential earning capacity post-retirement, ought to have been taken into consideration. In this regard, she relies upon the decision of this Court in ***Tata AIG General Insurance Co. Ltd. v. Dipanjan Ghosh,*** 2016 SCC OnLine Del 1528. For ease of reference, the relevant paragraphs from ***Dipanjan Ghosh*** (*supra*) are extracted as under:

> “**4.** *In the face of the fact that there is no loss of*

employment and the claimant has continued to be in service, there is substance in the contention raised by the insurance company. But it cannot be forgotten that there would be loss of future earnings arising out of the disability suffered, once the claimant retires. Ordinarily, the employees even in private service are superannuated at the age of 60 years. In these circumstances, the loss of future earnings due to disability requires to be recalculated on the multiplier of 9.

***5.** Having regard to the fact that there is bound to be increase in the income over the period the claimant continues to serve in the present employment, the element of future prospects would have to be added. Since the loss of future earning capacity is to be computed with reference to the income that would be available at the time of superannuation, the current income is increased by 30% and, thus, the notional income on which future earning capacity may be assessed is calculated as (55,000 × 130 ÷ 100) Rs. 71,500/- per month. The loss of earnings at 40% disability comes to (71,500 × 40 ÷ 100) Rs. 28,600/-. On the multiplier of 9, the total loss of future earnings comes to (28,600 × 12 × 9) Rs. 30,88,800/- rounded off to Rs. 30,90,000/-. Since the Tribunal calculated this portion of the compensation at Rs. 39,60,000/-, the total compensation ordered to be paid has to be reduced by (39,60,000 - 30,90,000) Rs. 8,70,000/-. In this view, the compensation is reduced to (49,20,420 - 8,70,000) Rs. 40,50,420/- rounded off to Rs. 40,51,000/. It shall carry interest at 9% per annum as directed by the Tribunal.*"

(emphasis added)

9. A similar view has also been taken by this Court in ***Govind Singh Mauni v. Tej Bhan***, 2026 SCC OnLine Del 527, wherein the decision of ***Ball v. William Hunts and Sons Ltd.*** (1912) A.C 496, was cited as regards the issue of potentiality of losing income. In ***Govind Singh Mauni*** (*supra*), the

Court recorded as under:

> *"18. The essential principle follows from the House of Lords' decision in Ball v. William Hunts and Sons (supra) which is highlighted in the following extract in National Insurance Co. Ltd. v. Rajbir Singh & Ors (supra):*
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> > *"There is also an opinion of the House of lords that may be relevant to understand this concept. Ball v. William Hunts and Sons Limited, (1912) AC 496, was the case of a workman, who was blinded in one eye. The defect was not visible and he was to have appearance as two-eyed man. He had come to such a disability status when he had sustained an employment injury in which the defective eye had to be removed with the consequences that he could not get employment though physically he was as well as before. The House of Lords held that the incapacity of work included inability to work, or in other words, there is incapacity for work when a man has physical defect which makes his working unsaleable in any market reasonably accessible to him. Applying the same logic, a person who has suffered an injury may not come by immediate loss if he is retained in the same employment and does not lose his job, but in his own saleability elsewhere as a fresh recruit to a new employer, he may come by a serious handicap. That shall come by a serious handicap. That shall be a justification enough to provide for compensation in such types of cases."*
> >
> > *(emphasis added)*
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> *xx*
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> *28. In Ball v. William Hunt & Sons Ltd. (supra), the focus was placed on 'marketability of labour' rather than mere wage continuity. This reasoning was expressly approved by the United States Supreme Court in New York Central Railroad Co. v. Bianc; American Knife Co. v. Sweeting, 1919 SCC OnLine US SC 210, while upholding the validity of compensation for serious*

disfigurement under the New York Workmen's Compensation Law. The U.S. Supreme Court observed that serious physical disfigurement may reasonably and adversely affect a person's ability to obtain or retain employment, and relied upon the reasoning in Ball v. William Hunt & Sons Ltd., (supra), to underscore that diminished employability constitutes a legitimate basis for compensation, independent of immediate loss of earning power.

29. Although Ball v. William Hunt & Sons Ltd. (supra), and the American Knife Co. (supra) decision arose in the context of workmen's compensation statutes, the underlying principle is fully consonant with Indian Supreme Court jurisprudence under the Motor Vehicles Act. The Act mandates the award of "just compensation" under Section 168, which, as emphasised in National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 and Sarla Verma v. DTC, (2009) 6 SCC 121, must be fair, realistic and proximate to the actual loss suffered. Once functional disability affecting earning capacity is established, compensation must be assessed using the multiplier method, irrespective of the fact that the claimant may have continued in service or received increments post-accident.

30. The denial of compensation for loss of future earning capacity solely on the ground that the claimant continues in employment or has not suffered immediate wage loss would be inconsistent with settled Supreme Court jurisprudence. The law recognises that economic vulnerability, reduced employability, and diminished labour-market acceptability and inability to secure employment are real and compensable consequences of permanent disability. Comparative jurisprudence, including Ball v. William Hunt & Sons Ltd. (supra) as approved by the U.S. Supreme Court, reinforces this understanding and supports a principled, forward-looking assessment of loss of earning capacity in motor accident claims.

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35. As regards the multiplier, considering he was 50 years of age and would have retired at the age of 60 years, the principal applied in Desh Raj Singh Gautam v. Sunil Kumar (supra) and Rajbir Singh v. National Insurance Company Ltd., (supra) can be suitably adopted. Therefore, as per National Insurance Company Limited v. Pranay Sethi (supra) and Sarla Verma (Smt.) v. Delhi Transport Corporation (supra), the multiplier of '9' would be applicable.""

(emphasis added)

10. Accordingly, '*loss of future income*' of injured/claimant shall be calculated by taking his income at *Rs.21,000/-* per month; an addition of 40% shall be made towards *future prospects*; functional disability of injured/claimant shall be assessed at 10% and a multiplier of '9' shall be adopted.

11. *Ms. Aastha Chauhan*, counsel for injured/claimant, also raises a challenge to the compensation awarded under non-pecuniary heads; however, considering the nature of his injuries, no further non-pecuniary damages are warranted.

12. Accordingly, the revised compensation shall be calculated as under:

S. No.	Heads of Compensation	Awarded by Tribunal	Awarded by the Court
	Pecuniary Loss		
1.	Compensation towards medical bills (A)	Rs. 50,000/-	Rs. 50,000/-
2.	Expenditure on conveyance and special diet (B)	Rs. 20,000/-	Rs. 20,000/-
3.	Cost of attendant charges	Rs. 8,000/-	Rs. 8,000/-

	(C)		
4.	Income of injured per month (D)	Rs. 21,000/-	Rs. 21,000/-
5.	Loss of Income (E)	Rs. 75,000/-	Rs. 75,000/-
6.	Future Prospects (F)	NIL	Rs. 29,400/- [@40%]
7.	Functional disability	NIL	10%
8.	Multiplier (H)	NIL	9
9.	Loss of future earning capacity (I) [F X 12 X G X H]	NIL	Rs. 3,17,520/-
	Non-pecuniary loss		
10.	Pain and suffering (J)	Rs. 1,00,000/-	Rs. 1,00,000/-
11.	Loss of amenities of life (K)	Rs. 50,000/-	Rs. 50,000/-
12.	Total [A + B + C+ E + I + J+ K]	Rs. 3,03,000/-	Rs. 6,20,520/-
13.	**Enhanced compensation**	**Rs. 3,17,520/-**	
14.	Interest	9%	9%

Directions

13. For aforesaid reasons, compensation has been enhanced by ***Rs.3,17,520/-*** [‘***enhanced amount***’].

14. The enhanced amount, along with interest at the rate of 9% per annum, shall be deposited before the Registrar General of this Court within a period of *six weeks*. The enhanced amount shall thereafter be released in favour of injured/claimant as a lump sum considering that the accident occurred way

back in 2011.

15. *Vide* order dated 11th September 2018, this Court had directed the Insurance Company to deposit the entire awarded amount, along with accrued interest thereon, before the Registrar General of this Court. Further, by way of order dated 03rd May 2019, this Court had directed that the aforesaid deposited amount be released in favour of injured/claimant in terms of the scheme of disbursement specified in the impugned award.

16. Accordingly, if any amount out of originally awarded compensation has still not been released, the same shall be released in favour of the injured/claimant, along with accrued interest thereon, as a lump sum, considering that the accident occurred way back in 2011.

17. The appeals are accordingly disposed of in above terms.

18. Pending applications, if any, are disposed of.

19. Statutory deposit, if any, shall be refunded to the Insurance Company only if the order of deposit has been complied with.

20. Judgement be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

SEPTEMBER 08, 2026/sm/ya