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

% ***Date of decision: 31st July 2026***

\# **CNR No. DLHC016015602015**

\+ **MAC.APP. 880/2015**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Ms. Suman Bagg & Ms. Mouli Sharma, Advocates

versus

SHRI THAN SINGH & ORS .....Respondents

Through: Mr. Manoj Loomba, Mr. Manish Loomba Mr. Vansh Chawla & Mr. Vishant Prakash, Advocates for Respondent no.1
Mr. Jyotindera Kumar and Mr. Sudhir Kumar, Advocates for Respondent no.2

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This appeal has been filed by the insurance company seeking reduction of the compensation awarded by the MACT, Dwarka Courts, *vide* impugned award dated 21st September 2015 in MACT No. 491/13/14, awarding compensation of *Rs. 18,47,608/-* with interest @ 10%.

2. The accident in question occurred on 05th April 2012, in which the claimant, *Than Singh*, sustained grievous injuries when his motorcycle was hit by a DTC bus allegedly being driven rashly and negligently by *Mukesh Kumar*, Respondent No. 1. The front wheel of the bus crushed his right leg, resulting in a fracture of the right shaft of femur and 42% permanent disability.

3. *Ms. Mouli Sharma*, counsel for the insurance company, challenges the impugned award on three counts:

i. There was *contributory negligence* on the part of the injured claimant, as the accident involved a head-on collision.

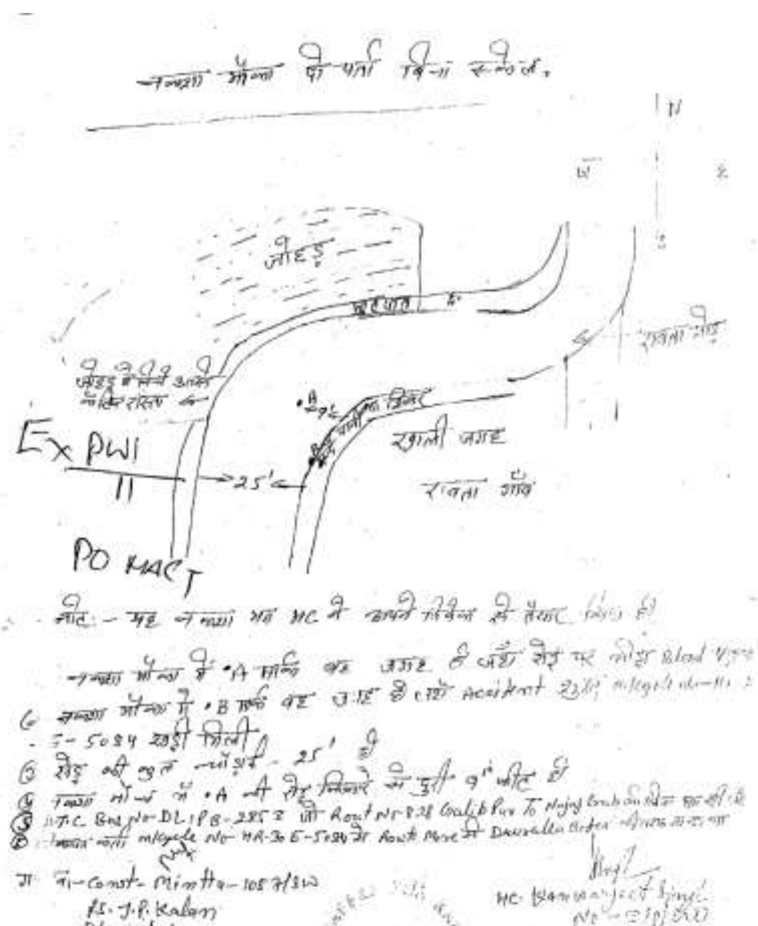
ii. The income of the injured claimant has not been proved to be *Rs.20,000/-* per month. Moreover, it is claimed that he was employed as a Junior Engineer (**'*J.E'*.**) with a contracting firm, *M/s. Pawan Kumar*. However, the record shows that he held only a Bachelor of Arts degree, which throws suspicion on the nature of the job, which has been proposed. Further, even if the monthly income of *Rs.20,000/-* is accepted, a sum of *Rs.5,000/-* ought to have been deducted towards conveyance and telephone expenses.

iii. The injured claimant was 28 years of age at the time of the accident and was not in a permanent job. Therefore, *future prospects* ought to have been granted at 40%, instead of 50%.

<u>On the issue of contributory negligence</u>

4. A perusal of the site plan, ***Ex. PW1/11***, would show that the motorcyclist was coming from *Rawta Mor* and going towards *Village*

Chandu, Haryana. It can also be seen that the road was curved at that point. The point of impact, marked as ***Point 'A'*** in the site plan, was situated *9 feet* from the left side of the road. Since the width of the road was 25 feet, the injured-claimant was well within the left half of the carriageway. Accordingly, it cannot be argued that there could be contributory negligence on the part of the injured-claimant, considering that he was very well within the left part of the road and the DTC bus appears to have failed to negotiate the S-shaped curve properly, which would have resulted in the collision. In fact, ***Point 'B'*** in the site plan indicates the location where the motorcycle was finally found after the collision. The site map for reference is extracted as under:



<u>On issue of quantum</u>

5. *Mr. Manoj Loomba*, counsel for the claimant, argues that the testimony of **PW4** is sufficient to prove the income, which was being received by the injured-claimant, and has been rightly relied upon by the MACT. He further submits that the appointment letter has been exhibited as ***Ex. PW1/8***, and the corresponding vouchers have also been placed on record.

6. The Court has perused the salary slips, the attendance registers, and the appointment letter dated 20th October 2011, all of which formed part of the record before MACT.

7. The attendance register includes the name of the injured-claimant, *Than Singh*. The appointment letter shows that the injured-claimant was appointed on a monthly remuneration of *Rs.20,000/-,* whereby the basic salary was *Rs. 15,000/-,* a conveyance allowance of *Rs.3,000/-,* and a telephone allowance of *Rs.2,000/-.* It is further stated that he was on probation for 6 months and thereafter, upon successful completion, his salary would be *Rs.28,000/-* per month.

8. In this view of the matter, the Court finds no infirmity in the assessment of notional income by the MACT, as the income of the injured claimant can be proved through the testimony of **PW4**, accountant of the firm where he was employed, which is corroborated by the documentary evidence placed on record, including the voucher issued by *M/s Pawan Kumar* to the injured-claimant.

9. As regards the contention of *Ms. Sharma* that the claimant could not have been employed as a J.E. despite possessing only a Bachelor of Arts degree, the same need not be required to be considered. The terminology of the J.E. may be a loose terminology, which might have been used by the private contractor. It is common for private contractors to employ graduates with experience in civil contract work (even though not strictly within the scope of engineering). Therefore, it may have been given the epithet of a Junior Engineer for the purposes of their agency. Accordingly, the income adopted by the MACT is sustained.

10. Considering that the injured-claimant was 28 years old and did not have a permanent job, *future prospects* ought to be computed at ***40***%, instead of *50*%, in terms of the law laid down in ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.*** (2017) 16 SCC 680.

11. Accordingly, revised compensation will be as under:

Sr. No.	Heads	Awarded by the Tribunal	Awarded by this Court
	PECUNIARY LOSS		
1.	Expenditure on Medical Bills and medical treatment (A)	Rs. 3,67,608/-	Rs. 3,67,608/-
2.	Expenditure on conveyance, special diet and (B)	Rs. 20,000/-	Rs. 20,000/-
3	Attendant Charges [C]	Rs. 36,000/-	Rs. 36,000/-
4.	Income of injured per month(E)	Rs. 20,000/-	Rs. 20,000/-
5.	Loss of Income (C) [6 months]	Rs. 1,20,000/-	Rs. 1,20,000/-

6.	Add: Future prospects (F)	50%	40% of Rs. 20,000/- = Rs. 8,000/-
7.	Multiplier (G)	17	17
8.	Functional disability (H)	20%	20%
9.	Loss of future income/future earnings [(E+F) x 12 x G x H] = (I)	Rs.12,24,000/-	Rs. 11,42,400/-
	NON- PECUNIARY LOSS		
10.	Pain and suffering (J)	Rs. 50,000/-	Rs. 50,000/-
11.	Loss of disfigurement, depression and mental state and loss of amenities (K)	Rs. 30,000/-	Rs. 30,000/-
12.	Total compensation (A + B + C + I+ J+ K) = L	Rs. 18,47,608/-	Rs. 17,66,008/-
13.	Interest awarded	9% per annum	9% per annum
14.	Reduced Compensation	Rs. 81,600/-	

12. Accordingly, the compensation is reduced by *Rs. 81,600/-*.

13. *Vide* order dated 20th November 2015, this Court directed the appellant/Insurance Company to deposit the entire awarded compensation with the Registrar General of this Court.

14. Accordingly, the excess compensation (original compensation - revised compensation) along with accrued interest thereon be refunded to the insurance company.

15. The balance amount pending in the FDR's be liquidated and be released to the injured-claimant/respondent no.1 as lump sum, considering it relates to 2012 accident.

16. Accordingly, the appeal is disposed of in the above terms.

17. Pending applications, if any, are rendered infructuous.

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

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

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

(ANISH DAYAL)
JUDGE

JULY 31, 2026/sm/bp