



2026:DHC:2175



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 16th March 2026***+ **MAC.APP. 709/2013**

NATIONAL INSURANCE CO LTDAppellant

Through: Mr. Pankaj Seth, Ms. Vijay Laxmi,
Advocates.

versus

MRS MUNNI & ORSRespondents

Through: Mr. Kishlay Kumar, Advocate for
Respondent no.1.**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed challenging the Award dated 5th June 2013 passed by the Motor Accident Claims Tribunal, Tis Hazari Courts, Delhi ('*MACT*') in Suit No.141/2012, whereby compensation of Rs.6,16,350/- along with interest @ 9% per annum in respect of an accident which occurred on 24th February 2010 within the jurisdiction of P.S. Kashmere Gate.

2. On the day of the accident, claimant was deboarding the bus No.DL-1PB-4949, offending vehicle, driven by respondent no.2/ driver, who suddenly moved the bus in a rash and negligent manner. As a result of which, the injured fell from the bus and sustained grievous injuries. The injured was taken to hospital where MLC was prepared and FIR no.



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229 was subsequently registered under section 279/337 Indian Penal Code, 1860.

3. *Mr. Pankaj Seth*, counsel for Insurance Company, draws attention of the Court to the fact that initially the FIR was not lodged, and the same was lodged only on the directions of the higher authority, as stated in the MACT's award. He states, therefore, that the issue of negligence would hang in balance, as far as the accident is concerned.

4. The MACT, however, while determining *issue no.1*, has relied upon the testimony of **PW1** (*the injured/claimant*) as well as **PW3**, who was accompanying the claimant on the day of the accident. Considering that there was an eye-witness, the MACT concluded that there was a uniformity in the testimonies of the witnesses. Also, the injured/claimant was taken to Bara Hindu Rao Hospital and MLC was prepared, which records that the injuries were sustained due to the road traffic accident.

5. It is well settled by a catena of judgments of the Supreme Court that claims under the Motor Vehicles Act are to be established on the touchstone of preponderance of probabilities and not beyond reasonable doubt. Where the evidence renders one version more probable than not, the claimant's burden stands discharged. Reliance in this regard may be placed on the judgment of *Bimla Devi v. Himachal RTC*, (2009) 13 SCC 530, which was subsequently followed in *Geeta Dubey v. United India Insurance Co. Ltd.*, 2024 SCC OnLine SC 3779. The relevant paragraph of *Bimla Devi* (*supra*) is extracted as below:

“15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular



manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties.”

(emphasis supplied)

6. In the present case, this Court is of the opinion that the contention of Insurance Company regarding delay in registering the FIR does not dislodge the finding of negligence by the MACT. Applying the principle laid down in ***Bimla Devi*** (*supra*), the standard of proof in motor accident claims is that of preponderance of probabilities and not proof beyond reasonable doubt. The consistent testimonies of **PW1** and **PW3**, coupled with the MLC prepared at Bara Hindu Rao Hospital recording injuries arising out of a road traffic accident, render the claimant’s version more probable. Accordingly, the finding of negligence arrived at by the MACT warrants no interference.

7. The disability as per the Disability Certificate was assessed at 40% in relation to the left lower limb. It was also noted by the MACT that the period of treatment continued for about 10 months and, therefore, awarded amounts for *special diet*, *conveyance* and *loss of income*. The injured claimant was employed in the Municipal Corporation of Delhi (***MCD***) but had taken voluntary retirement on her own because of the disability. On this account, the *loss future income* was awarded at a lump sum of *Rs.2,00,000/-*.

8. The Court has perused the MACT award, which records that there



was fracture of neck of fibula bone and fracture of 4th & 5th metatarsal of left leg with advice of daily dressing, limb elevation and medications. The various dates on which the medical review had to be allocated, and treatment continued has been noted in *paragraph no.10* of the MACT's award; Disability Certificate assessing 40% disability in relation to left lower limb has been filed on record.

9. *Mr. Pankaj Seth*, counsel for appellant, assails award of *loss of future income* granted at lump sum of Rs. 2,00,000/- on account of voluntary retirement.

10. The salary of the claimant was Rs.19,440/- in December 2010. On the assumption that she would suffer financial loss in terms of re-employment, a lump sum was amount awarded.

11. The Court is not inclined to accept the argument of counsel for appellant in this regard. Reliance can be placed on decision ***Govind Singh Mauni v Tej Bhan & Ors.*** 2026: DHC:1020 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. 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):

“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.

... 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.”

(emphasis supplied)

12. In the present case, this Court finds that the principle laid down in ***Ball v. William Hunt & Sons Ltd.***(supra) is squarely applicable, wherein the emphasis is on the “*marketability of labour*”. Though the claimant was employed with MCD and took voluntary retirement, the 40% permanent disability in the left lower limb would affect her ability to secure employment in any market reasonably accessible to her. Accordingly, even in case of voluntary retirement the diminished



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employability and reduced saleability in the labour market justify the lumpsum grant of Rs. 2,00,000/- towards *loss of future income*.

13. The Court does not see any reason to interfere in this award, which awarded just and reasonable compensation, taking into account principle of preponderance of probabilities and marketability of labour.

Direction

14. *Vide* order dated 13th August 2013, this Court stayed the impugned award subject to the deposit of entire awarded amount along with up-to-date interest accrued with the Registrar General of This Court. Further, release of 70% of the awarded amount was directed in favour of the claimant as per the terms and conditions fixed by the Tribunal and the remaining amount was to be kept in Fixed Deposit Receipts with auto renewal mode.

15. The Registrar General of this Court is directed that the balance amount with accrued interest shall be released in favour of the claimant as per the terms and conditions fixed by the Tribunal.

16. Therefore, in view of above, appeal stands dismissed.

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

18. Statutory deposit, if any, be refunded to the appellant.

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

**(ANISH DAYAL)
JUDGE**

MARCH 16, 2026/ak/zb