



2026:DHC:2304



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

% ***Date of decision: 19th March 2026***

+ **MAC.APP. 292/2021**

SH. HARPHOOL

.....Appellant

Through: Ms. Aastha Chauhan, Advocate.

versus

CHOLAMANDALAM MS GEN INSURANCE CO. LTD. AND
ORS

.....Respondents

Through: Ms. Mouli Sharma, Advocate for
Ms. Suman Bagga, Advocate for
Respondent no.1.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J (ORAL)

1. This appeal has been filed seeking enhancement of the compensation awarded by Award dated 5th June 2021, passed by the Motor Accident Claims Tribunal, South-West District, Dwarka Courts, New Delhi (*'MACT/Tribunal'*) in *MACP No.571/2017*, which awarded a compensation of *Rs.7,95,000/-* (Rs. 8,20,000/- - Rs 25,000/- given *vide* interim award dated 19.05.2018), along with interest of *9% per annum*.

2. *Ms. Aastha Chauhan*, counsel for appellant, seeks enhancement on three counts:

- i. That the minimum wages were taken as that of the unskilled worker at *Rs.9,724/-* per month, whereas there was enough



2026:DHC:2304



material on record, including his deposition that he was working as a *mason* and, therefore, at the very least, minimum wages of a skilled worker ought to have been taken at *Rs.11,830/-* per month.

- ii. That the permanent disability was certified at 48% as case of injured was of *Malunited Fracture Proximal Right Tibia and Fibula* in relation to right lower limb; however, functional disability was taken at 24%.
- iii. That the non-pecuniary damages, for pain and suffering, loss of amenities and disfiguration were inadequate.

3. *Ms. Chauhan*, counsel for appellant, has drawn attention to the statement recorded before the MACT on 18th November 2019 of injured/*Har Phool Singh*, who stated that he was earning about *Rs.16,000/-* to *Rs.17,000/-* per month as a *mason* and his monthly expenditure is *Rs.10,000/-*. He had also filed his evidence by way of affidavit, where he stated that he was doing private service and was earning *Rs.15,000/-* per month. In his cross-examination by the Insurance Company, he reiterated that he was working as a *mason*, when confronted with the suggestion that he was not employed.

4. There being no evidence otherwise to rebut his statement that he was not working as a mason, the Court is inclined to accept the contention of the appellant in this regard. In this context, it is also noted that the appellant was *49 years of age* on the date of the accident, i.e. 31st January 2017, and therefore would have been a senior worker at that stage.

5. Counsel for appellant has adverted to the decision of the Coordinate Bench of this Court in *Neelam Devi & Ors v. Bikramjeet Singh & Ors*. 2014:DHC:1172, wherein, in a similar situation, the deceased, who was



2026:DHC:2304



working as a mason and was 39-40 years old, was awarded the minimum wage of a skilled worker for lack of any further evidence.

6. In these circumstances, the Court is inclined to consider that the minimum wages ought to be taken at **Rs.11,830/-**, considering his vocation as a *mason*.

7. As regards the functional disability, the assessment at 24% may not be apposite, considering that if the vocation of the injured was that of a *mason*, it would have been greatly affected by the 48% permanent disability in relation to his *right lower limb*.

8. The Court again notes that, being 49 years of age on the date of the accident, he would have been unable to reconfigure his livelihood with the disability of 48% in relation to *right lower limb*, considering that the job of a mason involves squatting, climbing, and moving across various construction sites. Therefore, his livelihood would have been seriously diluted and eroded.

9. Accordingly, disability ought to have been considered at 40%.

10. As regards compensation in non-pecuniary heads, the amount which has been awarded for *pain and suffering*, be enhanced to **Rs.1,00,000/-** and for *loss of amenities* to **Rs.1,00,000/-**, considering the circumstances faced by the claimant.

11. Accordingly, the compensation is re-computed as under:

S. No.	Compensation under various heads	Amount awarded	Re-computed amount
1.	Expenditure on treatment	Rs. 1,39,328/-	Rs. 1,39,328/-
2.	Expenditure on conveyance	Rs. 15,000/-	Rs. 15,000/-
3.	Expenditure on special diet	Rs.15,000/-	Rs.15,000/-
4.	Cost of attendant	Rs. 15,000/-	Rs. 15,000/-
5.	Loss of Income	Rs. 29,172/- [Rs. 9,724 x 3]	Rs. 35,490/- [Rs. 11,830/- x 3]



2026:DHC:2304



6.	Monthly income of injured(A)	Rs. 9,724/-	Rs. 11,830/-
7.	Future Prospect(B)	Rs. 2,431/- [25% of Rs. 9,724/-]	Rs. 2,957.50 [25% of Rs. 11,830/-]
8.	Multiplier (C)	13	13
9.	Functional Disability (D)	24%	40%
10.	Loss of Future Income [E=(A+B)x12xCxD]	Rs. 4,55,083.2/-	Rs. 9,22,740/-
11.	Compensation for mental and physical shock	Rs. 20,000/-	Rs. 20,000/-
12.	Pain and Suffering	Rs. 50,000/-	Rs. 1,00,000/-
13.	Loss of amenities of life	Rs. 80,000/-	Rs. 1,00,000/-
14.	Total	Rs. 8,18,583.20/- Rounded off to Rs. 8,20,000/-.	Rs. 13,62,558/- Rounded off to Rs. 13,63,000/-

12. Enhanced compensation, along with accrued interest @ 9% per annum, be deposited by the Insurance Company before the MACT within a period of four weeks and be released to the claimants within a period of four weeks thereafter, as per the directions of MACT in the impugned award.

13. Notwithstanding the directions passed hereinabove, the right of recovery granted to the Insurance Company shall remain unaffected and continue to operate in terms of the Award passed by the MACT.

14. Appeal stands disposed of with above directions.

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

16. Statutory deposit, if any, be refunded to appellant.

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

(ANISH DAYAL)
JUDGE

MARCH 19, 2026/ak/bp