



2026:DHC:1906



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 25th February 2026*+ **MAC.APP. 1155/2018 & CM APPL. 54122/2018**

UNITED INDIA INSURANCE CO LTDAppellant

Through: Ms. Suman Bagga & Ms. Mouli
Sharma, Advs.

versus

RAJMAL KAUSHIK & ORSRespondents

Through: Ms. Tejaswini Verma and Ms.
Manika Gaba, Advocates for R-1
Mr. Sanjay Rathi, Adv.Mr. Vikrant Nilesh Goyal, Mr.
Yash Basoya, Mr. Rakshit Tyagi,
Mr. Kunal Dixit, Advs. for R-3**CORAM:****HON'BLE MR. JUSTICE ANISH DAYAL****JUDGMENT****ANISH DAYAL, J (ORAL)**

1. This appeal has been filed by Insurance Company challenging the award dated 27th October 2018 passed by the Motor Accidents Claims Tribunal, North West District, Rohini Courts, Delhi [*'Tribunal'*] in *MACT Petition No.103/12*, whereby a compensation of Rs.10,45,777/- was awarded with interest @ 9% per annum.

Incident

2. On 07th December 2011 at about 5:00 a.m., the claimant/respondent



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no. 1, *Sh. Rajmal Kaushik*, was returning from *Pitampura, Delhi* to his residence on a motorcycle bearing registration no. *DL-8S-AA-8687*. When he reached opposite *C & D Block, Shalimar Bagh, Ring Road*, a Delhi Transport Corporation (DTC) bus bearing registration no. *DL-IPC-7357*, plying on Route No. 883 and being driven by respondent no. 2 in a rash and negligent manner, struck the motorcycle from behind. As a result, the claimant fell onto the road and sustained grievous injuries.

3. Claimant/Injured was immediately removed to *Jaipur Golden Hospital, Delhi*, where he remained admitted from 07th December 2011 to 12th December 2011. **FIR No. 438/2011** dated 07th December 2011 under Sections 279/337 of the Indian Penal Code 1860 [IPC] was registered at Police Station *Shalimar Bagh* with respect to the said accident. The Detailed Accident Report [DAR] dated 18th February 2012 was filed by the Investigating Officer and was treated as a claim petition under Section 166(4) of the Motor Vehicles Act, 1988, against the driver, owner and insurer [*appellant herein*] of the offending bus. The claimant, aged about 49 years at the time of the accident, was employed as a *Beldar* with the Delhi Development Authority [**DDA**] earning *Rs. 19,045/-* per month. He suffered *post-traumatic stiffness of the right knee and right ankle* and was assessed to have sustained 26% permanent physical disability in relation to the *right lower limb*.

Analysis

4. *Ms. Suman Bagga*, counsel for Insurance Company, has challenged computation of impugned award to the extent of calculation for *loss of future income*. It has been contended that, as per the salary slip exhibited



as **Exhibit PW-4/A**, and produced by the Executive Engineer, DDA, injured/claimant was working as a *Beldar* and, on the date of accident being 7th December 2011, net salary would be *Rs.19,045/-* in that month.

5. Said salary was incorporated while calculating the *loss of income* for 149 days when injured/claimant was on leave, as is evident from *paragraph 10* of the impugned award. However, while calculating the *loss of future income*, the Tribunal took into account **Form 16** filed for Assessment Year 2012-2013, and gross income was taken as *Rs.2,76,856/-*, and therefore monthly income was calculated at *Rs.23,071/-*.

6. It is contended that once the salary slip was duly exhibited and endorsed by the Executive Engineer (DDA) and proved by testimony of **PW-4** from office of the Executive Engineer, DDA, Narela, the question of adopting two different figures for income cannot be sustained. Accordingly, even for the purpose of *loss of future income*, amount of *Rs.19,045/-* per month ought to be considered.

7. *Ms. Suman Bagga*, counsel, further states that the injured/claimant continues to be in service with DDA and, therefore, there has been no loss of income to justify the application of the multiplier of '13'. Instead, at best, multiplier of '9' ought to have been adopted, which can be considered for post-retirement period.

8. In support, reliance is placed on following decisions of this Court wherein it has been held that where an injured/claimant continues in gainful employment despite disability, the appropriate multiplier is to be applied only to the post-retirement period, and *loss of future earning capacity* must be computed with reference to the income at the time of



superannuation, including future prospects, rather than treating the disability as resulting in an immediate loss of earning. For ease of reference relevant paragraphs of these judgements are extracted as under:

a. ***Desh Raj Singh Gautam v. Sunil Kumar And Ors.*** 2016:DHC:415:

“4. It is noted that the tribunal awarded lumpsum amount of ₹2 Lakh on account of loss of future income due to disability. This was not a correct approach. Admittedly, the claimant was a regular employee of MTNL. It is conceded by the counsel representing him that he would continue in service till he attains the age of 60 years and, thus, there would be no loss of income till that stage. However, the loss of income post retirement will have to be appropriately computed. Since the retirement would occur at the age of 60 years, it had to be calculated with the multiplier of 9. Computed thus, the loss of future earnings on account of disability to the extent of 25% would come to (₹19,000 x 25/100 x 12 x 9) ₹5,13,000/-. Since the tribunal had awarded only lumpsum of ₹2 Lakh, the award deserves to be enhanced by ₹3,13,000/-. Ordered accordingly. Needless to say, it shall carry interest as levied by the tribunal.”

(emphasis added)

b. ***TATA AIG General Insurance Co. Ltd. v. Sh. Dipanjan Ghosh***

2016:DHC:1821:

“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 $(55,000 \times 130 \div 100)$ ₹71,500/- per month. The loss of earnings at 40% disability comes to $(71,500 \times 40 \div 100)$ ₹28,600/-. On the multiplier of 9, the total loss of future earnings comes to $(28,600 \times 12 \times 9)$ ₹30,88,800/- rounded off to ₹30,90,000/-. Since the Tribunal calculated this portion of the compensation at ₹39,60,000/-, the total compensation ordered to be paid has to be reduced by $(39,60,000 - 30,90,000)$ ₹8,70,000/- . In this view, the compensation is reduced to $(49,20,420 - 8,70,000)$ ₹40,50,420/- rounded off to ₹40,51,000/-. It shall carry interest at 9% per annum as directed by the Tribunal.”

(emphasis added)

9. In order to avoid any duplication of amounts being granted to claimant, who continues to be secure in his employment with DDA, the submission of counsel for Insurance Company is acceptable. Accordingly, multiplier of ‘9’ shall be taken.

10. Other aspects of compensation will remain unchanged, except for non-pecuniary components, which ought to be enhanced to accommodate the distress and deprivation caused to the injured.

11. Compensation is now recomputed as under :



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SR. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
PECUNIARY LOSS			
1	Expenditure on treatment (A)	Nil	Nil
2	Expenditure on conveyance (B)	Rs.20,000 /-	Rs.20,000/-
3	Expenditure on special diet (C)	Rs.20,000 /-	Rs.20,000/-
4	Cost of nursing / attendant (D)	Rs.35,000 /-	Rs.35,000/-
5	Loss of earning capacity (E)	Rs.7,01,812 /-	Rs. 4,01,088/-
6	Loss of income (F)	Rs. 81,950/-	Rs.81,950/-
7	Any other loss which may require any special treatment or aid to the injured for the rest of his life (G)	Nil	Nil
8	Medical Expenses	Rs.87,015/-	Rs.87,015/-
NON PECUNIARY LOSS			
8	Compensation for mental and physical shock (H)	Nil	Nil
9	Pain and suffering (I)	Rs.50,000/-	Rs.1,00,000/-
10	Loss of amenities of life (J)	Rs.50,000/-	Rs.1,00,000/-
11	Disfiguration (K)	Nil	Nil
12	Loss of marriage prospects (L)	Nil	Nil
13	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc. (M)	Nil	Nil
DISABILITY RESULTING IN LOSS OF EARNING CAPACITY			
14	Percentage of disability assessed and nature of disability as permanent or temporary	26% permanent disability	26% permanent disability
15	Loss of amenities or loss of expectation of life span on account of disability	Nil	Nil
16	Percentage of loss of earning capacity in relation to disability	15%	15%



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17	Loss of future income (Income X% Earning capacity x Multiplier)	Rs.7,01,812/- [Rs.23,071 + 30% x 12 x 13 x 15%]	Rs. 4,01,088/- [Round of Rs.4,01,087.7/-] [Rs. 19,045/- + 30% x 12 x 9 x 15%]
	TOTAL COMPENSATION	RS. 10,46,000/- [Round of Rs.10,45,777]	RS.8,45,053/-
	INTEREST AWARDED	9%	9%

12. *Vide* order dated 20th December 2018, entire compensation with accrued interest stood deposited by the Insurance Company before the Registry of this Court.

13. Excess amount shall be refunded to Insurance Company; balance amount shall continue to be retained in Fixed Deposit Returns [*FDRs*] and disbursed in terms of directions in impugned award.

14. Rs.2,00,000/- be released upon dilution of FDRs, and balance amount shall be retained in form of FDRs.

15. A copy of this judgment be sent to the concerned Tribunal.

16. Accordingly, the appeal stands allowed and disposed of.

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

18. Statutory deposit (if any) shall be refunded to appellant.

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

ANISH DAYAL, J

FEBRUARY 25, 2026/sm/tk