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

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***Decided on: 01.12.2025***

+ MAC.APP. 627/2024

KUSUM DEVI

.....Appellant

Through: Mr. Sunil Kumar Verma, Advocate  
(VC)

versus

UTTAR PRADESH STATE ROADWAYS TRANSPORT  
CORPORATION AND ANR.

.....Respondents

Through: Mr. Shadab Khan and Mr. Waseem  
Ahmad, Advocates for R-1/UPSRTC**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The appellant, who was the claimant before the Motor Accident Claims Tribunal ["Tribunal"] in MACT No.175/2019, seeks enhancement of the compensation awarded by the Tribunal by judgment dated 05.07.2024 in respect of a road accident in which she suffered grievous injuries.
2. The facts of the case, as recorded in the impugned award, are that on 27.11.2018, the appellant and her husband were travelling from Agra to Village Awakhera by a bus bearing No. UP-85AH-9116. The bus, owned by respondent No. 1, was being driven by respondent No. 2. At about 3:30 P.M., when the appellant was alighting from the bus, it is alleged that the driver suddenly drove the bus, causing the rear tyres to run over her legs and resulting in grievous injuries. She also suffered head injuries. The appellant was 40 years old at the time of the accident.



3. The appellant was treated at Nayati Medicity, Mathura and remained admitted therein from 27.11.2018 to 05.12.2018. She was then shifted to HAH Centenary Hospital, Hamdard Institute of Medical Sciences and Research, Hamdard Nagar, New Delhi. She remained admitted in the said hospital from 06.12.2018 to 01.12.2019. Both her legs were amputated from above the knee. The claimant has also placed on record a report of medical examination issued by Pt. Madan Mohan Malviya Hospital, Delhi, (Ex. PW-1/7), which assesses her physical disability at 89% permanent physical disability (non-progressive/not likely to improve), recording that both her legs have been amputated above the knee. A photograph of the appellant has also been placed on record.

4. The accident resulted in a FIR (FIR No.0928/2018) being registered against respondent No.2 on 27.11.2018 at Police Station Nauhjeeel, District Mathura, Uttar Pradesh, under Sections 279/338 of the Indian Penal Code, 1860. After investigation, a chargesheet has also been filed.

5. Alleging rash and negligent driving on the part of the driver of the vehicle, the appellant filed a claim petition against respondents No.1 and 2 herein before the Tribunal. The Tribunal found in her favour on the question of rash and negligent driving, and awarded a sum of Rs.22,72,670/- with simple interest at the rate of 9% per annum, under the following heads:

<b>"Sl.no.</b>	<b>Pecuniary loss :-</b>	<b>Quantum</b>
1.	<b>(I) Expenditure on treatment :</b> having regard to material on record including documents as discussed above.	Rs.3,22,120/-
	<b>(ii) Expenditure on Conveyance :</b>	Rs.30,000/-
	<b>(iii) Expenditure on special diet :</b>	Rs.50,000/-
	<b>(iv) Cost of nursing / attendant :</b> considering that the petitioner 'has lost both her lower limbs, it is believed that she shall require a nursing attendant	Rs.5,00,000/-



	<i>throughout her remaining life. The compensation under this head IS accordingly fixed by approximation.</i>	
	<b>(v) Loss of income :</b> <i>Compensation towards loss of income, as noted above (Rs. 7675X2)</i>	Rs.15350/-
	<b>(vi) Cost of artificial limbs (if applicable) :</b> <i>Since no bill raised or proof filed.</i>	NA
	<b>(vii) Any other loss/ expenditure:</b>	Not applicable
2.	<b>Non-Pecuniary Loss :</b>	
	<b>(I) Compensation of mental and physical shock :</b>	Rs.1,00,000/-
	<b>(ii) Pain and suffering :</b>	Rs.1,00,000/-
	<b>(iii) Loss of amenities of life :</b>	Rs.50,000/-
	<b>(iv) Disfiguration:</b>	NA
	<b>(v) Loss of marriage prospects:</b>	Nil
3.	<b>Disability resulting in loss of earning capacity</b>	
	<b>(I) Percentage of disability assessed and nature of disability as permanent or temporary</b>	<i>The petitioner has suffered 89% permanent disability in relation to both limbs above knee</i>
	<b>(ii) Loss of amenities or loss of expectation of life span on account of disability :</b>	<i>Already granted</i>
	<b>(iii) Percentage of loss of earning capacity in relation to disability:</b>	<i>Already granted</i>
	<b>(iv) Loss of future Income:</b> <i>The functional disability is taken as 80%. Injured was about 40 years old at the time of accident, hence multiplier of 15 is applicable.</i>	<i>80% of ((7675- X 12)X15} =Rs.11,05,200/-.</i>
	<b>Total Compensation</b>	Rs.22, 72,670/-
	<b>Deduction, if any,</b>	Nil.
	<b>Total Compensation after deduction</b>	Nil.
	<b>Interest:</b>	<i>All above amount shall be along with interest @ 9% per annum on total principal award amount from date of filing of petition till actual realization.”</i>



6. Mr. Sunil Kumar Verma, learned counsel for the appellant, submits that the quantum of compensation awarded to the appellant requires to be enhanced on the following grounds:

- a) Loss of earning capacity has been awarded to the appellant assessing functional disability at 80% which, according to the appellant, is inadequate.
- b) It is submitted that in assessing loss of income and loss of future income, the Tribunal has erred in adopting minimum wages payable in Uttar Pradesh, whereas the appellant was a resident of Delhi.
- c) The Tribunal has failed to estimate and award any compensation towards cost of artificial limbs and future medical expenses.
- d) The compensation on non-pecuniary ground is inadequate, having regard to the nature of the claimant's injuries.

7. I have heard Mr. Verma and Mr. Shadab Khan, learned counsel for respondent No. 1 - U.P.SRTC, on each of these aspects, which are dealt with hereinbelow:

**a) ASSESSMENT OF FUNCTIONAL DISABILITY**

8. The judgment of the Supreme Court in *Raj Kumar v. Ajay Kumar & Anr.*,<sup>1</sup> draws a distinction between the physical disability suffered by an injured victim and the resultant functional disability, which reflects in the estimated loss of earning capacity. The Court has laid down that such an assessment must depend upon the occupation of the injured claimant, which has to be correlated with the nature and extent of injuries, to arrive at an estimate of functional disability, which the respondents are required to



compensate.

9. Adopting this method in the present case, it may be noted that the appellant gave evidence before the Tribunal as PW-1. In her affidavit of evidence, she stated as follows:

**“5. I say that the deponent is housewife and doing agricultural work and earning about Rs.15,000/- per month from the Agricultural land.**

**6. I say that due to the said accident, the deponent is not able to do her daily routine work and she is in need of Assistant for her daily routine work, for which she is incurred money from the date of accident.”**<sup>2</sup>

Although the appellant was cross-examined by the learned counsel for the respondents, there was no cross-examination with regard to her occupation as a housewife, and that she was doing agricultural work. The only evidence elicited in cross-examination with regard to her vocation, was her statement that she was not doing “any work/job”, which appears in the following extract of her testimony:

*“I am illiterate person. I was met with accident on 27<sup>th</sup> of November but I do not remember the year. I am permanent resident of Mathura U. P.. I met with an accident at Bazna, U. P.. I was with my husband at the time of accident. We were going to Agra for medical treatment in Roadways bus. I do not remember the bus registration number. I am asthmatic. It is correct that I was getting down from the offending vehicle at Bazna Bus Stand at the time of accident. The offending vehicle stopped at Bazna Bus stand. When the all passengers deboarded the bus thereafter bus started. No other matter is pending except this matter anywhere. **I am not doing any work/job. I am not living in Delhi at present.** It is wrong to suggest that the accident was not occurred due to negligence of bus driver. It is wrong to suggest that the all the medical documents are forged and fabricated and without any basis. It is wrong to suggest that I am deposing falsely and not entitled to any compensation.”*<sup>3</sup>

10. The Tribunal has dealt with this evidence as follows:

*“...It has neither been pleaded that the petitioner was employed nor has*

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<sup>1</sup> (2011) 1 SCC 343.

<sup>2</sup> Emphasis supplied.

<sup>3</sup> Emphasis supplied.



*any evidence been led by the petitioner in that regard. No educational qualification record of the petitioner has been filed. Petitioner is thus assumed to be falling under the category of an unskilled labour. However keeping in view that without lower limbs, it is difficult for any person not only to work but also to carry out basic chores, **functional disability** of the petitioner is taken as **80%**.”*

11. It may be noticed from the above that the Tribunal has proceeded on the basis that the deponent is a housewife, but missed the evidence that she was also doing agricultural work, although this was also not challenged in cross-examination.

12. Having regard to the fact that both of the appellant's lower limbs have been amputated above the knee, the Tribunal correctly held that it is difficult for her to carry out basic chores. This applies both to household tasks and agricultural work. Therefore, the assessment of functional disability by the Tribunal at 80% is enhanced to 90%.

***b) APPLICATION OF MINIMUM WAGES***

13. The Tribunal's computation of loss of income and loss of future income based on minimum wages, is not under challenge. However, Mr. Verma submits that the minimum wages should have been taken into account as prevalent in Delhi, rather in the State of Uttar Pradesh.

14. On this aspect, I am unable to agree. Before the Tribunal, the claimant had stated her permanent address in Uttar Pradesh, as well as her address in Delhi. However, in her evidence, it is not stated that she was, in fact, a resident of Delhi. To the contrary, her evidence was that she was doing agricultural work and was earning Rs.15,000/- per month from agricultural land. This evidence is inconsistent with the suggestion that she was, in fact, a resident of Delhi.

15. The Tribunal has correctly found that there was no evidence with



regard to her actual income and therefore, proceeded on the basis of minimum wages in the State of Uttar Pradesh.

16. However, there is another aspect which requires consideration. The Tribunal has proceeded on the basis that the minimum wages applicable to the appellant would be those of an unskilled labourer, contrary to the judgment of this Court in *Jagdish & Ors. v. Om Pal Singh & Ors.*<sup>4</sup> This Court has held that the income of a housewife is to be taken at par with the minimum wages of a skilled labourer. This requires evidence to be adduced before the Tribunal with regard to the minimum wages of a skilled labourer, prevalent in the State of Uttar Pradesh on the date of the accident. For this purpose, the matter is remanded back to the Tribunal.

17. However, it is made clear that the wages applicable to the State of Uttar Pradesh would be the basis of computation.

**c) FUTURE MEDICAL EXPENSES AND COST OF ARTIFICIAL LIMBS**

18. On both these aspects, the Tribunal has declined compensation on the ground that no bill was raised or proof filed with regard to future medical expenses or the cost of artificial limbs. Mr. Verma requests that the matter may be remanded back to the Tribunal for evidence to be taken on this aspect. Such claims have been specifically allowed by the Supreme Court in *Mohd. Sabeer v. Regional Manager, U.P. State Road Transport Corporation*<sup>5</sup>, and by this Court in *Oriental Insurance Co. Ltd. v. Master Anshu Kumar & Ors.*<sup>6</sup>

19. Having regard to the fact that the appellant has suffered amputation in

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<sup>4</sup> MAC. APP. 279/2019, decided on 10.12.2024.

<sup>5</sup> (2023) 20 SCC 774.

<sup>6</sup> 2023 SCC OnLine Del 5416.



both her legs, I consider it appropriate it to remand back this aspect to the Tribunal. Both parties will be permitted to lead further evidence on future medical expenses and the appellant's claim for cost of artificial limbs.

**d) NON-PECUNIARY HEADS**

20. The Tribunal has granted compensation for mental and physical shock, and pain and suffering, at Rs.1,00,000/- each, as well as for loss of amenities of life at Rs. 50,000/-, but has not granted any compensation for disfiguration. The loss of both legs is a very significant loss of amenity, and the appellant was 40 years of age at the time of the accident, with a long span of life ahead of her. In my view, this entitles the appellant to higher compensation on each of these grounds. The compensation under the non-pecuniary heads is re-assessed at Rs. 2,50,000/- each for mental and physical shock, pain and suffering, loss of amenities of life, and disfiguration, amounting to a total of Rs.10,00,000/-, instead of Rs.2,50,000/- granted by the Tribunal.

**e) CONCLUSION**

21. In view of the above discussion, the appeal is disposed of with the following directions:

- a) The functional disability of the appellant for the purposes of loss of future income is modified to 90%.
- b) The non-pecuniary damages are enhanced from Rs.2,50,000/- to Rs.10,00,000/-.
- c) The loss of income and loss of future income of the claimant will be assessed on the basis of minimum wages applicable in the State of Uttar Pradesh, for skilled workers.



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- d) The matter is remanded back to the Tribunal for re-computation of the compensation on the basis of the aforesaid directions.
  - e) The Tribunal will also permit the parties to lead evidence with regard to future medical expenses and cost of artificial limbs and may make an award on those claims as well.
22. Accordingly, the present appeal stands disposed of.

**PRATEEK JALAN, J**

**DECEMBER 1, 2025**

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