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

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***Decided on: 10.12.2025***+ **MAC.APP. 37/2023 & CM APPL. 68115-68116/2024****NIDHI GULATI****.....Appellant**Through: **Mr. G.D. Kathuria and Mr. Neeraj  
Gahlaut, Advocates.**

versus

**ANIL KHOSLA & ANR.****.....Respondents**Through: **Ms. Kanupriya Tiwari, Advocate for  
R-2.****CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The appellant – claimant, who was injured in a road accident on 04.04.2019, has filed this appeal against an award of the Motor Accident Claims Tribunal [“Tribunal”] dated 13.09.2022 in MACT No. 518/2019. She seeks enhancement of the compensation awarded to her.
2. Notice of this appeal was originally issued only to respondent No. 2 – Shriram General Insurance Company Limited [“Insurance Company”], by order dated 20.01.2023. Respondent No. 2 has since entered appearance. However, by order dated 09.05.2025, directions were given for service of notice upon respondent No.1 [the driver and owner of the insured vehicle] as well, although it was recorded that liability to make payment lies only on respondent No. 2.
3. In terms of the said order, Mr. G.D. Kathuria, learned counsel for the appellant, states that an effort has been made to serve respondent No. 1 at the addresses mentioned in the memo of parties. However, both addresses were found to be locked, and local inquiry at one of the addresses elicited



information that respondent No. 1 has died.

4. In view of the fact that, in the present case, no recovery rights have been granted to the Insurance Company against respondent No. 1, Mr. Kathuria and Ms. Kanupriya Tiwari, learned counsel for the Insurance Company, submit that service upon respondent No. 1 may be dispensed with.

5. In view of the aforesaid submission, I have heard Mr. Kathuria and Ms. Tiwari on the appeal finally.

6. The facts relating to the accident, which the Insurance Company does not dispute, are that the appellant, alongwith her family members, was travelling from Amritsar to Delhi on 04.04.2019, in a tempo traveler bearing No. DL-01-VC-1856. While the vehicle was parked on the side of the road and the appellant was standing beside it, she was struck by a car bearing No. PB-10-CN-2544 [“insured vehicle”]. The accident resulted in the appellant suffering grievous injuries, for which she was treated at DMC Hospital, Ludhiana. She suffered injuries in both her legs, which required amputation.

7. FIR No. 0120/19 under Sections 279, 337, 338, and 427 of the Indian Penal Code, 1860, dated 05.04.2019, was registered against the driver, at P.S. Phillaur, Jalandhar. After investigation, a chargesheet was filed in the criminal proceedings.

8. The Tribunal came to a finding of rash and negligent driving against the driver of insured vehicle, and assessed compensation payable to the appellant under the following heads:

Sr. No.	Heads	Amount
1.	Medical expenses	Rs.95,297/-
2.	Future treatment	Rs.2,00,000/-



3.	Pain and suffering	Rs.2,00,000/-
4.	Conveyance	Rs.50,000/-
5.	Special diet	Rs.50,000/-
6.	Attendant charges	Rs.50,000/-
7.	Loss of income during treatment period	Rs.72,000/-
8.	Loss of earning capacity	Rs.38,88,000/-
9.	Loss of amenities of life	Rs.2,00,000/-
10.	Loss of marriage prospects	Rs.2,00,000/-
11.	Artificial limbs	Rs.3,56,691/-
<b>Total</b>		Rs.53,61,988/-

9. Mr. Kathuria submits that the compensation ought to be enhanced on the following grounds:

- a. That future prospects have not been taken into account while computing loss of earning capacity.
- b. That, having regard to the finding of the Tribunal that the appellant's disability constitutes 100% functional disability, the compensation awarded on account of attendant charges [Rs.50,000/-], is inadequate.
- c. That, while the Tribunal has awarded a sum of Rs.3,56,691/- on account of artificial limbs, the award does not take into account the cost of maintenance or replacement of the artificial limbs in the course of the appellant's life.

10. Each of the above aspects is considered below.

**A. LOSS OF EARNING CAPACITY**

11. As far as loss of earning capacity is concerned, the judgment of the Constitution Bench of the Supreme Court in *National Insurance Company Ltd. v. Pranay Sethi*<sup>1</sup>, makes it clear that a victim is entitled to be

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<sup>1</sup> (2017) 16 SCC 680 [hereinafter, "*Pranay Sethi*"].



compensated for loss of future prospects in addition to computation based on her current income. The Supreme Court holds as follows:

*“59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

*59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”*

12. In the present case, while calculating such compensation, the Tribunal has considered the appellant's disability to constitute 100% functional disability. It has accepted the evidence led by the appellant and by the representative of her employer [PW-2], that she was employed as an Accounts Assistant in a company by the name of Archit Chemicals Pvt. Ltd., at a salary of Rs.18,000/- per month. Her salary slips for the three months preceding the accident were exhibited as PW-1/13 (colly). Her salary breakup and appointment letter were also exhibited as Exhibits PW-2/3 and Ex. PW-2/4, respectively. The Tribunal found that the appellant was drawing a gross salary of Rs.18,000/- per month and, therefore, assessed total loss of earning capacity at Rs.38,88,000/-, applying the multiplier of 18, commensurate with the appellant's age of 21 years. While denying future prospects, the Tribunal has held that *Pranay Sethi* does not deal with injury cases and, therefore, future prospects are not payable.

13. Having regard to the judgments of the Supreme Court in *Jagdish v.*



*Mohan*<sup>2</sup> and *Pappu Deo Yadav v. Naresh Kumar*<sup>3</sup>, I am the view of that this approach is in error. The grant of future prospects relates to compensation for future increase in earnings. While it is impossible to determine accurately whether a particular victim would or would not have achieved an increase in his/her income, if the accident had not occurred, the principle applies equally to death cases and injury cases. An estimate has been laid down in *Pranay Sethi* for the grant of future prospects, which has been followed by the Supreme Court, in injury cases also.

14. Having regard to the evidence on record, that the appellant was drawing a fixed salary of Rs.18,000/- per month and her age of 21 years at the time of the accident, I am the view of that the case falls within the parameters laid down in paragraph 59.4 of *Pranay Sethi*, and future prospects of 40% ought to be added to her income.

15. The award on account of loss of earning capacity due to disability, is therefore, recomputed as follows:

Heads	Awarded by this Court
Monthly Income	Rs. 18,000/-
Annual Income [18,000 x 12]	Rs. 2,16,000/-
Future Prospects [2,16,000 x 40%]	Rs. 86,400/-
Annual income after addition of future prospects	Rs. 3,02,400/-
Functional Disability	100%
Applicable Multiplier	18
Total Loss of Earning Capacity [3,02,400 x 100% x 18]	Rs. 54,43,200/-

<sup>2</sup> (2018) 4 SCC 571.

<sup>3</sup> (2022) 13 SCC 790.



16. The award on this account, is therefore, enhanced to Rs. 54,43,200/-.

**B. ATTENDANT CHARGES AND FUTURE MEDICAL EXPENSES**

17. As far as attendant charges, future medical treatment, and the cost of artificial limbs are considered, Mr. Kathuria seeks a remand to the Tribunal to enable the appellant to lead evidence on these aspects.

18. It is clear from the evidence led before the Tribunal that the appellant had not placed the relevant material in evidence, to enable a decision on these accounts. While quotations from some artificial limb manufacturers were placed before the Tribunal, provisions for future medical treatment and replacement costs were not alluded to. The judgment of the Supreme Court in *Mohd. Sabeer v. Regional Manager, U.P. State Road Transport Corporation*<sup>4</sup>, which has been followed by this Court *inter alia* in *The Oriental Insurance Co. Ltd. v. Master Anshu Kumar @Bhola*<sup>5</sup>, clearly indicates that replacement of artificial limbs is also a legitimate head of compensation, having regard to the limited life of prostheses. The appellant would naturally incur costs for medical treatment and provision of artificial limbs, which are required to be assessed on further evidence being led before the Tribunal.

19. The position with regard to attendant charges is similar. The Tribunal has come to the conclusion that the appellant has suffered 100% functional disability, but has granted attendant charges of Rs.50,000/- only. Although medical documents were produced before the Tribunal, they are inadequate to establish the appellant's ability to perform activities of daily living without assistance, or to assist the Court in rendering a finding on this

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<sup>4</sup> (2023) 20 SCC 774.



aspect.

20. Mr. Kathuria's request to remand the matter on these aspects is, therefore, accepted.

**C. CONCLUSION**

21. For the aforesaid reasons, the awarded amount is enhanced by Rs.15,55,200/-. The said amount be deposited by the Insurance Company before the Tribunal within eight weeks from today, alongwith interest at 6% per annum, as awarded by the Tribunal.

22. The Tribunal had disbursed a fixed amount to the appellant and directed that the balance of Rs.40,00,000/- be kept in 400 monthly FDRs of Rs.10,000/- each, which would be disbursed to her, alongwith accrued interest, upon maturity. Approximately 40 months have passed since then. The enhanced amount to be deposited in terms of this judgment will also be deposited in monthly fixed deposits over the balance period of 360 months.

23. The matter is remanded to the Tribunal to enable further evidence to be led by the parties on the questions of attendant charges, future medical expenses, and the cost of artificial limbs.

24. The parties are directed to appear before the Tribunal on 06.01.2026 for further proceedings.

25. The appeal, alongwith pending applications, is disposed of, with these directions.

26. The statutory deposit, if any, be refunded to the appellant.

**PRATEEK JALAN, J**

**DECEMBER 10, 2025/dy/KA/**

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<sup>5</sup> 2023 DHC 6241.