



2025:DHC:9984



\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decided on 11.11.2025

+ MAC.APP. 822/2013
AMARTI DEVI

.....Appellant

Through: Mr. Manish Maini and Ms. Anjali Singh, Advocates.

versus

SH PRAMOD KUMAR & ORS

.....Respondents

Through: Mr. R.K. Tripathi, Advocate for R3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J (ORAL)

1. The appellant – claimant assails an award of the Motor Accident Claims Tribunal [“Tribunal”] dated 15.05.2013 in MACT No. 39/10, arising out of her claim for compensation in view of a road accident. She seeks enhancement of the compensation awarded.
2. The facts, as apparent from the impugned award, are that the appellant was hit by a tractor bearing No. UP-13V-2163 on 21.12.2009 at 9:45 AM. The accident caused her to fall down on the road and suffer multiple grievous injuries. At the time, the appellant was about 53 years of age.
3. Although the appellant sought compensation on the basis that she was working as a caretaker and earning Rs. 4,500/- per month, the Tribunal found no evidence of her employment and, therefore, proceeded to assess compensation on the basis that she was a housewife.



2025:DHC:9984



4. Having found in favour of the appellant, that the accident occurred as a result of rash and negligent driving by respondent No. 1 – the driver of the tractor, the Tribunal awarded compensation in her favour against the insurer of the tractor, viz. respondent No. 3 – Oriental Insurance Company Limited [“Insurance Company”].

5. Mr. Manish Maini, learned counsel for the appellant, has raised three points in support of the appellant’s plea for enhancement of compensation:

- a. That the uncontroverted evidence shows that the appellant suffered 40% permanent disability in her right hand and right leg, but the Tribunal erroneously underestimated the total functional disability at only 20% of the whole body.
- b. That the Tribunal erroneously proceeded on the basis that compensation for loss of earnings of a housewife is to be awarded on the basis of minimum wages of an unskilled worker, whereas this Court has held that such computation should be on the basis of wages of a skilled worker.
- c. That the Tribunal has failed to award any compensation on account of loss of amenities, and awarded inadequate compensation of Rs. 35,000/- on account of pain and suffering.

6. Mr. R.K. Tripathi, learned counsel for the Insurance Company, disputes these submissions. As far as functional disability is concerned, he submits that 40% disability in two limbs, having regard to the Tribunal’s conclusion that the avocation of the appellant was that of a housewife, has been assessed at 20%, which is just and reasonable. Mr. Tripathi does not dispute the appellant’s contention with regard to the



applicability of the minimum wages of a skilled worker, but points out that the Tribunal granted future prospects at 15%, which ought to have been taken as 10%. He submits that the grant of Rs. 35,000/- towards pain and suffering, having regard to the fact that the accident occurred in 2009, is adequate.

7. Turning first to the question of functional disability, it may be noted that the appellant had placed on record a disability certificate dated 08.11.2012, which assessed her permanent physical disability at 40% in relation to the right upper and right lower limb. Dr. Harish Mansukhani, the Chairman of the Disability Board, who issued the certificate, was examined before the Tribunal as PW-2. He has proved the disability certificate, and deposed that the injured suffered 40% permanent disability in the right upper and right lower limbs.

8. As far as this question is concerned, the affidavit in evidence filed by the appellant stated, *inter alia* as follows:

*“6. I state that I was possessed good health and I before the accident. **I was looking after the entire home affairs besides my carrier (sic.), but due to the accidental injuries all the future prospectus and my life have been battered and shattered.** The petitioner is a Care Taker at Plot No.1, Institutional Area, Nehru Nagar, New Delhi and was drawing a salary of Rs, 4,500/- p.m. **The accident has totally curtailed my working capacity and therefore the entire family is suffering from the huge financial crisis.** In addition to mental and physical sufferings. I also engage an attendant to look after me and paid salary to attendant Rs. 2,000/- p.m. for six months.”¹*

9. Although the appellant’s evidence, that she was employed as a caretaker has not been accepted, it is clear from the above that she had also deposed that she was looking after the entire household affairs, and

¹ Emphasis supplied.



2025:DHC:9984



that the accident had completely curtailed her working capacity. In the cross-examination by the Insurance Company, these aspects were not adverted to at all.

10. In the present case, the disability, which is to the extent of 40% in both the appellant's right limbs, has been held by the Tribunal to constitute 20% disability of the whole body. The judgment of the Supreme Court in *Raj Kumar v. Ajay Kumar*² requires the assessment of functional disability to take into account the nature of the injury and the avocation of the claimant. The permanent disability of 40% in two limbs would, in my view, have significant implication upon the appellant's ability to carry out her daily tasks of a homemaker. Taking all these factors into account, I am of the view that the assessment of functional disability at 20% is inadequate. Accordingly, the assessment is modified to 30%.

11. Coming to the second aspect of the matter, it is not disputed that the appellant's income should have been computed on the basis of the minimum wages of a skilled worker, as held *inter alia* in *Jagdish & Ors. v. Om Pal Singh & Ors.*³ Mr. Maini and Mr. Tripathi also accept that the correct addition for purposes of future prospects, given the appellant's age of 53 years, was 10%. It is not disputed that the minimum wage of a skilled worker at the relevant time was Rs. 4,377/- per month. Computing the monthly wages on this basis and adding 10% by way of future prospects, the monthly loss of earnings is to be calculated at Rs.4,814.7/-. Instead, the Tribunal, by the impugned award, read with a rectification

² (2011) 1 SCC 343.

³ MAC. APP. 279/2019, decided on 10.12.2024.



2025:DHC:9984



order dated 07.06.2013, has computed the monthly loss of earnings at Rs. 3,953/- + 15% = Rs. 4,546/- per month. The Tribunal's award on this account, is accordingly modified.

12. As far as pain and suffering is concerned, I am of the view that the award of Rs. 35,000/- is adequate, having regard to the fact that the accident occurred in the year 2009. It may be noted that minimum wages have increased during this period by about six-fold, and the amount of Rs. 35,000/- as of 2009, is thus equivalent to approximately Rs. 2,00,000/- today.

13. However, the submission of Mr. Maini that some amount ought to be added on account of loss of amenities is accepted. Accordingly, the same amount as awarded towards pain and suffering, i.e. Rs. 35,000/-, is added towards loss of amenities.

14. Consequently, the impugned award of the Tribunal is modified to the following extent:

<i>Heads</i>	<i>Awarded by the Tribunal</i>	<i>Awarded by the Court</i>
<i>1. Loss of amenities</i>	<i>Nil</i>	<i>Rs. 35,000/-</i>
<i>2. Loss of earnings</i>	<i>Rs. 3,953 + 15% = Rs. 4,546/- per month</i>	<i>Rs. 4,377 + 10% = Rs. 4,814.7/- per month</i>
<i>Multiplier</i>	<i>11</i>	<i>11</i>
<i>Extent of disability</i>	<i>20%</i>	<i>30%</i>
<i>Total amount awarded under this head</i>	<i>Rs. 3,953 x 12 x 11 x 20% = Rs. 1,20,014/-</i>	<i>Rs. 4,814.7/- x 12 x 11 x 30% = Rs. 1,90,662/-</i>

15. The total award of Rs.2,92,738/- is thus modified to Rs. 3,98,386/-, amounting to a total addition of Rs. 1,05,648/-, which will carry interest



2025:DHC:9984



at the rate of 7.5% per annum from the date of filing of the claim petition before the Tribunal.

16. Under the impugned award, 50% of the amount was released to the appellant, and the remaining 50% was to be kept in an FDR for a period of five years, with release of periodic interest thereon. As the period of five years has since lapsed, the entire amount payable as a result of this judgment, will be deposited with the Registrar General of this Court within six weeks from today, and will be released to the appellant.

17. The appeal is disposed of in these terms.

PRATEEK JALAN, J

NOVEMBER 11, 2025
SS/KA/