



2026:DHC:7434



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 02nd September 2026+ MAC.APP. 542/2025

SANTOSH KUMAR

.....Appellant

Through: Ms. Arpita Biswas, Advocate

versus

AMIT NEHRA & ORS.

.....Respondents

Through: Mr. Sameer Nandwani & Mr.
Nakshatra Bhasin, Adv. for
Insurance Co.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENTANISH DAYAL, J (ORAL)

1. This appeal has been filed seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, South East, Saket Courts, New Delhi [*MACT/Tribunal*], vide order dated 06th May 2024, passed in *MACT No.1009/2017*, whereby compensation of Rs.5,66,569/-, along with interest at the rate of 9% per annum, was awarded [*'impugned award'*].

2. The impugned award arose out of an accident which occurred on 09th April 2017, when appellant/claimant, namely *Santosh Kumar* was travelling in an *auto-rickshaw*, along with two other passengers. As the

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auto-rikshaw proceeded towards its destination, the offending vehicle i.e. an SUV (TATA Safari) bearing registration no. *HR-51A-H-7086*, which was being driven negligently, collided with the said *auto-riskhaw*, resulting in grievous injuries to appellant/claimant.

3. The submissions of *Ms. Arpita Biswas*, counsel for appellant/claimant, primarily revolve around the MACT assessing the functional disability of appellant/claimant at *10%* despite the permanent disability being certified at '*40% in relation to the right lower limb*'; the denial of *future prospects*; and the assessment of *loss of future income* on the basis of minimum wages applicable to a skilled worker in *Uttar Pradesh* [at *Rs.8,889/-* per month]. Appellant/claimant had worked as a tutor/teacher and possessing qualifications of M.A. and B.Ed., which were placed on record along with his claim that he was earning *Rs.45,000/-* to *Rs.50,000/-* per month.

4. Enhancement has also been sought on account of *attendant charges, special diet and conveyance charges*.

5. *Mr. Nakshatra Bhasin*, counsel for respondent no.3/Insurance Company, counters this by stating that no proof was filed by appellant/claimant in respect of his earnings from the tutorials. Moreover, the functional disability of appellant/claimant was rightly assessed at *10%*, considering that appellant/claimant was running a coaching centre at his residence and did not require any serious mobility, as he was primarily engaged in intellectual work. These aspects were duly considered by the MACT, which, accordingly, assessed the functional disability at only *10%*.



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6. Counsel for respondent no.3/Insurance Company, further points out that the appeal filed in respect of the co-passenger, who had also been injured in the same accident, being **MAC.APP. 86/2021**, has already been disposed of by this Court, *vide* judgment dated 08th November 2024, titled **Sh. Prashant Sharma v. Amit Nehra & Ors.**, 2024:DHC:9283, wherein a permanent disability of ‘26% in relation to right lower limb’ had been upheld as functional disability of ‘13%’.

7. The Court has considered the documents and evidence on record.

8. In his evidence by way of affidavit, appellant/claimant states that he was running his own coaching centre and earning about Rs.45,000/- to Rs.50,000/- per month. He further stated that he was an educated person having a degree in M.A. and B.Ed.

9. In this regard, the Court notes that no such certificate in respect of the aforesaid degrees has been filed before the MACT, as admitted by the counsel for appellant/claimant. The MACT was, therefore, not amiss in taking the minimum wages applicable to a skilled worker in *Uttar Pradesh*, at Rs.8,889/- per month.

10. However, *Ms. Biswas*, counsel for appellant/claimant, points out that an incorrect figure has been considered by the MACT, since the minimum wages of a skilled worker in *Uttar Pradesh*, at the time of the accident, would be Rs.9,118.6/- per month (*rounded off to Rs.9,119/- per month*). This figure shall, accordingly, be corrected.



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11. Furthermore, as regards the grant of *future prospects*, considering that appellant/claimant was 33 years of age at the time of the accident, *future prospects* shall be granted at '40%', as per the principles enunciated by the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680. Multiplier has been rightly taken at '16' and shall, accordingly, be retained.

12. On the issue of functional disability, the MACT seems to have considered the nature of coaching job and, accordingly, observed that the same does not require physical labour or active physical strength. Therefore, the functional disability of appellant/claimant has been taken as 10%, which is one-fourth the permanent disability at '40% in relation to his right lower limb'. Applying the principles enunciated in *Raj Kumar v. Ajay Kumar* (2011) 1 SCC 343, and the triple test laid down therein, one needs to take into account the nature of the vocation that a person would be carrying on post the accident, and the options available to him in terms of earning a livelihood, while assessing the functional disability.

13. In the present case, a 40% permanent disability in respect of the right lower limb, along with shortening of the limb by 3 centimetres, and a *malunion* around the right knee joint, with protracted right knee joint, as recorded in the disability certificate, is sufficient evidence of some impediment in mobility.

14. Mobility is not only required for earning money but also for sustaining one's livelihood. It cannot be said that merely because he was running a coaching centre, he would be just sitting in a chair all day, on



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all days and at all hours, without requiring any mobility. The functional disability of appellant/claimant is, therefore, assessed at '20%'.

15. Further, considering that a meagre amount has been granted by the MACT towards compensation under the non-pecuniary heads, compensation towards *pain and suffering* and *mental and physical shock* shall together be awarded at Rs. 50,000/-, and compensation towards loss of amenities of life shall be awarded at Rs. 25,000/-.

16. Accordingly, the revised compensation shall be calculated as under:

S. No	Heads of Compensation	Awarded by Tribunal	Awarded by the Court
	Pecuniary Loss		
1.	Compensation towards medical bills (A)	Rs. 2,53,677/-	Rs. 2,53,677/-
2.	Expenditure on conveyance and special diet (B)	Rs. 20,000/-	Rs. 20,000/-
3.	Nursing/Attendant charges (C)	Rs. 20,000/-	Rs. 20,000/-
4.	Income of injured per month (D)	Rs. 8,889/-	Rs. 9,119/-
5.	Loss of income (E) (DX7)	Rs. 62,223/-	Rs. 63,833/-
6.	Future Prospects (F)	Not granted	Rs. 12,767/- [@40%]
8.	Functional Disability (G)	10%	20%
9.	Multiplier (H)	16	16
10.	Loss of Future Income (I= F X 12 X G X H)	Rs. 1,70,669/-	Rs. 4,90,253/-

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	Non-pecuniary loss		
11.	Pain and suffering (J)	Rs. 10,000/-	Rs. 50,000/-
12.	Mental and physical shock (K)	Rs. 10,000/-	
13.	Loss of amenities (L)	Rs. 20,000/-	Rs. 25,000/-
14.	Total Compensation [A + B + C+ E + I+ J+K+L]	Rs. 5,66,569/-	Rs. 9,22,763/-
15.	Enhanced compensation	Rs. 3,56,194/-	
16.	Interest	9%	9%

Directions

17. Accordingly, the compensation shall stand enhanced by **Rs.3,56,194/-** [*‘enhanced amount’*].

18. Enhanced amount along with 9% interest per annum from the date of filing the petition, shall be deposited before MACT within a period of *four weeks*.

19. It is further directed that a lump sum amount of *Rs. 1,00,000/-* shall be released to appellant/claimant from the deposit of enhanced amount within a period of *two weeks* thereafter. Remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts [**FDRs**] of *Rs. 25,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of appellant/claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of appellant/claimant upon due verification.



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20. If any amount from the originally awarded amount has not been released, the same shall continue to be released in favour of the appellant/injured, along with the accrued interest thereon, in terms of the directions passed by the MACT *vide* impugned award.

21. Accordingly, the appeal is disposed of in the above terms.

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

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

(ANISH DAYAL)
JUDGE

SEPTEMBER 02, 2026/sm/ya