

**IN THE MOTOR ACCIDENT CLAIM TRIBUNAL
DISTRICT -EAST : KARKARDOOMA COURTS; DELHI
PRESIDED BY : MS. APARNA SWAMI**

In the matters of:

- (i) **MACT No.400/2021**
CNR No. DLET01-008132-2021
Kamal Vs. Adesh Kumar & Ors.
- (ii) **MACT No.317/2022**
CNR No. DLET01-006098-2022
Rohan Vs. Adesh Kumar & Ors.

MACT No. 400/2021

Kamal (Injured)

S/o Sh. Dinesh Kumar

R/o H. No. 29/456, Block No. 29,

Trilok Puri, Delhi-110091.

.....**Petitioners**

Versus

1. Adesh Kumar (Driver)

S/o Sh. Ilamchand

R/o H. No.1161, Shankar Patti,

Kutesra, Muzaffar Nagar, Uttar Pradesh.

2. Yashpal Gandhi (Owner)

S/o Sh. Beer Bhan Gandhi

R/o H. No.114m Gali No. 3, Ram Nagar,

Roorkee, Haridwar, Uttarakhand.

3. The Oriental Insurance Co. P. Ltd.

Oriental House, A-25/27, Asaf Ali Road,

New Delhi-110002.

.....**Respondents**

MACT No.317/2022

Rohan (Injured)

S/o Sh. Suresh Mehra

R/o H. No.8/341, Trilok Puri,

Chilla Saroda Khadar, Delhi-110091.

.....**Petitioner**

Versus

1. Adesh Kumar (Driver)

2. Yashpal Gandhi(Owner)

3. The Oriental Insurance Co. P. Ltd.

(Details as above)

.....**Respondents**

Date of Institution : 27.11.2021 (MACT No. 400/2021)

07.07.2022 (MACT No. 317/2022)

Date of reserving for order: 30.01.2026

Date of award : 18.05.2026

A W A R D

1. This common award shall decide two claim petitions bearing MACP Nos.400/21 and 317/22 filed by the petitioners namely Kamal and Rohan respectively seeking compensation on account of the injuries sustained by them in a road traffic accident dated 27.03.2021.
2. **In brief, the facts** are that on 27.03.2021, the petitioners - injured Kamal and Rohan were travelling on a motorcycle bearing registration No. DL-85CA-0812, which was being driven by Kamal. At about 12:00 noon, when they reached near Khatauli Nahar, Khatauli, Muzaffar Nagar, Uttar Pradesh, the offending

vehicle i.e. Tata LPT Turbo truck bearing registration No.UK-17CA-2693, allegedly, driven by respondent No.1 in a rash and negligence manner at a high speed and in contravention of traffic rules, hit the motorcycle from behind.

3. As a result of the forceful impact, both the petitioners fell on the road and sustained injuries.
4. Immediately after the accident, both the petitioners were taken to Meerut Orthopaedics and Research Centre, Meerut, Uttar Pradesh where their MLCs were prepared. Considering the critical condition of the petitioners, they were referred to Safdarjung Hospital, Delhi. In connection with the aforesaid accident, an FIR bearing No.179/2021 was registered at Police Station – Khatauli, Uttar Pradesh.
5. Respondents No.1 & 2 filed their joint written statement. They averred in the written statement that the petitioners have not approached with clean hands and suppressed the material facts. It is further stated that the respondent No.1 & 2 have been falsely implicated in the present matter with malafide intention of gaining the false compensation. They further averred that no accident took place by the vehicle bearing registration No. UK-17CA-2693. It is also stated that the alleged offending vehicle is insured with the respondent No. 3 – insurer and valid from 29.05.2020 to 28.05.2021. It is further submitted that there is delay of four days

to lodge the FIR. The rest of the averments of the petitions have been denied by the respondents.

6. Respondent No. 3 - insurer has filed its written statement stating that the petitioners have approached the Tribunal with unclean hands and have deliberately concealed the material facts. Further, it is stated that there is delay of 4 days in registration of FIR. It is also contended that there is an unexplained gap of more than four months between the multiple hospitalization of the petitioners. The rest of the averments of the claim petitions have been denied.
7. On the basis of pleadings, on 17.11.2023 the following issues were framed:

In MACP No. 400/21 (In re: Kamal Vs. Adesh Kumar & Ors)

(i). Whether the petitioner Kamal suffered grievous injuries in a motor vehicular accident happened on 27.03.2021 at about 12 O’Clock near Khatauli Nahar, Muzaffar Nagar, U.P., within the jurisdiction of PS Khatauli, due to the rash and negligent driving of bus bearing Registration No.UK-17CA-2693 (Tata LPT 1109 Truck), being driven by the respondent No.1/Adesh? (OPP)

(ii) Whether the petitioner is entitled to compensation on account of said injuries; if so, to what extent and from whom?(OPP)

(iii) Relief.

In MACP No. 317/22 (In re: Rohan Vs. Adesh Kumar & Ors)

(i). Whether the petitioner Rohan suffered grievous injuries in a motor vehicular accident happened on 27.03.2021 at about 12

O’Clock near Khatauli Nahar, Muzaffar Nagar, U.P., within the jurisdiction of PS Khatauli, due to the rash and negligent driving of bus bearing Registration No.UK-17CA-2693 (Tata LPT 1109 Truck), being driven by the respondent No.1/Adesh? (OPP)

(ii) Whether the petitioner is entitled to compensation on account of said injuries; if so, to what extent and from whom?(OPP)

(iii) Relief.

8. Vide order dated 18.05.2024, the Ld. Predecessor of this Tribunal consolidated both of the claim petitions for the purpose of inquiry and case MACT No. 400/21 was ordered to be considered as main case. Accordingly, common evidence was recorded in the main case file.
9. In order to prove the claim, the petitioners examined three witnesses.
10. The petitioner, Kamal himself entered into the witness box as PW1 and tendered his evidence as affidavit Ex.PW1/A. He reiterated the fact stated in the claim petition. PW1 categorically deposed that the accident took place due to the rash and negligent driving of the offending vehicle being driven by the respondent No.1. PW1 relied upon the following documents :
 - i. Copy of Aadhar card and PAN card -Ex.PW1/1 and Ex.PW1/2 (OSR)
 - ii. Copy of qualification documents – Ex.PW1/3 (OSR)

- iii. Original MLC reports and other connected documents issued at Meerut Orthopaedics & Research centre – Ex.PW1/4 (colly, 4 pages)
- iv. Copy of bill – Mark A
- v. Original discharge summary dated 03.04.2021 of Safdarjung Hospital- Ex.PW1/5 (colly, 2 pages)
- vi. Original discharge summary dated 28.08.2021 of Safdarjung Hospital- Ex.PW1/6 (colly, 3 pages)
- vii. Original discharge summary dated 13.10.2021 of Safdarjung Hospital – Ex.PW1/7 (colly, 8 pages)
- viii. Original discharge summary dated 11.09.2023 of Safdarjung Hospital – Ex.PW1/8 (colly, 2 pages)
- ix. Original OPD cards / prescriptions / treatment records – Ex.PW1/9 (colly, 26 pages)
- x. Copy of outpatient Registration card of GTB Hospital on account of physiotherapy treatment – Ex.PW1/10 (OSR)
- xi. Original photographs of injuries -Ex.PW1/11 (colly, 3 nos.)
- xii. Original bills of Rs.30,400/- - Ex.PW1/12 (colly, 51 nos.)
- xiii. Certified copy of criminal case record – Ex.PW1/13 (colly, 15 nos.)
- xiv. Copy of reply given by registered owner of offending vehicle to the police – Mark B
- xv. Copy of bail application of respondent No.1 – Mark C
- xvi. Copy of statement of accused under section 251 Cr.PC – Mark D

xvii. Disability certificate – Ex.PW1/14

11. Mr. Rohan (petitioner in the MACT No. 317/22) was examined as PW2 who tendered his evidence by way of affidavit exhibited as PW2. He reiterated the fact stated in the claim petition. PW2 categorically deposed that the accident occurred due to the rash and negligent driving of the offending vehicle by the respondent No.1. PW2 relied upon the following documents :

- i. Copy of Aadhar card & PAN card -Ex.PW2/1 and Ex.PW2/2 (OSR)
- ii. Copy of School Leaving certificate – Ex.PW2/3.
- iii. Copy of I. Card of 10th class – Ex.PW2/4 (OSR)
- iv. Original MLC and other medical documents of Meerut Orthopaedics and Research Centre – Ex.PW2/5 (colly, Nos)
- v. Original bills of Rs.29,800/- - Ex.PW2/6
- vi. Original discharge summary dated 01.04.2021 of Safdarjung Hospital- Ex.PW2/7 (colly, 2 nos)
- vii. Original OPD cards / prescriptions / treatment record – Ex.PW2/8 (colly, 8 nos)
- viii. Original bill of Rs. 6712/- - Ex.PW1/9 (colly, 10 nos.)
- ix. Printout of online payment made towards ambulance charges – Ex.PW2/10
- x. Original photographs of injured – Ex.PW2/11 (colly. 6 nos)

- xi. Certified copy of criminal case record – Ex.PW2/12 (colly, 14 nos.)
 - xii. Copy of reply given by registered owner of the offending vehicle to the police – Mark A
 - xiii. Copy of bail application of respondent No.1 – Mark B
 - xiv. Copy of statement of accused under section 251 Cr. PC – Mark C
 - xv. Disability certificate – Ex.PW2/13.
12. Dr. Vikramjeet Singh, Senior Resident, Department of Orthopaedics, GTB Hospital, Delhi was examined as PW3. He proved the disability certificate Ex.PW3/A of the petitioner Kamal.
13. The testimonies of all the PWs remained unshaken during their cross-examination and found to be duly supported by documentary evidence.
14. The Respondents have not led any evidence in their defence.
15. This Tribunal has heard Mr. Neeraj Kumar, Ld. Counsel for the petitioners; Mr. C.P. Singh, Ld. Counsel for respondent No.1 & 2; and Mr. Yashaswi S.K. Chocksey, Ld. Counsel for Respondent No.3- insurer. The record of the case has also been perused.
16. Ld. counsel for the petitioners has relied upon the following judgments in support of the petitioners' version.
- i. Ranjeet Vs. Abdul Kalam Neb & Anr. 2025 Law Suit (SC) 327

- ii. Meera Bai Vs. ICICI Lombard Gen. Ins. 2025 Law Suit (SC) 634
- iii. National Insur. Co. Ltd Vs. Pushpa Rana & Ors. 2007 Law Suti (Del) 2353
- iv. United India Ins. Co. Ltd Vs. Deepak Goel & Ors. 2014 LawSuit (Del) 488
- v. Ravi Vs. Badrinarayan & ors. 2011 LawSuit (SC) 97
- vi. Janabai Vs. ICICI Lombard Ins Co. Ltd 2022 LawSuit (SC) 935
- vii. ICICI Lombard Ins. Vs. Dharmender Bhati & Ors. 2023 LawSuit (Del) 3427
- viii. Uttar Pradesh State Road Transport Corporation Vs. Rani Srivastava 2005 LawSuit (All) 1380
- ix. Anita Verma Vs. New India Assurance Co. Ltd 2020 LawSuit (SC) 747
- x. National Ins. Co. Ltd Vs. Chamundeswari & Ors 2021 LawSuit (SC) 594
- xi. Gurpreet Kaur Vs. National Ins. Co. Ltd 2024 LawSuit (SC) 1389
- xii. Meera Devi Vs. HRTC & Ors. 2014 LawSuit (SC) 168
- xiii. Anjana Narayan Kamble Vs. Reliance Gen. Ins 2022 LawSuit (SC) 1376
- xiv. Mithlesh Vs. Rajesh Kumar & Ors. 2017 Law Suit (Del) 3724

- xv. Reliance Gen. Ins. Co. Ltd Vs. Bilkish 2012 LawSuit (Del) 4891
- xvi. Chaus Taushif Alimiya Vs. Memon Mahmma & Ors. 2023 LawSuit (SC) 133
- xvii. Jyoti Singh ICICI Lombar Vs. Nand Kishre 2023 LawSuit (Del) 1503
- xviii. New India Assurance Co. Ltd Vs. Sanjay Bari & Anr. MAC App No. 433/2023
- xix. Jagjot Singh Vs. Om Prakash, MAC Appeal 277/2019 decided on 07.05.2024.
17. Now coming to the issues in hand.

ISSUE No. 1 -

In MACP No. 400/21 (In re: Kamal Vs. Adesh Kumar & Ors)
In MACP No. 317/22 (In re: Rohan Vs. Adesh Kumar & Ors)

Whether the petitioner Kamal suffered grievous injuries in a motor vehicular accident happened on 27.03.2021 at about 12 O'Clock near Khatauli Nahar, Muzaffar Nagar, U.P., within the jurisdiction of PS Khatauli, due to the rash and negligent driving of bus bearing Registration No.UK-17CA-2693 (Tata LPT 1109 Truck), being driven by the respondent No.1/Adesh?

Whether the petitioner Rohan suffered grievous injuries in a motor vehicular accident happened on 27.03.2021 at about 12 O'Clock near Khatauli Nahar, Muzaffar Nagar, U.P., within the jurisdiction of PS Khatauli, due to the rash and negligent driving of bus bearing Registration No.UK-17CA-2693 (Tata LPT 1109 Truck), being driven by the respondent No.1/Adesh?

18. Issue no.1, being common in both of the cases, shall be decided herein together by common findings.
19. The burden to prove this issue lies on the petitioners. In the Motor Accident Claim Proceedings, which are governed by the principle of fault liability, the standard of proof requires preponderance of probabilities and not to be proved beyond reasonable doubt as in the criminal trial.
20. In the present case, **PW1 & PW2** have stepped into witness box. Their evidence has fully supported the case cited in the claim petitions. PW1 and PW2 categorically deposed that on 27.03.2021, the petitioners - injured Kamal and Rohan were travelling on a motorcycle bearing registration No.DL-85CA-0812, which was driven by Kamal. At about 12:00 noon, when they reached near Khatauli Nahar, Khatauli, Muzaffar Nagar, Uttar Pradesh, the offending vehicle i.e. Tata LPT Turbo truck bearing registration No.UK-17CA-2693, allegedly, driven by respondent No.1 in a rash and negligence manner at a high speed and in contravention of traffic rules, hit the motorcycle from behind.
21. As a result of the forceful impact, both the petitioners fell on the road and sustained injuries.
22. Immediately after the accident, both the petitioners were taken to Meerut Orthopaedics and Research Centre, Meerut, Uttar Pradesh where their MLCs were prepared. Considering the critical

condition of the petitioners, they were referred to Safdarjung Hospital, Delhi.

23. The testimony of the PW1 & PW2 remained consistent, credible and has not been shaken in the cross-examination.
24. The FIR clearly mentions the number of the offending vehicle. The DAR, consisting of other document exhibited PW2/3 (colly) support the case of the petitioners and shows that the investigating agency found involvement of the offending vehicle and respondent No.1 in the accident. There is no material on record that FIR was fabricated or investigation was manipulated. PW1 and PW2 had been confronted with the FIR dated 31.03.2021, which mentions that “Mai Suraj Kumar, mera dost Kamal or Rohan bike se (DL85-CA-0812) Delhi se Muzaffar Nagar ja rahe the”. A suggestion was given by Ld. Counsel for respondent No.3 – insurer that petitioners (PW1 and PW2) were three people on the motorcycle, which had been denied by them. A careful reading of the FIR reflects that Suraj was the complainant and there is no mention that Suraj Kumar accompanied Kamal and Rohan or that it is a case of triple riding. Further, there is no MLC or medical document annexed with the criminal case record which show that Suraj also sustained injuries. It is difficult to accept that while three persons were travelling on a single motorcycle, injuries were sustained by two of them whereas the third occupant escaped unhurt. Even otherwise, it is not the case of the respondents that

accident was caused due to the triple riding of the petitioners. As per the version of the petitioners (PW1 and PW2), the motorcycle of the petitioners was hit by the offending vehicle from behind. Thus, the contention of the respondent side that the accident occurred solely on account of triple riding is found to be baseless and unacceptable.

25. The medical documents including MLC of both the petitioners exhibited as PW1/4 (colly) and PW2/5 clearly shows that the both petitioners Kamal and Rohan sustained “grievous injuries” in the said Road Traffic Accident.
26. It is noteworthy that respondents No.1 & 2 being driver and owner of the offending vehicle have not examined any witness in the rebuttal. In this context, reliance is placed on the judgment in case of *Cholamandalam MS General Insurance Company Ltd vs Smt. Kamlesh and Others* 2009 (3) AD Delhi 310, wherein it was held that an adverse inference can be drawn when the driver of the offending vehicle does not enter into the witness box. Respondent No.1, driver of the offending vehicle, who was present at the spot, would have been the best person to depose about the true facts but, he chose not to step into the witness box to rebut or disprove the petitioners’ version.
27. After the investigation, police filed a charge-sheet against respondent no. 1, the driver of the offending vehicle. The filing of the charge-sheet against the driver of the offending vehicle *prima-*

facie establishes his culpability. In this regard, reliance is placed on the judgments in the case of ***New India Assurance Company Ltd vs Smt. Washeema Bano (2022) SCC OnLine All 403*** and ***Mangla Ram vs Oriental Insurance Company Ltd (2018) 5SCC 656***, wherein it was held that filing of a charge-sheet against the driver of the offending vehicle constituted prima facie evidence of negligence for the purpose of claim under Section 166 of the Motor Vehicles Act, 1988. Also, in the case of ***New India Assurance Company Ltd vs Pazhaniammal (2011) (2) KLT 648***, the Hon'ble High Court of Kerala has held that, as a general rule, the production of a charge-sheet can be accepted as *prima-facie* sufficient evidence of negligence in claim proceedings under Section 166 of Motor Vehicles Act. However, if any party disputes the same, the burden lies on such party to adduce cogent material in rebuttal. If the Tribunal finds that charge-sheet appears collusive, it may discard it and call upon the parties to lead oral evidence of accident and alleged negligence. Thus, the issue of negligence must be determined on the basis of the entirety of evidence on record.

28. So far as the delay in registration of FIR is concerned, it is well settled that in a motor vehicle accident claim case, delay in lodging of FIR is not fatal. The primary concern of the injured or the family member of injured / deceased is to provide medical aid rather than to approach the police. The insurance company has neither

led any evidence nor elicited any material in cross-examination of the petitioner to show that the accident did not occur in the manner alleged or that the offending vehicle was falsely implicated. Hence, no adverse inference can be drawn on account of delay in registration of FIR.

29. In view of the above, this Tribunal is of the opinion that petitioners proved that there is sufficient material on record to establish that the accident had occurred due to rash and negligent driving of the offending vehicle by respondent no.1 and that it resulted into grievous injuries to the petitioners. Therefore, **issue No.1 stands decided in favour of petitioners namely Kamal and Rohan.**

ISSUE No. 2

Whether the petitioner is entitled to compensation on account of said injuries; if so, to what extent and from whom?

30. Section 168 of the Motor Vehicles Act, 1988 mandates the Claims Tribunal to conduct an inquiry and to determine an amount of compensation which appears to be just and reasonable. While assessing the compensation, the Tribunal must ensure that the award is neither a windfall nor a pittance, but a fair recompense for the injuries suffered.
31. The principles governing assessment of compensation in bodily injury cases are settled by the Hon'ble Supreme Court of India in the case of ***Raj Kumar vs Ajay Kumar & Another (2011) 1 SCC***

343, wherein it was held that in routine in personal injury cases, compensation will be awarded only under the heads; (i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure. (ii) Loss of earnings (and other gains) which the injured would have made had he not been injured , comprising (a) Loss of earning during the period of treatment and (iv) Damages for pain, suffering and trauma as a consequence of the injuries. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation is also to be done under the head of loss of future earnings which would depend on the effect and impact of such permanent disability on the earning capacity of the injured. The tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. What requires to be assessed by the tribunal is the effect of the permanent disability on the earning capacity of the injured after assessing the loss of earning capacity in terms of percentage of the income. It has to be quantified in terms of money to arrive at the future loss of earnings by applying standard multiplier method. All injuries or permanent disabilities arising from the injuries do not result in loss of earning capacity. If there is no loss of employment or earning capacity, there may not be any need to award any compensation under the head of loss of future

earnings, though he may be awarded compensation under the head of loss of amenities in consequent to his injuries.

32. In view of the injuries suffered by the petitioner, the compensation is required to be awarded under the following heads:

In MACP No. 400/21 (In re: Kamal Vs. Adesh Kumar & Ors)

(A). MEDICAL EXPENSES:

33. The petitioner namely Kamal has relied upon certain consultancy receipt / bill and pharmacy bills (Ex.PW1/12) to the tune of Rs.25,042/-. All the bills are original and in order. No serious dispute has been raised by the respondents to the genuineness of the aforesaid original bills Ex.PW1/12. Apart from the aforesaid bills, petitioner Kamal has also relied upon photocopy of one medical bill of Meerut Orthopaedics and Research Centre to the tune of Rs.25,000/-. The said bill is only photocopy document and original document has not been proved on record. Under this head, only the original bills are considered. Therefore, the bill of Rs.25,000/- cannot be considered for the computation of medical expenses. Furthermore, the entire treatment of the petitioner has been done at the Safdarjung Hospital. Accordingly, a sum of **Rs.25,042/- (Rupees Twenty Five Thousand Forty Two only)** is awarded to the petitioner under this head.

34. In his testimony, the petitioner Kamal has claimed future medical treatment towards physiotherapy charges to the tune of Rs.32,40,000/-. Though, PW3 (Dr. Vikramjeet Singh) has deposed that the petitioner requires physiotherapy throughout his life in order to maintain muscle strength, joint mobility and to avoid further deterioration in his condition. However, in support of this claim, petitioner has not produced any documentary proof. No estimate with respect to future treatment / physiotherapy charges of any doctor has been proved on record. The doctor has merely stated that the petitioner requires physiotherapy throughout his life, however, no specific quotation in respect thereof, have been placed on record, nor has the doctor specified the duration for which such physiotherapy would be required. Furthermore, the petitioner has claimed the amount at the rate of Rs.500/- per day in his computation sheet, however, no witness in support of the claim has been examined. Accordingly, no amount is being awarded to the petitioner towards future medical treatment.

(B). **PAIN AND SUFFERING:**

35. As per the testimony of PW1, immediately after the accident, he was taken to Meerut Orthopaedics and Research Centre at Meerut, Uttar Pradesh, where his MLC was prepared. Thereafter, on seeing his critical condition, on the same day, he was shifted to Sadarjung Hospital, Delhi, where he remained admitted from 28.03.2021 to

03.04.2021. PW1 deposed in his testimony that even at the time of his discharge, he was unconscious, however, he was discharged by the Hospital due to Corona-19 pandemic spread. The discharge summary of Safdarjung Hospital, Delhi is dated 03.04.2021 Ex.PW1/5 which shows that the petitioner remained admitted in the hospital from 28.03.2021 to 03.04.2021. Another discharge summary Ex.PW1/6 shows that the petitioner Kamal was again admitted in Safdarjung Hospital on 26.08.2021 and remained there till 28.08.2021. As per the aforesaid discharge summaries, petitioner Kamal was diagnosed with Right C5, C6 BPI fracture non-union (displaced) right Clavicle. The discharge summary dated 13.10.2021 Ex.PW1/7 further shows that the petitioner was again admitted in Safdarjung Hospital on 14.09.2021 and remained there 13.10.2021. During his hospitalization, Axillary nerve was transferred and ORIF right Clavicle 7 holed Anatomically precontoured locking plate was also inserted. Fourth time the petitioner admitted in the Safdarjung Hospital on 04.09.2023 and remained there till 11.09.2023 and during this period certain procedures were done. Apart from that, as per the medical treatment record Ex.PW1/9, the petitioner had also taken treatment from Safdarjung, Delhi as OPD patient on different dates and lastly in the month of August 2023. In addition to this, as per document Ex.PW1/10, petitioner also visited GTB Hospital

as outpatient in month of March 2024, where he was prescribed physiotherapy.

36. The medical treatment record of the petitioner Kamal including various OPD prescriptions issued on different dates indicates that the petitioner continued to undergo medical treatment until August 2023. Having regard to the fact that the charge-sheet was filed for the offence under Section 338 IPC and, as per the medical of the petitioner, the nature of injuries was opined as 'grievous', and petitioner Kamal is a case of 85% permanent disability in relation to right upper limb, it can reasonably be inferred that the petitioner sustained grievous injuries and remained under treatment for a considerable long period of time alongwith prolonged pain and suffering. Keeping in view the nature of injuries suffered by the petitioner in the accident, a sum of **Rs.2,00,000/- (Rupees Two Lakhs only)** is awarded to the petitioner towards the pain and sufferings.

(C). **LOSS OF INCOME (DURING TREATMENT):**

37. The petitioner has deposed in his examination-in-chief that due to the injuries sustained in the accident, he is unable to work as he has lost the complete power in his right hand and his financial condition has been adversely affected. He further stated that he is unable to maintain balance of the body while walking on the road. As discussed above, as per proved record, the petitioner's

treatment continued till August 2023. Thus, it can reasonably be inferred that the petitioner must have been incapacitated to work for at least 28 months following the accident.

38. The petitioner -PW1 has deposed that at the time of accident, he was working as whitewasher /painter in Delhi and was earning Rs.25,000/- per month. However, the petitioner has not placed on record any documentary proof to substantiate the claim of his occupation and income. Further, no bank statement of the petitioner has been filed to show crediting of any amount in respect of income in his account.
39. The petitioner has not stated a single word regarding resumption of his work after completion of treatment. Neither any Income Tax Return has been filed by the petitioner. As per aadhar card (Ex.PW1/1), the petitioner is a resident of Delhi.
40. As per the class 10th certificate Ex.PW1/3, the petitioner was matriculate on the date of accident. Keeping in view the residence of the petitioner is in Delhi, his income is taken on the basis of the minimum wages of an skilled worker (being matriculate) prevailing in the Delhi, which is Rs.18,797/-(Rupees Eighteen Thousand Seven Hundred Ninety Seven only) per month.
41. In view of above, petitioner is granted a sum of **Rs.5,26,316/- (Rupees Five Lakhs Twenty Six Thousand and Three Hundred**

Sixteen only) (Rs.18,797x28) on account of loss of income during the period of treatment.

(D). **CONVEYANCE & SPECIAL DIET CHARGES:**

42. In his testimony as well as in computation sheet, PW1 has claimed that he had incurred Rs.1,00,000/- on conveyance; Rs.1,00,000/- on special diet. However, to substantiate his claim, no documentary evidence has been filed on record. Considering the nature of injuries and prolonged period of treatment and being a case of 85% permanent disability in relation to right upper limb, an inference can be drawn that post surgery and even after his discharge from the hospital, he had to visit the hospital number of times for further treatment or for follow ups. The petitioner had to spend a reasonable amount on his special diet for the purpose of early recovery. Therefore, considering the nature of injury and period of treatment, a sum of Rs.50,000/- towards special diet and Rs.50,000/- towards conveyance charges would be just and fair compensation to the petitioner. Hence, a total sum of **Rs.1,00,000/- (Rupees One Lakhs only)** is awarded to the petitioner under this head.

(E). **ATTENDANT CHARGES:**

43. Though, in his testimony, petitioner stated that he requires attendant throughout his life as he cannot do anything at his own.

However, to substantiate this plea, petitioner failed to lead any evidence that he had hired any attendant during his treatment. No witness has entered into the witness-box to substantiate the claim of the petitioner that attendant was hired by him to look after the petitioner. However, it cannot be ignored that family members of petitioner must have had to render their services for providing assistance to the petitioner for his routine activities and that would definitely led to loss of work/job. For claiming compensation, necessity of employing a professional attendant/ care taker is not required and the petitioner should be compensated for the value of services of the family members, which has been or would be necessitated by the wrong doing of the driver. (*DTC & Ors Vs. Lalita, 1983 ACJ 253*). Therefore, the petitioner is awarded a sum of Rs.1,00,000/- (Rupees One Lakh only) as attendant charges during the treatment period.

(F). FUTURE ATTENDANT CHARGES

44. In his computation sheet, the petitioner has also claimed future attendant charges. Though, to substantiate this claim, the petitioner Kamal has not led any cogent evidence. The petitioner has neither examined any witness in this regard nor caused examination of any attendant who is alleged to be attending upon him. However, to substantiate his claim, petitioner has relied upon certain judgments of Hon'ble High Court of Delhi titled as *New India Assurance Co. Ltd Vs. Sanjay Bari & Anr (Supra)*, followed in the

case of *Hon'ble Supreme Court of India in case Abhimanyu Pratap Singh Vs. Namita Sekhon & Anr. (2022) 8 Supreme Court Cases 489* . In the aforesaid judgment of Hon'ble High Court of Delhi titled as *New India Assurance Co. Ltd Vs. Sanjay Bari & Anr (Supra)*, the Hon'ble Court has held that :

“8..... The respondent No.1 has suffered 74% permanent disability in relation to his both lower limbs. In fact, the Learned Tribunal has assessed his Functional Disability as 100% to the whole body. With the above nature of difficulties that the respondent No.1 is suffering, no fault can be found in the learned Tribunal coming to the conclusion that the respondent No.1 would be entitled to compensation for at least one attendant.....”

45. Further, in *Abhimanyu Pratap Singh Vs. Namita Sekhon & Anr. (Supra)*, the Hon'ble Apex Court has observed that :

“Looking to the nature of injuries and the permanent disablement which the claimant has suffered i.e. lower limb is completely paralysed having 100% permanent disability resulting in bodily movements being hampered. ...

...As discussed, if we apply the multiplier method and in view of the judgment of Kajal Vs. Jagdish Chand (Supra), we accept the rate of attendant charges at Rs.5000/- per month for 12 hours, looking to the nature of injuries and disability the claimant is required two attendants at least

24 hours then the expenses in the head of attendant charges comes to Rs. 10,000/- per month. If we apply the multiplier of 18, the amount comes to Rs. 21,60,000/-.”

46. Coming to the present case, it is an admitted position on record that the petitioner suffered 85% permanent disability in relation to right upper limb resulting in affecting his mobility of right hand, coordination and ability to perform routine day-to-day activities. Though the PW3 (Dr. Vikramjeet Singh) had specifically deposed in his testimony that petitioner Kamal will require assistance for performing his daily work throughout his life. However, the facts of the case on which petitioner has relied upon are entirely different and the same is not applicable to the present case. Considering the nature of permanent disability suffered by the petitioner, particularly the severe impairment of the right upper limb and the medical opinion that the petitioner would not be able to effectively use his right hand for day-to-day activities, this Tribunal is of the opinion that the petitioner is likely to require assistance / attendant support in future as well. Hence, a reasonable amount towards future attendance charges deserve to be awarded. Accordingly, a sum of **Rs.12,00,000/- (Rupees Twelve Lakhs only)** is awarded to the petitioner under this head.

(G). **LOSS OF FUTURE INCOME ON ACCOUNT OF PERMANENT DISABILITY**

47. The next question that remains to be decided is the compensation with respect to the disability of the petitioner. Under this head, it has to be seen that what could be the future loss of income on account of disability. In case bearing citation ***Raj Kumar vs. Ajay Kumar & Ors. Arising out of civil appeal No. 8918 of 2010***, it was held by Hon'ble Supreme Court that :

10. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claim could carry on inspite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether ; (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether inspite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood. For example, if the left hand of the claimant is amputated, the permanent physical or disablement may be around 60%. If the claimant was a driver of a carpenter, the actual loss of earning capacity may virtually be 100%, if he is neither able to drive or do carpentry.

On the other hand, if the claimant is clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could performed his clerical functions, in that even the loss of earnings capacity will not be 100% as in the case of a driver or carpenter nor 60% which is the actual physical disability but far less. In fact, there may not be need to award any compensation under the head of 'Loss of future earnings', if the claimant continues in Government service, though he may be awarded compensation under the head of loss of amenities on the consequences of losing his hand.....”

48. The disability certificate of GTB Hospital Ex.PW1/14 clearly shows that the petitioner is the case of 85% permanent disability in relation to right upper limb. PW3- Dr. Vikramjeet Singh, Sr.Resident, Department of Orthopaedics, GTB Hospital was examined. He has deposed that petitioner suffered permanent disability to the extent of 85% in relation to right upper limb. He deposed that the disability is permanent in nature and is not likely to improve in future. He further deposed that the petitioner cannot lift anything from his right hand and even lifting of lightest object is not possible from his right hand as his Brachial Plexus was badly damaged leading to muscle weakness. He further averred that the petitioner cannot ride any two-wheeler or four-wheeler. It is further deposed by PW3 that the petitioner cannot do the work of whitewash/ painting throughout his life. During his cross-examination, Dr. Vikramjeet Singh (PW3) has stated that there is no chance of recovery in this case. As per the testimony of the

doctor i.e. PW3, the petitioner Kamal (PW1) sustained injuries leading to disability and that he would not be able to work. In this regard, the law is well settled by the *Hon'ble Supreme Court in Raj Kumar Vs. Ajay Kumar (Supra)*, wherein it has been held that the Tribunal must assess functional disability and its impact on the earning capacity of the injured and not merely rely upon the percentage of physical disability. In the present case, considering that the petitioner is suffering from 85% permanent disability in relation to right upper limb, it is evident that the petitioner is unable to perform his previous avocation at all, and his earning capacity stands totally reduced. As per the testimony of petitioner, prior to the accident, he was working as whitewasher / painter. It also come from the testimony of PW3 that the petitioner cannot lift anything from his right hand. Due to his disability of 85% in relation to right upper limb and especially when it has come in the evidence of PW3 that the petitioner will face difficulty in performing the work of a painter as the work of painter involves climbing up and down the ladders and standing on ladder for long hours while painting in which use of both hands are equally required, which may be difficult for the petitioner in view of his disability and his earning capacity would totally diminish. Thus, total functional disability of petitioner towards whole body can be assessed to be **80%** for computation of loss of future income.

49. The multiplier of damages has to be determined as per ***Sarla Verma Vs. DTC (2009) 6 SCC 121***. The age of injured as per his Aadhar Card Ex.PW1/1 was 20 years and 5 months on the date of accident. Therefore, multiplier of 18 would be applicable in the present case. The income of petitioner has already been ascertained hereinabove to be Rs.18,797/- per month. Besides it, petitioner is also entitled for future compensation @ 40% in view of the guidelines of the Constitution Bench of Hon'ble Supreme Court in a case titled as ***National Insurance Company Limited vs Pranay Sethi and others (2017) 16 SCC 680***. Thus, after applying the multiplier of 18, the total loss of future income would come to be **Rs.45,47,370/-** [80% (18,797x140/100x12x18)] and this amount is awarded to the petitioner accordingly.

H. LOSS OF AMENITIES AND LOSS EXPECTATION OF LIFE

50. Further, the petitioner is granted Rs.1,00,000/- for loss of amenities.

I. LOSS OF MARRIAGE PROSPECTS

51. As per testimony of the petitioner, the petitioner was a young boy of 20 years on the date of accident. Ld. Counsel for petitioner has relied upon the judgment of Hon'ble High Court of Delhi in case titled as **Jagjot Singh Vs. Om Prakash (Supra)**, wherein he claimed a sum of Rs.5,00,000/- under this head. A bare perusal of the said judgment reveals that the said judgment is not squarely applicable

to the facts of the present case. The victim in that case had suffered 100% permanent locomotor disability and has been rendered in a vegetative state since the accident, lying in coma. This is not the case herein. However, considering the nature of injuries and the permanent disability suffered by the petitioner, this Tribunal finds that his chances of leading a normal matrimonial life and securing suitable marriage prospects have been adversely affected. Hence, a sum of **Rs.1,00,000/- (Rupees One Lakh only)** is awarded to the petitioner under this head.

52. Accordingly, the compensation awarded to the petitioner is summarized as under:

Sl. No.	Head of compensation	Amount
1.	Medical Expenses	Rs.25,042/-
2.	Pain & Suffering	Rs.2,00,000/-
3.	Loss of income (during treatment)	Rs.5,26,316/-
4.	Conveyance and Special Diet expenses	Rs.1,00,000/-
5.	Attendant	Rs.1,00,000/-
6.	Future Attendant Charges	Rs.12,00,000/-
7.	Loss of future income on account of permanent disability	Rs.45,47,370/-
8.	Loss of Amenities	Rs.1,00,000/-
9.	Loss of Marriage Prospects	Rs.1,00,000/-
TOTAL		Rs. 68,98,728/- (rounded off to Rs.68,99,000/-)

53. Thus, the petitioner is entitled to a total compensation of **Rs.68,99,000/- (Rupees Sixty Eight Lakhs Ninety Nine Thousand only)**.

In MACP No. 317/22 (In re: Rohan Vs. Adesh Kumar & Ors)

(A). MEDICAL EXPENSES:

54. In his testimony Ex.PW2/A, the petitioner Rohan has relied upon original medical bill Ex.PW2/6 of Meerut Orthopaedics and Research Centre in the sum of Rs.29,800/-. No serious dispute has been raised by the respondent with respect to the genuineness of the original bill. Apart from the said bill, there are certain other pharmacy / consultancy bills / receipts to the tune of Rs.6712/-. PW2 was cross-examined at length but, nothing fruitful has come on record with respect to fabrication of the aforesaid bills. No serious dispute have been raised by the respondents to the veracity and genuineness of aforesaid medical bills. Accordingly, a sum of **Rs.36,512/- (Rupees Thirty Six Thousand Five Hundred Twelve only)** (29,800+6712) is awarded to the petitioner Rohan under this head.

(B). PAIN AND SUFFERING:

55. As per the testimony of PW2, immediately after the accident, he was taken to Meerut Orthopaedics and Research Centre at Meerut,

Uttar Pradesh, where his MLC was prepared. Thereafter, on seeing his condition, on the same day, he was shifted to Sadarjung Hospital, Delhi, where he remained admitted from 28.03.2021 to 01.04.2021. The discharge summary of Safdarjung Hospital, Delhi dated 01.04.2021 Ex.PW2/7 shows that the petitioner remained admitted in the hospital from 28.03.2021 to 01.04.2021. As per the aforesaid discharge summary, petitioner was diagnosed with polytrauma Hemoperitoneum Grade II Ast R Kidney laceration, R adrenal gematoma, L vertebra transverse, fracture right radius, fracture right leg both bone fracture. During his hospitalization, certain procedure were done. Apart from that, as per the medical treatment record Ex.PW2/8, the petitioner had also taken treatment from Safdarjung, Delhi and Jeevan Anmod Hospital as OPD patient on different dates lastly in the June 2021.

56. The medical treatment record of the petitioner including various OPD prescriptions issued on different dates indicating that the petitioner continued to undergo medical treatment until June 2021. Having regard to the fact that the charge-sheet was filed for the offence under Section 338 IPC and, as per the medical of the petitioner, the nature of injuries was opined as 'grievous', and petitioner is a case of 18% permanent disability in relation to right lower limb, it can reasonably be inferred that the petitioner sustained grievous injuries and remained under treatment for a considerable period of time alongwith prolonged pain and

suffering. Keeping in view the nature of injuries suffered by the petitioner in the accident, a sum of **Rs.1,00,000/- (Rupees One Lakhs only)** is awarded to the petitioner Rohan towards the pain and sufferings.

(C). **LOSS OF INCOME (DURING TREATMENT):**

57. The petitioner has deposed in his examination-in-chief that due to the injuries sustained in the accident, he could not perform his day-to-day activities for about six months and was completely dependant on others. As per the medical treatment record Ex.PW2/8, the petitioner suffered grievous injuries. As discussed above, as per proved record, the petitioner's treatment continued till June 2021. Thus, it can reasonably be inferred that the petitioner must have been incapacitated to work for at least 04 months following the accident.
58. In the present case, the petitioner was aged around 17 years 2 months at the time of accident, as reflected from his Aadhar card Ex.PW2/1. In determining the quantum of compensation for accidental injuries suffered by a minor /child, the first challenge before the MACT, is to determine the amount of compensation under the head loss of earning. As the child is of such tender age, there cannot be any specific or proven criteria to decide the just and fair amount of compensation under the above said head. Moreover, the Tribunal is required to take into account the

notional income of the child for determining the amount of compensation. In present case, petitioner himself deposed that he was working as a whitewasher /painter at Delhi. However, the petitioner has not placed on record any documentary proof to substantiate the claim of his occupation and income. Further, no bank statement of the petitioner has been filed to show crediting of any amount in respect of income in his account.

59. The petitioner has not stated a single word regarding resumption of his work after completion of treatment. Neither any Income Tax Return has been filed by the petitioner. As per aadhar card (Ex.PW2/1), the petitioner is a resident of Delhi.
60. No educational documents have been proved on record by the petitioner. In present case, having regard to the age, the nature of injuries, the social background of the child and future possibilities, this Tribunal finds that in the light of observation of Hon'ble Apex Court in **Kajal vs. Jagdish Chand** AIR 2020 SC 776 (para 20), it would be in the interest of justice to consider the notional income of the minor /child at parity with minimum wages of a "*skilled worker*" in the State of Delhi, keeping in view the residence of the petitioner is in Delhi, which is Rs.18,797/-(Rupees Eighteen Thousand Seven Hundred Ninety Seven only) per month.
61. In view of above, petitioner is granted a sum of **Rs.75,188/- (Rupees Seventy Five Thousand One Hundred Eighty Eight only)**

(Rs.18797x4) on account of loss of income during the period of treatment.

(D). **CONVEYANCE & SPECIAL DIET CHARGES:**

62. In his testimony as well as in computation sheet, PW3 has claimed that he had incurred Rs1,00,000/- on conveyance; Rs.1,00,000/- on special diet. However, to substantiate his claim, no documentary evidence has been filed on record. Considering the nature of injuries and period of treatment and being a case of 18% permanent disability in relation to right lower limb, an inference can be drawn that post-surgery and even after discharge from hospital, he had to visit the hospital several times for further treatment or for follow ups. The petitioner had to spend a reasonable amount on his special diet for the purpose of early recovery. Therefore, considering the nature of injury and period of treatment, a sum of Rs.25,000/- towards special diet and Rs.25,000/- towards conveyance charges would be just and fair compensation to the petitioner. Hence, a total sum of **Rs.50,000/- (Rupees Fifty Thousand only)** is awarded to the petitioner under this head.

(E). **ATTENDANT CHARGES:**

63. In his testimony, petitioner Rohan stated that due to the injuries sustained by him, he could not perform his day-to-day activities

for about six months and was completely dependent upon others. However, to substantiate this plea, petitioner failed to lead any evidence that he had hired any attendant during his treatment. No witness has entered into the witness-box to substantiate the claim of the petitioner that the attendant was hired by the petitioner to look after him. However, it cannot be ignored that family members of petitioner must have had to render their services for providing assistance to the petitioner for his routine activities and that would definitely led to loss of work/job. For claiming compensation, necessity of employing a professional attendant/ care taker is not required and the petitioner should be compensated for the value of services of the family members, which has been or would be necessitated by the wrong doing of the driver. (*DTC & Ors Vs. Lalita, 1983 ACJ 253*). Therefore, the petitioner is awarded a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as attendant charges.

(F). LOSS OF FUTURE INCOME ON ACCOUNT OF PERMANENT DISABILITY

64. The next question that remains to be decided is the compensation with respect to the disability of the petitioner. Under this head, it has to be seen that what could be the future loss of income on account of disability. In case bearing citation *Raj Kumar vs. Ajay*

Kumar & Ors. Arising out of civil appeal No. 8918 of 2010, it was held by Hon'ble Supreme Court that :

10. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claim could carry on inspite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether ; (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether inspite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood. For example, if the left hand of the claimant is amputated, the permanent physical or disablement may be around 60%. If the claimant was a driver of a carpenter, the actual loss of earning capacity may virtually be 100%, if he is neither able to drive or do carpentry. On the other hand, if the claimant is clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could performed his clerical functions, in that even the loss of earnings capacity will not be 100% as in the case of a driver or carpenter nor 60% which is the actual physical disability but far less. In fact, there may not be need to award any compensation under the head of 'Loss of future earnings', if the claimant continues in

Government service, though he may be awarded compensation under the head of loss of amenities on the consequences of losing his hand.....”

65. The disability certificate of GTB Hospital Ex.PW2/13 shows that the petitioner has suffered 18% permanent disability in relation to right lower limb. Though no witness has been examined by the petitioner to prove the disability certificate. However, in his examination in chief, PW2 has stated that due to the injuries sustained in the accident, his right leg has become short. He further deposed that he finds difficult to walk on a plain surface. In this regard, the law is well settled by the ***Hon’ble Supreme Court in Raj Kumar Vs. Ajay Kumar (Supra)***, wherein it has been held that the Tribunal must assess functional disability and its impact on the earning capacity of the injured and not merely rely upon the percentage of physical disability. In the present case, the petitioner has suffered 18% permanent disability in relation to right lower limb. In his testimony, petitioner deposed that he was working as painter on the date of accident. Due to his disability of 18% in relation to right lower limb, the petitioner may face considerable difficulty in performing the work of a painter. The work of painter involves climbing up and down the ladder and standing on the ladder for long hours while painting, which may be difficult for the petitioner in view of his disability and his earning capacity would accordingly diminish. Thus, total

functional disability of petitioner towards whole body is assessed to be 10% percent for computation of loss of future income.

66. The multiplier of damages has to be determined as per ***Sarla Verma Vs. DTC (2009) 6 SCC 121***. The age of injured as per his Aadhar Card Ex.PW2/1 was 17 years and 2 months on the date of accident. Therefore, multiplier of 18 would be applicable in the present case. The income of petitioner has already been ascertained hereinabove to be Rs.18,797/- per month. Besides it, petitioner is also entitled for future compensation @ 40% in view of the guidelines of the Constitution Bench of Hon'ble Supreme Court in a case titled as ***National Insurance Company Limited vs Pranay Sethi and others (2017) 16 SCC 680***. Thus, after applying the multiplier of 14, the total loss of future income would come to be **Rs.5,68,421/-** [10% of (18,797x140/100x12x18)] and this amount is awarded to the petitioner accordingly.

I. LOSS OF AMENITIES

67. Further, the petitioner is granted Rs.25,000/- for loss of amenities.

J. LOSS OF MARRIAGE PROSPECTS

68. As per testimony of the petitioner, the petitioner was minor on the date of accident. Considering the nature of injuries and the permanent disability suffered by the petitioner, the Tribunal finds that his chances of leading a normal matrimonial life and securing

suitable marriage prospects have been adversely affected. Hence, a sum of Rs.50,000/- is awarded to the petitioner under this head.

69. Accordingly, the compensation awarded to the petitioner is summarized as under:

Sl. No.	Head of compensation	Amount
1.	Medical Expenses	Rs.36,512/-
2.	Pain & Suffering	Rs.1,00,000/-
3.	Loss of income (during treatment)	Rs.75,188/-
4.	Conveyance and Special Diet expenses	Rs.50,000/-
5.	Attendant charges	Rs.25,000/-
6.	Loss of Future Income on account of permanent Disability	Rs.5,68,421/-
7.	Loss of Amenities	Rs.25,000/-
8.	Loss of Marriage Prospects	Rs.50,000/-
TOTAL		Rs. 9,30,121/- (rounded off to Rs.9,30,000/-)

70. Thus, the petitioner Rohan is entitled to a total compensation of **Rs.9,30,000/- (Rupees Nine Lakhs Thirty Thousand only).**

LIABILITY

71. Now, the question arises as to which of the respondents are liable to pay the compensation amount. As the insurance company has contractual and statutory liability to indemnify the insured. In this

case, insurance company has not been able to prove that any term or condition of insurance policy was breached/violated by insured. Therefore, respondent no.3- M/s Oriental Insurance Company is liable to pay the aforesaid compensation amount.

72. In view of above discussion, the respondent No. 3- insurer is liable to pay the compensation to the petitioner.

INTEREST

73. The petitioners Kamal and Rohan have been pursuing the present proceedings since the year 2021 and 2022 respectively. Accordingly, the petitioners are entitled to interest at the rate of 7.5% per annum on the aforesaid award amount, from the date of filing of the petition till date of realization.

ISSUE No.3-RELIEF:

In MACP No. 400/21 (In re: Kamal Vs. Adesh Kumar & Ors)

74. In view of the findings on the above points, this Tribunal awards a total compensation of **Rs.68,99,000/- (Rupees Sixty Eight Lakhs Ninety Nine Thousands only)** along with interest @ 7.5% per annum on the aforesaid award amount from the date of filing of the petition till the date of realization in favour of the petitioner and against the Respondent No.3 - insurer. The respondent No. 3 – Oriental Insurance Company is held liable to pay the awarded amount along with the accrued interest. This award amount shall

be deposited with this Tribunal within 30 days from the date of this award.

Disbursement of Award Amount :

75. After deposit of the award amount, an amount of **Rs.18,99,000/- alongwith corresponding interest** shall be forthwith released to the petitioner Kamal by way of transferring the said amount into his MACT Savings Bank Accounts and the balance award amount of Rs.50 lakhs along with the corresponding interest thereon shall be kept secured with UCO Bank, Karkardooma Courts, Delhi in MACAD (Motor Accident Claims Annuity Deposit), in the following manner :

SL No.	Amount	Period of FDR
1.	Rs.5,00,000/-	1 year
2.	Rs.5,00,000/-	2 years
3.	Rs.5,00,000/-	3 years
4.	Rs.5,00,000/-	4 years
5.	Rs.5,00,000/-	5 years
6.	Rs.5,00,000/-	6 years
7.	Rs.5,00,000/-	7 years
8.	Rs.5,00,000/-	8 years
9.	Rs.5,00,000/-	9 years
10.	Rs.5,00,000/-	10 years
11.	Half of the interest amount	11 years

12.	Half of interest amount	12 years
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76. As per ‘The Central Motor Vehicles Rules, 1989 (Annexure-XIII), the relevant Forms to be incorporated in the award are as under :

ISSUE No.3-RELIEF:

In MACP No. 317/22 (In re: Rohan Vs. Adesh Kumar & Ors)

77. In view of the findings on the above points, this Tribunal awards a total compensation of **Rs.9,30,000/- (Rupees Nine Lakhs Thirty Thousand only) along with interest @ 7.5% per annum** on the aforesaid award amount from the date of filing of the petition till the date of realization in favour of the petitioner and against the Respondent No.3 - insurer. The respondent No. 3 – Oriental Insurance Company is held liable to pay the awarded amount along with the accrued interest. This award amount shall be deposited with this Tribunal within 30 days from the date of this award.

Disbursement of Award Amount :

78. After deposit of the award amount, an amount of **Rs.4,30,000/- alongwith corresponding interest** shall be forthwith released to the petitioner Rohan by way of transferring the said amount into his MACT Savings Bank Accounts and the balance award amount of

Rs.5,00,000/- along with the corresponding interest thereon shall be kept secured with UCO Bank, Karkardooma Courts, Delhi in MACAD (Motor Accident Claims Annuity Deposit), in the following manner :

SL No.	Amount	Period of FDR
1.	Rs.1,00,000/-	1 year
2.	Rs.1,00,000/-	2 years
3.	Rs.1,00,000/-	3 years
4.	Rs.1,00,000/-	4 years
5.	Rs.1,00,000/-	5 years
6.	Interest amount	6 years

79. As per ‘The Central Motor Vehicles Rules, 1989 (Annexure-XIII), the relevant Forms to be incorporated in the award are as under :

Directions to the Petitioner(s) & his Bank

80. The petitioners shall open a saving bank account near his / her place of residence. The bank concerned is directed to ensure compliance with the following conditions:

(a) The Bank shall not permit the inclusion of any joint name(s) in the savings bank account or fixed deposit account of the claimant(s). The account(s) of the claimant(s) shall be individual saving bank account(s) and not joint account(s).

(b) The original fixed deposit (FDR) shall be retained by the bank in safe custody. However, the bank shall furnish the

claimant statement containing FDR number, amount, date of maturity and maturity amount.

(c) The monthly interest accrued on FDR(s) shall be credited by Electronic Clearing System (ECS) with the savings bank account of the claimant(s) near their place of residence.

(d) The maturity amounts of the FDR(s) shall also be credited through Electronic Clearing System (ECS) in the savings bank account of the claimant(s) near their place of residence.

(e) No loan, advance, withdrawal or pre-mature discharge shall be permitted against the fixed deposits without permission of this Court.

(f) The concerned bank shall not issue any cheque book and/or debit card to claimant(s). However, if a cheque book or debit card has already been issued, the bank shall cancel the same before disbursement of the award amount. The bank shall also freeze the debit card facility so that no debit card is issued or operated in respect of the account of the claimant(s) from any other of the bank.

(g) The bank shall make an endorsement on the passbook of the claimant(s) stating that no cheque book and/or debit card has been issued and shall not be issued without the permission of the Court. The claimant(s) shall produce the passbook with given endorsement before the Court on the next date fixed for compliance.

As per 'The Central Motor Vehicles Rules, 1989 (Annexure-XIII), the relevant Form to be incorporated in the award is as under:

In MACP No. 400/2021 (In re: Kamal Vs. Jagmeet Singh & Ors)

FORM -XVI

**SUMMARY OF COMPUTATION OF AWARD AMOUNT IN INJURY
CASES TO BE INCORPORATED IN THE AWARD**

- | | |
|--|---|
| 1. Date of accident | : 27.03.2021 |
| 2. Name of the injured | : Kamal |
| 3. Age of the injured | : 25 years |
| 4. Occupation of the injured | : Private work |
| 5. Income of the injured | : Rs.18,797/-per month |
| 6. Nature of injury | : Grievous Injury |
| 7. Medical treatment taken by the injured | : Yes |
| 8. Period of hospitalization | : Treated and hospitalized in different hospitals on different dates. |
| 9. Whether any permanent disability?
(If yes, give details) | : Yes. 85% permanent disability in relation to right upper limb |

10.	Computation of Compensation	
S. No.	Heads	Awarded by the Claims Tribunal
11.	Pecuniary Loss:	
(i)	Expenditure on treatment	Rs.25,042/-
(ii)	Expenditure on conveyance	Rs.1,00,000/-
(iii)	Expenditure on special diet	
(iv)	Cost of nursing/attendant	Rs.1,00,000/-
		Future attendance charges - Rs.12,00,000/-
(v)	Cost of artificial limb	NA
(vi)	Loss of earning capacity	--

(vii)	Loss of income (during treatment)	Rs.5,26,316/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	N.A.
12.	Non-Pecuniary Loss:	
(i)	Compensation for mental and physical shock	Rs.2,00,000/-
(ii)	Pain and suffering	
(iii)	Loss of amenities of life	Rs.1,00,000/-
(iv)	Disfiguration	-
(v)	Loss of marriage prospects	Rs.1,00,000/-
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
13.	Disability resulting in loss of earning capacity:	85% in relation to right upper limb
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	
(ii)	Loss of amenities or loss of expectation of life span on account of disability	
(iii)	Percentage of loss of earning capacity in relation to disability	80%
(iv)	Loss of future income – (Income x% Earning Capacity x Multiplier)	Rs.45,47,370/-
14.	TOTAL COMPENSATION	Rs.68,98,728/- (rounded off to Rs.68,99,000/-)
15.	INTEREST AWARDED	7.5%
16.	Interest amount up to the date of the	Rs.23,15,476/-

	award @ 7.5%	(for 04 years, 5 months & 21 days)
17.	Total amount including interest	Rs.92,14,476/-
18.	Award amount released	Rs.18,99,000/- alongwith corresponding interest
19.	Award amount kept in FDRs	Rs.50,00,000/- alongwith corresponding interest
20.	Mode of disbursements of the award amount to the claimants(s).	Bank Transfer
21.	Next Date for compliance of the award.	07.07.2026.

In MACP No. 317/2022 (In re: Rohan Vs. Jagmeet Singh & Ors)

FORM -XVI

SUMMARY OF COMPUTATION OF AWARD AMOUNT IN INJURY CASES TO BE INCORPORATED IN THE AWARD

- | | |
|--|---|
| 1. Date of accident | : 27.03.2021 |
| 2. Name of the injured | : Rohan |
| 3. Age of the injured | : 21 years |
| 4. Occupation of the injured | : Private work |
| 5. Income of the injured | : Rs.18,797/-per month |
| 6. Nature of injury | : Grievous Injury |
| 7. Medical treatment taken by the injured | : Yes |
| 8. Period of hospitalization | : Treated and hospitalized in different hospitals on different dates. |
| 9. Whether any permanent disability?
(If yes, give details) | : Yes 18% permanent disability in relation to right lower limb. |

10.	Computation of Compensation	
S. No.	Heads	Awarded by the Claims Tribunal
11.	Pecuniary Loss:	
(i)	Expenditure on treatment	Rs.36,512/-
(ii)	Expenditure on conveyance	Rs.50,000/-
(iii)	Expenditure on special diet	
(iv)	Cost of nursing/attendant	Rs.25,000/-
(v)	Cost of artificial limb	NA
(vi)	Loss of earning capacity	--
(vii)	Loss of income (during treatment)	Rs.75,188/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	N.A.
12.	Non-Pecuniary Loss:	
(i)	Compensation for mental and physical shock	Rs.1,00,000/-
(ii)	Pain and suffering	
(iii)	Loss of amenities of life	Rs.25,000/-
(iv)	Disfiguration	-
(v)	Loss of marriage prospects	Rs.50,000/-
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
13.	Disability resulting in loss of earning capacity:	18% in relation to right lower limb
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	
(ii)	Loss of amenities or loss of	

	expectation of life span on account of disability	
(iii)	Percentage of loss of earning capacity in relation to disability	10%
(iv)	Loss of future income – (Income x% Earning Capacity x Multiplier)	Rs.5,68,421/-
14.	TOTAL COMPENSATION	Rs.9,30,121/- (rounded off to Rs.9,30,000/-)
15.	INTEREST AWARDED	7.5%
16.	Interest amount up to the date of the award @ 7.5%	Rs.2,69,506/- (for 03 years, 10 months & 11 days)
17.	Total amount including interest	Rs.11,99,506/-
18.	Award amount released	Rs.4,30,000/-alongwith corresponding interest
19.	Award amount kept in FDRs	Rs.5,00,000/- alongwith corresponding interest
20.	Mode of disbursements of the award amount to the claimants(s).	Bank Transfer
21.	Next Date for compliance of the award.	07.07.2026.

81. With these observations, both the present claim petitions are disposed of.

82. The files be consigned to the Record Room.

**Announced in the open
Court on 18.05.2026
(Total 50 pages)**

**(Aparna Swami)
Presiding Officer-MACT (East)
Karkardooma Courts, Delhi**