

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

In the matters of:

(i) MACT No.299/2021
CNR No. DLET01-006479-2021
Anil Kumar Bisht Vs. Sunny Yadav & Ors.
(ii) MACT No.300/2021
CNR No. DLET01-006480-2021
Raj Kumar Vs. Sunny Yadav & Ors.

MACT No. 299/2021

Anil Kumar Bisht (Injured)

S/o Sh. Bisan Singh Bisht

R/o Chenderpal ka Makan,

Village-Chhalera, Sector-44, Noida, Uttar Pradesh

.....Petitioner

Versus

1. Sunny Yadav (Driver)

S/o Sh. Bimlesh Singh

R/o Kheri Khatna, Firozabad,

Uttar Pradesh.

2. Ola Fleet Technologies Pvt. Ltd. (Owner)

3. Bajaj Allianz General Insurance Co. Pvt. Ltd. (Insurance Company).

....Respondents

MACT No.300/2021

Raj Kumar (Injured)

S/o Sh. Banarsi Das

R/o Chenderpal ka Makan,

Village-Chhalera, Sector-44, Noida, U.P.
& Village- Jatapur, Bulandsaher, U.P.

.....Petitioner

Versus

1. Sunny Yadav (Driver)
2. Ola Fleet Technologies Pvt. Ltd. (Owner)
3. Bajaj Allianz General Insurance Co. Pvt. Ltd. (Insurance Company).
(Details as above)

Respondents

Date of Institution	: 29.09.2021
Date of arguments	: 25.04.2026
Date of award	: 19.05.2026

A W A R D

- 1) This common award shall decide MACP Nos.299/21 and 300/21 filed on the basis of the Detailed Accident Report (DAR) seeking compensation on account of the injuries sustained by the petitioners in a road traffic accident dated 13.03.2020.
- 2) The facts are that on 13.03.2020 at about 03:45 P.M., the petitioners namely Anil Kumar Bisht and Raj Kumar alongwith one of the colleagues were standing at the bus stand near divider in front of Samachar Apartment, MV-1, Delhi, while preceding towards Noida after completing their office duties at Amity International School, MV-1, Delhi. At that time, the offending vehicle bearing Registration No.HR-55AE-4818 allegedly being driven by Respondent No.1 at a very high speed, and in a rash and

negligent manner, without observing the traffic rules, came from the side of Akshardham towards Noida and hit the petitioner and two other persons standing at the bus stand with great force. It is further the case of the petitioner that after hitting them the offending vehicle mounted the divider.

- 3) As a result of the said accident, the petitioners sustained multiple grievous injuries and they were immediately removed to Dharamshila Hospital in a critical condition. In connection with the aforesaid accident, an FIR bearing No.94/20 was registered at Police Station – Mayur Vihar Phase-I, Delhi.
- 4) Despite being given repeated opportunities, Respondent No.1 did not file his written statement and his opportunity to file written statement was closed on 09.06.2022.
- 5) Ld. Counsel for Respondent No. 2 filed his separate written statement. Respondent No.2 has raised a preliminary objection that the DAR is not maintainable as no cause of action arises against him as the vehicle bearing Registration No.HR-55AE-4818 is not the offending vehicle and has been falsely implicated by the petitioner. He further averred that the alleged offending vehicle was duly insured with respondent No. 3- insurer from 19.09.2019 to 18.09.2020 and Respondent No. 1 was having valid driving licence. It is also contended that the petitioner

is not entitled to any compensation as the DAR is not covering the provisions of Sections 166 & 140 of the Motor Vehicles Act.

- 6) Respondent No. 3 - insurer has also filed its separate written statement mentioning that the DAR is not only evasive and fabricated but also contradictory. It is further stated that the alleged accident took place due to the fault of the petitioners who were hit by the offending vehicle while walking in the middle of the road. It is also stated that the driver did not possess valid driving licence at the time of the accident and the offending vehicle was driven in contravention of the terms of the insurance policy. Thus, the insurance company claims and pleads exoneration. It is also averred that the driver of the offending vehicle was driving the offending vehicle in a rash and negligent manner as the DAR itself mentions that the driver of the offending vehicle was driving dangerously at an excessive speed. The other general defences have also been taken by the insurance company.
- 7) On the basis of pleadings, on 08.09.2022 the following issues were framed:

In MACP No. 299/2021 (In re: Anil Kumar Bisht Vs. Sunny Yadav & Ors)

(i). Whether the petitioner Anil Kumar Bisht suffered grievous injuries in a motor vehicular accident happened on 13.03.2020 at about 03:45 pm, on road leading to Noida from Akshardham, in

front of Samachar Apartment, Mayur Vihar Phase-I, Delhi, within the jurisdiction of Police Station Mayur Vihar, due to the rash and negligent driving of car bearing Registration No.HR-55AE-4818, being driven by the respondent No.1/Sunny Yadav? (OPP)

(ii) Whether R1 Sunny Yadav, driver of the offending vehicle was not holding valid and effective driving licence at the time of accident and thereby committed breach of any terms and conditions of the insurance policy, if so, its effect ? (OPR-3)

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

(iv) Relief.

In MACP No. 300/2021 (In re: Raj Kumar Vs. Sunny Yadav & Ors)

(i). Whether the petitioner Raj Kumar suffered grievous injuries in a motor vehicular accident happened on 13.03.2020 at about 03:45 pm, on road leading to Noida from Akshardham, in front of Samachar Apartment, Mayur Vihar Phase-I, Delhi, within the jurisdiction of Police Station Mayur Vihar, due to the rash and negligent driving of car bearing Registration No.HR-55AE-4818, being driven by the respondent No.1/Sunny Yadav? (OPP)

(ii) Whether R1 Sunny Yadav, driver of the offending vehicle was not holding valid and effective driving licence at the time of accident and thereby committed breach of any terms and conditions of the insurance policy, if so, its effect ? (OPR-3)

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

(iv) Relief.

- 8) Vide order dated 23.11.2023, Ld. Predecessor of this Tribunal consolidated both of the claim petitions for the purpose of inquiry and case MACT No. 299/21 titled as “Anil Kumar Bisht Vs.

Sunny Yadav” was ordered to be considered as the main case file and common evidence was ordered to be recorded in both the matters.

- 9) In order to prove the claim, the petitioner(s) examined three witnesses.
- 10) The petitioner, Mr. Anil Kumar Bisht 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 :
 - a) Copy of DAR- Ex.PW1/1 (Colly).
 - b) Copy of treatment record- Ex.PW1/2 (Colly).
 - c) Copy of medical bills of Rs.2064/- – Ex.PW1/3 (Colly).
 - d) Copy of PAN Card- Ex.PW1/4.
 - e) Copy of Aadhar Card- Ex.PW1/5.
 - f) Copy of Driving Licence- Ex.PW1/6.
- 11) Mr. Raj Kumar (petitioner in the MACT No.300/21) was examined as PW1 who tendered his evidence exhibited as PW1/A. He reiterated the fact stated in the claim petition. PW1 categorically deposed that the accident occurred due to the rash

and negligent driving of the offending vehicle by the respondent No.1. PW1relied upon the following documents :

- a) Copy of DAR- Ex.PW1/1 (Colly).
 - b) Copy of treatment record- Ex.PW1/2 (Colly).
 - c) Medical bills of Rs.9920/- – Ex.PW1/3 (Colly).
 - d) Copy of PAN Card- Ex.PW1/4.
 - e) Copy of Aadhar Card- Ex.PW1/5.
 - f) Copy of Disability Certificate – Ex.PW1/6.
- 12) PW2-Dr. Binod Kalita, Orthopedic Specialist, JPHC Hospital was examined as PW2. He proved the disability certificate already exhibited as PW1/6; mentioning 22% of the permanent physical disability in respect to left lower limb. He further proved on record the assessment sheet Ex.PW2/1.
- 13) The testimonies of the petitioner’s witnesses remained unshaken during its cross-examination and were duly supported by documentary evidence.
- 14) The Respondent No.3 chose to examine one witness on its behalf. Sh. Praveen Kumar, stepped into the witness box as R3W1 and tendered his evidence by way of affidavit exhibited as R3W1/A. He relied upon copy of power of attorney/authorization letter, which is exhibited as Ex.R3W1/1, Insurance Policy, which is exhibited as Ex.R3W1/2, DAR which are already exhibited as

Ex.PW1/1 (mentioned in his affidavit as Ex.R3W1/3) and FIR which is exhibited as Ex.R3W1/4 (OSR).

- 15) Thereafter, Respondent Evidence was closed.
- 16) This Tribunal has heard Mr. Madhur Goel, Ld. Counsel for the petitioner(s); Sh. Sanjay Dahiya, Ld. Counsel for R1 & R2 and Ms. Ankita Dwivedi, Ld. Counsel for Respondent No. 3- insurer. The record of the case has also been perused.
- 17) Now, coming to the Issues in hand:-

ISSUE No. 1 -

In MACP No. 299/21 (In re: Anil Kumar Bisht Vs. Sunny Yadav & Ors)

In MACP No. 300/21 (In re: Raj Kumar Vs. Sunny Yadav & Ors)

Whether the petitioner Anil Kumar Bisht suffered grievous injuries in a motor vehicular accident happened on 13.03.2020 at about 03:45 pm, on road leading to Noida from Akshardham, in front of Samachar Apartment, Mayur Vihar Phase-I, Delhi, within the jurisdiction of Police Station Mayur Vihar, due to the rash and negligent driving of car bearing Registration No.HR-55AE-4818, being driven by the respondent No.1/Sunny Yadav?

Whether the petitioner Raj Kumar suffered grievous injuries in a motor vehicular accident happened on 13.03.2020 at about 03:45 pm, on road leading to Noida from Akshardham, in front of Samachar Apartment, Mayur Vihar Phase-I, Delhi, within the jurisdiction of Police Station Mayur Vihar, due to the rash and negligent driving of car bearing Registration No.HR-55AE-4818, being driven by the respondent No.1/Sunny Yadav?

- 18) Issue no.1, being common in both of the cases, shall be decided herein by common findings.

- 19) The burden to prove this issue lies on the petitioner(s). 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, **PWs** have stepped into witness box. Their evidence has fully supported the case cited in the claim petitions. PW1 Anil Kumar Bisht categorically deposed that on on 13.03.2020 at about 03:45 P.M., the petitioners namely Anil Kumar Bisht and Raj Kumar alongwith one of the colleagues were standing at the bus stand near divider in front of Samachar Apartment, MV-1, Delhi, while preceding towards Noida after completing their office duties at Amity International School, MV-1, Delhi. At that time, the offending vehicle bearing Registration No.HR-55AE-4818 allegedly being driven by Respondent No.1 at a very high speed, and in a rash and negligent manner, without observing the traffic rules, came from the side of Akshardham towards Noida and hit the petitioner and two other persons standing at the bus stand with great force. It is further the case of the petitioner that after hitting them the offending vehicle mounted the divider.
- 21) As a result of the said accident, the petitioners sustained multiple grievous injuries. They were immediately taken to Dharamshila Hospital in a critical condition. The testimonies of the PWs have

remained consistent, credible and have not been shaken in the cross-examination. Nothing has been elicited from the cross-examination to discredit his testimony. The FIR registered on the same day of accident clearly mentions the number of the offending vehicle. The DAR, consisting of other document exhibited PW1/1 (colly) and Ex.R3W1/4 support the case of the petitioner 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 or investigation was fabricated or investigation was manipulated.

- 22) The Disability Certificate which is exhibited as PW1/6 (in MACP No.300/21) clearly shows that the petitioner Raj Kumar sustained “grievous injuries” in the said Road Traffic Accident.
- 23) It is noteworthy that Respondents No.1 & 2 being driver and owner of the offending vehicle have not examined any witness in 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. On being examined as

a Tribunal Witness, Driver of the offending vehicle has stated that he was driving the offending vehicle at the time of the accident.

- 24) 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.

25) 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 petitioner(s). **Therefore, Issue No.1 stands decided in favour of petitioner(s) namely Anil Kumar Bisht and Raj Kumar.**

ISSUE No. 2: Whether R1 Sunny Yadav, driver of the offending vehicle was not holding valid and effective driving licence at the time of accident and thereby committed breach of any terms and conditions of the insurance policy, if so, its effect ?

26. Issue no.2, being common in both of the cases, shall be decided by common findings.

27. The onus to prove this issue is on the R-3 / insurer. The insurance company has examined R3W1 to prove the objections raised by it and to prove that term or condition of insurance policy was breached/ violated by insured as the driver of the offending vehicle was not having valid and effective driving licence at the time of accident. R3W1 proved the insurance policy. As per chargesheet, driver respondent was not holding Driving Licence at the time of accident and Section 3/181 of Motor Vehicles Act, 1954 was also added in the Final Form. Even on being query raised by Tribunal, Respondent No.1-Sunny Yadav has deposed that though he was driving the offending vehicle bearing

Registration No.HR-55AE-4818 at the time of the accident but he was not holding any valid Driving Licence at the time of the accident. Thus, apparently there is breach of insurance policy as per the driver clause of the insurance policy Ex.R3W1/2. As discussed above, it is already held that Sunny Yadav was driving the offending vehicle on the date of accident.

28. **In view of above, Issue No.2 is decided in favour of insurance company.**

ISSUE No. 3: Whether the petitioner is entitled to compensation on account of said injuries, if yes, to what extent and from whom?

29. 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.

30. 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.

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

In MACP No. 299/2021 (In re: Anil Kumar Bisht Vs. Suni Yadav & Ors)

(A). MEDICAL EXPENSES:

32. In order to prove his medical expenses on his treatment, the petitioner has relied in his evidence the total medical bills Ex.PW1/3 amounting to Rs.2,064/-. No serious dispute has been raised by the respondent side with regard to the genuineness of these medical bills. Accordingly, a sum of **Rs.2,064/- (Rupees Two Thousand and Sixty Four rupees only)** is awarded to the petitioner under this head.

(B). PAIN AND SUFFERING:

33. As per the testimony of PW1, after the accident, he was taken to Dharamshila Hospital, where her MLC was prepared and also treated in other hospital on several dates. MLC prepared at Dharamshila Hospital reflects that the petitioner was brought with a history of Road Traffic Accident and the doctor opined the injuries suffered by the petitioner Anil Kumar Bisht as “Simple”. As per the medical record dated 13.03.2020 of Dharamshila Narayana Hospital, petitioner was brought with complaint of pain over nose, lacerated wound on forehead of 4 cm, superficial laceration around 1.5 cm and chest pain on right side and pain in shoulder with radiculitis. No external injury could be seen during his examination and nature of injury has been opined as simple. Further, he was advised follow-up in medicine. The petitioner has also placed on record certain medical documents pertaining to the year of

September 2021. However, the said documents are of much later period from the date of accident and no documentary proof is filed on record to show that the documents filed by the petitioner are related to the injuries sustained in the road traffic accident. There is nothing on record to show that continuous treatment was going in relation to the injuries sustained in the accident. Keeping in view the nature of injuries suffered by the petitioner in the accident, a sum of **Rs.10,000/- (Rupees Ten Thousand only)** is awarded to the petitioner towards the pain and sufferings.

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

34. The petitioner Anil Kumar Bisht has deposed in his affidavit that due to the injuries sustained in the accident, he was admitted in Dharamshila Hospital on the date of accident and was discharged on the very same day. It is further stated that he took further treatments in different hospitals at Delhi. The petitioner has also placed on record certain medical documents pertaining of the September and October 2021. However, the said documents are not related to the injuries sustained by the petitioner in the present road traffic accident. The petitioner has claimed that due to the injuries sustained in the accident his working capacity has reduced and is unable to handle work by own since the date of accident. However, no material has been placed on record to show that the petitioner has suffered loss of income.

35. The petitioner Anil Kumar Bisht has deposed in his testimony that at the time of accident, he was employed with Amity International School, MV-1, Delhi as peon/caretaker/safai karamchari and was getting a salary of Rs.20,000/- per month. During his cross-examination, he deposed that he has Driving Licence. He further deposed that he do not any employment certificate to show that he was working as Driver with Amity International School and he did not get the salary slip from Amity International School. He further deposed that he has not filed any salary slip or proof of income. Further, no bank statement of the petitioner has been filed on record. No attendance register and leave record are proved on record to show that the petitioner was working with the Amity International School. No educational documents has been proved on record by the petitioner. However, petitioner has tendered on record his Driving Licence Ex.PW1/6, which was issued on 30.07.1992 and valid for Non-Transport till 15.06.2023 and for Transport for 15.06.2026. Considering the injuries sustained in the accident, it can be presumed that the petitioner would not have been able to attend his work properly at least for one month. In the absence of any documentary proof and keeping in view the residence of the petitioner in Delhi, his income is taken on the basis of the minimum wages of an Skilled worker prevailing in the State of Delhi on the date of accident, which is **Rs.17,924/- (Rupees Seventeen Thousand, Nine Hundred and Twenty Four) per month.**

36. In view of above, petitioner is granted a sum of **Rs.17,924/- (Rupees Seventeen Thousand, Nine Hundred and Twenty Four) per month** on account of loss of income during the period of treatment.

(D). CONVEYANCE & SPECIAL DIET CHARGES:

37. PW1 has stated in his affidavit that he has spent a huge amount on conveyance amounting to Rs.25,000/- and was forced to take high protein diet for early recovery of health and for this he has also spent Rs.25,000/- on special diet. However, in his cross-examination, he has uttered that he has no proof regarding any prescription by the doctor recommending special diet and conveyance. As per the FIR and medical document, the nature of injuries opined as “simple”. But considering the nature of injury and for recovery of health, a sum of Rs.3,000/- towards special diet and Rs.2,000/- towards conveyance charges would be just and fair compensation to the petitioner. Hence, a total sum of **Rs.5,000/- (Rupees Five Thousand only)** is awarded to the petitioner under these heads.

(E). ATTENDANT CHARGES:

38. Though in his testimony, PW1 /petitioner has claimed that he had hired an attendant and was paying a Rs.8,000/- per month to the attendant. However, no documentary proof or receipt is proved on record to show that petitioner was paying a sum of Rs.8,000/- per month to the attendant. Even the attendant, who allegedly was hired, has not been

examined by the petitioner to substantiate his submission. It cannot be ignored that family members of petitioner must have had to render their services for providing assistance to the petitioner for her routine activities and that would definitely suffer their 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.5,000/-** as attendant charges.

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

Sl. No.	Head of compensation	Amount
1.	Medical Expenses	Rs.2,064/-
2.	Pain & Suffering	Rs.10,000/-
3.	Loss of income (during treatment)	Rs.17,924/-
4.	Conveyance and Special Diet expenses	Rs.5,000/-
5.	Attendant	Rs.5,000/-
TOTAL		Rs. 39,988/- (rounded off to Rs.40,000/-)

40. Thus, the petitioner is entitled to a total compensation of **Rs.40,000/- (Rupees Forty Thousand only)**.

In MACP No. 300/21 (In re: Raj Kumar Vs. Sunny Yadav & Ors)

(A). MEDICAL EXPENSES:

41. In order to prove his medical expenses on his treatment, the petitioner has relied in his evidence the total medical bills Ex.PW1/3 amounting to Rs.9,920/-. The Ex.PW1/3 consists of bill of “Delhi Arogya Kosh-” amounting to Rs.9,920/- indicates that the said amount was sponsored by the aforesaid Arogya Kosh not by the petitioner. Therefore, this one bill of Rs.9,920/- cannot be considered under this head.

(B). PAIN AND SUFFERING:

42. As per the testimony of PW2, after the accident, he was taken to Dharamshila Narayana Superspeciality Hospital and he further stated that due to the accident, his left leg got fractured. He also took further treatment in Surbhi Hospital. As per the MLC of petitioner of Dharamshila Narayana Superspeciality Hospital, petitioner was admitted with history of road traffic accident on 13.03.2020 at 04:12 pm. As per MLC, petitioner petitioner suffered with head injury and chest pain. The medical treatment paper of Surbhi Hospital reflects that the petitioner is diagnosed with a fracture of the shaft of the left femur, a fracture of the distal tibia and a fracture of the distal fibula of the left leg. Further, an above knee (A/K) cast was applied on the leg of the petitioner for six

weeks and petitioner was recommended for complete bed rest, limb elevation and restricted movement during the recovery period.

43. Having regard to the fact that the charge-sheet was filed for the offence under Sections 279/337/ 338 IPC and, as per the MLC of the petitioner, the nature of injuries was opined as 'grievous' moreover, the petitioner also suffered 22% permanent disability in relation to left 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.50,000/- (Rupees Fifty Thousand only)** is awarded to the petitioner towards the pain and sufferings.

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

44. The petitioner has deposed in his affidavit that due to the injuries sustained in the accident, he was admitted in Dharamshila Hospital on the date of accident and got further treatments in Surbhi Hospital at Delhi. The petitioner has claimed that due to the injuries sustained in the accident his working capacity has reduced and is unable to handle work by own since the date of accident. Petitioner has filed on record only one medical treatment paper dated 16.04.2020 in which doctor has advised the patient to take rest for six weeks and again come for follow-up. However, not a single paper is on record after 16.04.2020

to show that petitioner has taken further treatment or went for follow-up. Considering the nature of injuries i.e. multiple grievous injuries, specially a fracture of the shaft of the left femur, a fracture of the distal tibia and a fracture of the distal fibula of the left leg and the treatment record, it is reasonable to presume that the petitioner would not have been able to work for three months.

45. The petitioner has deposed in his testimony that at the time of accident, he was employed with Amity International School, MV-1, Delhi as safai karamchari and was getting a salary of Rs.20,000/- per month. During his cross-examination, he deposed that he has Driving Licence. He further deposed that he has not any employment certificate to show that he was working as Driver with Amity International School and he did not get the salary slip from Amity International School. He further deposed that he has not filed any salary slip or proof of income. Further, no bank statement of the petitioner has been filed on record. No attendance register and leave record are proved on record to show that the petitioner was working with the Amity International School. The educational documents has not been proved on record by the petitioner.

46. As per the written submissions and computation sheet, the petitioner has claimed his income based on the minimum wages of semi-skilled worker in Delhi. Keeping in view the residence of the petitioner is in Delhi, his income is taken on the basis of the minimum wages of an

unskilled worker prevailing in the Delhi, which is Rs.14,806/-(Rupees Fourteen Thousand, Eight Hundred and Six Rupees only) per month.

47. In view of above, petitioner is granted a sum of **Rs.44,418/- (Rupees Forty Four Thousand, Four Hundred and Eighteen only) (Rs.14,806x3)** on account of loss of income during the period of treatment.

(D). CONVEYANCE & SPECIAL DIET CHARGES:

48. PW1 has stated in his affidavit that he has spent a huge amount on conveyance amounting to Rs.35,000/- and was forced to take high protein diet for early recovery of health and for this he has also spent Rs.40,000/- on special diet. However, in his cross-examination, he has uttered that he has no proof regarding any prescription by the doctor recommending special diet and conveyance. As per the FIR and medical document, the nature of injuries opined as “grievous”. Considering the nature of injury and for recovery of health, a sum of Rs.15,000/- towards special diet and Rs.5,000/- towards conveyance charges would be just and fair compensation to the petitioner. Hence, a total sum of **Rs.20,000/- (Rupees Twenty Thousand only)** is awarded to the petitioner under these heads.

(E). ATTENDANT CHARGES:

49. Though in his testimony, PW1 /petitioner has claimed that he had hired an attendant and was paying a Rs.10,000/- per month to the

attendant. However, no documentary proof or receipt is proved on record to show that petitioner was paying a sum of Rs.10,000/- per month to the attendant. Even the attendant, who allegedly was hired, has not been examined by the petitioner to substantiate his submission. It cannot be ignored that family members of petitioner must have had to render their services for providing assistance to the petitioner for her routine activities and that would definitely suffer their 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.5,000/- as attendant charges.

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

50. 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 or 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.....”

51. The disability certificate of Jag Pravesh Chandra Hospital Ex.PW1/6 shows that the petitioner has 22% permanent disability in relation to left lower limb. To prove the disability certificate, petitioner examined, PW2 Dr. Binod Kalita, Orthopaedica Specialist, JPCH Hospital, Delhi. He has deposed in his testimony that petitioner suffered permanent disability to the extent of 22% in relation to left lower limb and the same is not likely to improve and it is a functional difficulty. In his testimony, PW2 deposed that patient Raj Kumar is a case of united fracture both bones left leg. During his cross-examination, PW2 deposed that the injured petitioner is able to do day work but he cannot run and prolong walk. He further stated that the patient can drive the vehicle. In view of the law laid down by the Hon'ble Supreme Court of India in **Raj Kumar Vs. Ajay Kumar** (Supra), the emphasis is not merely on assessing whether the petitioner is capable of performing his duties at the workplace as well as home, but on determining the extent of loss of future earning capacity suffered by the petitioner as a consequence of the said permanent physical disability. In the present case, considering that the petitioner is suffering from multiple grievous injuries, specially a fracture of the shaft of the left femur, a fracture of the distal tibia and a fracture of the distal fibula of the left leg, 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 employed with Amity International School as Safai Karamchari and due to disability sustained in the accident, he is not

able to handle work by own. As per the testimony of the petitioner, he needs one attendant for performing her day to day activities. Thus, total functional disability of petitioner towards whole body is assessed to be 11% percent for computation of loss of future income.

52. The multiplier of damages has to be determined as per **Sarla Verma Vs. DTC (2009) 6 SCC 121**. The age of injured as per her Aadhar Card Ex.PW1/5 was 51 years and 2 months on the date of accident. Therefore, multiplier of 11 would be applicable in the present case. The income of petitioner has already been ascertained hereinabove to be Rs.14,806/- per month. The annual income of the petitioner comes to Rs.1,77,672/- (i.e. Rs. 14,806/-X 12). Besides it, petitioner is also entitled for future compensation @ 10% 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 11, the total loss of future income would come to be **Rs.2,36,482/-** [11% of (1,77,672 x110/100x11)] and this amount is awarded to the petitioner accordingly.

G. LOSS OF AMENITIES

53. Further, the petitioner is granted a sum of Rs.10,000/- for loss of amenities.

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

Sl. No.	Head of compensation	Amount
1.	Medical Expenses	Nil.
2.	Pain & Suffering	Rs.50,000/-
3.	Loss of income (during treatment)	Rs.44,418/-
4.	Conveyance and Special Diet expenses	Rs.20,000/-
5.	Attendant	Rs.5,000/-
6.	Loss of Future Income on account of permanent Disability	Rs.2,36,482/-
7.	Loss of Amenities	Rs.10,000/-
TOTAL		Rs. 3,65,900/- (rounded off to Rs.3,66,000/-)

55. Thus, the petitioner is entitled to a total compensation of **Rs.3,66,000/- (Rupees Three Lakhs and Sixty Six Thousand only)**.

LIABILITY

56. Now, the question arises as to which of the respondents is liable to pay the compensation amount. As insurance company has contractual and statutory liability to indemnify the insured, the Insurance company is liable to compensate the third party. While deciding issue No.2, it has already been held that the R-1 / driver Sunny Yadav was not holding valid and effective driving licence and thus there is a fundamental breach of terms and conditions of the insurance policy. However, the breach in question is not such as would affect the right of third party, once it is established that vehicle was covered under the

policy of insurance. Law is well settled that insurance company would be entitled for recovery of the compensation amount from the driver and registered owner /insured of the offending vehicle. In case titled as *Gurmeet Singh vs. The New India Assurance Co. Ltd & Ors, MAC App 288/2021* decided on 06.10.2023, it has been held that the respondent no. 3 / insurer is entitled to recover the compensation amount paid to the claimants. In such circumstances, insurance company is entitled for recovery of the compensation amount from the Respondent Nos.1 and 2, jointly and severally, after paying the aforesaid compensation to the petitioners in the first place. In view of above, it is held that respondent no.3/ insurer shall be entitled to pay the compensation amount to the petitioners.

INTEREST

57. The petitioner(s) have been pursuing the present proceedings since the year 2021. Accordingly, the petitioner(s) 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.4-RELIEF:

In MACP No. 299/21 (In re: Anil Kumar Bisht Vs. Sunny Yadav & Ors)

58. This Tribunal awards a compensation of **Rs.40,000/-** (Rupees Forty Thousand only) to the petitioner along with interest @ 7.5% per

annum from the date of filing of petition till realization to be paid by the Respondent no.3/ insurance company to be recovered from the R-1 and R-2 jointly and severally. Amount of interim award, if any, be deducted from the compensation amount along with the waiver of interest, if any, as directed by the Tribunal during the pendency of this case.

Disbursement of Award Amount :

59. After deposit of the award amount, entire amount of **Rs.40,000/- alongwith corresponding interest** shall be forthwith released to the petitioner by way of transferring the said amount into his MACT Savings Bank Account.

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

ISSUE No.4-RELIEF: In MACP No. 300/21 (In re: Raj Kumar Vs. Sunny Yadav & Ors)

61. This Tribunal awards a compensation of **Rs.3,66,000/-** (Rupees Three Lakhs and Sixty Six Thousand only) to the petitioner along with interest @ 7.5% per annum from the date of filing of petition till realization to be paid by the Respondent no.3/ insurance company to be recovered from the R-1 and R-2 jointly and severally. Amount of interim award, if any, be deducted from the compensation amount along

with the waiver of interest, if any, as directed by the Tribunal during the pendency of this case.

Disbursement of Award Amount :

62. After deposit of the award amount, entire amount of **Rs.3,66,000/- alongwith corresponding interest** shall be forthwith released to the petitioner by way of transferring the said amount into his MACT Savings Bank Account.

63. 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) & their Banks:

64. The petitioner(s) 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. 299/21 (In re: Anil Kumar Bisht Vs. Sunny Yadav & Ors)

FORM -XVI

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

- | | |
|------------------------|----------------------|
| a. Date of accident | : 13.03.2020 |
| b. Name of the injured | : Anil Kumar Bisht |
| c. Age of the injured | : 57 years 10 months |

d. Occupation of the injured : Private Job
e. Income of the injured : 17,924/-
f. Nature of injury : Simple
g. Medical treatment taken by the injured : Yes
h. Period of hospitalization : Treated in hospital.
i. Whether any permanent disability?
(If yes, give details) : No.

j.	Computation of Compensation	
S. No.	Heads	Awarded by the Claims Tribunal
k.	Pecuniary Loss:	
(i)	Expenditure on treatment	Rs.2,064/-
(ii)	Expenditure on conveyance	Rs.5,000/-
(iii)	Expenditure on special diet	
(iv)	Cost of nursing/attendant	Rs.5,000/-
(v)	Cost of artificial limb	NA
(vi)	Loss of earning capacity	--
(vii)	Loss of income (during treatment)	17,924/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	N.A.
l.	Non-Pecuniary Loss:	
(i)	Compensation for mental and physical shock	Rs.10,000/-
(ii)	Pain and suffering	
(iii)	Loss of amenities of life	-
(iv)	Disfiguration	NA
(v)	Loss of marriage prospects	-
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection	--

	and unhappiness in future life etc.	
m.	Disability resulting in loss of earning capacity:	--
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	No
(ii)	Loss of amenities or loss of expectation of life span on account of disability	NA
(iii)	Percentage of loss of earning capacity in relation to disability	NA
(iv)	Loss of future income – (Income x% Earning Capacity x Multiplier)	NA
n.	TOTAL COMPENSATION	Rs.39,988/- (rounded off to Rs.40,000/-)
o.	INTEREST AWARDED	7.5%
p.	Interest amount up to the date of the award @ 7.5%	Rs.13,917/- (for 04 years, 7 months & 20 days)
q.	Total amount including interest	Rs.53,917/-
r.	Award amount released	Entire Awarded amount alongwith corresponding interest
s.	Award amount kept in FDRs	-
t.	Mode of disbursements of the award amount to the claimants(s).	Bank Transfer
u.	Next Date for compliance of the award.	10.07.2026.

In MACP No. 300/21 (In re: Raj Kumar Vs. Sunny Yadav & Ors)

FORM -XVI

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

A. Date of accident : 13.03.2020
B. Name of the injured : Raj Kumar
C. Age of the injured : 51 years 02 months
D. Occupation of the injured : Private job
E. Income of the injured : Rs.14,806/-per month
F. Nature of injury : Grievous
G. Medical treatment taken by the injured : Yes
H. Period of hospitalization : Treated and hospitalized in different hospital.
I. Whether any permanent disability?
(If yes, give details) : Yes. 22% Permanent Disability with respect to left lower limb

J.	Computation of Compensation	
S. No.	Heads	Awarded by the Claims Tribunal
K.	Pecuniary Loss:	
(i)	Expenditure on treatment	Nil.
(ii)	Expenditure on conveyance	Rs.20,000/-
(iii)	Expenditure on special diet	
(iv)	Cost of nursing/attendant	Rs.5,000/-
(v)	Cost of artificial limb	NA
(vi)	Loss of earning capacity	--
(vii)	Loss of income (during treatment)	Rs.44,418/-
(viii)	Any other loss which may require	N.A.

	any special treatment or aid to the injured for the rest of his life	
L.	Non-Pecuniary Loss:	
(i)	Compensation for mental and physical shock	Rs.50,000/-
(ii)	Pain and suffering	
(iii)	Loss of amenities of life	Rs.10,000/-
(iv)	Disfiguration	NA
(v)	Loss of marriage prospects	-
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
M.	Disability resulting in loss of earning capacity:	--
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	22% permanent disability
(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	11%
(iv)	Loss of future income – (Income x% Earning Capacity x Multiplier)	Rs.2,36,482/-
N.	TOTAL COMPENSATION	Rs.3,65,900/- (rounded off to Rs.3,66,000/-)
O.	INTEREST AWARDED	7.5%
P.	Interest amount up to the date of the award @ 7.5%	Rs.1,27,338/- (for 04 years, 7 months & 20

		days)
Q.	Total amount including interest	Rs.4,93,338/-
R.	Award amount released	Entire Award amount alongwith corresponding interest
19.	Award amount kept in FDRs	Nil.
S.	Mode of disbursements of the award amount to the claimants(s).	Bank Transfer
T.	Next Date for compliance of the award.	10.07.2026.

FORM – XVII (In both the cases)
COMPLIANCE OF THE PROVISIONS OF THE SCHEME TO BE
MENTIONED IN THE AWARD

A	Date of Accident	13.03.2020.
B	Date of filing of <i>Form-I- First Accident Report</i> (FAR)	Not available
C	Date of delivery of <i>Form-II</i> to the victim(s)	Not available
D	Date of receipt of <i>Form-III</i> from the Driver	Not available
E	Date of receipt of <i>Form-IV</i> from the Owner	Not available
F	Date of filing of the <i>Form-V- Interim Accident Report</i> (IAR)	Not available
G	Date of receipt of <i>Form-VI-</i> and <i>Form-VIA</i> from the victims(s)	Not available
H	Date of filing of <i>Form-VII- Detailed Accident Report</i> (DAR)	Not available
I	Whether there was any delay or deficiency on the part of the Investigating Officer? If so, whether any action/ direction warranted?	No
J	Date of appointment of the Designated Officer by	Not available

	the Insurance Company	
K	Whether the Designated Officer of the Insurance Company submitted his report within thirty (30) days of the DAR?	Not available
L	Whether there was any delay or deficiency on the part of the Designated Officer of the Insurance Company? If so, whether any action/ direction warranted?	No
M	Date of response of the claimant(s) to the offer of the Insurance Company	No
N	Date of Award	19.05.2026.
O	Whether the claimant(s) were directed to open saving bank account(s) near the place of residence?	Yes
P	Whether the claimant(s) were directed to open saving bank account(s) near his place of residence and produce PAN Card and Aadhaar Card and the direction to the bank to not issue any cheque book/ debit card to the claimant(s) and make an endorsement to this effect on the passbook.	Yes
Q	Date on which the claimant(s) produced the passbook of their saving bank account near the place of their residence along with the endorsement, PAN Card and Aadhaar Card?	To be produced at the time of compliance of award
R	Permanent Residential Address of the claimant Anil Kumar Bisht	Chenderpal ka Makan, Village-Chhalera, Sector-44, Noida, U.P.
S	Permanent Residential Address of the claimant Raj Kumar	Chenderpal ka Makan, Village-Chhalera, Sector-44, Noida, U.P. & Village- Jatapur,

		Bulandsaher, U.P.
T	Whether the claimant(s) saving bank account(s) is near their place of residence?	Direction given
U	Whether the claimant(s) were examined at the time of passing of the award to ascertain his/her/ their financial condition?	No

65. With these observations, both the present claim petitions stands disposed of.

66. Both the files be consigned to the Record Room.

**Announced in the open
Court on 19.05.2026
(Total 39 pages)**

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