

IN THE COURT OF MS. RICHA MANCHANDA, PRESIDING OFFICER,
MOTOR ACCIDENT CLAIMS TRIBUNAL, NORTH DISTRICT,
ROHINI COURTS, DELHI

MAC Petition No. 428/18
UID/CNR No.DLNT01-006339-2018

Smt. Bimla,
W/o Sh. Jai Kishan,
R/o H.No. 560,
Block G,
Sultanpuri, Nithari,
Delhi.



.....Petitioner

VERSUS

1. Sh. Himanshu Goyal,
S/o Sh. Kailash Goyal,
R/o 103-104, Pocket G-28,
Sector – 3, Rohini,
Delhi.
(Driver)
2. Sh. Kailash Chand,
S/o Sh. Jeet Ram Goyal,
R/o 103-104, Pocket G-28,
Sector – 3, Rohini,
Delhi.
(Registered Owner)
3. ICICI Lombard General Insurance Co. Ltd.,
Mercantil House, 7th Floor,
15, K.G. Marg,
Connaught Place,
New Delhi.
(Insurer)

.....Respondents

AND

MAC Petition No. 429/18
UID/CNR No. DLNT01-006340-2018

Sh. Vikram,
S/o Sh. Jai Kishan,
R/o H.No. 560,
Block G,
Sultanpuri, Nithari,
Delhi.



.....Petitioner

VERSUS

1. Sh. Himanshu Goyal,
S/o Sh. Kailash Goyal,
R/o 103-104, Pocket G-28,
Sector – 3, Rohini,
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(Driver)
2. Sh. Kailash Chand,
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Mercantil House, 7th Floor,
15, K.G. Marg,
Connaught Place,
New Delhi.
(Insurer)

.....Respondents

Date of Institution : 11.07.2018
Date of Arguments : 18.04.2026
Date of Award : 18.04.2026

APPEARENCES

Ms. Nazneen Khan and Sh. Anupam Kumar Singh, Ld. Counsels for petitioner in both the cases.

Sh. B.P. Pradhan, Ld. Counsel for driver and owner.

Sh. M. Awasthi, Ld. Counsel for insurance co.

**Petition under Section 166 and 140 of M.V. Act, 1988
for grant of compensation****CONSOLIDATED AWARD:-**

1. Vide this common order, I shall dispose of both Detailed Accident Reports (DARs) with regard to grievous injury sustained by Bimla (injured in MACP No. 428/18) and Vikram (injured in MACP No. 429/18) in Motor Vehicular Accident which occurred on 04.04.2018 at 10:00 AM at Singhola Red Light towards Delhi, involving Car bearing registration no. DL10-CS-2179 (**offending vehicle**) being driven in a rash and negligent manner by its driver(Respondent no.1 herein).

2. Both the DARs were consolidated for the purpose of recording of evidence vide order dated 26.10.2021 and MACP No. 428/18 titled as “***Bimla Devi Vs. Himanshu Goyal & Ors.***” was treated as the leading case. Accordingly, the respondent evidence was led on behalf of the parties in the leading case.

FACTS OF THE CASES

3. According to DAR filed in both the cases, on 04.04.2018, petitioner Bimla (injured in MACP No. 428/18) alongwith petitioner Vikram (injured in MACP No. 429/19) were going towards Sonapat on motorcycle bearing registration no. DL4S-CK-1993. At about 10:00 AM, when they reached at Singhola Red Light towards Sonapat, one vehicle i.e., Verna Car bearing registration no. DL10-CS-2179 which was being driven by its driver at a very high speed in a rash and negligent manner, took a sharp turn towards Narela without blowing any horn and in that process, he hit the aforesaid motorcycle, as a result of which both the riders of motorcycle fell down on the road and sustained injuries. They both were taken to SRHC Hospital, Narela, Delhi, where they were medically examined. FIR No. 152/18 u/s. 279/337 IPC was registered at PS. Alipur with regard to the said accident. It is claimed that offending vehicle was owned by respondent no. 2 and insured with ICICI Lombard General Insurance Co. Ltd./respondent no. 3 during the period in question.

4. In their separate but identical written statement filed in both the cases, the respondent no. 1 & 2 i.e., driver and registered owner raised preliminary objections that no accident happened with their vehicle due to the negligence of respondent no. 1 and they have been falsely implicated in the present case. They claimed that alleged offending vehicle was insured with respondent no. 3 at the time of accident. On merits, they have denied the averments made in the DAR and prayed for its dismissal.

5. The insurance company had filed its legal offer, whereby it offered to pay a sum of **Rs. 1,64,767/-** to petitioner Bimla as compensation towards full and final satisfaction for the claim raised by her for the injuries suffered by her in the accident in question. Similarly, the insurance company had filed its legal offer in case bearing MACP No. 429/18, whereby it offered to pay a sum of **Rs. 1,43,577/-** to petitioner Vikram as compensation towards full and final satisfaction for the claim raised by him for the injuries suffered by him in the accident in question. However, the said offers were not acceptable to the petitioner(s) in both the cases.

6. From pleading of the parties, the following issues were framed in both the cases by Ld. Predecessor vide order dated 26.10.2021 :-

1) Whether the injured persons namely Bimla and Vikram suffered injuries in road traffic accident on 04.04.2018 at about 10:00 AM near Singhola Red Light, towards Delhi, within the jurisdiction of PS. Alipur, due to rashness and negligence on the part of driver Sh. Himanshu who was driving the vehicle bearing registration no. DL10-CS-2179, owned by Sh. Kailash Goyal and insured with Bharti Axa General Insurance Co. Ltd (ICICI Lombard General Insurance Co. Ltd)? OPP.

2) Whether the injured is entitled to any compensation if so to what amount and from whom? OPP.

3) Relief.

7. In order to establish their claim, both the petitioner(s) have examined two witnesses i.e., themselves as PW1 & PW2 respectively and closed their evidence on 18.10.2024. On the other hand, no evidence was adduced by any of the respondents and their respective evidence was closed vide order dated 18.10.2024.

8. Arguments addressed by respective counsels heard and considered. DAR alongwith all documents and material relied upon perused carefully. The issue wise determination is as under:-

ISSUE NO. 1 (IN BOTH THE CASES)

9. The onus to prove, the said issue was placed on the petitioner(s)/injured persons. To prove the said issue, both the petitioner(s) have examined themselves as PW1 and PW2 respectively by way of their respective affidavits in evidence Ex. PW1/A, Ex. PW1/B, Ex. PW2/A & Ex. PW2/B in the leading case. In their respective evidence, both the aforementioned two witnesses have deposed on the lines of averments made in the DAR.

10. **PW1 Smt. Bimla** has relied upon the following documents:-

S.No.	Description of documents	Remarks
1.	Her medical treatment records and bills	Ex. PW1/1(colly)

2.	Her Aadhaar Card	Ex.PW1/2(OSR)
3.	DAR	Ex.PW1/3
4.	List of bills	Mark A to Mark G
5.	Disability Certificate	Ex. PW1/4

11. **PW2 Sh. Vikram** has relied upon the following documents:-

S.No.	Description of documents	Remarks
1.	His medical treatment records and bills	Ex. PW2/1(colly)
2.	His Aadhaar Card	Ex.PW2/2(OSR)
3.	His driving licence	Ex.PW2/3(OSR)
4.	His educational certificate	Ex.PW2/4(OSR)
5.	DAR	Ex. PW1/3
6.	List of bills	Mark A
7.	Disability Certificate	Ex. PW2/6

12. PW1/Injured Smt. Bimla was cross-examined on behalf of insurance company during which she denied the suggestion that the accident took place due to the negligence of his son Vikram. She further denied the suggestion that he was not wearing helmet at the time of accident.

13. PW4/Injured Vikram was also cross-examined on behalf of insurance company during which he deposed that he was driving the motorcycle in the middle of the road. He denied the suggestion that he and his mother were not wearing helmet. He further deposed that the offending vehicle had hit the rear tyre of motorcycle at the time of accident. He further

deposed that he had not seen the offending vehicle coming towards him prior to the accident. He denied the suggestion that he had hit his motorcycle against the car after the car had taken U turn. He further denied the suggestion that the accident took place due to his negligence.

14. The facts of the case, arguments of the Ld. Counsels, evidence, material on record and duly verified documents of the criminal case, have been carefully examined and scrutinized. Respondent no. 1 namely Sh. Himanshu Goyal has been charge sheeted for offences punishable U/s 279/338 IPC by the investigating agency after arriving at the conclusion on the basis of investigation carried out by it that the accident in question has taken place due to rash and negligent driving of offending vehicle.

15. It is pertinent to note that the respondent no.1/driver of offending vehicle was the other material witness to throw light by testifying as to how and under what circumstances, the accident has taken place. However, he has preferred not to enter into the witness box. Thus, an adverse inference is liable to be drawn against him to the effect that the accident in question has taken place due to rash and negligent driving of the offending vehicle by the respondent no. 1. There is nothing on record to show that the petitioners had any enmity with the driver of the offending vehicle so as to falsely implicate him in this case. Reliance placed on **Cholamandalam MS General Insurance Co. Ltd. V. Kamlesh & Ors, MAC APP. No. 530/2008** passed by Hon'ble Delhi High Court on 11.11.2008.

16. Copy of MLCs (which are also part of criminal case record) of injured persons namely Bimla and Vikram filed would show that they had been removed to SRHC Hospital, Narela, Delhi with alleged history of RTA on the date of accident itself i.e., on 04.04.2018. On their local examination, they were found to have sustained multiple injuries as mentioned therein. The said injuries are consistent with the injuries which are sustained in motor vehicular accident. Again, there is no challenge to the said document from the side of respondents including insurance company.

17. In view of the aforesaid discussion and the evidence which has come on record, it is held that the petitioners have been able to prove on the basis of preponderance of probabilities that both the petitioners namely **Bimla and Vikram** had sustained grievous injuries in the Motor Vehicular Accident which has occurred on 04.04.2018 at 10:00 AM at Singhola Red Light towards Delhi, due to rash and negligent driving of offending vehicle by respondent no. 1. Thus, issue no. 1 is decided in favour of petitioners and against the respondents.

ISSUE NO.2

18. Section 168 of the Motor Vehicle Act 1988 enjoins upon the Claims Tribunal to hold an inquiry into the claim to make an award determining the amount of compensation which appears to it to be just and reasonable.

19. The intent and objective of the Beneficial Legislation is to grant equitable compensation to the vulnerable victims of road accidents and dynamic law has evolved towards grant of just and fair quantum of awards and has brought consistency and uniformity towards the desired goal. The Hon'ble Apex Court in "**Sarla Verma v. Delhi Transport Corporation**" (2009) 6 SCC 121, which was affirmed by a bench of three Hon'ble Judges in **Reshma Kumari & Ors. Vs. Madan Mohan & Anr.**, (2013) 9 SCC 65, held as under:

"16. "Just compensation" is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.

17. Assessment of compensation though involving certain hypothetical considerations, should nevertheless be objective. Justice and justness emanate from equality in treatment, consistency and thoroughness in adjudication, and fairness and uniformity in the decision making process and the decisions. While it may not be possible to have mathematical precision or identical awards, in assessing compensation, same or similar facts should lead to awards in the same range. When the factors/inputs are the same, and the formula/legal principles are the same, consistency and uniformity, and not divergence and freakiness, should be the result of adjudication to arrive at just compensation..."

20. These guiding principles for assessment of "just and reasonable compensation" have been torch bearer in injury cases also as laid down by Hon'ble Delhi High Court, in **III (2007), ACC 676** titled as **Oriental Insurance Co., Ltd., Vs. Vijay Kumar Mittal & Ors**, wherein it has been held:-

"10. The possession of one's own body is the first and most valuable all human rights and while awarding compensation for bodily injuries this primary element is to be kept in mind. Bodily injury is to be treated and varies on account of gravity of bodily injury. Though it is impossible to equate money with human suffering, agony and personal deprivation, the Court and Tribunal should make an honest and serious attempt to award damages so far as money can compensate the loss. Regard must be given to the gravity and degree of deprivation as well as the degree of awareness of the deprivation. Damages awarded in personal injury cases must be substantial and not token damages....."

11. The general principle which should govern the assessment of damages in persons injury cases is that the Court should award to injured persons such a sum as will put him in the same position as he would have been in the same position as he would have been in if he had not sustained injuries".

21. The Hon'ble Apex Court, in further development of the legal position for grant of reasonable and fair compensation, has pronounced guiding parameters that "the compensation should be just and is not expected to be a windfall or a bonanza nor it should be niggardly or a pittance". Reliance is placed on 2012 (8) SLT 676 titled K. Suresh Vs. New India Assurance Co. Ltd. The golden principles for assessment of adequate compensation to victims of road accident have been appreciated by the full bench of Hon'ble Apex Court in 2017 (13) SCALE 12 : 2017 XI AD (SC) 113 titled National Insurance Co. Ltd. Vs. Pranay Sethi and Ors., wherein it has been held:-

".....The Tribunal and the Courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality. It is a well expected norm that money can not substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach.

There has to be a balance between the two extremes, that is, a windfall and the pittance, a bonanza and the modicum.....”

22. Accordingly, the entitlement of petitioner(s) to just compensation is being assessed in the background of well settled parameters and guidelines as discussed herein-above. **The extent and nature of injuries, medical expenses, period of treatment and nature of employment of each of the injured, if any, has distinct facts and therefore, each claim needs to be assessed individually. Therefore, the Award upon assessment of compensation for each injured is being done separately.**

Compensation in MACP No. 428/18 (Injured Bimla)

MEDICAL EXPENSES

23. PW1 Smt. Bimla i.e. injured herself, has deposed in her evidence by way of affidavit (Ex. PW1/A) that after the accident, she was taken to SRHC Hospital, Narela, Delhi, where she was medically examined and thereafter, he was shifted to Parnami Ortho and Spine Hospital, Delhi, where she remained admitted from 04.04.2018 to 11.04.2018. She further deposed that she was operated in the aforesaid hospital on 05.04.2018, 24.04.2018 to 26.04.2018. She further deposed that she was again operated at Hari Hospital on 17.08.2018 to 20.08.2018. She further deposed that she was also admitted in Fortis Hospital from 17.07.2018 to 19.07.2018 and 16.11.2018 to 19.11.2018 and also in Springdales Medical Centre and Hospital from 10.05.2019 to 11.05.2019. She further deposed that she was still getting the treatment as an outdoor patient. She deposed that she had spent more than

Rs. 10,02,838/- on her medical bills. She has relied upon his medical treatment records and bills Ex. PW1/1(colly). During her cross-examination on behalf of insurance company, she denied the suggestion that she had not spent about Rs. 10,02,838/- on her medical bills.

24. It is relevant to note that the injured has relied upon medical bills(which are part of Ex. PW1/1 colly) to the tune of **Rs. 10,65,904.63p**. It is quite evident that the respondents have not disputed the authenticity and genuineness of the said medical bills during the course of inquiry. They have also not led any evidence in rebuttal so as to create any doubt on the genuineness of said bills. Accordingly, a sum of **Rs. 10,65,904.63p** is awarded to the petitioner under this head.

LOSS OF INCOME

25. PW1 has deposed in her evidence by way of affidavit (Ex. PW1/A) that she was 60 years old; she was housewife and she was also working as a care taker of one child near her house and was earning Rs. 18,000/- to Rs. 20,000/- per month at the time of accident. She further deposed that after the accident, she was unable to do her work and she did not know any other work. She further deposed that due to the injuries suffered by her in the accident, she could not do her daily routine work and was dependent on others for her daily routine works. During her cross-examination on behalf of insurance company, she deposed that she did not

have any documentary proof to show her income as Rs. 18,000/- to Rs. 20,000/- per month. She denied the suggestion that she was not working at the time of accident or that she was homemaker.

26. The document i.e., Final Bill (**which is part of Ex. PW1/1 colly**) of Parnami Ortho & Spine Hospital, in respect of injured would reveal that she was admitted in the said hospital on 04.04.2018 and was discharged on 11.04.2018. She further deposed that she was operated in the aforesaid hospital on 05.04.2018, 24.04.2018 to 26.04.2018. She further deposed that she was again operated at Hari Hospital on 17.08.2018 to 20.08.2018. She further deposed that she was also admitted in Fortis Hospital from 17.07.2018 to 19.07.2018 and 16.11.2018 to 19.11.2018 and also in Springdales Medical Centre and Hospital from 10.05.2019 to 11.05.2019. She further deposed that she was still getting the treatment as an outdoor patient. As per the treatment record and medical bills filed on record, it is apparent that the petitioner had received treatment from various hospitals and his treatment continued for a considerable period due to the grievous injuries suffered by her in the accident and her last treatment record is of August, 2019. The date of accident in the present case is 04.04.2018. It is apparent on record that treatment of petitioner continued for a considerable period. Thus, after considering the nature of injuries sustained by the petitioner and in view of the treatment record brought on record, it can be presumed that she would not have been able to work at all atleast for a period of **15 months or so** including period of recovery also.

27. The purpose of granting compensation is to ameliorate the sufferings of the victims of Motor Vehicle Accidents. While deciding claim petition under M.V Act, the Claims Tribunal is guided by the principles of justice, equity and good conscience and realistic, pragmatic and liberal approach is appropriate. Though, it is claimed by the petitioner that she was working as a care taker of one child but no cogent evidence has been led by her in this regard. Even otherwise, it was admitted by PW1 that she had not filed any documentary proof to show her income as Rs. 18,000/- to Rs. 20,000/- per month at the time of accident. Hence, I am not inclined to accept the contention raised by the petitioner that she was working and earning at the time of accident.

28. However, in such cases, fixing of notional income of a homemaker attains special significance. Considering the age of injured as 60 years at the time of accident, she can not be presumed to be earning an amount equivalent to that of skilled person at the time of accident. Therefore, it is reasonable to consider minimum wages of an unskilled person as applicable during the period in question. The prevalent minimum wages of an unskilled person in the State of Delhi were Rs. 13,896/- per month at the time of accident in question, which occurred on 04.04.2018. Thus, a sum of **Rs. 2,08,440/- (13,896/- x 15)** is awarded in favour of petitioner and against the respondents under this head.

PAIN AND SUFFERING

29. For the purpose of ascertaining compensation against non-pecuniary heads, reliance is placed upon ruling of Hon'ble High Court of Delhi in the matter titled as “**Nathu Lal Vs. Sandeep Gulati & Ors.**” passed in appeal bearing no. **MAC.APP 770/2011** decided on 21.05.12, wherein it has been held as under:-

*“15. It is settled law that a particular amount cannot be fixed on pain and sufferings for all cases as it varies from case to case. Judicial notice can be taken on the fact that since the petitioner had got injuries/fracture as aforesaid, he might have suffered acute pain and sufferings owing to the said injuries. He might have also consumed heavy dose of anti-biotic etc. and also might have remained without movements of his body for a considerable period of time. In order to ascertain the pain and sufferings compensation, I am guided by the judgment of Hon'ble High Court of Delhi in case Satya Narain v. Jai Kishan, FAO No.709/02, date of decision: 2.2.2007, Delhi High Court by Hon'ble Mr. Justice Pradeep Nandrajog wherein it was held that:-“On account of pain and suffering, suffice would it be to note that it is difficult to measure pain and suffering in terms of a money value, However, compensation which has to be paid must bear some objective co-relation with the pain and suffering. The objective facts relating to pain and suffering would be:
(a) Nature of injury.
(b) Body part affected.
(c) Duration of the treatment.”*

30. As already considered, the petitioner required treatment for a considerable period from the date of accident owing to grievous injuries suffered by her in the road traffic accident. Apart from this, the petitioner is also shown to have sustained permanent disability to the extent of 86% in

relation to right lower limb with non-union right femur with right knee stiffness with right ankle stiffness. Thus, she would have undergone great physical sufferings, inconvenience and mental trauma on account of the accident in question. Keeping in view the nature of injuries, duration of treatment and permanent disability suffered by her, a sum of **Rs. 2,00,000/-** is considered reasonable towards pain & sufferings.

LOSS OF GENERAL AMENITIES & ENJOYMENT OF LIFE

31. As already mentioned above, there is sufficient evidence on record to establish that the petitioner had sustained grievous injuries in the accident. Apart from this, the petitioner is also shown to have sustained permanent disability to the extent of 86% in relation to right lower limb with non-union right femur with right knee stiffness with right ankle stiffness. Thus, she would not be able to enjoy general amenities of life after the accident in question and her quality of life has been definitely affected. In view of the nature of injuries including permanent disability suffered by her and her continued treatment for a considerable period, I award a notional sum of **Rs. 1,00,000/-** towards loss of general amenities and enjoyment of life to the petitioner.

CONVEYANCE, SPECIAL DIET & ATTENDANT CHARGES

32. During course of arguments, Ld. Counsel for petitioner argued that petitioner has spent considerable amount on special diet, conveyance and

attendant charges. The petitioner has failed to lead any cogent evidence on record in respect of amount incurred by her under the aforesaid heads. At the same time, it cannot be overlooked that she had sustained grievous injuries in the accident in question. Apart from this, the petitioner is also shown to have sustained permanent disability to the extent of 86% in relation to right lower limb with non-union right femur with right knee stiffness with right ankle stiffness. Thus, she would have taken special rich protein diet for her speedy recovery and would have also incurred considerable amount towards conveyance charges while commuting to the concerned hospital as OPD patient for her regular check up & follow up during the period of her medical treatment. She would have been definitely helped by some person either outsider or from her family, to perform her daily activities as also while visiting the hospital during the course of her medical treatment. In these facts and circumstances, I hereby award a sum of **Rs. 20,000/-each** for conveyance charges and special diet and a sum of **Rs. 30,000/-** for attendant charges to the petitioner.

LOSS OF FUTURE INCOME

33. As already stated above, the petitioner is shown to have sustained 86% permanent disability in relation to right lower limb. Same is quite evident from Disability Certificate dated 20.02.2023 (Ex. PW1/4) of Medical Board of Dr. BSA Hospital, Delhi. The said Medical Board assessed the disability of the patient to be permanent in nature which is not likely to improve.

34. The disability certificate (Ex. PW1/4) of injured would reveal that she had suffered 86% permanent disability in relation to right lower limb. Now, considering the impact of the assessment of permanent disability of the injured in regard to functional capacity of her whole body, it is relevant to mention here that victim was 60 years old at the time of accident and was doing all the household chores i.e., cooking, washing, ironing clothes and stitching clothes (in some cases) for the husband and children, teaching and guiding children, working as a nurse whenever the husband and child/children are sick, are some of the major activities of a housewife. She has no fixed hours of work; she is always in attendance to take care of each and every need of the whole family at the cost of her personal comfort and health. It is duly established from the facts and circumstances that the petitioner would have definitely suffered limitation and constrain in her day to day work/activity, home responsibilities and personal care. Hence, considering the age of petitioner and in view of the injuries suffered by her, the functional disability of the petitioner is considered as **50%** towards loss of earning capacity.

35. In copy of Aadhaar Card (Ex. PW1/2) of petitioner, her date of birth is mentioned as 15.01.1958. The date of accident is 04.04.2018. Thus, the petitioner was more than 60 years and less than 61 years as on the date of accident. Hence, the appropriate multiplier would be **9** in view of judgment passed in case titled as *“Sarla Verma Vs. DTC”, 2009 ACJ 1298 SC*. The monthly income of petitioner has been taken as **Rs. 13,896/-** per month as

discussed above. Thus, the loss of monthly future income would be Rs. 6,948/- (Rs. 13,896/- x 50/100). The total loss of future income would be Rs. 7,50,384/- (Rs. 6,948/- x 12 x 9). Thus, a sum of **Rs. 7,50,384/-** is awarded in favour of petitioner under this head.

Thus, the total compensation is assessed as under:-

1. Medical Expenses	Rs. 10,65,904.63p
2. Loss of income	Rs. 2,08,440/-
3. Pain and suffering	Rs. 2,00,000/-
4. Loss of general amenities and enjoyment of life	Rs. 1,00,000/-
5. Conveyance, special diet and attendant charges	Rs. 70,000/-
6. Loss of future income	Rs. 7,50,384/-
	<u>Total</u> Rs. 23,94,728.63
	<u>Rounded off</u> Rs. 23,95,000/-

Compensation in MACP No. 429/18 (Injured Vikram)

MEDICAL EXPENSES

36. PW2 Sh. Vikram i.e. injured himself has deposed in his evidence by way of affidavit (Ex. PW2/A) that after the accident, he was taken to SRHC Hospital, Narela, Delhi, where he was medically examined.

Thereafter, he was shifted to Parnami Ortho and Spine Hospital where he remained admitted from 04.04.2018 to 06.04.2018. He further deposed that he had spent about Rs. 1,05,970/- on his medical treatment. He has relied upon medical treatment records and bills Ex. PW2/1(colly). During his cross-examination on behalf of insurance company, he denied the suggestion that he had not spent Rs. 1,05,970/- on his medical treatment.

37. It is relevant to note that the injured has relied upon medical bills(which are part of Ex. PW2/1 colly) to the tune of **Rs. 1,05,970/-**. It is quite evident that the respondents have not disputed the authenticity and genuineness of the said medical bills during the course of inquiry. They have also not led any evidence in rebuttal so as to create any doubt on the genuineness of said bills. Accordingly, a sum of **Rs. 1,05,970/-** is awarded to the petitioner under this head.

LOSS OF INCOME

38. Petitioner has deposed in his evidence by way of affidavit (Ex. PW2/A) that he was 33 years of age; working as a driver and was earning Rs. 18,000/- to Rs. 20,000/- per month at the time of accident. He further deposed that due to the injuries suffered by him in the accident, he is unable to work till date. During his cross-examination on behalf of insurance company, he deposed that he had not filed any documentary proof to show his income as Rs. 18,000/- to Rs. 20,000/- per month. He further deposed that

he was not working due to the injuries suffered in the accident. He denied the suggestion that he was not earning Rs. 18,000/- to Rs. 20,000/- per month at the time of accident. He further denied the suggestion that he was deliberately not disclosing his income.

39. During the course of arguments, Ld. Counsel for injured argued that due to the injuries suffered by him, he was unable to work and thus, he has suffered loss of income and as such, appropriate compensation shall be awarded to the petitioner under this head.

40. The treatment record i.e., Discharge Summary (which is part of Ex. PW2/1 colly) of Parnami Ortho & Spine Hospital of petitioner shows that he was admitted in said hospital on 04.04.2018 and was discharged on 06.04.2018. As per the aforesaid treatment record, the case of petitioner was of fracture tibial condyle with DM. Apart from the aforesaid document, the petitioner has failed to file any other treatment record. In the absence of any definite evidence being brought on record showing the actual period till which the petitioner had received medical treatment for the injuries sustained by him due to accident in question, it would necessarily involve some guess work in assessing the loss of income. It can not be overlooked that the petitioner had sustained grievous injuries in the accident in question. Apart from this petitioner has also suffered permanent disability to the extent of 9% in relation to right lower limb. Considering the nature of injuries and permanent disability suffered by the petitioner, it is presumed that he would

not have been able to work at least for a period of **3 months or so** including his recovery period.

41. During the course of arguments, Ld. counsel for petitioner fairly conceded that for want of any cogent and definite evidence being led by petitioner regarding his monthly income, his income may be considered as per Minimum Wages Act applicable in the State of Delhi in order to calculate the loss of income.

42. It may be noted here that no definite evidence whatsoever has been brought on record to prove monthly income of injured/petitioner at the time of accident in question. The petitioner has relied upon copy of his 10th class marksheet Ex. PW2/4. In view of the above, I am inclined to accept the minimum wages of a matriculate person for computation of loss of income. The minimum wages of a matriculate person were **Rs. 16,858/- per month** as on the date of accident which is 04.04.2018. Thus, a sum of **Rs. 50,574/- (Rs. 16,858/- x 3)** is awarded in favour of petitioner under this head.

PAIN AND SUFFERING

43. For the purpose of ascertaining compensation against non-pecuniary heads, guidance is derived from ruling of Hon'ble High Court of Delhi in the matter titled as “**Nathu Lal Vs. Sandeep Gulati & Ors.**” passed in appeal bearing no. **MAC.APP 770/2011** decided on 21.05.12, has been held as under:-

*“15. It is settled law that a particular amount cannot be fixed on pain and sufferings for all cases as it varies from case to case. Judicial notice can be taken on the fact that since the petitioner had got injuries/fracture as aforesaid, he might have suffered acute pain and sufferings owing to the said injuries. He might have also consumed heavy dose of anti-biotic etc. and also might have remained without movements of his body for a considerable period of time. In order to ascertain the pain and sufferings compensation, I am guided by the judgment of Hon’ble High Court of Delhi in case Satya Narain v. Jai Kishan, FAO No.709/02, date of decision: 2.2.2007, Delhi High Court by Hon’ble Mr. Justice Pradeep Nandrajog wherein it was held that:-“On account of pain and suffering, suffice would it be to note that it is difficult to measure pain and suffering in terms of a money value, However, compensation which has to be paid must bear some objective co-relation with the pain and suffering. The objective facts relatable to pain and suffering would be:(a)Nature of injury.
(b)Body part affected.
(c)Duration of the treatment.”*

44. As already considered, the petitioner suffered grievous injuries in the accident in question and remained incapacitated to resume his work of earnings for a period of about 3 months owing to grievous injuries suffered in the road traffic accident. Apart from this, the petitioner is also shown to have sustained permanent disability to the extent of 9% in relation to his right lower limb. Thus, he would have undergone great physical sufferings, inconvenience and mental trauma on account of the accident in question. Keeping in view the nature of injuries suffered by the petitioner, duration of

treatment and permanent disability suffered by him, a sum of **Rs. 50,000/-** is considered reasonable towards pain & sufferings.

LOSS OF GENERAL AMENITIES & ENJOYMENT OF LIFE

45. As already mentioned above, there is sufficient evidence on record to establish that the petitioner had sustained grievous injuries in the accident. Apart from this, the petitioner is also shown to have sustained permanent disability to the extent of 9% in relation to his right lower limb. Thus, he would not be able to enjoy general amenities of life after the accident in question and his quality of life has been definitely affected. In view of the nature of injuries suffered by him and permanent disability suffered by him, I award a notional sum of **Rs. 50,000/-** towards loss of general amenities and enjoyment of life to the petitioner.

CONVEYANCE, SPECIAL DIET & ATTENDANT CHARGES

46. It is further claimed that petitioner has spent considerable amount on his special diet, conveyance and attendant. It is relevant to note here that the petitioner has failed to lead any cogent evidence to prove the amount, if any spent on special diet, conveyance and attendant as aforesaid by him. At the same time, it cannot be overlooked that petitioner has sustained grievous injuries in the accident. Apart from this, the petitioner is also shown to have sustained permanent disability to the extent of 9% in relation to his right lower limb. Thus, he would have taken special rich

protein diet for his speedy recovery and would have also incurred considerable amount towards conveyance charges while commuting to the concerned hospital as OPD patient for his regular check up & follow up during the period of his medical treatment. He would have been definitely helped by some person either outsider or from his family, to perform his daily activities as also while visiting the hospital during the course of his medical treatment. There is no definite quantum of the expenses that has been proved by the claimant through any bills, transport expenses or receipts from any attendant. However, in view of the aforesaid detailed discussion, it is considered reasonable to award a sum of **Rs. 10,000/-each** for special diet and conveyance charges and a sum of **Rs. 20,000/-** for attendant charges to the petitioner under this head.

LOSS OF FUTURE INCOME

47. As already stated above, the petitioner is shown to have sustained 9 % permanent disability in relation to his right lower limb. Same is quite evident from Disability Certificate dated 01.09.2023 of Medical Board of Dr. BSA Hospital, Delhi. The said Medical Board assessed the disability of the patient to be permanent in nature which is not likely to improve.

48. Ld. Counsel for insurance company vehemently argued that no amount should be granted to the petitioner under this head as the permanent disability suffered by him does not pertain to the accidental injuries. On the other hand, Ld. Counsel for petitioner argued that the permanent disability

suffered by the petitioner is due to the injuries suffered by him in the accident and appropriate amount should be awarded to the petitioner under this head as per law.

49. The disability certificate of injured would reveal that he had suffered 9% permanent disability in relation to his right lower limb. It is relevant to mention here that the members of Disability Board considered the medical treatment record including MLC of the patient at the time of assessing his disability and thereafter, had issued the disability certificate to the petitioner. Keeping in view the overall facts and circumstances of the case including the nature of injuries sustained by petitioner as well as the disability suffered by him, his functional disability is taken as **4.5%** with regard to whole body.

50. In copy of Aadhaar Card(Ex. PW2/2) as well as 10th class marksheet of petitioner, his date of birth is mentioned as 06.06.1985. The date of accident is 04.04.2018. Thus, the petitioner was aged about 33 years as on the date of accident. Hence, the appropriate multiplier would be **16** in view of judgment passed in case titled as ***“Sarla Verma Vs. DTC”, 2009 ACJ 1298 SC***. The monthly income of petitioner has been taken as **Rs. 16,858/-** per month as discussed above. Thus, the loss of monthly future income would be Rs. 758.61p (Rs. 16,858/- x 4.5/100). The total loss of future income would be Rs. 2,03,914.36p (Rs. 758.61/- x 140/100 x 12 x 16). Thus, a sum of **Rs. 2,03,914.36p** is awarded in favour of petitioner under this head.

Thus, the total compensation is assessed as under:-

1. Medical expenses	Rs. 1,05,970/-
2. Loss of income	Rs. 50,574/-
3. Pain and suffering	Rs. 50,000/-
4. Loss of general amenities and enjoyment of life	Rs. 50,000/-
5. Conveyance, special diet and attendant charges	Rs. 40,000/-
6. Loss of future income	Rs. 2,03,914.36p
Total	Rs. 5,00,458.36p
<u>Rounded off to</u>	<u>Rs. 5,00,500/-</u>

51. Now, the question which arises for determination is as to which of the respondents is liable to pay the compensation amount. Respondent no. 3/insurance company filed its legal offer meaning thereby any term or condition of insurance policy was not breached/violated by insured. Keeping in view the existence of valid insurance policy, respondent no. 3/insurance company becomes liable to pay the compensation amount, as insurance company is liable to indemnify the insured. Issue no. 2 is decided accordingly.

ISSUE NO. 3 RELIEF

52. In view of my findings on issues no. 1 & 2, following order is passed after relying upon judgment “*United India Insurance Co. Ltd. V. Baby Raksha & Ors.*”, *MAC APP. No. 36/2023 on 21.04.2023*, on the point of interest.

a) A sum of **Rs. 23,95,000/- (including interim award amount, if any)** in MAC Petition No. 428/18 alongwith interest @ 7.5% per annum in favour of petitioner and against the respondents w.e.f. date of filing of the petition *i.e. 11.07.2018 (except for the period of delay w.e.f. 14.09.2018 to 09.04.2019 and from 23.09.2022 to 18.10.2024)* till the date of its realization.

b) A sum of **Rs. 5,00,500/- (including interim award amount, if any)** in MAC Petition No. 429/18 alongwith interest @ 7.5% per annum in favour of petitioner and against the respondents w.e.f. date of filing of the petition *i.e. 11.07.2018 (except for the period of delay w.e.f. 14.09.2018 to 09.04.2019 and from 23.09.2022 to 18.10.2024)* till the date of its realization.

Issue no. 3 is decided accordingly.

APPORTIONMENT

53. It is pertinent to mention here that statements of petitioner(s) in both the cases in terms of Clause 29 MCTAP were recorded on 25.04.2025. Considering the fact that petitioner has already spent an amount of Rs. 10,65,904.63p on her medical treatment, her age being 62 years and the fact that present case pertains to the year 2018, it is hereby ordered that entire

awarded amount alongwith interest is directed to be immediately released to her through her saving bank account, as per rules.

54. In MACP No. 429/18, the entire award amount of **Rs. 5,00,500/- alongwith interest** shall be immediately released to petitioner through his saving bank account, as per rules.

55. Petitioner(s) in both the cases are directed to provide details of their respective saving bank accounts to the insurance company within 7 days from the date of award for transfer of aforesaid amounts in their respective bank accounts.

56. **Respondent no. 3/ICICI Lombard General Insurance Co. Ltd.**, being insurer of the offending vehicle, is directed to deposit the aforesaid award amount in the respective bank accounts of the claimants within 30 days from the date when details are provided by the claimants as aforesaid, failing which insurance company shall be liable to pay interest @ 12% p.a for the period of delay in terms of directions passed by Hon'ble Apex Court in its latest judgment titled *"Parminder Singh Vs. Honey Goyal & Ors."*, *S.L.P. (C) No. 4484 OF 2020, DOD:18.03.2025.*

57. Concerned Manager of petitioner's bank is directed to release the amount to the petitioners as aforesaid, on completing necessary formalities as per rules. **Copy of the award be given dasti to the petitioners and also to counsel for the insurance company for compliance. Petitioners are also**

directed to provide copy of this award to their bank Manager for compliance. Form XVI & XVII in terms of MCTAP are annexed herewith as Annexure-A. Copy of order be also sent to concerned CJM/JMFC and DLSA as per clause 31 and 32 of MCTAP.

**Announced in the open
Court on 18.04.2026**

**(RICHA MANCHANDA)
Judge MACT-2 (North)
Rohini Courts, Delhi**