



Presented on : 28-09-2022
Registered on : 28-09-2022
Decided on : 12-05-2026
Duration : 3 years, 7 months,
14 days

IN THE COURT OF
ADJ1(NW)/MACT, DISTRICT NORTH WEST DELHI
Presided Over by Sh. Vikram

M A C T/907/2019 & Claim Petition no. 361/2019
FIR No. 134/2019, PS North Rohini

In the matter of :

Rajwana Praveen @ Rizwana
D/o Sh. Rajbul Mohamad
Through his father
Sh. Rajibul Mohamad
S/o Sh. Abdul Gufur
R/o KVS School, Sector 8,
Rohini, Delhi-110085.

Also at:
Aliganj, Raiganj,
West Bengal, Keotal,
Uttar Dinajpur, West Bengal-733123.

.....Petitioner

Vs.

1. Subhash
S/o Sh. Gokul

*R/o Village Antiya, Post Raghapur,
PS Malma District Hardoi, U.P.*

..... Driver/R1

2. *Vijay Pal
S/o Sh. Gokaram
R/o House No. 122,
Near Bholu Dairy,
Village, Rithala, Delhi,*

.....Owner/R2

3. *Bajaj Allianz General Insurance Co. Ltd.*

*.....Insurance
Co. /R3*

*Appearance (s) : Sh. Hamid Ali, Id. Counsel for petitioner.
Sh. R K Singh, Id. counsel for R1 & R2.
Sh. Akshay Aggarwal, Id. counsel for R3.*

JUDGMENT / AWARD

1. Vide this common judgment/award, I shall dispose off the DAR bearing MACT No. 907/2022 and claim petition bearing MACT no. 361/2019 pertaining to the injury of ***Baby Riajwana Praveen @ Rizwana (in short, the injured)*** in road vehicular accident on 27.04.2019.

FACTUAL POSITION AND PLEADINGS

2. The brief facts relevant for disposal of the present DAR and claim petition are that 27.04.2019 petitioner/injured was playing in the Sarvodaya Vidyalaya, Sector 8 Rohini. At around 03:30 pm, on JCB bearing registration no. HR 26 DU 7724, which was being

driven by its driver in high speed rashly and negligently, hit the petitioner/injured. Petitioner/injured was rushed to B R Ambedkar Hospital and treatment was given to her vide MLC no. 5598/19. From there, petitioner/injured was shifted to LNJP Hospital where she admitted till 21.05.2019. Due to the injuries suffered in the accident, petitioner/injured suffered 3% permanent disability in relation to right lower limb. FIR no. 134/2019 was registered at PS North Rohini for offences under Section 279/337 IPC.

3. As per DAR and investigation conducted by IO, R1 was driving the offending vehicle in negligent manner which caused the accident. As such R1 was charge-sheeted for offences under section 279/338 IPC.

4. WS/reply filed on behalf of R1 claiming that he has been falsely implicated in the present case only to extort the compensation amount.

5. WS/reply also filed on behalf of R2 claiming that no accident took place with offending vehicle.

6. WS/reply also filed on behalf of R3.

ISSUES:

7. After completion of pleadings, following issues were framed by this Tribunal on 03.01.2023: -

***1. Whether petitioner Baby Rijwana D/o Sh.
Praveen suffered injuries in road traffic accident
on 27.04.2019 at about 04:00 pm, at Sarvodaya***

Vidhyalaya, Sector 8, Rohini, Delhi due to rash and negligent driving of offending vehicle i.e. JCB machine bearing registration no. HR 26 DU 7724 which was being driven by driver Sh. Subhash S/o Sh. Gokul on the said date, time and place? OPP.

2. Whether the petitioner/injured is entitled for compensation, if so, to what amount and from whom? OPP.

3. Relief.

PETITIONER'S EVIDENCE

8. Thereafter, matter was listed for recording of petitioner's evidence. In order to prove case, petitioner examined her father namely Rajibul Mohamad as Pw1 who filed his affidavit Ex.Pw1/A and relied on following documents :

- (a) Copy of his aadhar card Ex.Pw1/1 (OSR)
- (b) Medical documents Ex.Pw1/2 (colly)
- (c) Copy of DAR Ex.Pw1/3 (colly)

9. No witness was examined on behalf of respondents. Thereafter, the evidence was closed.

FINDINGS:

10. I have heard Id. Counsel for the petitioner and have gone through the testimony of petitioners including the pleadings and

the documents. My issue wise findings in the case are as under :-

ISSUE NO.1

1. Whether petitioner Baby Rijwana D/o Sh. Praveen suffered injuries in road traffic accident on 27.04.2019 at about 04:00 pm, at Sarvodaya Vidhalya, Sector 8, Rohini, Delhi due to rash and negligent driving of offending vehicle i.e. JCB machine bearing registration no. HR 26 DU 7724 which was being driven by driver Sh. Subhash S/o Sh. Gokul on the said date, time and place? OPP.

11. It is well settled that the procedure followed for proceedings conducted by an accident tribunal is similar to that followed by a civil court and in civil matters the facts are required to be established by preponderance of probabilities only and not by strict rules of evidence or beyond reasonable doubts as are required in a criminal prosecution. The burden of proof in a civil case is never as heavy as that is required in a criminal case, but in a claim petition under the Motor Vehicles Act, this burden is infact even lesser than that in a civil case. Reference in this regard can be made to the propositions of law laid down by the Hon'ble Supreme Court in the case of **Bimla Devi and others Vs. Himachal Road Transport Corporation and others**, reported in (2009) 13 SC 530, which were reiterated in the subsequent judgment in the case of **Parmeshwari Vs. Amir Chand and others** 2011 (1) SCR 1096 (Civil Appeal No.1082 of 2011) and also recently in another case **Mangla Ram Vs.**

Oriental Insurance Co. Ltd. & Ors., 2018 Law Suit (SC) 303.

12. In order to prove this issue, the petitioner has examined her father who proved medical treatment record of injured. It is claim of R1 & R2 that R1 and offending vehicle has been falsely implicated in the present case only to extort compensation. However, R1 & R2 have not brought anything on record in support of their claim. On the other hand, the charge sheet annexed with the DAR reveals that the number of offending vehicle was given at the earliest to the IO and this fact is mentioned in the FIR. Even R1 has not filed any complaint of his false implication in the present case and he is facing criminal proceedings. In view of the same, it is held that it was the rashness and negligence on the part of driver of the offending vehicle, responsible not only for this accident, but also for everything that followed thereafter. Accordingly issue no.1 is decided in favour of the petitioner and against the respondents.

ISSUE NO. 2

2. Whether the petitioner/injured is entitled for compensation, if so, to what amount and from whom? OPP.

13. As the issue no.1 has been proved in affirmative and in favour of the petitioner, the petitioner has become entitled to be compensated for the injuries suffered in the above accident, but the computation of compensation and liability to pay the same are required to be decided.

14. In terms of provisions contained in Section 168 of the

MV Act the compensation which is to be awarded by this tribunal is required to be 'just'. In the injury cases a claimant is entitled to two different kinds of compensations i.e. pecuniary as well as non-pecuniary damages. The pecuniary damages or special damages are those damages which are awarded and designed to make good the losses which are capable of being calculated in terms of money and the object of awarding these damages is to indemnify the claimant for the expenses which he had already incurred or is likely to incur in respect of the injuries suffered by him in the accident. The non-pecuniary or general damages are those damages which are incapable of being assessed by arithmetical calculations. The pecuniary or special damages generally include the expenses incurred by the claimant towards his treatment, special diet, conveyance, cost of nursing/ attendant, loss of income/earning capacity etc. and the non-pecuniary damages generally include the compensation for the mental or physical shock, pain and sufferings, loss of amenities of life, marriage prospects and disfiguration etc. The above categories falling under both the heads of compensation are not exhaustive in nature but only illustrative. It is also necessary to state here that no amount of money or compensation can put the injured/claimant exactly in the same position or place where he was before the accident and an effort is to be made only to reasonably compensate him or to put him almost in the same place or position where he could have been if the alleged accident had not taken place and this compensation is to be assessed in a fair, reasonable and equitable manner. The object of compensating him is also not to

reward him or to make him rich in an unjust manner. It is also well settled that the 'just' compensation to be awarded to the claimant has to be calculated objectively and it may involve some guess work in calculating the different amounts which the claimant may be entitled under the different heads of compensation. Reference in this regard can be made on some of important judgments on the subject like the judgment in the case of **R.D. Hattangadi Vs. Pest Control (India) Pvt. Ltd.**, AIR 1995 SC 755, **Arvind Kumar Mishra Vs. New India Assurance Company Limited**, (2010) 10 SCC 254 and **Raj Kumar Vs. Ajay Kumar & Anr.**, (2011) 1 SCC 343.

15. In light of the above legal prepositions, the amount of compensation which could be considered to be 'just' in the opinion of this tribunal shall be as under:-

Medical or Treatment Expenses:

16. After the accident, injured was taken to B R Ambedkar Hospital and from there she shifted to LNJP Hospital where she remained admitted till 21.05.2019. As per MLC the nature of injury is grievous. Pw-1 has proved medical documents/medical bills on record as Ex.Pw1/2 (colly) amounting to Rs. 2,649/-. Therefore, a sum of **Rs. 2,649/-** is granted under this head.

Conveyance and special diet.

17. Ld. Counsel for petitioner argued that petitioner had spent considerable amount on special diet, conveyance and attendant of injured but she has failed to lead any cogent evidence to prove the

amount actually spent by her under the aforesaid heads. After accident, injured was admitted to B R Ambedkar Hospital from where she referred to LNJP Hospital and remained admitted there for about one month. Due to the said accident, injured suffered 3% permanent disability in relation to her right lower limb. Thus, she would have taken special rich protein/calcium diet to sustain the life 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 his 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 notional sum of Rs. 10,000/- for conveyance charges and Rs. 30,000/- for special diet and Rs. 20,000/- for attendant charges to the petitioner. Hence, an amount of **Rs. 60,000/-** be awarded as conveyance, special diet and attendant under this head.

Pain and Suffering

18. As per the MLC and medical documents, injured suffered grievous injuries with 3% permanent disability in relation to her right lower limb in the road traffic accident on 27.04.2019. It is not possible to quantify the compensation admissible to injured for the shock, pain and sufferings etc. which she actually suffered because of the above injuries, but as stated above, an effort has to be made to compensate her for the same in a just and reasonable manner.

Hence, keeping in view the extent and nature of the injuries suffered by injured and duration of the treatment of him etc., an amount of Rs. 1,50,000/- is being awarded to her towards pain and sufferings during the said period of him treatment and immobility. Thus, she is awarded a total amount of **Rs. 1,50,000/-** under this head.

Loss of future earnings due to disability

19. In view of the observation made by the Hon'ble Apex Court of India in case titled ***Sidram Vs. Divisional Manager, United India Insurance Company (supra)*** the effect of permanent disability of the injured has to be assessed in order to quantify the future loss of earnings due to disability. As per the disability certificate, petitioner has suffered 3% Permanent disability in relation to right lower limb. Disability certificate has been issued by Dr. BSA Hospital, Delhi.

20. Admittedly, petitioner has suffered **3% Permanent Disability** in relation to her right lower limb. Due to disability petitioner will remain dependent on others due to the said disability and would definitely hamper her earning capacity in future also. Hence, it would be appropriate to hold that the functional disability of petitioner i.e **3%** be considered as 100% (i.e. **3%**). Reliance is also placed on **S.Ettiappan Vs. D. Kumar & Anr SLP(C) Nos. 15621/2025.** After studying, petitioner could have earned at least minimum wages payable to a skilled workman. The minimum wages payable to a skilled workman as on the date of accident in Delhi was **Rs. 17,508 per month**. As far as the age of petitioner at

the time of accident is concerned, DAR reflects that she was aged about 1 ½ years at the time of accident. Therefore, in view of the law laid down by the Hon'ble Supreme Court in case of **Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, (2009) 6 SCC 121, which has also been upheld by the Constitution Bench of the Hon'ble Supreme Court in a recent judgment dated 31.10.2017 given in the case of **National Insurance Company Ltd. vs. Pranay Sethi & Ors.** SLP (Civil) No. 25590 of 2014, the multiplier of '18' is held applicable for calculating the loss of future earnings of petitioner arising out of his above disability. The petitioner is entitled to future prospects as per the observations made by Constitution Bench of Hon'ble Supreme Court in case of **National Insurance Company Ltd. Vs. Pranay Sethi**, SLP (CIVIL) 25590 of 2014 decided on 31.10.2017.

21. Thus, the loss of future earnings of petitioner due to his above injury and permanent disability comes to is calculated as follows:

S. No.	Head	Amount (Rs.)	Remarks
1	Monthly Income of injurRs. (A)	17,508/-	
2	Monthly loss of earning (B)	525.24/-	3 % of (A)
3	Annual Loss of earning (C)	6,302.88/-	(B) x 12 = (C)
4	Multiplier @ 18		
5	Total Loss of earnings (D)	1,13,451.84/-	(C) x 18(multiplier) = (D)

6	Add: Future prospects 40 %	45,380.736/-	
	Total :	1,58,832.576/-	

AGONY TO THE PARENTS

22. The injured/petitioner remained hospitalized for about one month and sustained grievous injuries resulting into permanent disability of 3% in relation to right lower limb due to the accident in question and the parents of injured/petitioner have looked after her and for the said purpose, the parents of the injured/petitioner might have suffered physical discomfort, inconvenience and loss of earnings during the period of hospitalization of injured/petitioner. Even it must have caused mental agony to the parents of the petitioners. Therefore, **Rs. 1,00,000/-** is awarded towards agony to the parents.

LOSS OF GENERAL AMENITIES OF LIFE

23. As already mentioned above, there is sufficient evidence on record i.e. disability certificate to establish that the petitioner is suffering from **3% Loco Motor Disability**. Considering the aforesaid, it is quite apparent that petitioner would not be able to enjoy general amenities of life after the said accident, during rest of his life and his quality of life has been definitely affected. Hence, considering the nature of injuries suffered by the petitioner, a notional sum of **Rs. 2,00,000/-** is granted towards loss of general amenities and enjoyment of life to the petitioner.

MARRIAGE PROSPECTS

24. As already stated above, the petitioner is shown to have sustained 3% permanent disability in relation to right lower limb. From the disability suffered by injured in relation to her right lower limb, the marriage prospects of the injured would have been adversely affected. As per medical documents, injured has suffered fracture of pelvic bone. In these circumstances, this tribunal awards Rs. 50,000/- to the injured under the head of marriage prospects.

25. Thus, the total compensation is assessed as under:-

1. Medical or treatment expenses	Rs.	2,649/-
2. Conveyance, special diet & attendant charges	Rs.	60,000/-
3. Pain & suffering	Rs.	1,50,000/-
4. Loss of future earning	Rs.	1,58,832.576/-
5. Agony to the parents	Rs.	1,00,000/-
6. Loss of general amenities of life	Rs.	2,00,000/-
7. Marriage Prospects	Rs.	50,000/-
<u>Total</u>		Rs. <u>7,21,481.576/-</u>
<u>Rounded off</u>		Rs. <u>7,21,500/-</u>

Issue No.3/Relief

26. The petitioner is thus entitled to a sum of **Rs. 7,21,500/- (Rs. Seven Lacs Twenty One Thousand Five Hundred Only)** along with interest @ 9% per annum from the date of filing of the **Claim Petition** i.e. **07.06.2019** till actual payment. However, it is directed that the amount of interim award and interest for the suspended

period, if any, during the course of this inquiry, shall be liable to be excluded from the above amount and calculations of compensation.

LIABILITY

27. As already stated above, R-1 being the driver and R-2 being owner of the offending vehicle, and also being vicariously liable for the acts of R-1, are jointly and severally liable to pay the awarded amount of compensation to petitioner. However, as the offending vehicle was insured with R3 at the time of accident, R3 is liable to pay the award amount to petitioner. R3 is hereby directed to deposit the award amount within 30 days from the date of this Award by way of NEFT or RTGS mode in the account of this Tribunal maintained with SBI, Rohini Courts, Delhi under intimation to the petitioner/ injured and this Tribunal in terms of the format for remittance of compensation as provided in **Divisional Manager Vs. Rajesh, 2016 SCC Online Mad. 1913 (and reiterated by Hon'ble Supreme Court in the orders dated 16.03.2021 and 16.11.2021 titled as Bajaj Allianz General Insurance Co. Pvt. Ltd. Vs. Union of India & Ors)** along with interest @ 9% per annum.

APPORTIONMENT

28. The statement of Petitioner in terms of Clause 29 MCTAP was not recorded. The entire award amount is awarded to petitioner. Same be released to petitioner after recording her statement under Clause 29 MCTPA and on furnishing bank account details.

29. A digital copy of this award be provided to the parties.

Ahlmad is directed to send a copy of the award to Ld. Metropolitan Magistrate concerned and Delhi Legal Services Authority in view of Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial nos. 39, 40 of Procedure for Investigation of Motor Vehicle Accidents (under Rule 150A)]. Further Nazir is directed to maintain the record in Form XVIII in view of Central Motor Vehicles (fifth Amendment) Rules, 2022 [(Directions at serial no. 41 of Procedure for Investigation of Motor Vehicle Accidents (under Rule 150A)).

30. Ahlmad is also directed to e-mail an authenticated copy of the award to the insurer as directed by the Hon'ble Supreme Court of India in WP (Civil) No. 534/2020 titled as Bajaj Allianz General Insurance Co. Pvt. Ltd. Vs. Union of India & Ors. on 16.03.2021. Ahlmad shall also e-mail an authenticated copy of the award to Branch Manager, SBI, Rohini Courts for information.

31. Ahlmad is further directed to comply with the directions passed by the Hon'ble High Court of Delhi in MAC APP No. 10/2021 titled as New India Assurance Company Ltd. Vs. Sangeeta Vaid & Ors., date of decision : 06.01.2021 regarding digitisation of the records.

32. **Form V and IVB in terms of MCTAP are annexed herewith as Annexure-A.**

33. A separate file be prepared for compliance report by the

Nazir and put up the same on 12.06.2026.

34. File be consigned to record room after due compliance.

ANNOUNCED IN THE OPEN COURT

ON 12th DAY OF May 2026

**VIKRAM
DISTRICT JUDGE-01 + MACT
NORTH WEST DISTRICT
ROHINI COURTS, DELHI**