



Presented on : 23-03-2022
Registered on : 25-03-2022
Decided on : 14-03-2026
Duration : 3 years, 11 months,
22 days

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

M A C T/158/2022
FIR No. 22/21, PS Sarund, Jaipur, Rajasthan

In the matter of :

*Suresh Kumar
S/o Sh. Hazari Lal
R/o I-2, DDA Market, LSC Market,
Near I Block Post Office,
Mangolpuri, N Block S O,
Delhi-110083.*

.....Petitioner

Vs.

- 1. Kamal Kumar Sharma
S/o Sh. Chaturbhaj Sharma
R/o Swaroop Saray, Tehsil Mundawar,
Alwar-301427.*

..... Driver/R1

- 2. Hans Raj Jat
S/o Sh. Rati Ram
R/o VPO Majri Bhanda,*

*Tehsil Mundawar, District Alwar,
TA-Mohalla Bada Bas, Kotputli,
Jaipur, Rajasthan-301427*

..... Owner/R2

*2. National Insurance Company Ltd.
Office at: 3, Middleton Street,
Post Box. 9229, Kolkata-700071.*

*....Insurance
Company/R3*

*Appearance (s) : Sh. Vaibhav Tanwar, Ld. Counsel for
petitioner.
Sh. V K Gupta, Ld. counsel for Insurance
Company/R3.*

JUDGMENT / AWARD

1. Vide this judgment/award, I shall dispose off the Claim Petition bearing MACT No. 158/2022 pertaining to the injuries of Suresh Kumar (*in short, the injured/petitioner*) suffered in road accident dated 15.01.2021.

FACTUAL POSITION AND PLEADINGS

2. The brief facts relevant for disposal of the present Claim Petition are that on 15.01.2021 petitioner was travelling from Delhi to Jaipur in a car bearing registration no. DL 5CE 5936. There were three more persons in the car and petitioner was on the front seat of the car. When they stopped the car on the side of the road for breakfast/tea, one bus bearing registration no. RJ 32 PA 2892 (hereinafter referred to as offending vehicle), which was being drive

by its driver/R1 rashly and negligently in high speed, hit the car from behind due to which petitioner sustained injuries. Petitioner was rushed to NIMS Hospital and from there he was shifted to Santokba Durlabhji Memorial Hospital on 16.01.2021. Petitioner has suffered 90% disability in relation to whole body. FIR no. 221/2021 was registered at PS Sarund, Jaipur for the offences punishable under Section 279/338/304A IPC.

3. As per claim petition and charge sheet filed on record, R1 was driving the offending vehicle in negligent manner which caused the accident. As such R1 was charge-sheeted for offences under section 279/337/338/304A IPC.

4. No WS/reply was filed on behalf of R1 & R2 despite opportunity.

5. WS/reply filed on behalf of R3 disputing the claim for want of knowledge and subject to statutory defence available.

ISSUES:

6. After completion of pleadings, following issues were framed by this Tribunal on 15.01.2021: -

1. Whether petitioner Suresh Kumar S/o Sh. Hazari Lal suffered injuries in road traffic accident on 15.01.2021 at about 11:18 am, before Prince Hotel, Raghunathpura, Jaipur, Rajasthan due to rash and negligent driving of offending vehicle bearing registration no. RJ 32 PA 2892 which was being driven by its driver Kamal Kumar Sharma S/o Sh. Chaturbhaj Sharma, 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

7. In order to prove its case, petitioner examined himself as Pw1 and tendered his evidence by way of his affidavit Ex.Cw1/A and relied on certified copy of charge sheet, treatment record and medical bills, ITRs, photographs of car and petitioner, aadhar card, PAN card and disability certificate as Ex.Cw1/1 to Ex.Cw1/9.

8. During his cross examination, he denied that accident occurred due to sole negligence of driver of car. He denied that no such accident occurred with the offending vehicle and offending vehicle has been falsely implicated in the present case. He denied that he was not earning at the time of accident. He denied that ITRs filed by him are false and fabricated. He denied that medical bills filed by him are false and fabricated.

9. Petitioner has also examined Sh. Vikas, Notice Server from Income Tax Office as Pw2 who proved ITRs of petitioner for the assessment year 2019-20 & 2021-22 as Ex.Pw2/A & Ex.Pw2/B respectively.

10. No evidence was led by respondents. Thereafter,

evidence was closed.

FINDINGS:

11. I have heard Id. Counsel for the parties and have gone through the testimony of witnesses including the pleadings and the documents. My issue wise findings in the case are as under :-

ISSUE NO.1

1. Whether petitioner Suresh Kumar S/o Sh. Hazari Lal suffered injuries in road traffic accident on 15.01.2021 at about 11:18 am, before Prince Hotel, Raghunathpura, Jaipur, Rajasthan due to rash and negligent driving of offending vehicle bearing registration no. RJ 32 PA 2892 which was being driven by its driver Kamal Kumar Sharma S/o Sh. Chaturbhaj Sharma, on the said date, time and place. OPP.

12. 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**.

13. In order to prove this issue, the petitioner has examined himself as Pw1 in this case and proved criminal proceedings documents of case FIR no. 22/2021. R1 & R2 have not contested the claim of petitioner. Therefore, from the charge sheet of FIR no. 22/21, PS sarund, Jaipur, it is held that the rashness and negligence on the part of driver of the offending vehicle, which is clearly visible and as such, was 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.

14. 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.

15. 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.

16. 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:

17. Petitioner has proved medical record/bills Ex.Cw1/2, Ex.Cw1/3 & Ex.Cw1/5 of Rs. 11,80,077/-. Therefore, a sum of Rs. 11,80,077/- is granted under this head.

Conveyance, attendnat and special diet.

18. Ld. Counsel for petitioner argued that petitioner had spent considerable amount on special diet, conveyance and attendant of injured but he has failed to lead any cogent evidence to prove the amount actually spent by him under the aforesaid heads. At the same time, it cannot be overlooked that injured had suffered 90 % disability in relation to whole body due to the accident Thus, he would have taken special rich protein/calcium 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. Medical bills filed on record are from the date of accident till 10.01.2022. Injured remained under treatment for about one year. As the petitioner has suffered 90% disability in relation to whole body due to the accident, he will remain depend on others for whole life. Therefore, petitioner is also entitled for charges to be incurred by him in future for his attendant (i.e. Rs. 10,000/- per month for 10 years) In these facts and circumstances, I hereby award a notional sum of Rs. 1,00,000/- for special diet, Rs. 14,00,000/- for attendant charges including charges to be incurred in future and Rs. 50,000/- for conveyance charges to the petitioner. Hence, an amount of **Rs. 15,50,000/-** be awarded under this head. This amount includes the special diet, attendant charges and conveyance for future.

Pain and Suffering

19. As per medical documents, injured suffered **90% disability in relation to his whole**. It is not possible to quantify the compensation admissible to injured for the shock, pain and sufferings etc. which he actually suffered because of the above injuries, but as stated above, an effort has to be made to compensate

him 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. 5,00,000/- is being awarded to him towards pain and sufferings during the said period of him treatment and immobility. Thus, he is awarded a total amount of **Rs. 5,00,000/-** under this head.

Loss of Actual Earnings

20. Injured deposed that he was doing his business at the time of accident. Petitioner has proved his ITRs for the assessment year 2019-20 & 2021-22 as Ex.Pw2/A & Ex.Pw2/B respectively. ITR Ex.Pw2/B was filed on 31.10.2021 that is after around 11 months of the accident. Therefore, to assess the income of petitioner at the time of accident, ITR for the assessment year 2019-20 Ex,Pw2/A is considered as per which gross total income of petitioner was Rs. 3,00,115/- (Rs. 25,010/- per month). Keeping in view the nature of injuries sustained by the petitioner as well as his medical treatment, it could be safely assumed that the petitioner would not be able to perform any job/business efficiently in future due to disability of 90% in relation to his whole body. As such the a notional sum of **Rs. 3,00,000/-** is awarded to the petitioner under this head.

Loss of future earnings due to disability

21. 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 80% Permanent disability in relation to right lower limb. Disability certificate has been issued by SGM Hospital, Delhi.

22. Admittedly, petitioner has suffered **90% Permanent Disability** in relation to his whole body. He will not perform any job or doing any business for his earning. He will rather remains dependent on others and this disability would definitely hamper his earning capacity in future also. Hence, it would be appropriate to hold that the functional disability of petitioner i.e **90%** be considered as 100% (i.e. **90%**). Reliance is also placed on **S.Ettiappan Vs. D. Kumar & Anr SLP(C) Nos. 15621/2025.** This Tribunal has already held that the income of petitioner is **Rs. 25,010/-** per month at the relevant time. As far as the age of petitioner at the time of accident is concerned, DAR reflects that he was aged about 45 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 '13' is held applicable for calculating the loss of future earnings of petitioner arising out of his above disability.

23. 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)	25,010/-	
2	Monthly loss of earning (B)	22,509/-	90 % of (A)
3	Annual Loss of earning (C)	2,70,108/-	(B) x 12 = (C)
4	Multiplier @ 13		
5	Total Loss of earnings (D)	35,11,404/-	(C) x 13(multiplier) = (D)
6	Add: Future prospects 25 %	8,77,851/-	
	Total :	43,89,255/-	

Loss of General Amenities and Enjoyment of Life

24. As already mentioned above, there is sufficient evidence on record i.e. disability certificate to establish that the petitioner is suffering from **90% Disability in relation to whole body**. 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. 5,00,000/-** is granted towards loss of general amenities and enjoyment of life to the petitioner

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

S. No.	Head	Amount
1	Medical Expenses	11,80,077/-
2	Pain and Suffering	5,00,000/-
3	Loss of actual earning Rs.	3,00,000/-
4	Loss of future earning due to disability	43,89,255/-
5	Attendant charges, conveyance and special diet (including future)	15,50,000/-
6	Loss of Amenities and Enjoyment of Life	5,00,000/-
	Total	84,19,332/-

Issue No.3/Relief

26. The petitioner is thus entitled to a sum of **Rs. 84,19,332/- (Rs. Eighty Four Lacs Nineteen Lacs Three Hundred Thirty Two Only)** along with interest @ 9% per annum from the date of filing of the **claim petition** i.e. **25.03.2022** till compliance and @ 12% per annum thereafter. 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. In the case in hand, offending vehicle was insured with R3 and R3 has no statutory defence. Therefore, R3 is directed to deposit the above 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. Issue no. 2 is decided accordingly.

APPORTIONMENT

28. The statement of Petitioner in terms of Clause 29 MCTAP has not been recorded. It is ordered that entire compensation is awarded to the petitioner. Same be released to petitioner on furnishing MACT/saving bank account details and after recording statement under Clause 29 MCTAP.

29. Concerned Manager, SBI, Rohini Court Branch will transfer the disbursed amount immediately to the petitioner in his MACT saving bank account, on completing necessary formalities as per rules.

30. 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).

31. 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.

32. 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.

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

34. Nazir to report as to compliance of award on 14.04.2026.

35. File be consigned to record room.

**ANNOUNCED IN THE OPEN COURT
ON 14th DAY OF MARCH, 2026**

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