

DLNW010076342022



Presented on : 01-08-2022
Registered on : 03-08-2022
Decided on : 27-03-2026
Duration : 3 years, 7 months,
26 days

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

M A C T/671/2022
FIR No. 984/2019, PS Mangolpuri

In the matter of :

Shankar Lal
S/o Sh. Johri Lal
R/o 18/21/, Shri Enclave,
Pehladpur Bangar, Delhi.

.....Petitioner

Vs.

- 1. Satish*
S/o Sh. Hans Raj
R/o Village Bhelpa, Soma Road,
Gurgaon, Haryana.

.....Registered
owner/R1

- 2. AU Small Finance Bank*
Office at: Sector 15, Gurgaon,
Haryana.

.....Financier/R2

3. *Sandeep Sehrawat
S/o Sh. Om Prakash
R/o Laddo Associate,
Opposite DAV Public School,
Near Maharana Pratap Chowk,
Sukrali Enclave, Gurgaon, Haryana.*

*.....Subsequent
buyer/R2*

*Appearance (s) : Sh. Alok Kumar Pandey, Ld. Counsel for
petitioner.
Sh. Abhishek Kaushik, ld. counsel for R2
Sh. Abhay Kumar, Ld. counsel for Insurance
Company/R3.*

JUDGMENT / AWARD

1. Vide this judgment/award, I shall dispose off the DAR bearing MACT No. 671/2022 pertaining to the injuries of Rahul (*in short, the petitioner/injured*) suffered in road accident dated 14.05.2019.

FACTUAL POSITION AND PLEADINGS

2. Brief facts as per claim petition are that on 14.05.2019 petitioner was going to his duty at Kirti Nagar on his motorcycle bearing registration no. DL 4S CG 3740. At about 08:30 am when petitioner reached near Pole Star Public School, his motorcycle was hit by a TSR bearing registration no. HR 55T 0441 (hereinafter referred to offending vehicle) from behind, which was being driven by its driver rashly and negligently in high speed, due to which

petitioner fall down on the road and sustained injuries. Petitioner was shifted to Bhagwan Mahavir Hospital by driver of offending vehicle. Due to the said accident, petitioner suffered fracture of left proximal femur. Petitioner remained admitted in the hospital from 14.05.2019 to 31.05.2019 and as per medical documents, he remained under treatment for about 05 months. Petitioner has suffered 9 % permanent disability in relation to his left lower limb. FIR no. 984/2019 for offence punishable under Section 279/337 IPC was registered at PS Mangolpuri.

3. As per DAR, charge sheet, in the present case, was filed as untrace. There is copy of order dated 26.06.2024, passed by Id JMFC-05, North-West, in Cr. Case no. 925/2023, State Vs. Untrace, FIR no. 984/2019, PS Mangolpuri, as per which a supplementary charge sheet was filed in the present case whereby the offending vehicle was in possession of Rajesh Aggarwal on the date of accident.

4. The offending vehicle was initially purchased by R1 from AU Finance (R2) on installments and due to default in payment of installments, the offending vehicle was re-possessed by R2 and on 20.03.2017 R2 sold the offending vehicle to R/3Lado Associate, Opposite DAV Public School, near Maharana Pratap Chowk, Sukhrali Enclave, Gurgaon who further sold the vehicle to one Rajesh Aggarwal (authorized representative of AU Financial Pvt. Ltd.) S/o Sh. Ashok Aggarwal, R/o 2372, near Navkot Gurudwara, New Housing Board Colony, Panipat, Haryana on 20.04.2017

against delivery receipt dated 20.04.2017.

5. No WS/reply was filed on behalf of R1, despite opportunity.

6. WS/reply was filed on behalf of R2 claiming that the offending vehicle was purchased by R1 on loan and on 20.03.2017 R3 purchased the offending vehicle from R2. It is claimed that on the date of accident, R2 was not having actual and legal possession of the offending vehicle.

7. No WS/reply was filed on behalf of R3 despite opportunity.

ISSUES:

8. After completion of pleadings, following issues were framed by this Tribunal on 02.08.2023: -

1. Whether petitioner Shankar Lal S/o Sh. Johri Lal suffered injuries in road traffic accident on 14.05.2019 at about 08:30 am, at Kanjhawala Road, Pole Star due to rash and negligent driving of offending vehicle bearing no. HR 55T 0441 which was being driven by driver Satish, S/o Sh. Hans Raj 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

9. In order to prove its case, petitioner examined himself as Pw1 and tendered his evidence by way of his affidavit Ex. Pw1/A and relied on copy of aadhar card, PAN card, DL, copy of school leaving certificate, original treatment record, original medical bill and DAR as Ex.Pw1/1 to Ex.Pw1/5. He was not cross examined by respondents.

10. No evidence was led by respondents. Thereafter, the evidence was closed.

FINDINGS:

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

ISSUE NO.1

1. Whether petitioner Shankar Lal S/o Sh. Johri Lal suffered injuries in road traffic accident on 14.05.2019 at about 08:30 am, at Kanjhawala Road, Pole Star due to rash and negligent driving of offending vehicle bearing no. HR 55T 0441 which was being driven by driver Satish, S/o Sh. Hans Raj 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. Petitioner has deposed about the accident and brought on record his medical record Ex.Pw1/3 & Ex.Pw1/4. Accident is not disputed by respondents.

14. As the accident is not disputed by respondents and they have not cross examined the petitioner, 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.***

15. 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.

16. 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.

17. 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:

18. Petitioner has proved medical bills amounting to Rs. 7,350/-. Therefore, a sum of Rs. 7,350/- is granted under this head.

Conveyance, attendant and special diet.

19. 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 petitioner remained admitted in Bhagwan Mahavir Hospital 31.05.2019 and remained under treatment for about five months. Petitioner has suffered 9% permanent disability in relation to his left lower limb. 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. In these facts and circumstances, I hereby award a notional sum of Rs. 30,000/- for special diet, Rs. 20,000/- for attendant charges and Rs. 10,000/- for conveyance charges to the petitioner. Hence, an amount of **Rs. 60,000/-** be awarded under this head.

Pain and Suffering

20. As per the MLC and medical documents, injured has suffered 9% permanent disability in relation to his left lower limb. 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. 1,50,000/- 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. 1,50,000/-** under this head.

Loss of Actual Earnings

21. Injured deposed that he was a tailor by profession and was earning Rs. 20,000/- to 25,000/- per month at the time of accident. However, injured has not proved any document to show his income or educational qualification. Therefore, the monthly income of petitioner is arrived as per minimum wages of an Unskilled person prevalent in Delhi during the period in question. The minimum wages of an unskilled person were **Rs. 14,468/-** per month on the date of accident i.e. 14.05.2019. 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 have been able to resume his work/vocation for around two months. As such the a notional sum of **Rs. 30,000/-** is awarded to the petitioner under this head.

Loss of future earnings due to disability

22. 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 9% permanent locomotor disability.

23. Admittedly, petitioner has suffered **9% permanent** disability. The above 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 **9%** be considered as 100% (i.e. **9%**). 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. 14,468/-** 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 42 years at the time of accident.

24. 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)	14,468/-	
2	Monthly loss of earning (B)	1,302.12/-	9 % of (A)
3	Annual Loss of earning (C)	15,625.44/-	(B) x 12 = (C)
4.	Multiplier @ 14		
5.	Total Loss of earnings (D)	2,18,756.16/-	(C) x 14 (multiplier) = (D)
4	Add: Future prospects 25 %	54,689.04/-	
	Total	2,73,445.2/-	

Loss of General Amenities and Enjoyment of Life

25. As already mentioned above, there is sufficient evidence on record i.e. disability certificate to establish that the petitioner is suffering from **9% 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. 50,000/-** is granted towards loss of general amenities and enjoyment of life to the petitioner.

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

S. No.	Head	Amount
1	Medical Expenses	7,350
2	Pain and Suffering	1,50,000/-
3	Loss of actual earning	Rs. 30,000/-
4	Loss of future earning due to disability	2,73,445.2/-
5	Attendant charges, conveyance and special diet	Rs. 60,000/-
6	Loss of Amenities and Enjoyment of Life	50,000/-
	Total	5,70,795.2/-

Issue No.3/Relief

27. The petitioner is thus entitled to a sum of **Rs. 5,70,795.2-** (**Rupees Five Lacs Seventy Thousand Seveb Hundred Ninety Five Only**) along with interest @ **9%** per annum from the date of filing of the **DAR** i.e. **03.08.2022** 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

28. Now, the question which arises for determination is as to which of the respondents is liable to pay the compensation amount. The offending vehicle was not insured at the time of accident. It is on record that initially R1 purchased the offending vehicle from R2 on loan and for default in payment of loan installments, the offending vehicle was re-possessed by R2. R2 subsequently sold the offending vehicle to R3 and R3 again sold the offending vehicle to one Rajesh Aggarwal who was authorized representative of R2 against delivery receipt dated 20.04.2017. None of the seller/purchaser took any steps to transfer the ownership of the offending vehicle nor get the vehicle insured. Therefore, R1 cannot be held liable as the vehicle was not in his control even for the purpose of ownership. As per the order dated 26.06.2024, passed by Id. Metropolitan Magistrate-05 (now JMFC) North-West, lastly the vehicle was sold to Rajesh Aggarwal and he was in the possession of the offending vehicle at the time of accident. The said Rajesh Aggarwal, as per the deliver receipt dated 20.04.2017 is the authorized representative of AU Financial Pvt. Ltd./R2. Therefore, R2 & R3 are jointly and severally liable to compensate the petitioner. **Issue No.2 is decided accordingly. The parties are directed to**

download the digital copy of judgment online. R2 & R3 are 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

29. The statement of Petitioner in terms of Clause 29 MCTAP has not been recorded. *Entire award amount be released to petitioner through his MACT/saving bank account after recording statement under Clause 29 MACT.*

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 27.04.2026.

35. File be consigned to record room.

**ANNOUNCED IN THE OPEN COURT
ON 27th DAY OF MARCH, 2026**

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