

DLNW010094182023



Presented on : 07-10-2023  
Registered on : 10-10-2023  
Decided on : 18-03-2026  
Duration : 2 years, 5 months,  
11 days

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

M A C T/899/2023  
FIR No. 171/2023, PS Kanjhawala

*In the matter of :*

*Naresh Kumar  
S/o Sh. Ran Singh  
R/o House No. 94, Bhagya Vihar,  
Madanpur Dabas, Delhi.*

*.....Petitioner*

*Vs.*

- 1. Naresh Kumar  
S/o Sh. Bhopal Singh  
R/o House No. 50/51, Gali no. 20,  
Vipin Garden, Uttam Nagar Extn.,  
Delhi.*

*..... Driver/R1*

- 2. Antony Road Transport Solution Pvt. Ltd  
Sector-22, Dwarka, Cluster Bus Depot  
Through  
Rajinder Singh*

*S/o Sh. Sher Singh  
R/o House No. 5/82, 2<sup>nd</sup> Floor,  
Sector 15, Rohini, Delhi.*

*..... Owner/R2*

2. *IFFCO TOKIO General Insurance Co. Ltd.*

*....Insurance  
Company/R3*

*Appearance (s) : Sh. S N Thakur, Ld. Counsel for petitioner.  
Sh. Puneet Shukla, ld. counsels for R1.  
Ms. Savita Yadav, ld. counsel for R2.  
Sh. V K Gupta, Ld. counsel for Insurance  
Company/R3.*

## **JUDGMENT/AWARD**

1. Vide this judgment/award, I shall dispose off the DAR bearing MACT No. 899/2023 pertaining to the injuries of Naresh Kumar (*in short, the injured/petitioner*) suffered in road accident dated 02.06.2023.

## **FACTUAL POSITION AND PLEADINGS**

2. The brief facts relevant for disposal of the DAR are that on 02.06.2023 petitioner boarded a cluster bus bearing registration no. DL 1PD 4603, Rout No. 979 (hereinafter referred to as offending vehicle) from Kanjhawal chowk to go for his duty. Petitioner boarded the offending vehicle from the rear gate. While boarding the bus by other passengers, hand of one passenger struck in between the rear gates of the offending vehicle and driver of offending vehicle/R1 started moving the bus and that passenger

caught hold the petitioner. On shouting, the R1 opened the rear gates of the offending vehicle, while it was moving, due to which petitioner fell down from the moving offending vehicle and sustained injuries. Injured was rushed to Maharishi Valmiki Hospital and treated vide MLC no. 2864. Petitioner was referred to Ram Manohar Lohiya Hospital. Due to accident, petitioner has suffered 'right tibial plateau fracture'. As per medical record, petitioner remained admitted from 09.06.2023 to 24.06.2023. FIR no. 171/2032 was registered at PS Kanjhawala for the offences punishable under Section 279/337 IPC. Due to accident, the petitioner has suffered 38% permanent disability in relation to right lower limb.

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 was filed on behalf of R1 claiming that accident occurred due to negligence of petitioner as petitioner alongwith some other person were hanging at the door of the bus and it was that other person, whose hand was stuck in between the doors of the bus, pushed the petitioner due to which petitioner sustained injuries. It is also claimed that that said unknown passenger was also caught hold by the passengers and was handed over to police but the police did not taken any action against the said unknown passenger.

5. R2 has also filed WS/ reply to claim petition claiming that

the accident did not occur due to negligence of R1. It is stated that there was huge rush in the offending vehicle and petitioner was trying to forcibly enter into the offending vehicle. Due to rush and stampeded of passengers, petitioner fell down and sustained injuries.

6. R3 has filed legal offer.

### **ISSUES:**

7. After completion of pleadings, following issues were framed by this Tribunal on 02.02.2024: -

- 1. Whether petitioner Naresh Kumar S/o Sh. Ram Singh suffered injuries in road traffic accident on 02.06.2023 at about 09:10 am, at Kanjhawala to Ghevra Road Starting at Ghevra Village due to rash and negligent driving of offending vehicle bearing no. DL 1PD 4603 which was being driven by its driver Naresh Kumar S/o Bhopal Singh, 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. 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 following documents:

- a. Copy of aadhar card and PAN card Ex.Pw1/1 & Ex.Pw1/2
- b. Copy of MLC Ex.Pw1/3
- c. Copy of charge sheet Ex.Pw1/4

- d. Original medical bills Ex.Pw1/5
- e. Copy of discharge summary Ex.Pw1/6.

9. During his cross examination, he denied that he received injuries due to quarrel between him and that unknown passenger. He denied that R1 opened the gates of the offending vehicle only after stopping the offending vehicle. He denied that offending vehicle has been falsely implicated in the present case. He denied that medical bills and medical record are false and fabricated. He admitted that he has not filed any document regarding his employment, leave and income.

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

### **FINDINGS:**

11. I have heard ld. 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 Naresh Kumar S/o Sh. Ram Singh suffered injuries in road traffic accident on 02.06.2023 at about 09:10 am, at Kanjhawala to Ghevra Road Starting at Ghevra Village due to rash and negligent driving of offending vehicle bearing no. DL 1PD 4603 which was being driven by its driver Naresh Kumar S/o***

*Bhopal Singh, 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 brought on record his medical record Ex.Pw1/3 & Ex.Pw1/5. As per the claim of R1, petitioner alongwith one another passenger were hanging on the door of the offending vehicle and the hand of the said another/unknown passenger struck in the door of the bus and the bus started moving. The conductor of the offending vehicle shouted to stop the vehicle and as soon as the offending vehicle was stopped that unknown passenger pushed the petitioner due to which

petitioner fell down and sustained injuries. Whereas as per claim of R2, petitioner tried to enter into the offending vehicle forcibly and due to rush and stampede of passengers he fell down and sustained injuries. There is contradictions in the claim the R1 & R2 as to the movement of offending vehicle whether it was stationed or halted when the petitioner fell down. R2 was not present at the spot at the time of accident. Whereas R1 was present at the spot, being driver of offending vehicle. He himself admitted in his reply/WS that the said unknown passenger pushed the claimant when the bus drove from Kanjahawala to Ghevra and after stopping the offending vehicle. Be that as it may. R1, being the driver of offending vehicle, is duty bound towards the safety of passengers and should not have moved the bus before closing the door. There is negligence on the part of R1. Further the FIR has been lodged against the respondent no.1 and he is facing criminal charges of causing injuries by rash and negligent driving in the said accident. R1 has not filed any complaint with respect to his false implication in the present case. Keeping in view the facts & evidence produced by the petitioner, it has proved on record that the said accident has taken place with the offending vehicle being driven by respondent no.1, as a result of which, the petitioner sustained injuries.

14. In view of the aforesaid discussion and the evidence which has come on record, 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.***

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 of Rs. 4,557/-. Therefore, a sum of Rs. 4,55,7/- 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 injured had sustained grievous injuries i.e. 80% disability in relation to right 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. Petitioner has examined his attendant as Pw2. 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, petitioner has suffered 'right tibial plateau fracture'. As per medical record, petitioner was remained admitted from till 24.06.2023. He suffered **38% disability in relation to his right 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. 3,00,000/- 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. 3,00,000/-** under this head.

### Loss of Actual Earnings

21. Injured deposed that he was a Peon in Delhi Government Dispensary. However, he has not filed any document with respect to his employment, leave record and salary. Even no document to show the qualification is filed on record. 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. 17,234/-** per month on the date of accident i.e. 02.06.2023. 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 work for about two months. As such the a notional sum of **Rs. 35,000/-** 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 38% Permanent disability in relation to right lower limb. Disability certificate has been issued by Dr. BSA Hospital.

23. Admittedly, petitioner has suffered **38%** Permanent Disability in relation to his right lower limb. He will not perform any job for his earning efficiently. 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 **38%** be considered as 100% (i.e. **38%**). 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. 17,234/-** 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 43 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 '14' is held applicable for calculating the loss of future earnings of petitioner arising out of his above disability. The petitioner is not 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**.

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)	17,234/-	
2	Monthly loss of earning (B)	6,548.92/-	38 % of (A)
3	Annual Loss of earning (C)	78,587.04/-	(B) x 12 = (C)
4	Multiplier @ 14		
5	Total Loss of earnings (D)	11,00,218.56/-	(C) x 14(multiplie r) = (D)
6	Add: Future prospects 25 %	2,75,054.64/-	
	<b>Total :</b>	<b>13,75,273.2/-</b>	

### 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 **38% Loco Motor Disability** with regard to his right lower limb. 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. 1,50,000/-** 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	4,557/-
2	Pain and Suffering	3,00,000/-
3	Loss of actual earning	Rs. 35,000/-
4	Loss of future earning due to disability	13,75,273.2/-
5	Attendant charges, conveyance and special diet	Rs. 60,000/-
6	Loss of Amenities and Enjoyment of Life	1,50,000/-
	<b>Total</b>	<b>19,24,830.2/-</b>

### Issue No.3/Relief

27. The petitioner is thus entitled to a sum of **Rs. 19,24,830.2/- (Rs. Nineteen Lacs Twenty Four Thousand Eight Hundred Thirty and two paise Only)** along with interest @ **9%** per

annum from the date of filing of the **DAR** i.e. **10.10.2023** 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. In the case in hand, offending vehicle was insured with R3 and R3 is not having any 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**

29. The statement of Petitioner in terms of Clause 29 MCTAP has not been recorded. Entire award amount is awarded to petitioner. Same be released to petitioner on furnishing bank account details and after recording statement under clause 29 MCTAP.

30. Copy of this Award alongwith one photograph each, specimen signatures, copy of bank passbook and copy of residence proof of the petitioners, be sent to Nodal Officer of SBI, Rohini Court, Branch, Delhi for information and necessary compliance.

31. 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)].

32. 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.

33. 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.

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

35. Nazir to report as to compliance of award on 18.04.2026.

36. File be consigned to record room.

**ANNOUNCED IN THE OPEN COURT  
ON 18<sup>th</sup> DAY OF MARCH, 2026**

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