

**IN THE COURT OF VIJAY KUMAR JHA
PRESIDING OFFICER:
MOTOR ACCIDENT CLAIMS TRIBUNAL-01, SHAHDARA
KARKARDOOMA COURTS, DELHI**

In the matters of:

- (I) MACT no. 364/2021
Sumit Aggarwal v. Firoz Rana & Ors.
- (II) MACT no. 377/2021
Daulat Ram v. Firoz Rana & Ors.

(I) MACT No. 364/2021

Sumit Aggarwal S/o Sh. Kailash Chand (Injured)
R/o 2895, Gali no.1, Goverdhan Bihari Colony,
Shahdara, Delhi-110032.

.....**Petitioner**

Versus

1. **Firoz Rana** (Driver)
S/o Sh. Intzar Rana
R/o Idgah, Baghpat, U.P.-250609.
2. **Lakvindhar** (Regd. Owner)
S/o Sh. Dhaamveer
R/o Katha Sugar Mill, Baghpat, U.P.-250609.
3. **ICICI Lombard General Insurance Co. Ltd.** (Insurer)
ICICI Lombard House,
414, Veer Savarkar Marg, Near Sidhi Vinayak Temple,
Branch Office: DDA Market, 1st Floor, 101, J & K Market,
Dilshad Garden, Delhi-110095.

.....**Respondents**

Date of institution : 29.10.2021
Final arguments concluded on : 30.03.2026
Date of Award : 30.03.2026

AND

(II) MACT No. 377/2021

Daulat Ram (Injured)

S/o Sh. Kanhaiya Lal

R/o 882/B, Street no.8, Mani Ram Mandir Road,

Bholanath Nagar, Shahdara, Delhi-110032.

.....**Petitioner**

Versus

1. **Firoz Rana** (Driver)

S/o Sh. Intzar Rana

R/o Idgah, Baghpat, U.P.-250609.

2. **Lakvindhar** (Regd. Owner)

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Dilshad Garden, Delhi-110095.

.....**Respondents**

Date of institution : 08.11.2021

Final arguments concluded on : 30.03.2026

Date of Award : 30.03.2026

J U D G M E N T

1. By this common judgment, I shall decide the instant two claim petitions filed separately under Section 166 of 'Motor Vehicles Act, 1988', on behalf of the petitioners seeking compensation from the respondents on account of the injuries received by them in the same motor vehicular accident occurred on 28.06.2021 at 05:00 p.m. on road in front of Chaudhary Farm House, PS Singhawali Ahir, Baghpat, U.P.

2. The important facts of the case as per claim petitions are that on the aforesaid date and time, the petitioners Sumit Aggarwal and Daulat Ram were travelling on motorcycle bearing registration number DL13SK-2781, being driven by Sumit Aggarwal and when they reached the aforesaid place, a truck bearing registration number UP17AT-3594 (hereinafter, “**offending vehicle**”), being driven by respondent no.1 at a high speed, rashly and negligently, came from opposite direction and hit the motorcycle with a great force. In the accident, both the legs of the petitioner Sumit Aggarwal and arm of the petitioner Daulat Ram got crushed under the offending vehicle. During treatment, petitioner Sumit Aggarwal suffered amputation of both lower limbs, whereas, petitioner Daulat Ram suffered amputation of left hand.
3. In connection with the accident, FIR no.193/2021, under sections 279/337/338 IPC, was registered at PS Singhawali Ahir, Baghpat, U.P. During the investigation, it was found that at the time of the accident, the offending vehicle was being driven by respondent no.1 Firoz Rana, owned by respondent no.2 Lakhvinder and insured with respondent no.3 ICICI Lombard GIC Ltd. After completion of the investigation, charge-sheet against the respondent no.1 was filed before the court concerned.
4. On notice of the claim petitions, all the respondents appeared and filed their written-statements.
5. In the joint written-statement filed on behalf of respondent no.1 and 2, it has been *inter-alia* contended that the accident had taken place

due to the sole rash and negligent driving on the part of the petitioner, who was driving his vehicle at the very high speed in a zig-zag manner and all of a sudden, came in front of the truck of the answering respondents. Further, it is stated that the vehicle of the answering respondents was fully insured with the respondent no.3 vide policy no.3003/212876182/00/000 and the respondent no.1 was having a valid and effective driving license at the time of accident and therefore, if any liability arises, the respondent no.3/ insurer is liable to pay the compensation.

6. Respondent no.3/ insurance company in its written-statement *inter-alia* stated that vide insurance policy no. 3003/212876182/00/000, a Tata Ace vehicle bearing no. UP82T-8097 was insured for the period from 31.12.2020 to 31.12.2021 in the name of Shri Sanju and not the offending vehicle herein i.e. truck bearing no. UP17AT-3594 and the said policy is annexed as Annexure-A. It is submitted that the alleged accident occurred on 28.06.2021, whereas on that day, the vehicle which was insured vide above mentioned insurance policy was Tata Ace vehicle bearing no.UP82T-8097 and not the vehicle involved in the accident.
7. Further, it is submitted in the written-statement of respondent no.3/ insurance company that respondent no.2 in connivance with aforesaid Shri Sanju manipulated and fabricated the facts which can be seen from the following incidents:
 - i) That call was received at customer care department of the answering respondent on 06.07.2021 from mobile phone no.

9319680002 and a request for change of mailing address, email id, permanent address, engine number, chasis number and location code was made. On the basis of said request, an endorsement to this effect was made on the aforesaid insurance policy on 06.07.2021.

- ii) That on 07.07.2021, call was received from mobile phone no. 9319680002 to change the number of vehicle from UP82T-8097 to UP17AT-3594. Request was also made through email id lakhvindar870@gmail.com to change the model name, on which customer was requested to share correct model, RC and payment and said request was again accepted and relevant endorsement was made in the aforesaid policy on 07.07.2021.
- iii) That on 08.07.2021, an email was received from email id lakhvindar870@gmail.com to change the name from Sanju to Lakhvinder and again said endorsement was effected in the aforesaid policy on 08.07.2021.

- 8. It is stated that from the aforesaid facts, it is clear that the offending vehicle bearing no.UP17AT-3594 was not insured with the answering respondent on 28.06.2021 i.e. the date of alleged accident and therefore, insurance company is not liable to pay any compensation.
- 9. It is stated that the aforesaid policy (Annexure-A) was issued on the basis of previous policy bearing no. V6846941 valid for the period from 31.12.2019 to 30.12.2020, which is annexed as Annexure-B.

10. Upon completion of pleadings, following issues were framed on 19.10.2022:-

MACT no. 364/2021 (In re: Injured Sumit Aggarwal)

- i) Whether petitioner suffered injuries during the accident occurred on 28.06.2021 at about 06:00 p.m. in front of Chaudhary Farm House, Pura Mahadev Mandir, Baghpat, U.P., within the jurisdiction of PS Singhawali Ahir, due to rash and negligent driving of the vehicle bearing no. UP17AT-3594, being driven by respondent no.1/ driver? OPP
- ii) Whether petitioner is entitled for compensation, if so, to what extent and from whom? OPP
- iii) Relief.

MACT no. 377/2021 (In re: Injured Daulat Ram)

- i) Whether petitioner suffered injuries during the accident occurred on 28.06.2021 at about 06:00 p.m. in front of Chaudhary Farm House, Pura Mahadev Mandir, Baghpat, U.P., within the jurisdiction of PS Singhawali Ahir, due to rash and negligent driving of the vehicle bearing no. UP17AT-3594, being driven by respondent no.1/ driver? OPP
- ii) Whether petitioner is entitled for compensation, if so, to what extent and from whom? OPP
- iii) Relief.

11. Vide order dated 25.05.2023, both the present claim cases, arising out of the same accident, were consolidated by my learned predecessor and it was directed that MACT no.364/2021 would be considered as main case and common evidence in both the cases would be recorded and same shall be kept in the main case file.

12. However, the petitioners adduced separate evidence in their

respective cases through Court Commissioners, who were appointed (refer: **Gohar Mohammed v. U.P. SRTC, (2023) 4 SCC 381**) to record vide order dated 25.05.2023 and 07.03.2024. Ld. Court Commissioner submitted the report containing the depositions recorded as under:

MACT no. 364/2021 (In re: Injured Sumit Aggarwal)

- i) PW1 Sumit Aggarwal, the petitioner testified being injured in the accident. He deposed on the strength of his affidavit Ex.PW1/A and relied upon the following documents:
- (a) Copy of Aadhaar Card as Ex.PW1/1 (OSR).
 - (b) Copy of Driving License as Ex.PW1/2 (OSR).
 - (c) Attested copy of MLC issued by Max Hospital as Ex.PW1/3.
 - (d) Original discharge summary as Ex.PW1/4.
 - (e) Original invoice of Rs.2,58,000/- regarding artificial limb as Ex.PW1/5 (objected to the mode of proof by Ld. Counsel for the respondents).
 - (f) Copy of PAN Card as Ex.PW1/6 (OSR).
 - (g) ITR for AY 2019-20, 2020-21 and 2021-22 as Ex.PW1/7 (colly.-22 sheets). (The ITRs except page-1 are photocopies and the entire set of ITRs are handwritten, therefore, same are de-exhibited and marked as Mark-IV).
 - (h) Disability certificate as Ex.PW1/8.
 - (i) Certified copies of the criminal case documents i.e. superdarinama of the offending vehicle; site plan; FIR; complaint filed by Ms. Babita, the wife of the petitioner; final report u/s 173 Cr.PC; bail order of the accused and mechanical inspection report of the offending vehicle are Ex.PW1/9 (colly.-18 sheets).

- ii) PW2 Sh. Dheeraj Kumar, the Income Tax Inspector deposed that as per summons issued by this Court, he was directed to produce the ITRs for AY 2018-19, 2019-20 and 2020-21 in respect to Sh. Sumit Aggarwal, having PAN AHEPA4732M. PW2 stated that no ITR record of Sh. Sumit Aggarwal was found in the system of Income Tax Department.
- iii) PW3 Sh. Amit Kumar, the Income Tax Inspector proved the ITR of AY 2021-22 filed by the assessee Sumit Aggarwal having PAN AHFPA4732M as Ex.PW3/1.
- iv) PW4 Dr. Sandeep B. Rathod, Senior Resident, Department of Orthopedic, GTB Hospital, Delhi proved the disability certificate of the petitioner Sumit Aggarwal as Ex.PW4/1 .
- v) PW5 Sh. Arun Kumar, Technician from Ideal Artificial Limbs Solution, B-24, 2nd Floor, Lajpat Nagar-II, Delhi produced his authority letter Ex.PW5/1 and the invoice Ex.PW5/2 in the name of Sumit Aggrwal.

MACT no. 377/2021 (In re: Injured Daulat Ram)

- i) PW1 Daulat Ram, the petitioner testified being injured in the accident. He deposed on the strength of his affidavit Ex.PW1/A and relied upon the following documents:
 - (a) Copy of FIR bearing no. 0193/2021 as Ex.PW1/1.
 - (b) Certified copy of Final Report as Ex.PW1/2.
 - (c) Certified copy of Site Plan is Ex.PW1/3.
 - (d) Certified copy of technical report of the vehicle bearing

- no. DL13SK-2781 is Ex.PW1/4.
- (e) Copy of driving license of respondent no.1 is Ex.PW1/5.
 - (f) Copy of RC of the offending vehicle no. UP1780-3594 is Ex.PW1/6.
 - (g) Copy of Fitness of offending vehicle is Ex.PW1/7.
 - (h) Copy of insurance of the offending vehicle is Ex.PW1/8.
 - (i) Copy of Aadhaar Card of the owner/ respondent no.2 is Ex.PW1/9.
 - (j) Copy of release application and release order of the offending vehicle is Ex.PW1/10.
 - (k) Copy of surrender application of respondent no.1 is Ex.PW1/11.
 - (l) Copy of bail order of the respondent no.2 is Ex.PW1/12.
 - (m) Copy of investigation officer report is Ex.PW1/13 (colly).
 - (n) Copy of medical treatment record and medical bills of petitioner is Ex.PW1/14 (colly).
 - (o) Copy of Aadhaar Card of the petitioner is Ex.PW1/15.
 - (p) Copy of PAN Card of the petitioner is Ex.PW1/16.
 - (q) Copy of disability certificate of the petitioner is Ex.PW1/17.
 - (r) Copy of Aadhaar Card of the petitioner is Ex.PW1/17A.
 - (s) Copy of RC, Pollution, Insurance of the vehicle no. DL13SK-2781 is Ex.PW1/18 (colly).
 - (t) Copy of ITR of the petitioner is Ex.PW1/19 (colly).
 - (u) Copy of driving license of co-injured Sumit Aggarwal is Ex.PW1/20.

That Ex.PW1/5 to Ex.PW1/13 and from Ex.PW1/17A to Ex.PW1/20 are de-exhibited being photocopies and the same are marked as Mark C to O.

- ii) PW2 Sh. Aditya, Assistant Manager, HR & Operations at Kosmos Super Specialty Hospital, Delhi produced the photocopies of medical treatment record of the petitioner Daulat

Ram and proved the same as Ex.PW2/1 (colly.-116 pages).

- iii) PW3 Nand Ram, Statistical Assistant, GTB Hospital, Delhi produced the entire treatment record of the petitioner Daulat Ram as Ex.PW3/1. PW3 deposed that the petitioner Daulat Ram was hospitalized in GTB Hospital on 06.07.2021 and was discharged on 29.07.2021 vide CR no. GTB-16440.
- iv) PW4 Babu Ram, Director of MCC Hospital, Shashtri Nagar, Hapur Road, Meerut, produced the MLC and treatment record of the petitioner Daulat Ram and proved the same as Ex.PW4/1 (colly) (OSR). PW4 also proved the original bill of Rs.1,00,000/- as Ex.PW4/2 and photocopy of police information report given by MCC Hospital as Ex.PW4/3 (OSR).

13. On the other hand, respondents side examined the following witnesses:

- i) R1W1 Firoz Rana, the driver of the offending vehicle deposed by way of his affidavit Ex.R1W1/A. R1W1 clarified that registration number of his truck is UP17AT-3594 which is wrongly typed as UP17T-3594 in para no.2 of his affidavit Ex.R1W1/A. He relied upon the following documents:
 - (a) Copy of his Aadhaar Card as Ex.R1W1/B (OSR).
 - (b) Copy of his Driving License as Ex.R1W1/C (OSR).
- ii) R2W1 Lakhwinder, the owner of the offending vehicle deposed by way of his affidavit Ex.R2W1/A (objected to by learned counsel for the insurance company on the ground that affidavit is

beyond pleadings and therefore, it cannot be taken on record).

R2W1 has relied upon the following documents:

- (a) Photocopy of the cover note/ policy bearing no. 3003/12876182/00/00 as Ex.RW2/1 (objected to the mode of proof).
- (b) Photocopy of his Aadhaar Card as Ex.RW2/2 (OSR).

14. I have heard the final arguments advanced by learned counsel for the parties and perused the entire evidence and other materials placed on record. My findings on the issues are as under:-

ISSUE NO.1 (in both cases)

“Whether petitioner suffered injuries during the accident occurred on 28.06.2021 at about 06:00 p.m. in front of Chaudhary Farm House, Pura Mahadev Mandir, Baghpat, U.P., within the jurisdiction of PS Singhawali Ahir, due to rash and negligent driving of the vehicle bearing no. UP17AT-3594, being driven by respondent no.1/ driver? OPP”

15. It is the settled proposition of law that in an action founded on the principle of fault liability, the proof of rash and negligent driving of the offending vehicle is sine qua non. However, the standard of proof is not as strict as applied in criminal cases and evidence is to be tested on the touchstone of the preponderance of probabilities. A holistic view is to be taken while dealing with the Claim Petition based upon negligence. Strict rules of evidence are not applicable in an inquiry conducted by the Claims Tribunal. Reference may be made to the judgments titled as **New India Assurance Co. Ltd. v. Sakshi Bhutani & Others.**, MAC APP. No. 550/2011 decided on 02.07.2012, **Bimla Devi & Others v. Himachal Road Transport**

Corporation & Others (2009) 13 SC 530, Parmeshwari v. Amirchand & Others 2011 (1) SCR 1096 & Mangla Ram v. Oriental Insurance Company Ltd. & Others 2018, Law Suit (SC) 303.

16. In the cases in hand, the involvement of the offending vehicle in the accident in question, being driven by respondent no.1 Firoz Rana is not in dispute as the said fact is quite clear from the joint written-statement filed on behalf of respondent no.1 and 2, wherein as per respondent no.1 and 2, the accident had taken place due to the sole rash and negligent driving on the part of the petitioner, who was driving his vehicle at a very high speed and in zig-zag manner and all of a sudden, he came in front of the truck of the answering respondents and the accident had taken place. In view of this, now the issue in hand remains to be decided only to the extent if the present accident happened due to the fault of the respondent no.1 or due to sole negligence of the petitioner Sumit Aggarwal, who was driving the motorcycle on which petitioner Daulat Ram was sitting on the pillion seat.
17. With respect to the mode and manner of accident, evidence has come on record from both sides. The petitioners Sumit Aggarwal and Daulat Ram, both deposed as PW1 in their respective cases and on the other side respondent no.1 Firoz Rana deposed as R1W1.
18. The petitioner Sumit Aggarwal (PW1) by way of his affidavit Ex.PW1/A deposed that on 28.06.2021, he was coming back from Pura Mahadev Mandir, Baghpat, U.P. towards his residence at Bihari Colony, Delhi while driving the motorcycle bearing no.

DL13SK-2781 and his friend Daulat Ram was pillion rider on his motorcycle. PW1 Sumit Aggarwal stated that he was driving the motorcycle on extreme left side and at a normal speed and when at about 05:00 p.m., he reached in front of Chaudhary Farm House, Village Singhawali, a truck bearing no. UP17AT-3594, which was being driven by the respondent no.1, coming from opposite direction at a very high speed, in zig-zag and negligent manner, suddenly took a turn towards his (Sumit Aggarwal's) left side and hit his motorcycle from front portion, which resulted into a dreadful accident.

19. Petitioner Daulat Ram (PW1) has also corroborated the above stated manner of accident by deposing through his affidavit Ex.PW1/A. PW1 Daulat Ram during his cross-examination conducted on 22.08.2023 stated that “there is head on collision between the vehicle bearing no. UP17AT-3594 and DL13SK-2781.” Further, during his cross-examination conducted on 06.09.2023, PW1 Daulat Ram stated that the “accident in question was caused by the vehicle bearing no. UP17AT-3594 as the said vehicle hit my vehicle from the front.”
20. Per contra, R1W1 Firoz Rana by way of his affidavit Ex.R1W1/A deposed that on 28.06.2021 at about 04:30 to 05:00 p.m., he was going to Ami Nagar Sarai from Baghpat on his truck bearing no. UP17T-3594 (while tendering his evidence on 12.03.2025, R1W1 clarified that registration number of his truck is UP17AT-3594 and it is wrongly typed as UP17T-3594 in para no.2 of his affidavit

Ex.R1W1/A). R1W1 stated that when he reached at Dola-Hisawda Road, near Chaudhary Farm House, suddenly a bike rider coming from opposite side (Hisawda side) at a very high speed and in rash and negligent manner, hit the truck from front side. R1W1 stated that he tried to escape the said accident and during the said efforts his vehicle overturned. R1W1 stated that he came out of his vehicle to see the injured persons/ bike riders, meanwhile people started gathering and crying that 'driver ko pakdo' and therefore, to save himself, he fled away from the spot.

21. From the above two versions i.e. one from the petitioners' side and another from the side of driver/ respondent no.1, which have come on record, evidently, it is the admitted position that the accident was a head on collision and therefore, now it has to be ascertained as to who was at fault, whether the petitioners or the respondent no.1. On perusal of certified copy of the site plan which is part of the criminal case record Ex.PW1/9 (colly), it reveals that the place of accident was a single road without divider and therefore, vehicles were required to ply on the left side of the road in their moving direction, whereas, the offending vehicle, as per the site plan, had hit the petitioner's motorcycle (which was plying on its correct side) by going to its extreme right side. The manner of accident as shown in the site plan corroborates the version of both the injured/ petitioners that they were coming on the motorcycle on the extreme left side of the road and the offending truck hit their motorcycle head on by taking a turn towards them.

22. The MLC (Ex.PW1/3) of the petitioner Sumit Aggarwal, bearing MLC no.11708, dated 29.06.2021, prepared at Max Hospital, Patparganj, Delhi shows that he was brought to the hospital at 01:10 a.m. on 29.06.2021 as a result of RTA which took place on 28.06.2021 at 05:00 p.m. and the injuries received by him were opined to be grievous in nature.
23. Perusal of record shows that an OPD ticket, dated 28.06.2026 has been placed on record which reflects that on 28.06.2026 at 06:22 p.m. after the accident, the injured Daulat Ram was taken to Community Health Centre, Pilana, Baghpat, where he was observed to have suffered fracture in left arm. Further, RTA is clearly mentioned on the said OPD ticket and injured was referred to LLRM Medical College, Meerut. OPD card of LLRM Medical College, Meerut is also there on record which shows that the injured Daulat Ram was admitted there on 28.06.2021 at 08:14 p.m. but he was shifted from there to Meerut Critical Care Hospital, Meerut on 29.06.2021 at 03:00 a.m. as per MLC bearing MLC no.1080, dated 30.06.2021, prepared at Meerut Critical Care Hospital, Meerut, which mentions the alleged history of RTA at 05:00 p.m. on 28.06.2021. The MLC further mentions that the petitioner was admitted in LLRM Medical College on 28.06.2021 and then admitted in Meerut Critical Care Hospital, Meerut on 29.06.2021 at 03:00 a.m. and that he was operated on 29.06.2021 at 09:00 a.m. when his left upper limb was amputated from left shoulder.
24. In view of discussion herein above, this Tribunal has reached the

conclusion that, on the basis of the preponderance of probabilities, the accident had occurred due to rash and negligent driving of the offending vehicle by the respondent no.1 Firoz Rana which resulted into grivous injuries to the petitioner(s) Sumit Aggarwal and Daulat Ram. Issue no.1 is, accordingly, decided in favour of the petitioner(s).

COMPUTATION OF COMPENSATION

25. Section 168 of Motor Vehicles Act, 1988, enjoins the claim Tribunal to hold an inquiry into the claim to make an award determining the amount of compensation, which appears to be just and reasonable. As per settled law, compensation is not expected to be a windfall or a bonanza nor it should be a pittance. “Just compensation” cannot be equated with bonanza but it suggests application of fair and equitable principles and reasonable approach of the Tribunal while awarding the compensation. This reasonableness must be on large peripheral field. A man is not compensated for the physical injury which he might have received in the accident caused by the motor vehicle in a public place, rather he is compensated for the loss, which he suffered as a result of that injury that he suffered in the accident. [Ref. *Yadava Kumar v. National Insurance Co. Ltd.*, (2010) 10 SCC 34; *Raj Kumar v. Ajay Kumar*, (2011) 1 SCC 343; *Puttamma v. K.L. Narayana Reddy*, (2013) 15 SCC 45].
26. The scope of compensation in injury cases has been considered by Hon’ble Supreme Court in case titled as **Mr. R.D. Hattangadi v. M/S Pest Control (India) Pvt. Ltd.**, 1995 AIR 755. Further, in **Raj Kumar**

v. Ajay Kumar & Another (2011) 1 SCC 343, Hon'ble Supreme Court of India laid down general principles for computation of compensation in injury cases. In the light of the aforementioned judgments, the compensation to which the petitioner is entitled shall be as under:-

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PECUNIARY DAMAGES :

Medical Expenses

27. The petitioner/ injured Sumit Aggarwal (PW1) has not placed on record any medical bill with respect to his treatment. Even in his cross-examination conducted by learned counsel for R1 & R2, the petitioner (PW1) has fairly admitted that his entire medical treatment expenditure was borne by his mediclaim insurance company i.e. M/s Aditya Birla Health Insurance Co. Also, during cross-examination conducted by learned counsel for the insurance company on 19.10.2023, the petitioner (PW1) admitted that his entire medical treatment was reimbursed/ paid by Aditya Birla Health Insurance Company Ltd. and nothing under the head of medical expenses were incurred by him at any point of time during his treatment. In view of this, the petitioner is not entitled to any compensation under this head.

Loss of Earning During Treatment

28. The MLC (Ex.PW1/3) of the injured/ petitioner Sumit Aggarwal shows that he was brought to Max Hospital, Patparganj, Delhi on

29.06.2021 at 01:10 a.m. after his accident occurred at 05:00 p.m. on 28.06.2021. The discharge summary (Ex.PW1/4) reveals that the petitioner Sumit Aggarwal remained hospitalized from 29.06.2021 to 08.07.2021 in Kosmos Subspecialty Hospital, Anand Vihar, Delhi. The discharge summary shows that on local examination, the petitioner was observed to have suffered severely crushed wound in both legs with auto amputation right leg below knee and left foot below ankle; comminuted fracture high parietal bone and CLW (contused lacerated wound) over scalp. Though no further treatment record after discharge from the hospital has been placed on record, however, in view of the description of injuries mentioned as observed by doctors in the MLC and discharge summary, the petitioner is entitled to be compensated for the loss of **six months'** income during treatment.

29. The petitioner (PW1) in para 9 of his affidavit Ex.PW1/A deposed that he was running cable network business under the name and style of M/s Om Sai Cable & Wifi Internet Service at 180/1-B, Bhola Nath Nagar, Delhi and was earning Rs.20,000/- to Rs.25,000/- per month. The petitioner (PW1) stated that since his both legs have been amputated and he suffered 88% permanent disability in relation to his both lower limbs and therefore, he will not be able to run his said business at his own in any manner. The petitioner (PW1) stated that now his children are running the said business with the same name. He placed on record ITRs for the assessment year 2019-20, 2020-21 and 2021-22 as Ex.PW1/7 (colly).

30. In cross-examination, the petitioner (PW1) stated that as of now, he is supervising his business and have employed people to look after the same. He denied the suggestions that he has not suffered financial loss due to the alleged injuries. He denied the suggestion that the the ITR filed by him are false and fabricated.
31. PW3 Sh. Amit Kumar, Income Tax Inspector produced the photocopy of ITR for the assessment year 2021-22 as filed by the assessee namely Sumit Aggarwal having PAN no. AHFPA4732M and proved the same as Ex.PW3/1. In cross-examination, though PW3 admitted that the Ex.PW3/1 does not pertain any stamp of Income Tax Department, however, he voluntarily added that the same being computer generated documents, do not require any stamp. PW3 stated that assessee is having other source of income as is clearly shown at point A of Ex.PW3/1. PW3 stated that the assessee Sumit Aggarwal has filed the ITRs even after the assessment year 2021-22.
32. There is nothing on record to discredit the above-mentioned ITR nor the same has been challenged by the respondents in cross-examination. In this regard, reliance can be placed upon the case titled **Malarvizhi & Ors. v. United India Insurance Co. Ltd. & Ors. (2020) 4 SCC 228**, wherein the Hon'ble Supreme Court observed as under:

“10..... We are in agreement with the High Court that the determination must proceed on the basis of the income tax returns, where available. The income tax return is a statutory document on which reliance may

be placed to determine the annual income of the deceased.”

33. The income of the deceased, therefore, can be taken as per ITR of the assessment year 2021-22 (Ex.PW3/1) which reflects the gross total income of the petitioner from business and profession as Rs.5,24,186/- per annum and the total taxes as zero. Thus, the annual income of the petitioner is assessed as Rs.5,24,186/-. Accordingly, a sum of **Rs.2,62,093/-** is granted to the petitioner on account of loss of income of six months’ during treatment.

Loss of Future Earnings Due to Disability

34. It is evident on record that as a consequence of injuries sustained in the accident, petitioner Sumit Aggrwal has suffered 88% permanent physical disability in relation to both lower limbs. The disability certificate, bearing no.569/18/6/2022, dated 02.06.2022 issued by Medical Board of GTB Hospital, Delhi, has been duly proved on record by PW4 Dr. Sandeep B. Rathod, Senior Resident, Department of Orthopedic, GTB Hospital, Delhi, clearly reflecting the aforesaid extent of permanent disability.
35. The disablement and loss of earning capacity are two different aspects and not substitute to each other and the loss of income has to be seen considering the profession in which petitioner was engaged at the time of accident. Petitioner Sumit Aggarwal (PW1) by way of his affidavit of evidence Ex.PW1/A has testified that he was running Cable Network business under the name and style of M/s Om Sai Cable & Wifi Internet Service, 180/1-B, Gali no.9, Bholanath Nagar,

Shahdara, Delhi-110032 and was earning Rs.20,000/- to Rs.25,000/- per month, for which he required perfect attention and movement and since his both legs have been amputated and he has suffered 88% permanent disability in relation to both lower limbs, he would not be able to run his said business at his own in any manner in future it being a field work business and therefore, his children are now running his said business with the same name.

36. It is evident that the petitioner has placed on record a tax invoice Ex.PW1/5 for having purchased prosthesis/ artificial limbs for both amputated lower limbs and has fairly admitted in his cross-examination conducted by learned counsel for the insurance company that after using the prosthesis, his functional disability has reduced immensely. Petitioner (PW1) has stated that he was not paying any GST to the government and voluntarily added that he was running a small business.
37. In the opinion of this Tribunal, with 88% permanent physical disability in relation to both lower limbs, a person engaged in a small business of Cable Network & Wifi Services, which requires frequent visits to the customers for the purpose of installing new connections and resolving the technical complaints, would not be able to perform his work considering the work profile attached to the said work. There remains no doubt that with such extreme level disability of 88% in his both lower limbs, even the petitioner would also not be in a position to perform even his daily need works independently.
38. It is evident that ITRs on behalf of the petitioner are also being filed

subsequently, which show that the income of the petitioner has not been affected and the same is still continued, however, keeping in view the fact that the petitioner has stated that now his children are looking after his business and further stated in his cross-examination that as of now, he is supervising his business and has employed people to look after the same, it may be inferred that had his children/ people kept to look after his business would not have taken care of the said business, income from his business would have affected to the extent of functional disability of whole body which he has actually suffered as a result of amputation of his both lower limbs despite using prosthesis.

39. Keeping in view that the petitioner has placed on record a tax invoice of having purchased prosthesis/ artificial limbs and also admitted in his cross-examination that after using the prosthesis, his functional disability has reduced immensely, though he denied the suggestion that his functional disability has come to zero after using prosthesis and considering the fact that his income as reflected in ITRs subsequent to his amputation is still not affected because of the fact that his children/ people which he employed are looking after his business and had his children/ people which he employed had not joined his business, his income would have definitely affected, this Tribunal is of the opinion that functional disability in relation to whole body of the petitioner may be considered to be **45%** for the purpose of assessing corresponding loss of his future income.
40. Further, law is well settled that there should be no departure from the

multiplier method in injury cases also [refer: **Sandeep Khanuja vs. Atul Dande & Anr., (2017) 3 SCC 351**]. The Aadhaar Card (Ex.PW1/1), Driving License (Ex.PW1/2) and PAN Card (Ex.PW1/6) of the petitioner show his date of birth as 06.10.1985, which would mean that on the date of accident (28.06.2021), the petitioner was 35 years of age and therefore, multiplier of 16 as applicable to age group between 31-35 years, would be applicable as per settled principle laid down in case of **Sarla Verma v. DTC (2009) 6 SCC 121**. Moreover, the law has been well settled by the decisions of Supreme Court in the cases of **Sandeep Khanuja (supra)** and **Erudhaya Priya vs. State Express Transport Corporation Ltd., 2020 SCC OnLine SC 601**, that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration. Thus, considering the petitioner as a self-employed and belonging to age group below 40 years, an addition of income to the extent of 40% towards future prospects has to be counted.

41. As discussed above, the income of petitioner prior to the accident has been assessed to be Rs.5,24,186/- per annum. Thus, applying the multiplier 16 and future prospects @ 40% with 45% loss of income on account of whole body functional disability, the total loss of future income would come to **Rs.52,83,795/-** [45% of (5,24,186x140/100x16)] and same is awarded under this head.

Cost of Artificial Limb

42. Tax invoice dated 28.12.2021 regarding purchase of artificial limbs

(Fitment of Bilateral right above knee prosthesis with liner + OP4 knee joint + dynamic foot & left above knee prosthesis with padline liner + OFM1 knee joint + dynamic foot) by the petitioner for a sum of Rs.2,58,000/- has been proved on record as Ex.PW5/2. The petitioner in his cross-examination has admitted that he is using prosthesis. The petitioner voluntarily stated that maximum life is 5 years.

43. Admittedly, the petitioner has been using the prosthesis since the date of its purchase i.e. 28.12.2021. Evidently, the petitioner has suffered amputation of both lower limbs and therefore, he shall be entitled to the cost of prosthesis, which he would be required to use during his lifetime. Therefore, in the opinion of this Tribunal, it would be in the interest of justice if the petitioner is granted compensation keeping in view the cost of artificial limb as proved by PW5 vide invoice dated 28.12.2023 Ex.PW5/2. Though the petitioner has not brought on record any specific evidence regarding usage, maintenance, life of the prosthesis and the number of replacements required during lifetime by summoning the expert doctor/ prosthetist/ orthotist from the company which manufactures or deals in prosthesis which the petitioner has been using. No doubt, a person has the right to have the best of medical treatment and equipment, however, when the rates vary too much, the entitlement has to be considered on the basis of the status of party and the nature of the job to be performed with the help of artificial limb and, in the present case, the artificial limb, which the petitioner has been using, he has made no complaints of any kind to this Tribunal. In the given

facts and circumstances of the case, it would be appropriate if the cost of artificial limbs is fixed at Rs.2,58,000/- as proved vide invoice Ex.PW5/2 and its life span is assumed to be 5-7 years.

44. The date of birth of the petitioner as per his Aadhaar Card (Ex.PW1/1), Driving License (Ex.PW1/2) and PAN Card (Ex.PW1/6) is 06.10.1985 and accordingly, he was 35 years of age on the date of accident (28.06.2021). Thus, considering the life of an artificial limb as that of 5-7 years, the petitioner would be requiring at least five replacements, considering the life expectancy to be 65 years. Accordingly, a total sum of **Rs.12,90,000/-** (2,58,000x5) is awarded to the petitioner for artificial limbs and its future replacements/maintenance.

Special Diet & Conveyance Charges

45. The discharge summary shows that the petitioner remained admitted in Kosmos Superspeciality Hospital, Anand Vihar, Delhi from 29.06.2021 to 08.07.2021. The clinical history as per discharge summary shows that the petitioner had RTA on 28.06.2021 at around 05:00 p.m. and sustained crush injury to B/L lower limbs leading to auto amputation of right legs and left foot also sustained injury over scalp and right forearm and he took first aid from Max Hospital, Patparganj, Delhi, where MLC was done vide MLC no. 11707. The 'Hospital Course' shows that the "patient presented with complaints of pain and swelling B/L lower limbs along with active bleeding, open wound with bleeding over scalp, wound over right forearm and was admitted under care of Dr. R.K. Sachdeva (Orthopedic Surgeon)

for surgical correction as a case of severely crush injury B/L legs with auto amputation of right below knee and left ankle, after initial treatment in emergency he was shifted to ICU for further management. His advised investigations were carried out and managed conservatively along with O₂ support. ABG showed PH-7.26, PCO₂-37.7 PO₂-32, x-ray left knee AP LAT was done which showing normal study. USG abdomen was done which showed essentially normal study, fast negative. CT Brain Plan was done which showed comminuted fracture of high parietal bone seen, rest of calvarial bone is normal. 07 units of PRBC and 04 units of FFP were transfused. Daily dressing was done. Opinion was taken from Dr. Kunal Gupta (Physician) and his advice was followed. Also opinion was taken from Dr. Manoj Bansal (Plastic Surgeon) and his advise was followed. After stabilization and post PAC patient was taken up for regularization and dis articulation of right knee and left below knee and stood the procedure well; post-operatively he was kept in ICU for observation which was uneventful. Then he was shifted to ward for further observation and continued supportive care was given in the ward. Gradually patient's general condition has improved, chec x-ray done is satisfactory and now patient is being discharged today in stable condition to be followed up through OPD." Keeping in view the nature of the injury and the period of treatment, it may be safely assumed that the petitioner must have spent a reasonable amount on high-rich protein diet for early recovery apart from spending money on transportation for visiting the hospital for his further treatment and therefore, a sum of

Rs.50,000/- each is granted to the petitioner for special diet and conveyance charges. Accordingly, a total sum of **Rs.1,00,000/-** is awarded under this head.

Attendant Charges

46. The petitioner is also required to be granted attendant charges to compensate the work/ job of his family members, which would definitely have suffered in providing assistance to him in his routine activities during treatment period (**Refer : DTC & Ors Vs. Lalita, 1983 ACJ 253**). In this case, PW5 (Technician from Ideal Artificial Limbs Solution) has proved the original tax invoice of Rs.2,58,000/- as Ex.PW5/2 which shows that the petitioner had purchased the artificial limbs from Ideal Artificial Limbs Solution on 28.12.2021. Therefore, it may be safely inferred that the petitioner who suffered amputation of both lower limbs in the road accident on 28.06.2021 had to take assistance of his family members for performing his routine activities till 28.12.2021 i.e. the date on which he purchased and started using the artificial limbs. Therefore, a sum of **Rs.90,000/-** is granted to the petitioner under this head.

NON PECUNIARY DAMAGES:

Pain & Sufferings, Loss of Amenities & Disfigurement

47. As per MLC Ex.PW1/3, the petitioner was observed to have suffered both lower limbs crush injury. He remained hospitalized from 29.06.2021 to 08.07.2021 as per discharge summary Ex.PW1/4 which also reveals that the petitioner has suffered severely crushed wound in both legs with auto amputation right leg below knee and

left foot below ankle; comminuted fracture high parietal bone and CLW (contused lacerated wound) over scalp. Considering the nature of injury, amputation of both lower limbs and period of hospitalization, there remains no doubt that the petitioner had gone through the immense pain and suffering during his treatment. Besides, it is also evident that the petitioner has suffered disfigurement on account of amputation of his both lower limbs which resulted into 88% permanent disability in relation to his both lower limbs because of which he is bound to face difficulties and hindrance to enjoy the amenities of life to the fullest and therefore, he is entitled to be compensated on account of disfigurement due to disability and also for loss of amenities.

48. It is relevant to mention here the decision in case of **Mohd. Sabeer v. Regional Manager, U.P. State Road Transport Corporation**, Civil Appeal Nos. 9070-9071 of 2022, decided on 09.12.2022, wherein the the appellant/ injured had sustained permanent physical disability of 70% in respect of amputated right lower limb and his functional disability was assessed by the Tribunal as 30% and subsequently, the Hon'ble High Court assessed it to be 35%, whereas the Hon'ble Supreme Court considering the appellant a self-employed, assessed his functional disability as 60% and awarded the compensation to the appellant/ injured on the following heads, as under:

- Pain and suffering – Rs.2,00,000/-.
- Loss of amenities of life – Rs.2,00,000/-.
- Disability and disfigurement – Rs.2,00,000/-.

49. In the instant case, the injured/ petitioner Sumit Aggarwal sustained

88% permanent physical disability in relation to his both lower which has been assessed above by this Tribunal as 45% functional disability of his whole body. Therefore, in view of the aforementioned judgment in case of **Mohd. Sabeer (Supra)**, petitioner herein is granted a compensation of Rs.2,00,000/- each on account of (i) pain and suffering, (ii) loss of amenities and (iii) loss of disfigurement. Accordingly, a total compensation of Rs.6,00,000/- is granted to the petitioner under this head.

50. Thus, the compensation awarded to the petitioner is summarized as under:-

Sl. No.	Head of compensation	Amount
1.	Medical Bills	Nil
2.	Loss of Earnings (During Treatment)	Rs.2,62,093/-
3.	Loss of Future Income (Due to Disability)	Rs.52,83,795/-
4.	Cost of Artificial Limbs	Rs.12,90,000/-
5.	Special Diet and Conveyance Charges	Rs.1,00,000/-
6.	Attendant Charges	Rs.90,000/-
7.	Pain & Sufferings, Disfigurement & Loss of Amenities	Rs.6,00,000/-
Total		Rs.74,25,888/-

Thus, a the compensation in this case comes to 74,25,888/-, rounded off to **Rs.74,26,000/-**.

MACT no. 377/2021
Daulat Ram v. Firoz Rana & Ors.

PECUNIARY DAMAGES :

Medical Expenses

51. The petitioner has placed on record certain medical bills with respect

to the medical expenses he incurred on his treatment. There are two hospitalization bills. One is for Rs.1,00,000/- (Ex.PW4/2) in respect of petitioner's hospitalization from 29.06.2021 to 30.06.2021 in Meerut Critical Care Hospital, Meerut and another is for Rs.79,730/- with respect to his hospitalization from 01.07.2021 to 06.07.2021 in Kosmos Hospital, Anand Vihar, Delhi. Certain bills related to OPD procedure, investigation, blood bank and pharmacy for a total sum of Rs.48,678/- have also been placed on record. Besides, pharmacy bills for a total sum of Rs.56,591/- raised by Kosmos Pharmacy during petitioner's admission in Kosmos Hospital have also been placed on record. All these bills are in original and are found in order and this Tribunal does not find any doubt on the veracity of the same. Hence, a total sum of **Rs.2,84,999/-** (1,00,000+79,730+48,678+56591) is awarded to the petitioner under this head.

Loss of earning during treatment:

52. As per treatment documents placed on record, the injured Daulat Ram after the accident on 28.06.2021 was immediately taken to Community Health Centre, Pilana, Baghpat, from where he was referred to LLRM Medical College, Meerut. Doctor at LLRM Medical College admitted him there but the attendant of injured gave in writing that he want to take the injured to another hospital and then the injured was taken to Meerut Critical Care Hospital, Meerut, where he remained admitted from 29.06.2021 to 30.06.2021 and during hospitalization his left upper limb was amputated from left shoulder on 29.06.2021 at 09:00 a.m. Thereafter, he was taken to Kosmos Hospital, Anand Vihar, Delhi, where he remained

hospitalized from 01.07.2021 to 06.07.2021 and then he was shifted to GTB Hospital, Delhi and remained admitted there from 06.07.2021 to 29.07.2021. His further treatment continued in OPD of Surgery Department, GTB Hospital, where he made multiple visits as per OPD cards placed on record, which reveals that he was under further treatment c/o RTA with disarticulation of left upper limb and multiple right side rib fractures with open wound at left disarticulation. Considering the nature of injury (amputation of left upper limb) and treatment record, it may be safely concluded that the petitioner could not have done any work for at least six months from the date of accident and remained under treatment for said period. Hence, he is entitled to be compensated for loss of income of six months during treatment.

53. In the claim petition, the petitioner Daulat Ram has disclosed that he was working as Technician with Raghav Cable situated at Bholanath Nagar, Shahdara, Delhi but surprisingly, he did not utter even a single word about his employment and income in the affidavit of his evidence Ex.PW1/A, though he relied upon the ITRs (Ex.PW1/19) for AY-2019-20 and AY 2020-21. However, in his cross-examination conducted by learned counsel for R1 and R2, he admitted that he did not file any document to show that he was working as Technician with M/s Raghav Cable. He further admitted that he has not placed on record any document of his employment and of income from the employment. The Aadhar Card of the petitioner shows his residential address of Bholanath Nagar, Delhi. The ITRs filed by him for AY-2019-20 and AY 2020-21 also shows the same address of Delhi.

Though the said ITRs have been placed on record as Ex.PW1/19 but the same have not been duly proved on record by the petitioner by summoning the concerned witness from Income Tax Department. Hence, admittedly, when petitioner did not place on record any document of his employment, income and education, his income has to be assessed at par with minimum wages applicable to unskilled category of workers of Delhi on the date of accident (28.06.2021) which were Rs.15,908/-. Thus, the income of the deceased is considered to be Rs.15,908/- per month. Accordingly, a sum of **Rs.95,448/-** (15,908x6) is granted to the petitioner on account of loss of income of six months during treatment.

Loss of Future Earnings Due to Disability

54. As per permanent disability certificate no.647/6/6/2022, dated 02.06.2022, issue by Medical Board of GTB Hospital, the petitioner Daulat Ram was assessed to have suffered 90% permanent disability in relation of his left upper limb. The disablement and loss of earning capacity are two different aspects and not substitute to each other and the loss of income has to be seen considering the profession in which petitioner was engaged at the time of accident. Considering the petitioner an unskilled worker as he did not bring on record any documentary evidence with regard to his employment and income, and keeping in view that left arm has been amputated from shoulder, this Tribunal is of the opinion that the petitioner would face a considerable difficulty in performing the work of unskilled worker and therefore, functional disability in relation to whole body of the petitioner is hereby considered to be **50%** for the purpose of

assessing corresponding loss of his future income.

55. Further, law is well settled that there should be no departure from the multiplier method in injury cases also [refer: **Sandeep Khanuja vs. Atul Dande & Anr., (2017) 3 SCC 351**]. The PAN Card of the petitioner shows his date of birth as 19.01.1983, which would mean that on the date of accident (28.06.2021), the petitioner was 38 years of age and therefore, multiplier of 15 as applicable to age group between 36-40 years, would be applicable as per settled principle laid down in case of **Sarla Verma v. DTC (2009) 6 SCC 121**. Moreover, the law has been well settled by the decisions of Supreme Court in the cases of **Sandeep Khanuja (supra)** and **Erudhaya Priya vs. State Express Transport Corporation Ltd., 2020 SCC OnLine SC 601**, that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration. Thus, considering the petitioner as a self-employed and belonging to age group below 40 years, an addition of income to the extent of 40% towards future prospects has to be counted.
56. As discussed above, the income of petitioner prior to the accident has been assessed as Rs.15,908/- per month. Applying the multiplier 15 and future prospects @ 40% with 50% loss of income on account of whole body functional disability, the total loss of future income would come to **Rs.20,04,408/-** [50% of (15,908x140/100x15x12)] and same is awarded to the petitioner under this head.

Special Diet, Conveyance & Attendant Charges

57. The treatment record reveals that in Meerut Critical Care Hospital,

Meerut, the petitioner remained admitted from 29.06.2021 to 30.06.2021 and during hospitalization his left upper limb was amputated from left shoulder on 29.06.2021 at 09:00 a.m. Thereafter, he remained admitted in Kosmos Hospital, Anand Vihar, Delhi from 01.07.2021 to 06.07.2021 and then in GTB Hospital, Delhi from 06.07.2021 to 29.07.2021 and thereafter also, he had to undergo his further treatment in OPD of Surgery Department, GTB Hospital, Delhi. Considering the nature of injury and period of treatment, there remains no doubt that the petitioner must have spent a reasonable amount on high rich protein diet, specially after his surgery as well as for visiting doctors for his further treatment. Further, his family members must have attended him during his treatment in view of amputation of his left upper limb. It is settled law that for claiming compensation, necessity of employing a professional attendant/ care taker is not required and the petitioner should be compensated for the value of services of the family members (*Refer : DTC & Ors Vs. Lalita, 1983 ACJ 253*). In view of above, a sum of Rs.50,000/- each is granted to petitioner for for special diet, conveyance and attendant charges. Accordingly, a total sum of **Rs.1,50,000/-** is granted to the petitioner under this head.

NON PECUNIARY DAMAGES:

Pain & Sufferings, Loss of Amenities & Disfigurement

58. In the instant case, as a result of the injuries sustained in the accident which occurred on 28.06.2021, the petitioner Daulat Ram remained hospitalized from 29.06.2021 to 30.06.2021; 01.07.2021 to 06.07.2021 and then from 06.07.2021 to 29.07.2021. He suffered

crush injury with left upper limb disarticulation with open wound over left shoulder with multiple rib fracture without hollow organ injury. Thus, it is clear that petitioner must have suffered immense pain and suffering during his treatment. Apart from above, it is also evident that the petitioner has suffered disfigurement on account of his left arm amputation from shoulder which resulted into 90% permanent disability in relation to his left upper limb, because of which he is bound to face difficulties and hindrance to enjoy the amenities of life to the fullest and therefore, he is entitled to be compensated on account of disfigurement due to disability and also for loss of amenities.

59. It is relevant to mention here the decision in case of **Mohd. Sabeer v. Regional Manager, U.P. State Road Transport Corporation**, Civil Appeal Nos. 9070-9071 of 2022, decided on 09.12.2022, wherein the the appellant/ injured had sustained permanent physical disability of 70% in respect of amputated right lower limb and his functional disability was assessed by the Tribunal as 30% and subsequently, the Hon'ble High Court assessed it to be 35%, whereas the Hon'ble Supreme Court considering the appellant a self-employed, assessed his functional disability as 60% and awarded the compensation to the appellant/ injured on the following heads, as under:

- Pain and suffering – Rs.2,00,000/-.
- Loss of amenities of life – Rs.2,00,000/-.
- Disability and disfigurement – Rs.2,00,000/-.

60. In the instant case, the injured/ petitioner Daulat Ram sustained 90% permanent physical disability in relation to his left upper limb, which

has been assessed above by this Tribunal as 50% functional disability of his whole body. Therefore, in view of the aforementioned judgment in case of **Mohd. Sabeer (Supra)**, petitioner herein is granted a compensation of Rs.2,00,000/- each on account of (i) pain and suffering, (ii) loss of amenities and (iii) loss of disfigurement. Accordingly, a total compensation of **Rs.6,00,000/-** is granted to the petitioner under this head.

61. Thus, the compensation awarded to the petitioner is summarized as under:-

Sl. No.	Head of compensation	Amount
1.	Medical Expenses	Rs.2,84,999/-
2.	Loss of Earnings During Treatment	Rs.95,448/-
3.	Loss of Future Earnings due to Disability	Rs.20,04,408/-
4.	Special Diet, Conveyance & Attendant Charges	Rs.1,50,000/-
5.	Pain & Sufferings, Loss of Amenities and Disfigurement	Rs.6,00,000/-
Total		Rs.31,34,855/-

Thus, the compensation in this case comes to Rs.31,34,855/-, rounded off to Rs.31,35,000/-.

INTEREST ON AWARD

62. Petitioners in both the cases shall also be entitled to interest @ 6% per annum on the award amount from the date of filing of respective claim petitions till realization.

LIABILITY

63. The respondent no.2 Lakhvidar, owner of the offending vehicle in

his examination-in-chief Ex.R2W1/A has deposed that the offending vehicle was fully insured with respondent no.3 ICICI Lombard GIC Ltd. vide policy bearing no. 3003/212876182/00/000 w.e.f. 31.12.2020 till 30.12.2021. He further stated that after the accident, the driver/ respondent no.1 informed him about the accident after which he (respondent no.2) had gone to the spot and found the offending vehicle unattended and on checking it he came to know that the insurance policy/ cover note and other important document/ articles were missing. Thereafter, respondent no.2 approached the insurance Agent through whom he had got the offending vehicle insured and narrated him that aforesaid policy/ cover note had been lost and requested for duplicate policy/ cover note of the offending vehicle. On 09.07.2021, the said Agent handed over him the duplicate cover note Ex.RW2/1 of the aforesaid policy. It is further deposed that he (respondent no.2) came to know that the insurance company/ respondent no.3 had interpolated and extrapolated in the insurance policy/ cover note issued to him on 09.07.2021 and they had an extra copy of the policy with their reply which was filed before the Tribunal forging the name of the owner and registration number of the vehicle and other particulars. That the respondent no.2 did not know the person named Sanju, the alleged insured, the name of whom was extrapolated by respondent no.3. That the mobile phone number and the email ID mentioned therein had never been used/ owned by respondent no.2. That respondent no.2 had never requested for any endorsement/ change in the progress of the vehicle, policy and the owner's detail as claimed by the respondent no.3.

That respondent no.2 never requested on 06.07.2020 for the change of mailing address, email ID, permanent address, engine number, chassis number and location Code in the aforesaid policy. That the respondent no.3 in order to escape from its liability put forth a totally false, baseless and concocted story before this Tribunal. It is further deposed by respondent no.2 that he never made a call on 07.07.2021 or on 08.07.2021 to the respondent no.3 with a request to change the number of vehicle from UP82T-8097 to UPAT-3594 in the name of the owner from Sanju to Lakhvindar and also not made any request through any email to the effect any change in the particulars of his vehicle or ownership of the same.

64. The date of the accident in question is 28.06.2021 and the onus of proof that on the day of accident, the offending vehicle was duly insured was on the owner of the offending vehicle i.e., respondent no.2. Assuming that all the documents regarding the insurance of the offending vehicle were in the offending vehicle which got misplaced after the accident. That does not absolve the respondent no.2 from proving the same before the Tribunal. The primary evidence of any document is the document itself, however, if any document is not available or has been destroyed or is not in the possession of the person who is duty bound to prove it, secondary evidence can be led. Even if actually the insurance documents were stolen from the offending vehicle after its accident that does not absolve the respondent no.2 from proving the certificate of insurance of the offending vehicle before the Tribunal so as to make the insurance company liable to make the payment of the compensation amount to

the petitioners. The respondent no.2 has not proved in any manner even by calling the insurance Agent who had instrumental in issuance of the insurance policy of the offending vehicle that policy bearing no. 3003/212876182/00/000 was issued in favour of the respondent no.2 or that the policy amount/ premium was paid by the respondent no.2. It may be true that the person named Sanju was not known to the respondent no.2 and it may also be possible that the mobile phone number as mentioned in the affidavit and in the email ID was never owned/ used by the respondent no.2, still the fact remains the petitioner has not led any evidence to show either by primary or secondary evidence that the insurance policy number 3003/212876182/00/00 was initially issued in favour of the respondent no.2 with respect to insurance cover of the offending vehicle. A reasonable and prudent person who has taken an insurance cover maintains the record of the insurance even if that person might have a very small business. If any cheating or forgery committed by any person or company, a reasonable and a prudent man even if it reluctant in personally going to the Police Station would file a complaint by way of letter or approach the insurance company/ ombudsman or at least lodge an NCR report regarding the loss of the documents.

65. It it has not been proved by the respondent no.2 that the above said policy which was firstly endorsed on 06.07.2021, at the time of the 1st endorsement was in the name of respondent no.2 with respect to the offending vehicle and that the insurance company without any authorization endorsed in the name of Sanju with respect to some

other vehicle. And it may be noted that the story of endorsement is all subsequent to the accident in question. Had the respondent no.2 been able to shown that prior to; by way of primary or secondary evidence, that earlier to 06.07.2021 the aforesaid policy stood in the name of the respondent no. 2 the stand of respondent no.2 could have been prima facie believable regarding the alleged forgery/cheating by the respondent no.3/ insurance company. Not even a request was made by the respondent no.2 or his counsel to summon the insurance Agent who handed over respondent no.2 the duplicate insurance policy document which prima-facie appears to be schedule of endorsement and not certificate of policy. Also, no request was made on behalf of the respondent no.2 to summon Sanju who could have been summoned by the Tribunal in order to unravel the truth. Moreover, in the written statement, the respondent no.1 and 2 has not stated anything about the documents including the insurance policy documents when missing after the accident as has been deposed to in his affidavit of evidence indicating that the story about misplacing of documents after the accident is an afterthought.

66. In the light of aforesaid discussion, the Tribunal is of the opinion that as on the date of the accident, the offending vehicle was not validly insured with the respondent no.3/ ICICI Lombard General Insurance Company Limited and also that respondent no.2 failed to produce a valid certificate of insurance either the original or the duplicate and if the same was lost, the respondent no.2 did not prove the certificate of insurance by way of leading secondary evidence and therefore, the liability to satisfy the award shall be upon respondent no.1 and 2

jointly and severally, in accordance with law.

RELIEF

67. In the light of the decision on substantive issues framed, the present claim petitions are allowed and the following awards are being passed:

AWARD

MACT no. 364/2021

Sumit Aggarwal v. Firoz Rana & Ors.

68. This Tribunal awards a compensation of **Rs.74,26,000/-** (Rs. Seventy Four Lakhs Twenty Six Thousand Only) to the petitioner Sumit Aggarwal along with interest @ 6% per annum from the date of filing of the claim petition till realization to be paid by the respondent no.1 and 2, jointly or severally.
69. The respondent no.1 and 2 shall deposit the award amount in A/c no.20780110171912 (IFSC Code UCBA0002078), UCO Bank, Karkardooma, Delhi, of PO MACT, Shahdara, through RTGS/ NEFT, within 30 days from today.

AWARD

MACT no. 377/2021

Daulat Ram v. Firoz Rana & Ors.

70. This Tribunal awards a compensation of **Rs.31,35,000/-** (Rs. Thirty One Lakhs Thirty Five Thousand Only) to the petitioner Daulat Ram along with interest @ 6% per annum from the date of filing of the

claim petition till realization to be paid by the respondent no.1 and 2, jointly or severally.

71. The respondent no.1 and 2 shall deposit the award amount in A/c no.20780110171912 (IFSC Code UCBA0002078), UCO Bank, Karkardooma, Delhi, of PO MACT, Shahdara, through RTGS/ NEFT, within 30 days from today.

Disbursement of Award Amount

72. The terms of disbursement of award amount to the petitioner(s) shall be decided after deposit of the award amount.

Directions to the Petitioner(s) & their Bank:

73. The petitioner(s) and their Bank are directed to comply the following directions:
- (a) The petitioner(s) shall get opened their Saving Bank Account in any nationalized bank near the place of their residence, if already not opened. The concerned Bank Manager(s) of the Bank(s) where the petitioner(s) already has/have bank account or a new bank account is opened, is/are directed as follows:
- (i) No Cheque Book and ATM/ Debit Card be issued to the petitioner(s) without permission of the Court/MACT Tribunal. However, in case the ATM/Debit Card and/or Cheque Book have already been issued, bank shall cancel the same before the disbursement of the amount.
 - (ii) The Bank shall not permit any joint name(s) to be added in the savings bank account or fixed deposit accounts of the petitioner(s). However, money may be released by means of a withdrawal slip.
 - (iii) The Bank Manager of petitioners' bank is also directed to make endorsement regarding compliance of aforesaid directions on the passbook.

- (b) After the Bank Manager makes the endorsement regarding compliance of the aforesaid directions on the bank passbook of the petitioner(s), the petitioner(s) shall produce the original passbook having the said endorsements as well as their Aadhaar Card and PAN Card before the Tribunal on the next date of hearing or in any case before hearing the final arguments.
- (c) If the petitioner(s) fail to comply with the said direction, the disbursement of the award amount (if the award is passed) shall be made subject to the following conditions:
- (i) The petitioner(s) shall have to open a MACT compliant Bank account in the UCO Bank, Karkardooma, subject to aforesaid terms and conditions and the petitioner(s) shall also furnish details of the branch of UCO bank near the place of petitioner's residence to which the bank account of the petitioner in the UCO bank, Karkardooma branch may be transferred subject to all hereinabove conditions.

74. As per Annexure-XIII of 'The Central Motor Vehicles Rules, 1989, the relevant Forms to be incorporated in the awards are as under:

FORM -XVI

**SUMMARY OF COMPUTATION OF AWARD AMOUNT IN INJURY CASES
TO BE INCORPORATED IN THE AWARD**

MACT no. 364/2021

Sumit Aggarwal v. Firoz Rana & Ors.

- | | |
|---------------------------------------|--------------------------------------|
| 1. Date of accident | : 28.06.2021 |
| 2. Name of the injured | : Sumit Aggarwal |
| 3. Age of the injured | : 35 years (at the time of accident) |
| 4. Occupation of the injured | : Self employed |
| 5. Income of the injured | : Rs.5,24,186/- per annum |
| 6. Nature of injury | : Grievous |
| 7. Medical treatment taken by injured | : Hospitalization & OPD treatment |
| 8. Period of hospitalization | : (i) 29.06.2021 to 08.07.2021 |
| 9. Whether any permanent disability? | : Yes. 88% permanent disability in |

(If yes, give details)

relation to both lower limbs

10. Computation of Compensation		
S. No.	Heads	Awarded by the Claims Tribunal
11.	Pecuniary Loss:	
(i)	Expenditure on treatment	Nil
(ii)	Expenditure on conveyance	Rs.50,000/-
(iii)	Expenditure on special diet	Rs.50,000/-
(iv)	Cost of nursing/attendant	Rs.90,000/-
(v)	Cost of artificial limb	Rs.12,90,000/-
(vi)	Loss of earning capacity	--
(vii)	Loss of income (during treatment)	Rs.2,62,093/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	Not applicable
12.	Non-Pecuniary Loss:	
(i)	Compensation for mental and physical shock	Rs.2,00,000/-
(ii)	Pain and suffering	
(iii)	Loss of amenities of life	Rs.2,00,000/-
(iv)	Disfiguration	Rs.2,00,000/-
(v)	Loss of marriage prospects	Not applicable
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
13.	Disability resulting in loss of earning capacity:	
(i)	Percentage of disability assessed and nature of disability as permanent or temporary	88% in relation to both lower limbs
(ii)	Loss of amenities or loss of	As given in 12 (iii) above

	expectation of life span on account of disability	
(iii)	Percentage of loss of earning capacity in relation to disability	45% (functional disability)
(iv)	Loss of future income – (Income x% Earning Capacity x Multiplier)	Rs.36,92,416/-
14.	TOTAL COMPENSATION	Rs.74,26,000/- (rounded off from Rs.74,25,888/-)
15.	INTEREST AWARDED	@ 6%
16.	Interest amount up to the date of the award (for 04 years, 04 months & 22 days)	Rs.19,57,988/-
17.	Total amount including interest	Rs.93,83,988/-
18.	Award amount released	Would be decided after deposit of award amount.
19.	Award amount kept in FDRs	Would be decided after deposit of award amount.
20.	Mode of disbursements of the award amount to the claimants(s).	Bank Transfer
21.	Next Date for compliance of the award.	14.05.2026

FORM -XVI

**SUMMARY OF COMPUTATION OF AWARD AMOUNT IN INJURY CASES
TO BE INCORPORATED IN THE AWARD**

In MACT no. 377/2021
Daulat Ram v. Firoz Rana & Ors.

- | | |
|---------------------------------------|--------------------------------------|
| 1. Date of accident | : 28.06.2021 |
| 2. Name of the injured | : Daulat Ram |
| 3. Age of the injured | : 38 years (at the time of accident) |
| 4. Occupation of the injured | : Self employed |
| 5. Income of the injured | : Rs.15,908/- per month |
| 6. Nature of injury | : Grievous |
| 7. Medical treatment taken by injured | : Hospitalization & OPD |

8. Period of hospitalization : (i) 29.06.2021 to 30.06.2021
(ii) 01.07.2021 to 06.07.2021
(iii) 06.07.2021 to 29.07.2021
9. Whether any permanent disability? : Yes. 90% permanent disability in
(If yes, give details) relation to left upper limb

10.	Computation of Compensation	
S. No.	Heads	Awarded by the Claims Tribunal
11.	Pecuniary Loss:	
(i)	Expenditure on treatment	Rs.2,84,999/-
(ii)	Expenditure on conveyance	Rs.50,000/-
(iii)	Expenditure on special diet	Rs.50,000/-
(iv)	Cost of nursing/attendant	Rs.50,000/-
(v)	Cost of artificial limb	N.A.
(vi)	Loss of earning capacity	--
(vii)	Loss of income (during treatment)	Rs.95,448/-
(viii)	Any other loss which may require any special treatment or aid to the injured for the rest of his life	N.A.
12.	Non-Pecuniary Loss:	
(i)	Compensation for mental and physical shock	Rs.2,00,000/-
(ii)	Pain and suffering	
(iii)	Loss of amenities of life	Rs.2,00,000/-
(iv)	Disfiguration	Rs.2,00,000/-
(v)	Loss of marriage prospects	N.A.
(vi)	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.	--
13.	Disability resulting in loss of earning capacity:	
(i)	Percentage of disability assessed and	90% in relation to left upper limb

	nature of disability as permanent or temporary	
(ii)	Loss of amenities or loss of expectation of life span on account of disability	As given in 12 (iii) above
(iii)	Percentage of loss of earning capacity in relation to disability	50% (functional disability)
(iv)	Loss of future income – (Income x% Earning Capacity x Multiplier)	Rs.20,04,408/-
14.	TOTAL COMPENSATION	Rs.31,35,000/- (rounded off from Rs.31,34,855/-)
15.	INTEREST AWARDED	@ 6%
16.	Interest amount up to the date of award (for 04 years, 04 months & 22 days)	Rs.8,26,595/-
17.	Total amount including interest	Rs.39,61,595/-
18.	Award amount released	Would be decided after deposit of award amount.
19.	Award amount kept in FDRs	Would be decided after deposit of award amount.
20.	Mode of disbursement of the award amount to the claimants(s).	Bank Transfer
21.	Next Date for compliance of the award.	14.05.2026

75. With these observations, both the claim petitions are disposed of. Files be consigned to Record Room.

**Announced in the open
Court on 30.03.2026**

**(VIJAY KUMAR JHA)
Presiding Officer-MACT (Shahdara)
Karkardooma Courts, Delhi**