



Presented on : 26-05-2022
Registered on : 30-05-2022
Decided on : 11-08-2026
Duration : 4 years, 2 months,
16 days

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

M A C T/484/2022
FIR No. 737/2021, PS Raj Park

In the matter of:

Omparkash @ Om Prakash
S/o Sh. Bijli Sahni @ Bijali
R/o P-4/123, Mangolpuri,
Delhi.

.....Petitioner

Vs.

1. *Anil Gupta*
S/o Sh. Dinesh Chand Gupta
R/o K-430, Mangolpuri,
Delhi.

.....Driver/R1

2. *Mukul*
S/o Sh. Om Prakash
R/o 1332, Delhi Admin Flats
Type-II, Gulabi Bagh, Delhi.

.....Owner/R2

*Appearance (s) : Sh. Arun Kumar Mishra, Ld. Counsel for petitioner.
Sh. Nipun Arora, Ld. counsel for respondents.*

JUDGMENT/AWARD

1. Vide this judgment/award, I shall dispose off the DAR bearing MACT No. 484/2022 pertaining to the injuries of Omparkash (*in short, the petitioner/injured*) suffered in road accident dated 30.11.2021.

FACTUAL POSITION AND PLEADINGS

2. Brief facts as per DAR are that on 30.11.2021 petitioner alongwith his cousin (injured in MACT no. 483/2022) were going to their home from U Block, Machhi Market, Mangolpuri on motorcycle bearing registration no. DL 4S CV 5516. The petitioner was pillion rider. At around 10:00 pm when they reached in front of Mother Dairy, P Block, one motorcycle bearing registration no. DL 4S CH 4193 (hereinafter referred to as offending vehicle), which was being driven by R1 rashly and negligently in high speed, hit the motorcycle of petitioner due to which petitioner fell on the road and sustained injuries. Petitioner was rushed to Sanjay Gandhi Memorial Hospital and treatment was given to him vide MLC no. 26345/2021. Petitioner sustained fracture of femur in right leg. Petitioner has suffered 6% temporary disability in relation to his right lower limb. FIR no. 737/2021 for offence punishable under Section 279/337 IPC was registered at PS Raj Park.

3. As per DAR and investigation conducted by IO, R1 was driver of the offending vehicle who was negligent due to which accident was caused. Offending vehicle was also not insured at the time of accident. As such R1 was charge-sheeted for offences under section 279/338 IPC & 146/196 M.V. Act.

4. WS/reply was filed on behalf of R1 & R2 claiming that petitioner was driving the motorcycle in rash and negligent manner on the wrong side. It is also claimed that petitioner was under the influence of alcohol at the time of accident. Therefore, they are not liable to pay compensation.

ISSUES:

5. After completion of pleadings, following issues were framed by this Tribunal on 20.10.2022: -

1. Whether petitioner Om Prakash S/o Sh. Bijli Sahni suffered injuries in road traffic accident on 30.11.2021 at about 10:00 pm, in front of P Block Mother Dairy Mangolpuri, Delhi due to rash and negligent driving of offending vehicle i.e. Hero Hunk bearing registration no. DL 4S CH 4193 which was being driven by driver Anil Gupta S/o Sh. Dinesh 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

6. 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) Photocopy of aadhar card Ex.Pw1/1 (OSR)
- (b) Original discharge summary alongwith OPD Papers Ex.Pw1/2(colly)
- (c) Original medical bills Ex.Pw1/3 (colly)
- (d) DAR Ex.Pw1/5(colly)

7. During his cross examination, he admitted that he has not filed any document to show that he was earning Rs. 20,000/- per month at the time of accident. He denied that driver of motorcycle was under the influence of alcohol at the time of accident. He denied that driver of motorcycle was driving the motorcycle on the wrong side of the road.

8. In respondent's evidence, R1 has examined himself as Rw1 who filed his affidavit Ex.Rw1/A. During his cross examination, he admitted that he has not filed any complaint regarding his false implication in the present case. He admitted that offending vehicle was not insured at the time of accident.

9. Thereafter, evidence was closed.

FINDINGS:

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

ISSUE NO.1

1. Whether petitioner Om Prakash S/o Sh. Bijli Sahni suffered injuries in road traffic accident on 30.11.2021 at about 10:00 pm, in front of P Block Mother Dairy Mangolpuri, Delhi due to rash and negligent driving of offending vehicle i.e. Hero Hunk bearing registration no. DL 4S CH 4193 which was being driven by driver Anil Gupta S/o Sh. Dinesh on the said date, time and place? OPP.

11. This issue of R1 being negligent on the basis same evidence and responsible for accident has already been decided in favour of petitioner in MACT No. 483/2022. Hence, the issue does not required to be decided again and in view of finding in MACT No. 483/2022 the issue is decided in favour of petitioner and against R1.

ISSUE NO. 2

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

whom? OPP.

12. 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.

13. 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.**

14. 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:

15. Petitioner has claimed that he has incurred a sum of Rs. 1,00,000/- on his medical treatment. However, the medical bills proved on record are amounting to Rs. 10,727/- only. Therefor, a sum of Rs. 10,727/- is granted under this head.

Conveyance, attendant and special diet.

16. 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 he has suffered fracture of femur in his right leg and sustained 6% temporary disability in relation to his 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. In these facts and circumstances, I hereby award a notional sum of Rs. 40,000/- for special diet, Rs. 20,000/- for attendant charges and Rs. 20,000/- for conveyance charges to the petitioner. Hence, an amount of **Rs. 80,000/-** be awarded under this head.

Pain and Suffering

17. As per the MLC and medical documents, injured has suffered 6% temporary 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. 1,00,000/- 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. 1,00,000/-** under this head.

Loss of Actual Earnings

18. Petitioner deposed that he was doing business of fish trading and was earning Rs. 20,000/- per month, excluding expenses, at the time of accident. However, it is admitted by petitioner that he has not filed any document on record to prove his earning and employment at the time of accident. Petitioner has also not proved any document to show his educational qualification. Therefore, the monthly income of petitioner is taken as of minimum wages payable to an unskilled in Delhi i.e. **Rs. 16,506/-** per month on the date of accident i.e. 30.11.2021. Keeping in view the nature of injuries sustained by the petitioner as well as his medical treatment, it could be safely assumed that the petitioner would not have been able to resume his work/vocation for around 03 months. As such the a notional sum of **Rs. 50,000/-** is awarded to the petitioner under this head.

Loss of future earnings due to disability

19. In view of the observation made by the Hon'ble Apex

Court of India in case titled *Sidram Vs. Divisional Manager, United India Insurance Company (supra)* the effect of permanent disability of the injured has to be assessed in order to quantify the future loss of earnings due to disability. As per the disability certificate, petitioner has suffered 6% temporary disability in relation to right lower limb. Disability certificate has been issued by Dr. BSA Hospital, Delhi.

20. Pw1 deposed that he is still running the same fish trading business. He volunteered that he is feeling pain while walking. Therefore, it can be fairly assumed that there is no functional disability on the petitioner. Therefore, instead of going for assessment for the loss of future income a notional sum of **Rs. 2,00,000/-** is granted under this head.

Loss of General Amenities and Enjoyment of Life

21. As already mentioned above, there is sufficient evidence on record i.e. disability certificate to establish that the petitioner is suffering from **6% Loco Motor Disability**. Considering the aforesaid, it is quite apparent that petitioner would not be able to enjoy general amenities of life after the said accident, during rest of his life and his quality of life has been definitely affected. Hence, considering the nature of injuries suffered by the petitioner, a notional sum of **Rs. 20,000/-** is granted towards loss of general amenities and enjoyment of life to the petitioner.

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

S. No.	Head	Amount
1	Medical Expenses	10,727/-
2	Pain and Suffering	1,00,000/-
3	Loss of actual earning Rs.	50,000/-
4	Loss of future earning due to disability	2,00,000/-
5	Attendant charges, conveyance and special diet	80,000/-
6	Loss of Amenities and Enjoyment of Life	20,000/-
	Total	4,60,727/-

Issue No.3/Relief

23. The petitioner is thus entitled to a sum of **Rs. 4,60,727/- (Rs. Four Lacs Sixty Thousand Seven Hundred Twenty Seven Only)** along with interest @ 9% per annum from the date of filing of the **DAR** i.e. **30.05.2022** till compliance and @ 12% per annum thereafter. However, it is directed that the amount of interim award and interest for the suspended period, if any, during the course of this inquiry, shall be liable to be excluded from the above amount and calculations of compensation.

LIABILITY

24. Now, the question which arises for determination is as to which of the respondents is liable to pay the compensation amount.

25. The vehicle was not insured at the time of accident. Therefore, R1 & R2 are, jointly or severally, liable to pay the compensation in favour of petitioner. **Issue No.2 is decided accordingly. The parties are directed to download the digital copy of**

judgment online. R1 & R2 are hereby directed to deposit the award amount, jointly or severally, within 30 days from the date of this Award by way of NEFT or RTGS mode in the account of this Tribunal maintained with SBI, Rohini Courts, Delhi under intimation to the petitioner/ injured and this Tribunal in terms of the format for remittance of compensation as provided in **Divisional Manager Vs. Rajesh, 2016 SCC Online Mad. 1913 (and reiterated by Hon'ble Supreme Court in the orders dated 16.03.2021 and 16.11.2021 titled as Bajaj Allianz General Insurance Co. Pvt. Ltd. Vs. Union of India & Ors)** along with interest @ 9% per annum.

APPORTIONMENT

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

27. 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)).

28. 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.

29. 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.

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

31. Nazir to report as to compliance of award on 11.09.2026.

32. File be consigned to record room.

**ANNOUNCED IN THE OPEN COURT
ON 11th DAY OF AUGUST, 2026**

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