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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **MAC.APP. 427/2025**

SH PAPPU

.....Appellant

Through: Mr. S.N. Parashar and Mr. Nikhil
Khandelwal, Advocates.

versus

SH LAV KUMAR & ORS.

.....Respondents

Through: Mr. A.K. Soni, Advocate for R-3.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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14.07.2025

CM APPL. 40795/2025 *[Exemption from filing certified copies]*

1. Allowed, subject to the Appellant filing certified copies of the order dated 25.10.2024 within a period of three weeks.
2. The Application stands disposed of.

CM APPL. 40794/2025 *[Delay in filing the Appeal]*

3. Learned Counsel for the Appellant submits that the Appellant/Applicant belongs to a poor family. He further submits that after the Award was passed, learned Counsel for the Appellant did not inform him and it is only in the month of May that he came to know that the amounts as awarded by the learned Trial Court are low. He further submits that the delay is neither intentional nor deliberate.
4. For the reasons as stated above, the delay is condoned.
5. The Application stands disposed of.



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6. The present Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 seeking to challenge an Award dated 25.10.2024 passed by the learned Presiding Officer, MACT, South District, Saket Courts, New Delhi [hereinafter referred to as “Impugned Order”]. By the Impugned Order a sum of Rs.10,33,618/- has been granted along with 9% interest.

7. Learned Counsel for the Appellant submits that the challenge in the present Appeal is on two grounds. Firstly, despite the evidence on record that the injured was working as a labourer and was suffering from 26% permanent physical disability in relation to his right upper limb and left lower limb, the learned Trial Court has reduced the functional disability to 18%.

7.1 Secondly, it is contended that so far as concerns non-pecuniary amounts, the Award by the learned Trial Court is not in accordance with the settled law.

8. Learned Counsel for the Appellant seeks to rely on the judgment of the Supreme Court in *Neerupam Mohan Mathur v. New India Assurance Co.*¹ to submit that the physical disability has to be assessed based on what avocation the deceased is carrying out.

9. The Supreme Court in the *Neerupam Mohan Mathur* case has held that where the Claimant suffers permanent disability as a result of injuries, the assessment of compensation would depend upon the effect and impact of such permanent disability of the earning capacity of the Appellant. The relevant extract of the *Neerupam Mohan Mathur* case is below:

“11. The question regarding “assessment of future loss of earnings due to

¹ (2013) 14 SCC 15



permanent disability” was considered by this Court in Raj Kumar v. Ajay Kumar [(2011) 1 SCC 343 : (2011) 1 SCC (Civ) 164 : (2011) 1 SCC (Cri) 1161] wherein this Court held as follows :

*“8. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. **Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident.** The permanent disabilities that may arise from motor accident injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (‘the Disabilities Act’, for short). But if any of the disabilities enumerated in Section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.*

*9. **The percentage of permanent disability is expressed by the doctors with reference to the whole body, or more often than not, with reference to a particular limb.** When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body. If there is 60% permanent disability of the right hand and 80% permanent disability of left leg, it does not mean that the extent of permanent disability with reference to the whole body is 140% (that is 80% plus 60%). If different parts of the body have suffered different percentages of disabilities, the sum total thereof expressed in terms of the permanent disability with reference to the whole body cannot obviously exceed 100%.*



10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.

11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in *Arvind Kumar Mishra v. New India Assurance Co. Ltd.* [(2010) 10 SCC 254 : (2010) 4 SCC (Civ) 153 : (2010) 3 SCC (Cri) 1258] and *Yadava Kumar v. National Insurance Co. Ltd.* [(2010) 10 SCC 341 : (2010) 4 SCC (Civ) 168 : (2010) 3 SCC (Cri) 1285])”

[Emphasis Supplied]

10. Issue Notice.
- 10.1 Learned Counsel for Respondent No.3 accepts Notice.
- 10.2 On steps being taken, let Notice be issued to Respondent Nos.1 and 2 via all modes. Affidavit of service be filed within two weeks.
11. The Registry is directed to place on record the digital copy of the



Trial Court Record duly paginated and book-marked in accordance with the rules of the High Court.

12. The parties seek and are granted time to file their respective written synopsis, not exceeding three pages each, at least three days before the next date of hearing, along with the compilation of judgments, if any, they wish to rely upon.

12.1 All judgments sought to be relied upon shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of law that it sets forth.

13. List for hearing on 20.01.2026.

14. The parties shall act based on a digitally signed copy of the order.

TARA VITASTA GANJU, J

JULY 14, 2025/pa