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

+ **MAC.APP. 631/2025 & CM APPL. 60774-60776/2025**

SANTOSH KUMAR

.....Appellant

Through: Mr. Varun Sarin, Mr. Bijay Kumar &
Ms. Parul Dutta, Advs.

versus

MOHEED ALI & ORS.

.....Respondents

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

23.09.2025

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CM APPL. 60774/2025 /Exemption from filing certified/typed copies/

1. Allowed, subject to the Appellant filing certified/typed copies of the annexures within a period of three weeks.
2. The Application stands disposed of.

CM APPL. 60775-60776/2025 /Condonation of delay/

3. These are Applications filed on behalf of the Appellant seeking condonation of delay of 2 days in filing and 95 days in re-filing the present Appeal.
4. For the reasons as stated in the Application, the delay is condoned.
5. The Applications stand disposed of.

MAC.APP. 631/2025

6. The present Appeal has been filed on behalf of the Appellant under Section 173 of the Motor Vehicles Act, 1988 against the award dated



13.02.2025 [hereinafter referred to as “Impugned Award”] passed by learned Presiding Officer, MACT, South East District, Saket Courts, New Delhi.

7. The challenge in the present Appeal is for enhancement of the amount of compensation awarded in the sum of Rs.9,23,637/- along with 7.5% interest per annum.

8. Learned Counsel for the Appellant submits that the challenge in the present Appeal is three-fold. Firstly, it is contended that the 50% was deducted from the compensation as contributory negligence. Learned Counsel submits that the evidence that was placed on record *qua* the offending vehicle, which was a taxi, was that the taxi driver was driving in a rash and negligent manner and thus the accident was caused .

8.1 In addition, learned Counsel seeks to rely upon the judgment of the Supreme Court in ***Sudhir Kumar Rana v. Surinder Singh & Ors.***; (2008) 12 SCC 436 and ***Saraswati Palariya & Ors. v. New India Assurance Company Ltd. & Ors.***; 2018 SCC OnLine SC 3988, to submit that not possessing a driving licence does not by itself *ipso facto* amount to a finding of contributory negligence, unless specific finding in that behalf are given by the Court.

8.2 Secondly, learned Counsel submits that the Appellant/injured had produced a certificate of 60% physical disability of his right lower limb and that he was working as a waiter. Learned Counsel submits that given the nature of the Appellant’s job, the functional disability should have at least been 60% since he would not be able to perform his vocation. However, it is contended that the disability was awarded by the learned Tribunal at 30%.

8.3 Lastly, it is contended that the award on loss of income and other non-pecuniary heads is not in accordance with law.



9. Issue Notice.

9.1 On steps being taken, let Notice be issued to the Respondent No.3 *via* all modes. An affidavit of service be filed within three weeks.

9.2 Learned Counsel for the Appellant submits that since the entire liability is on the Respondent No.3/Insurance Company, the service to Respondent Nos.1 and 2 may be dispensed with. It is so directed.

10. 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.

11. List before the concerned Registrar for completion of service on 03.12.2025.

TARA VITASTA GANJU, J

SEPTEMBER 23, 2025/ ha