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

% ***Date of decision: 04th August 2026***

(4)

\# **CNR No. DLHC012109112014**

\+ **MAC.APP. 1018/2014 & CM APPL. 14411/2026**

UNITED INDIA INSURANCE CO LTD .....Appellant

Through: Mr. Sankar N. Sinha, Adv.

versus

SARFARAZ SAFI AND ORS .....Respondents

Through: Mr. Punishk Handa, Adv. for R-1.
Ms Manisha Tyagi, Adv. for R-2 & R-3.

(5)

\# **CNR No. DLHC010300322026**

\+ **MAC.APP. 419/2026**

SARFARAZ SAIFI .....Appellant

Through: Mr. Punishk Handa, Adv.

versus

UNITED INDIA INSURANCE CO LTD AND ORS .....Respondent

Through: Mr. Sankar N. Sinha, Adv.
Ms Manisha Tyagi, Adv. for R-2 & R-3.

**CORAM:**
**HON'BLE MR. JUSTICE ANISH DAYAL**

## JUDGMENT

**ANISH DAYAL, J (ORAL)**

1. These cross-appeals have been filed impugning order dated 5th

September 2014 passed by the Motor Accident Claims Tribunal, South-East District, Saket Courts ('***MACT/Tribunal***') in Suit No.792/11, whereby compensation of *Rs. 28,50,012/-* along with interest at 9% per annum was awarded.

2. ***MAC.APP. 1018/2014*** has been filed by the Insurance Company, whereas ***MAC.APP. 419/2026*** has been filed by injured/claimant seeking enhancement of compensation.

3. The accident in question occurred on 23rd September 2011 at about 06:15 p.m., when the claimant/appellant, along with his friend, attempted to board a DTC bus at Jamia College bus stand, as the earlier bus was overcrowded. Though the bus initially slowed down on giving hand indication, it suddenly accelerated while the claimant was in process of boarding, causing him to lose balance and fall. As a result of the accident, he sustained grievous injuries to his right hand. An FIR was registered against the driver, and he was charge-sheeted as well for rash and negligent driving.

4. *Mr. Sankar N. Sinha*, counsel for Insurance Company, challenges the impugned award on the following counts:

i. Determination of functional disability at *90%* by the MACT despite there being permanent disability of *90%* only to the right upper limb.

ii. Future prospects ought to have been granted at *40%*, instead of *50%*, aligning themselves with the principles enunciated in ***National Insurance Company Ltd. vs. Pranay Sethi & Ors.*** (2017) 16 SCC 680.

iii. Contributory negligence ought to have been fastened on the claimant.

5. Counsel for claimant/injured seeks enhancement on the ground that notional income has been assessed on the basis of the minimum wages of an unskilled worker at *Rs. 6,422/-* per month, despite the claimant being a matriculate. It is contended that the notional income ought to have been assessed on the basis of the minimum wages applicable to a matriculate, i.e. *Rs. 7,800/-* per month.

6. He further states that the Supreme Court in ***Jitendra v.* Sadiya *and Ors.*** 2025 SCC Online SC 261, which was a case of amputation of the right hand, assessed functional disability at *80%*.

***Analysis***

7. On the issue of contributory negligence, counsel for injured/claimant points out to the order passed by this Court dated 20th August 2025, whereby it was recorded that the only ground for challenge in the appeal is on grant of future prospects, on the basis of submission made by counsel for appellant. Order dated 20th August 2025 is extracted as under for ease of reference:

> "*1. Learned Counsel for the Appellant submits that the only ground for challenge in the present Appeal is on the grant of future prospects*."
>
> (emphasis added)

8. He further points out the order dated 18th September 2025, whereby the Court has reiterated the limited ground of appeal raised by the Insurance Company. Order dated 18th September 2025 is extracted as under for ease of reference:

> "*Learned Counsel for the Appellant submits that his challenge is based on the judgment passed by the Supreme Court in National Insurance Company Ltd. v. Pranay Sethi & Ors.; (2017) 16 SCC 680. The record reflects however, that the Impugned Award was passed*

> *prior to the judgment in Pranay Sethi case being pronounced and based on the judgment of the Supreme Court in Sarla Verma & Ors. v. DTC & Anr; (2009) 6 SCC 121, thus the only issue that arises in the present Appeal is whether at the Appellate stage, this Court can reduce the compensation awarded based on a change in law after the Impugned Award has been passed.*"
>
> (emphasis added)

9. Nevertheless, the plea of Insurance Company should be considered in the interest of justice.

10. As regards the assessment of functional disability, it is noted that the disability certificate exhibited as ***Ex. PW1/L*** certifies that the claimant has suffered *90%* permanent disability in relation to the right upper limb (right hand). In this regard, the testimony of the injured also needs to be noted, wherein he has stated in detail the nature of the treatment he underwent. He stated that immediately after the accident, he was admitted to Holy Family Hospital and was thereafter shifted to Apollo Hospital on 24th September 2011, from where he was discharged on 05th October 2011. As per the discharge summary, he had sustained a crushed injury at the right wrist with no blood supply and sensation, along with crushed avulsion injury, resulting in no blood supply and near-total amputation of the right hand with devascularisation.

11. He was again admitted on 24th October 2011 and discharged on 01st November 2011. During this admission, he underwent debridement of the necrotic skin. His treatment continued thereafter, and he was admitted to Apollo Hospital again on 20th February 2012 and discharged on 21st February 2012, where he received post-replantation treatment. He was again admitted

to Apollo Hospital on 06th March 2013 and discharged on 09th March 2013. He was treated for loss of the carpal on the ulna side, adduction deformity of the wrist with contracture.

12. He was again admitted in May 2013 and June 2013. The doctor noted that it was a follow-up case of replantation of the right hand with a groin flap. As the main blood supply to the thumb had been interrupted, he underwent a right upper limb angiography on 15th March 2014, and his treatment was advised to continue.

13. In these circumstances, even though the MACT has assessed the functional disability at *90%* in the opinion of the court and considering the principles enunciated in ***Raj Kumar v. Ajay Kumar*** (2011) 1 SCC 343, the functional disability with respect to the body would have to be assessed at a lower percentage.

14. Reliance placed by counsel for claimant on ***Jitendra*** (*supra*) is misplaced, as the claimant in that case was working as a labourer, unlike the injured/claimant in the present case.

15. Considering that, apart from the right hand, the rest of his functionality was not affected, and further considering that the injured was only 16 years of age and would have been capable of securing a vocation that did not require excessive use of his right hand, therefore, the functional disability is assessed at ***75%***.

16. Future prospects shall be taken at ***40%***, in accordance with the principles laid down in ***Pranay Sethi*** (*supra*), as the injured was 16 years of age at the time of accident and did not have a permanent job.

17. As regards the minimum wages, considering that the injured was a matriculate, the notional income would be taken at the minimum wages of a matriculate, which was ***Rs. 7,826/-*** per month at the relevant time.

18. While computing the compensation, the MACT has awarded an amount of *Rs. 10,000/-* under the head of *loss of studies* in *paragraph no. 22* of the impugned award. However, while calculating the compensation in the table contained in *paragraph 28* of the impugned award, the said amount has been considered under the head of *loss of income*. Considering there is no separate head of *loss of studies* under the principles enunciated in ***Pranay Sethi*** (*supra*) or ***Raj Kumar*** (*supra*), the award under that head cannot be sustained. Nevertheless, the fact that the injured suffered loss of studies as a consequence of the accident cannot be disregarded and must be accounted for while determining just compensation under the appropriate recognised heads. Accordingly, the impact of *loss of studies* is taken into consideration while recomputing compensation under the appropriate heads, as under.

19. Considering that the injured would have suffered *loss of studies*, resulting in a corresponding *loss of amenities*, the compensation awarded under the head of *loss of amenities* is enhanced from *Rs. 50,000/-* to *Rs. 1,50,000/-*.

20. In light of the nature of the injuries suffered by the injured, the prolonged treatment undergone by him, and the pain and trauma endured, the compensation awarded under the head of *pain and suffering* is enhanced to *Rs. 1,50,000/-*.

21. The injured was only 16 years old at the time of the accident and has

suffered 90% permanent disability in relation to the right upper limb (right hand). Considering his young age and the impact of the disability on his future matrimonial prospects, the compensation awarded under the head of *loss of marriage prospects* is enhanced to *Rs. 1,50,000/-*.

22. Accordingly, the revised computation is as under:

| Sr. No. | Heads | Awarded by the Tribunal | Awarded by this Court |
|---|---|---|---|
| **PECUNIARY LOSS** | | | |
| 1. | Expenditure on Medical Bills and medical treatment (A) | Rs. 2,67,356/- | Rs. 2,67,356/- |
| 2. | Expenditure on conveyance, and special diet (B) | Rs. 50,000/- | Rs. 50,000/- |
| 3 | Attendant Charges (C) | Rs. 2,00,000/- | Rs. 2,00,000/- |
| 4. | Income of injured per month(E) | Rs. 6,422/- | Rs. 7,826/- |
| 5. | Loss of Income/Loss of studies during treatment (C) | Rs. 10,000/- | NIL |
| 6. | Add: Future prospects (F) | 50% | 40% of Rs. 7,826/- = Rs. 3,130.40 |
| 7. | Multiplier (G) | 18 | 18 |
| 8. | Functional disability (H) | 90% | 75% |
| 9. | Loss of future income/future earnings [(E+F) x 12 x G x H] = (I) | Rs. 18,72,656/- | Rs. 17,74,936.80/- |
| **NON- PECUNIARY LOSS** | | | |
| 10. | Pain and suffering (J) | Rs. 1,25,000/- | Rs. 1,50,000/- |
| 11. | Loss of amenities of life (K) | Rs. 1,25,000/- | Rs. 1,50,000/- |
| 12. | Compensation for disfigurement (L) | Rs.1,00,000/ | Rs.1,00,000/ |
| 13. | Compensation for marriage prospects (M) | Rs. 1,00,000/- | Rs. 1,50,000/- |
| 14. | Total compensation (A + B + C + I+ J+ L + M) = N | Rs. 28,50,012/- | Rs. 27,42,292.8/- (rounded to Rs. 28,42,300/-) |
| 15 | Interest awarded | 9% per annum | 9% per annum |
| 16 | Reduced Compensation | Rs. 7,712/- | |

23. Accordingly, the compensation is reduced by *Rs. 7,712/-*.

24. *Vide* order dated 12th November 2014, the Court directed the Insurance Company to deposit the entire awarded compensation along with accrued interest and further directed release of 50% of the amount.

25. The reduced compensation (originally awarded compensation – revised computation) along with accrued interest thereon be refunded to the Insurance Company.

26. Accordingly, these appeals are disposed of in the above terms. Pending applications, if any, are rendered infructuous.

27. Statutory deposit, if any, shall be refunded to appellant/Insurance Company.

28. Copy of this judgment be sent to the concerned MACT/bank for information and necessary compliance.

29. Judgment be uploaded on the website of this Court.

**(ANISH DAYAL)**
**JUDGE**

**AUGUST 04, 2026**/*vs/bp*