

(2026) 03 DEL CK 0434

In the Delhi High Court

Case No : MAC.APP. 555 Of 2025 & Civil Miscellaneous Application No. 79119 Of 2025

New India Assurance Co. Ltd.

APPELLANT

Vs

Saleem Khan Mewati & Ors

RESPONDENT

Date of Decision : 03-03-2026

Acts Referred:

Indian Penal Code, 1860 — Section 279, 338

Citation : (2026) 03 DEL CK 0434

Hon'ble Judges : Prateek Jalan, J

Bench : Single Bench

Advocate : Salil Paul, Sahil Paul, Sandeep Dayal, G.C. Pandey, Vittan Khan, Parul Bisht

Final Decision : Disposed Of

Judgement

Prateek Jalan, J

1. The present appeal has been preferred by New India Assurance Co. Ltd. ["Insurance Company"], assailing an award dated 19.05.2025, passed by the Motor Accident Claims Tribunal ["the Tribunal"] in MACT Case No. 775/2018. By the impugned award, the Tribunal awarded compensation of Rs. 1,25,35,440/-, alongwith interest at the rate of 7.5% per annum, in favour of the claimant [respondent No. 1 herein], arising out of a motor vehicle accident that occurred on 13.08.2016.

A. FACTS

2. The facts of the accident, as borne out from the impugned award, are that, on 13.08.2016 at about 11:00 PM, claimant alongwith his cousin, namely Beeru @ Abdul Salam, was standing opposite Madarsa and Mihir Bhoj Balika Degree College, Dadri. At that time, a car bearing registration No. HR-27C-5161 ["insured vehicle"], driven by respondent No. 2 herein, allegedly in a rash and negligent manner and at a high speed, struck the claimant with force. As a result

of the impact, the claimant was thrown onto the road and sustained grievous head injuries. The insured vehicle was owned by respondent No. 3 herein, and was insured with the appellant – Insurance Company.

3. The claimant was thereafter removed from the site of the accident and taken in a PCR van to Columbia Hospital, Ghaziabad, where he remained under medical treatment for a considerable period. It is stated that, prior to the accident, the claimant was running a grocery shop. However, due to the injuries sustained, he remained bedridden for a prolonged duration, and was unable to resume work.

4. In relation to the aforesaid accident, FIR No. 0460/2016 under Sections 279 and 338 of the Indian Penal Code, 1860, was registered on 25.08.2016 at Police Station Dadri, Gautam Budh Nagar, and subsequently, a charge-sheet was filed on 01.01.2017.

B. IMPUGNED AWARD

5. The claimant thereafter instituted claim proceedings before the Tribunal, seeking compensation in respect of the injuries sustained in the accident. In the said proceedings, the driver, owner, and insurer of the insured vehicle were arrayed as respondent Nos. 1, 2, and 3, respectively.

6. The Tribunal returned a finding of rash and negligent driving on the part of the driver of the insured vehicle and, on that basis, proceeded to assess and award compensation in favour of the claimant, under the following heads:

Sr.No.

Heads

Awarded by the

Tribunal

Pecuniary Loss

(i)

Expenditure on treatment

Rs. 8,47,479/-

(ii)

Expenditure on Conveyance

Rs. 1,00,000/-

(iii)

Expenditure on special diet

Rs.2,00,000/-

(iv)

Cost of nursing / attendant

Rs.12,79,260/-

(v)

Loss of income

Rs.3,36,756/-

(vi)

Cost of artificial limbs (if applicable)

N/A

(vii)

Percentage of loss of earning capacity in
relation to disability

100%

(viii)

Any other loss / expenditure

N/A

(ix)

Loss of future income

Rs.70,71,945/-

Non-Pecuniary Loss

(i)

Damages for pain, suffering and trauma on
account of injuries:

Rs. 20,00,000/-

(ii)

Loss of amenities of life

Rs. 2,00,000/-

(iii)

Future medical expenses

Rs. 5,00,000/-

Total Compensation

Rs.1,25,35,440/-

C. SUBMISSIONS

7. I have heard Mr. Salil Paul, learned counsel for the appellant – Insurance Company, and Mr. G.C. Pandey, learned counsel for the respondent No. 1/ claimant.

8. Mr. Paul's principal submission was that the narrative advanced with respect to involvement of the insured vehicle in the alleged accident, prima facie, lacks credibility. He submitted that the material on record indicates that the said vehicle has been falsely implicated, and that the driver has colluded in the process. In support of this submission, he drew my attention to the unexplained delay in the lodging of the FIR. While the accident is stated to have occurred on 13.08.2016 at about 11:00 PM, the FIR was lodged by the father of the claimant only twelve days later, i.e. on 25.08.2016. According to him, this delay casts serious doubt on the veracity of the version of the accident, as put forth by the claimant.

9. Mr. Paul further submitted that the evidence regarding the occurrence of the accident itself is unreliable. By way of example, he submitted that although one alleged eye-witness, Mr. Abdul Salam, was examined as PW-2 before the Tribunal, another purported eye-witness, namely Mr. Gyasuddin, who was admittedly present at the spot, was not examined. Mr. Paul further urged that the registration number of the insured vehicle was mentioned for the first time in the FIR which was lodged twelve days after the incident. According to him, this was incongruous with the assertion of PW-2, Mr. Abdul Salam, that he had noted down, at least a part of the insured vehicle's registration number immediately after the accident.

10. Mr. Paul also pointed out material inconsistencies between the contemporaneous medical record and the case pleaded before the Tribunal. While the Medico-Legal Certificate ["MLC"] recorded that the claimant was struck by a four-wheeler while he was travelling "with bike", the case advanced by the claimant – supported by the testimony of Mr. Abdul Salam – was that he was standing by the roadside at the time of the accident. Mr. Paul submitted that this discrepancy is material and goes to the root of the matter.

11. Mr. Paul submitted that the quantum of compensation awarded by the Tribunal is grossly excessive, disproportionate, and unsustainable in law. He further, inter alia, contends that the claim petition itself sought only Rs.50,00,000/- and did not quantify losses under specific heads, yet the Tribunal awarded Rs.1,25,35,440/-. In particular, it was submitted that:

a) The Tribunal erred in granting compensation under the heads of future medical expenses, pain and suffering, loss of amenities, special diet, conveyance, and attendant charges, none of which were supported by documentary evidence or

expert opinion.

b) The compensation awarded for expenditure on treatment of Rs.8,47,479/- includes Rs.30,000/- on account of miscellaneous hospital expenses, without any supporting documentation.

c) He relied on the decision of the Supreme Court in ICICI Lombard General Insurance Co. Ltd. v. Ajay Kumar Mohanty (2018) 3 SCC 686 [hereinafter, "Ajay Kumar Mohanty"] to submit that the Tribunal incorrectly computed loss of income at Rs.3,36,756/-based on a single year's ITR, contrary to settled law, which requires the average of the preceding three years.

d) Although a ground has been raised in the appeal questioning the Tribunal's assessment of 100% disability and the application of the multiplier as being excessive, the said contention was not pressed during the course of submissions.

12. Mr. Paul's final submission related to the award of interest. He submitted that the Tribunal has erroneously granted interest for the period from 23.12.2021 to 18.07.2022, even though the claim petition had been dismissed for default by the Tribunal on 23.12.2021, and was restored only on 18.07.2022. He contended that no interest ought to be payable for the period during which the claim was not diligently prosecuted.

13. Mr. Pandey, on the other hand, supported the findings of the Tribunal and submitted that they are borne out by the evidence on record. He relied on the testimony of PW-2, submitting that the eye-witness provided consistent evidence regarding the manner in which the accident occurred, which aligns with the case pleaded by the claimant. He further submitted that the purported inconsistency between the version advanced by the claimant and the MLC was never put to PW-2 during cross-examination and, therefore, cannot be relied upon at this stage to discredit the claimant's case.

14. With regard to the delay in lodging the FIR, Mr. Pandey submitted that the claimant was immediately removed from the accident site and taken to the hospital in a PCR van. Consequently, the police authorities were aware of the accident from the outset. In these circumstances, he contended that no adverse inference ought to be drawn, merely on account of the delay in formal registration of the FIR.

15. Mr. Pandey also addressed the objections raised to the quantum of compensation, and has made submissions in support of each head under which compensation has been awarded by the Tribunal. These submissions shall be examined in detail at the appropriate stage.

D. ANALYSIS RE: INVOLVEMENT OF THE INSURED VEHICLE

16. The principal argument advanced by Mr. Paul concerned the very involvement of the insured vehicle in the accident. In support of this submission, he pointed to an alleged discrepancy between the MLC of the claimant prepared at the

hospital, and the version reflected in the FIR and the oral evidence. While the MLC recorded that the claimant was on a bike at the time he was hit by the insured vehicle, the FIR as well as the testimony before the Tribunal indicated that he was standing by the roadside when the accident occurred. Mr. Paul further contended that, in this backdrop, the delay of twelve days in lodging the FIR assumes significance and cumulatively casts serious doubt on the credibility of the claimant's case.

17. These submissions must be assessed against the pleadings and the entirety of the evidence adduced before the Tribunal. In the claim petition, the claimant had stated that he, alongwith his cousin, namely Mr. Abdul Salam, was present at the spot at the time of the accident and that he was standing when the accident occurred. The manner in which the accident was stated to have taken place was described in the claim petition as follows:

"That on 13.08.2016 at around 11.00 p.m. the petitioner/injured alongwith his cousin brother namely Beeru @ Abdul Salam were standing opposite Madarsa & Mihir Bhoj Balika Digree [sic] College, Dadri. On Car bearing regd. No. HR-27C-5161 being driven by its driver i.e. respondent no.1 in a rash and negligent manner and at very fast speed came from Dadri Bust Stand and hit forcefully to the petitioner. Due to this sudden forceful impact, the injured was fell down on the road and sustained grievous injuries, the petitioner suffered grievous head injury and other injuries all over his body. The PCR Van took the injured alongwith his cousin brother Beeru @ Abdul Salam."

18. It may be noted that the Insurance Company filed its written statement contending, inter alia, that the insured vehicle had been falsely implicated in the accident. The owner and driver of the vehicle [respondent Nos. 1 and 2 before the Tribunal] also filed a written statement, in which they resisted liability on the ground that the vehicle was insured with the Insurance Company [respondent No.3 before the Tribunal]. Significantly, the manner in which the accident occurred was not disputed by either of the parties.

19. The claimant's cousin, Mr. Abdul Salam, who was also an eye-witness to the accident, was examined as PW-2. His affidavit of evidence reads as follows:

"1. That the deponent is eye witness of the accident occurred on 13.08.2016 at around 11 pm. The deponent along with Injured Saleem Khan Mewati and Sh. Gayasuddin were standing beside road opposite Madarsa and Mihir Bhoj Ballka Degree College Dadri. One white colour Swift car bearing Regn No. HR-27-C-5161 was being driven by its driver in rash and negligent manner and at very fast speed came from Dadri bus stand and hit forcefully to Sh. Saleem Khan Mewati. Due to this sudden forceful impact, Saleem Khan Mewati fell down on the road and sustained grievous injuries on his head and all over body. The deponent and Sh. Gayasuddin tried to stop the car and ran after the car but the driver of the offending vehicle ran away alongwith the car. The deponent and Sh. Gayasuddin noted down the registered number of the offending vehicle.

2. That the deponent made a call to the father of injured and asked him to come to the spot of accident. That after few moments the PCR also arrived at the spot of accident. The deponent and Sh. Gayasuddin put Saleem Khan Mewati into PCR and took him to Naveen Hospital at Dadri, Gautam Budh Nagar, UP but considering the condition of Saleem Khan Mewati, he was taken to Columbia Asia Hospital, Ghaziabad, where Saleem Khan was treated.

3. That the accident was caused due to rash and negligent driving of the respondent No.1, who was driving the offending vehicle in very fast speed without observing the traffic rules. It is pertinent to mention here that there were mercury road lights on the Building of the Madarsa." Emphasis supplied

20. PW-2 was cross-examined by learned counsel for the Insurance Company, during which he deposed as under:

"On the night of accident, at 11 PM, after coming back from a party (Daawat), I was talking to Mr. Gayazuddin and Mr. Salim. The party was organised on occasion of birth of one Salmu's child. All three of us were on foot. Father of Mr. Salim resides close to the place of accident along with his younger son namely Javed. At the place where the accident took place, there is a divider on the road and the road is quite broad as the vehicles from both the sides can easily pass through. After the alleged accident took place, while I was calling the police, meanwhile, the PCR had arrived. I was calling the PCR from my phone no.9350352328. Police took the injured to the Naveen Hospital in Dadri where the hospital refused to admit the injured. After that, we took the ambulance from Naveen Hospital and took the injured to Columbia Hospital, Ghaziabad. I was accompanied by Gayasuddin. We reached Columbia Asia Hospital at around 11:30 pm. Officials of Dadri Police visited Columbia Hospital and they were duly intimated about the accident. The police recorded my statement in Columbia Asia Hospital. I do not remember whether my signatures were procured or not.

It is correct that FIR was not lodged by me.

I do not know any person named Shakhir. 2-3 days after the accident, police called me at PS Dadri for identification of the offending vehicle. I was never called to identify the owner and driver of the alleged car. I have never met the owner and driver of the offending vehicle. Neither I have been summoned by the criminal court in Dadri nor have I given any statement there till today. I had also stated to the doctor at Columbia Hospital regarding the accident taking place due to negligence of the driver of the car. At the time of accident, we were standing next to Mihir Bhoj Balika Degree College, Dadri when the offending vehicle hit the injured who after the knock, fell on the bonnet of the offending vehicle and then fell down on the road at the left side of the offending vehicle. After hitting the victim, the driver of the alleged car bearing no. HR-27C-5161 slowed down for a while but thereafter rushed away. I and Gayasuddin noted the number of the offending vehicle. Vol.: there was street light at the spot of the accident.

It is correct that neither me nor Gayasuddin lodged the FIR. It is incorrect to

suggest that we did not lodge the FIR as we did not know the number of the offending vehicle. It is incorrect to suggest that I was not present at the time of accident.

Q. I put to you that your name does not appear anywhere either in the criminal or hospital records. What do you have to say?

Question objected to by the Ld. Counsel for claimant on the grounds that the same is matter of record.

A. I cannot say.

It is incorrect to suggest that the vehicle bearing no. HR27C5161 has not caused the present accident and it is falsely been implicated just in order to receive compensation.

I have studied till class 3rd or 4th. I cannot recognize the English alphabets but I can recognize the numerical digits.

At this stage, the witness has been shown his affidavit to read to the alphabets and numerical digits wherein he could recognize and recall the numerical digits in a slow manner but could not read the English alphabets. I was not called by the wife of Mr. Saleem to depose in the court. It is correct that I have not received any summons from the court. I know the injured as the injured is from Dadri (vahn ke purane rehne wale haiii). It is correct that I and the injured are not relatives.

At this stage, the witness has been confronted with his affidavit and he has identified his signatures therein.

I do not know what is written in my affidavit. The signatures on the affidavit were put by me today itself in Saket Court.

It is wrong to suggest that I have not witnessed the accident and the vehicle bearing no. HR27C5161 was not involved in the accident. It is wrong to suggest that I am deposing falsely." Emphasis supplied

21. Mr. Paul specifically pointed out the discrepancy with regard to the claimant being "on foot" and the witness's testimony concerning his knowledge of the English alphabet and the contents of his affidavit.

22. In the light of the aforesaid evidence, the Tribunal noted that PW-2 had been cited as an eye-witness in the charge-sheet filed in the criminal proceedings. As regards the objection raised by the Insurance Company to the testimony of PW-2, on the ground that he admittedly could not read English alphabets, the Tribunal observed as follows:

"16. The only objection raised by counsel for insurance company is that the witness was unable to read the alphabets and therefore, by no measure could it be presumed that the witness could have identified the Registration number of the offending vehicle at the time of accident. No objection as such has been

raised about the colour, make or the numerical digits of the registration number of the offending vehicle. Apart from reading the digits, it is evident that the witness has provided a vivid explanation of the mode and manner of the accident. He could detail as to how the petitioner first fell on the bonnet of the vehicle after the forceful knock and then eventually on road on left side of the vehicle and how the driver of the offending vehicle had slowed down after the accident and eventually rushed away. PW-2 has asserted that the spot of accident was sufficiently lit and was not pitch dark that there was no chance with him to be able to read/recognize the registration number of the offending vehicle. It is noted that he was also accompanied by another person Sh. Gyasuddin at the time of accident and there is nothing on record to suggest that he was an illiterate person and could not have read the alphabets comprising the registration number. It is also noted that Sh. Gyasuddin has also been cited as one of the eye witness as part of the charge sheet. It cannot be ignored that the specifications about offending vehicle were duly mentioned in the complaint of father of injured leading to the registration of FIR, even though, he was not present at the spot of accident and therefore, the offending vehicle was purportedly identified only on the basis of particulars provided by eye witness Abdul Salam and eye witness Gyasuddin. It is also pertinent to mention that the narrative about mode, manner and the contextual circumstance has no major contradictions in the FIR, petition or in the testimony of eye witness. PW-2 Abdul Salam also testified that his statement was duly recorded by the police officials at Colombia Asia Hospital and there is no reason to conclude that he would not have revealed the registration number of the offending vehicle as part of his statement. It is corroborated by the fact, as he clarified that he was called in the police station for identification of the offending vehicle even though, by that time, formal FIR was not registered. There are only three alphabets which were to be identified and even if the witness was able to broadly remember the letter form, that would have served the purpose." Emphasis supplied

23. The Tribunal correctly noted that its task was to arrive at a finding on the basis of the balance of probabilities, and not on the criminal standard of proof of "beyond reasonable doubt". The Tribunal is not bound by the strict rules of pleadings and evidence, and its conclusions must be founded on a comparatively lower evidentiary threshold. This legal position is well settled by the decisions of the Supreme Court in *Anita Sharma v. New India Assurance Co. Ltd.* (2021) 1 SCC 171 paragraph 21, *Sunita v. Rajasthan SRTC*(2020) 13 SCC 486, paragraph 22, and in *Bimla Devi v. Himachal RTC* (2009) 13 SCC 530, paragraph 15.

24. I am unpersuaded by the alleged inconsistency between the MLC, FIR, and the evidence led before the Tribunal. The MLC issued by Columbia Asia Hospital on 14.08.2016 records that the injured was brought to the hospital in an unconscious and gasping condition. It is, therefore, evident that the history noted in the MLC was not furnished by the claimant himself, but was recorded on the basis of information provided by others at the time of admission. The alleged discrepancy was also not put to the witness in the cross-examination. In the

absence of any other supporting material, the mere variance in recorded history in the MLC, cannot be treated as a fatal discrepancy, so as to undermine the claim.

25. As regards the testimony of the eye-witness, PW-2, I agree with Mr. Paul that his examination-in-chief, by way of affidavit, was substantially dented during cross-examination. In particular, the witness was unable to read or recognise the English alphabets forming part of the registration number of the insured vehicle, despite his affidavit of evidence setting out the complete registration number. He also stated that he was unaware of the contents of his affidavit, and that he had signed it only on the day of cross-examination.

26. However, I am of the view that the testimony elicited during cross-examination itself supports the narrative advanced by the claimant with regard to the occurrence of the accident. The witness consistently recounted facts in line with the case set up by the claimant. While he was unable to read English alphabets, he was able to identify and recognise the numerical digits forming part of the registration number. Even in his affidavit of evidence, PW-2 had stated that he and the other eye-witness, Mr. Gyasuddin, had noted down the registration number of the vehicle. This aspect was reiterated in cross-examination, and no specific question was put to him to ascertain which of the two individuals had noted down the English alphabet portion of the registration number.

27. In this context, it is also significant that the criminal proceedings culminated in the filing of a charge-sheet against the driver of the insured vehicle after due investigation. It is a well settled position that in proceedings before the Tribunal, the filing of a charge-sheet, even in the absence of eye-witness evidence, may be sufficient to sustain an award of compensation in favour of the victims or their legal representatives, as affirmed by the Supreme Court in its decisions in *Ranjeet v. Abdul Kayam Neb* 2025 SCC OnLine SC 497, paragraph 4, and *Meera Bai v. ICICI Lombard General Insurance Co. Ltd.* 2025 SCC OnLine SC 992, paragraph 4.

28. In the present case, eye-witness evidence is also available, and is not inconsistent with the outcome of the police investigation, so as to render the version reflected in the charge-sheet unbelievable.

29. On the issue of delay in lodging the FIR, Mr. Paul relied on the decision of the Supreme Court dated 12.12.2024 in *New India Assurance Co. Ltd. v. Velu & Anr.* SLP (C) No. 32138/2018 [hereinafter, "Velu"], to contend that a belated FIR can materially affect the credibility of a motor accident claim. In that case, the FIR was lodged 34 days after the alleged accident, and the contemporaneous medical records consistently recorded the cause of the injuries as a skid and fall, rather than a motor accident. The criminal investigation ultimately culminated in a closure report, with the police concluding that no motor accident had occurred. On these facts, the Supreme Court upheld the rejection of the claim by the

Tribunal, as the available evidence on record negated the occurrence of a motor accident.

30. The said decision, however, does not advance the case of the Insurance Company in the present matter. Even in *Velu*, the Supreme Court held that a delayed FIR, by itself, cannot justify rejection of a motor accident claim. It becomes relevant only in conjunction with other material, particularly where the overall evidence, including medical records and police findings, contradicts the occurrence of the alleged accident. In the present case, although there was a delay of 12 days in the registration of the FIR, the investigation did not cast doubt on the occurrence of the accident. On the contrary, upon due investigation, the police proceeded to file a charge-sheet, thereby treating the occurrence as one arising out of a motor accident. In such circumstances, the delay in lodging the FIR cannot, by itself, be treated as fatal to the claim. The principle emerging from *Velu* is not that delay in lodging an FIR is determinative, but that such delay is one of the factors which must be part of the holistic consideration of materials on record.

31. Upon consideration of the aforesaid, I do not find any reason to interfere with the Tribunal's findings on this aspect. The delay in the lodging of the FIR in the present case cannot be treated as a decisive factor, particularly since the injured was admittedly removed from the site of the accident and taken to the hospital in a PCR van. The police authorities were thus cognizant of the occurrence from the earliest stage. In these circumstances, the delay on the part of the father of the injured in seeking registration of the FIR does not, in my view, give rise to any legitimate suspicion.

32. On a consideration of all the aforesaid factors, I am of the view that the Tribunal's finding on the aspect of negligence does not warrant interference in the present appeal.

E. ANALYSIS RE: QUANTUM OF COMPENSATION

33. The Tribunal has awarded compensation to the claimant under various heads, as enumerated in paragraph 6 hereinabove. Several components of the compensation have been assailed in the present appeal. Before examining each of those heads individually, it is necessary to first consider the nature and extent of the injuries suffered by the claimant, as this forms the foundation for assessment and quantification of many elements of compensation.

34. The MLC recorded at Columbia Asia Hospital on 14.08.2016 notes that the claimant was brought to the hospital in an unconscious and gasping condition and required emergency medical intervention. At that stage, the doctors reserved their opinion on the precise nature of the injuries. However, the claimant remained hospitalised for over two months, until 28.10.2016. The discharge summary dated 28.10.2016 [Exhibit PW-1/4] records that he had suffered a Diffuse Axonal Injury [i.e., sustained traumatic brain injury] and a bimalleolar fracture [i.e., fracture of the ankle]. It further records that he had

undergone multiple procedures, including intubation and tracheostomy.

35. The discharge summary also details a guarded prognosis, including the possibility of further surgical intervention, increase in contusion, risk to life, likelihood of residual neurological deficit, and the need for prolonged ICU care and hospitalisation. It records that the claimant underwent several surgeries and diagnostic investigations during this period.

36. Thereafter, the claimant was admitted for one night on two further occasions – from 23.11.2016 to 24.11.2016 for placement of a gastrointestinal tube, and again from 16.12.2016 to 17.12.2016 for a procedure related to his tracheostomy.

37. The medical records placed on record thereafter, forming part of Exhibit PW-1/5, include multiple documents relating to psychiatric treatment, and documents commencing from 14.01.2017 until 01.12.2022. These records indicate that the claimant was suffering from residual neurological deficits accompanied by significant behavioural disturbances. A record from G.B. Pant Institute of Post Graduate Medical Education and Research [“GIPMER”] dated 01.07.2021 notes that he was unable to speak due to the tracheostomy, and had remained bedridden for approximately one year. It further records the onset of aggressive behaviour, reduced sleep, use of abusive language, and the requirement of assistance for daily activities. The records also reflect persistent complaints of headaches, aggressive and self-injurious behaviour, hallucinatory symptoms, and a diagnosis of Organic Personality Disorder alongwith post-traumatic cognitive decline.

38. On 20.04.2019, pursuant to an application moved by the claimant herein seeking assessment of his physical disability by a Medical Board, the Tribunal directed the Medical Superintendent of Pandit Madan Mohan Malviya Hospital, Delhi, to examine him and issue a disability certificate. However, on 01.11.2019, upon the claimant furnishing the requisite form [Form-J], the Tribunal directed the Medical Superintendent of G.B. Pant Hospital, Delhi, to assess his disability and submit the report thereof. Though the proceedings remained dismissed in default for some time and were later restored, the disability certificate dated 24.01.2023 issued by GIPMER was received by the Tribunal on 11.04.2023, when the matter was taken up for hearing. The said disability certificate, exhibited as PW-1/6, records as follows:

“PATIENT QUALIFIES FOR MODERATE DISABILITY (75%) on BASIS of IQ Examination & FOR PROFOUND DISABILITY (90%) on BASIS OF CHRONIC NEUROLOGICAL CONDITION (MRS Score – 5). FINALLY, PROFOUN [sic.] DISABILITY (90%) TO BE CONSIDERED IN INDEX CASE.”

39. It is in the backdrop of this medical evidence, that the quantum of compensation awarded by the Tribunal must now be examined.

a) PECUNIARY LOSSES:

(i) Expenditure on medical treatment:

40. The Tribunal awarded a sum of Rs. 8,47,479/- under this head, of which medical bills amounting to Rs. 8,17,479/- were proved on record and exhibited as Exhibit PW-1/8. The balance amount of Rs. 30,000/- was awarded towards sundry and miscellaneous expenses. However, having regard to the fact that the said sum of Rs. 30,000/- is not supported by any oral or documentary evidence on record, the award under this head is modified to Rs. 8,17,479/-.

(ii) Conveyance:

41. With regard to conveyance, the Tribunal has quantified the expenditure at Rs.1,00,000/-. Considering the severity of the claimant's injuries, his prolonged hospitalisation, and the frequent need for transport to attend medical consultations, therapies, and follow-up treatment over an extended period, I find no infirmity in the award under this head.

(iii) Special diet:

42. As regards special diet, the Tribunal has awarded compensation to the tune of Rs. 2,00,000/-. The claimant had been placed on a feeding tube and underwent a tracheostomy, requiring specialised nutrition and careful dietary management over a prolonged period. Taking into account the nature of his injuries, the medical procedures undergone, and the ongoing nutritional requirements essential for recovery, I find that the compensation awarded under this head is justified, and cannot be regarded as excessive.

(iv) Attendant's services:

43. The next challenge relates to the compensation under the head of attendant services, for which the Tribunal awarded Rs.12,79,260/-, by applying the multiplier method to the minimum wages applicable in the State of Uttar Pradesh, where the claimant resides. In this regard, the affidavit of the claimant's wife [PW-1] clearly stated that he was incapable of performing his daily routine activities, and was dependent on others for his basic needs. Her cross-examination was largely confined to documentary proof concerning attendant charges and the claimant's ability to undertake employment or earn a livelihood.

44. Additionally, the medical evidence detailed above demonstrates that the claimant suffers from a profound disability, and is unable to perform activities of daily living without assistance. In this context, the award of compensation towards attendant services was fully justified.

45. The claim before the Tribunal was initially for reimbursement at the rate of Rs.12,000/- per month, which the claimant contended was the actual expenditure incurred for attendant services. The Tribunal, however, found no documentary evidence supporting this claim, and accordingly adopted the minimum wages in Uttar Pradesh, as on the date of the accident, i.e. Rs.7,107/-

per month, for computation. The multiplier method, as applied by the Tribunal, has been recognised as appropriate for the computation of attendant charges, by the Supreme Court in the decisions in *Kajal v. Jagdish Chand* (2020) 4 SCC 413, paragraphs 22 to 25 and *Abhimanyu Partap Singh v. Namita Sekhon* (2022) 8 SCC 489, paragraphs 17 and 23. Applying the age-appropriate multiplier of 15, the Tribunal has arrived at the sum awarded. In view thereof, the challenge to the award on the ground of attendant services is without merit, and is accordingly, rejected.

(v) Loss of income:

46. For quantifying the claimant's annual income, the Tribunal has proceeded on the basis of the ITR filed by the claimant for the Assessment Year 2017-18 (corresponding to the financial year 2016-17), which disclosed a gross total income of Rs.3,36,759/-. His ITR for the two preceding years were also exhibited as part of Exhibit PW-1/7, showing gross total incomes of Rs.2,92,636/- and Rs.2,98,529/- for the assessment years 2015-16 and 2016-17, respectively. The claimant was admittedly running a grocery store, and the Tribunal proceeded on the basis of the latest ITR.

47. While the most recent return ordinarily provides the most realistic assessment of income, this principle is not one of universal application. In the judgment of a Coordinate Bench of this Court in *Rajbala v. Krishan Kumar Sharma and Ors.* 2023 SCC OnLine Del 4082, followed by this Court in *Lalita Gupta v. Manoj Kumar Rana* 2025 SCC OnLine Del 8881, it has been held that where the latest return reflects unusual or exceptional variations, the income may be moderated by taking an average of the preceding two or three returns.

48. Mr. Paul placed reliance upon the judgment of the Supreme Court in *Ajay Kumar Mohanty*. However, a perusal of the said judgment indicates that, although the Court proceeded on the basis of the Tribunal's finding regarding the claimant's average income, the income in that case had, in fact, been determined by taking the average of three years' returns.

49. In the present case, the return for Assessment Year 2017-18 was filed on 26.06.2017, after the accident, and pertained to the period from 01.04.2016 to 31.03.2017. The accident occurred on 13.08.2016, approximately four and a half months into the financial year. The said return reflected a marked increase over the income disclosed in the preceding year. Taken at face value, this would suggest an increase in income after the accident, which is unlikely, and appears attributable to exceptional circumstances that were not examined in evidence adduced before the Tribunal.

50. In these circumstances, the more appropriate approach is to consider the average of the declared income for the assessment years 2016-17 and 2017-18, which works out to an annual income of Rs. 3,17,644/-. Accordingly, the Tribunal's award for loss of income during the twelve-month period of treatment is modified from Rs. 3,36,759/- to Rs. 3,17,644/-.

(vi) Loss of future earnings:

51. As regards loss of future earnings, the Tribunal has assessed the claimant's functional disability at 100%, in line with the principles laid down by the Supreme Court in *Raj Kumar v. Ajay Kumar & Anr.* (2011) 1 SCC 343 [hereinafter "Raj Kumar"]. This was not contested by Mr. Paul. In view of the claimant being 38 years old at the time of the accident, the application of future prospects at the rate of 40%, and a multiplier of 15, in accordance with the principles laid down in *Sarla Verma v. DTC* (2009) 6 SCC 121 [hereinafter "Sarla Verma"] and *National Insurance Co. Ltd. v. Pranay Sethi* (2017) 16 SCC 680 [hereinafter "Pranay Sethi"], are not in dispute, and the only aspect requiring reconsideration is the determination of the annual income.

52. Applying the adjusted annual income of Rs. 3,17,644/-, the loss of future income is computed as follows:

Loss of future income

Amount

Annual Income

Rs. 3,17,644/-

Future prospects

(40% of Rs. 3,17,644/-)

Rs. 1,27,058/-

Annual income after future prospects

Rs. 4,44,702/-

Application of multiplier (15)

Rs. 4,44,702/- x 15

Total

Rs. 66,70,530/-

(vii) Future medical expenses:

53. The Tribunal assessed future medical expenses at Rs.5,00,000/-. Considering the claimant's age and the nature of his impairment, which requires ongoing medical attention, I am of the view that this award is underestimated. In particular, the claimant requires both physical and psychiatric medical care over an extended period. Although the precise cost of future treatment is inherently uncertain, in the facts of the present case, a substantial increase under this head is justified. Accordingly, the compensation for future medical expenses is enhanced to Rs.7,00,000/-.

b) NON-PECUNIARY LOSSES:

(viii) Pain and suffering:

54. Non-pecuniary losses cannot be quantified with exact precision, yet the circumstances of this case clearly demonstrate the seriousness of the claimant's suffering. Once a productive and independent member of society, he has now been rendered incapable of earning a livelihood or leading an independent life. Alongside severe physical injuries, he suffers from significant mental and psychiatric impairments, which have also imposed a substantial emotional and financial burden on his family. In these circumstances, although the award is unusually high, I am satisfied that the Tribunal's compensation of Rs.20,00,000/- is justified.

(ix) Loss of Amenities of life:

55. The Tribunal has awarded Rs.2,00,000/- for loss of amenities. Having considered the entirety of the evidence, I am of the view that this sum materially underestimates the extent of the claimant's suffering. His capacity to make full and meaningful use of his physical and mental faculties has been severely diminished, and his ability to engage in economic, social, and familial pursuits has been profoundly compromised. In light of these circumstances, I deem it just and proper to enhance the compensation on this account to Rs.5,00,000/-.

c. GRANT OF INTEREST:

56. The Tribunal has awarded interest at the rate of 7.5% per annum, from the date of filing of the claim petition until its actual realization. Mr. Paul's sole objection in this regard is that the claim petition was dismissed in default on 23.12.2021, and subsequently restored on 18.07.2022. He contends that no interest should be payable for the period during which the petition was dismissed.

57. While such an argument may have merit in certain circumstances, I do not consider it appropriate to interfere with the Tribunal's award in the present case. The claimant's medical condition and the requirement for continuous treatment provide a reasonable explanation for the inability of the claimant and his family to effectively prosecute the petition during that period. Upon restoration, the petition relates back to the date of its original filing, and it subsequently remained pending before the Tribunal for several years.

58. The grant of interest in this context is not intended to penalize the Insurance Company, but to compensate the claimant for the delay in accessing funds to which he was legally entitled. I find no reason to conclude that any part of the delay in realization of the award is attributable to unjustified default on the part of the claimant. Consequently, there is no basis for modifying the period for which interest has been awarded.

d. TOTAL COMPENSATION:

59. As a result of the above discussion, the impugned award is modified to the

following extent:

Heads

Awarded by

Tribunal

Awarded by

Court

Difference

Pecuniary Loss

Expenditure on

treatment

Rs. 8,47,479/-

Rs. 8,17,479/-

(-) Rs. 30,000/-

Expenditure on

Conveyance

Rs. 1,00,000/-

Rs. 1,00,000/-

NIL

Expenditure on

special diet

Rs.2,00,000/-

Rs.2,00,000/-

NIL

Cost of

nursing/ attendant

Rs.12,79,260/-

Rs.12,79,260/-

NIL

Loss of income

Rs.3,36,756/-

Rs. 3,17,644/-

(-) Rs. 19,112/-

Loss of future

income

Rs.70,71,945/-

Rs. 66,70,530/-

(-) Rs. 4,01,415/-

Future medical

expenses

Rs.5,00,000/-

Rs.7,00,000/-

(+) Rs. 2,00,000/-

Non-Pecuniary Loss

Pain and

suffering

Rs. 20,00,000/-

Rs. 20,00,000/-

NIL

Loss of amenities of

life

Rs. 2,00,000/-

Rs.5,00,000/-

(+) Rs. 3,00,000/-

Total

Rs.1,25,35,440/-

Rs.1,25,84,913/-

(+) Rs. 49,473/-

60. It may be noted that by virtue of the present judgment, the compensation awarded stands enhanced, notwithstanding the absence of any cross-objection or cross-appeal on behalf of the claimant. In my view, such an exercise is legally permissible, particularly in light of the decision of the Supreme Court in Surekha

& Ors. v. Santosh & Ors. (2021) 16 SCC 467. I have also examined this aspect at length in Oriental Insurance Co. Ltd. v. Shanti & Ors. MAC.APP. 891/2013, decided on 11.12.2025 [hereinafter, "Shanti"].

F. CONCLUSION:

61. In conclusion, the award of the Tribunal is modified, and the total compensation is enhanced from Rs. 1,25,35,440/- to Rs. 1,25,84,913/-, i.e. an increase of Rs. 49,473/-. The entire award shall carry interest at the rate of 7.5% per annum from the date of filing of the claim petition, as awarded by the Tribunal.

62. By order dated 01.09.2025, the operation of the award was stayed, subject to the Insurance Company depositing the entire amount awarded by the Tribunal, with 65% thereof to be released to the claimant in

accordance with the disbursement scheme set out in the award [The Insurance Company challenged the aforesaid order by filing SLP(C) 31271/2025, which was dismissed by the Supreme Court by order dated 14.11.2025, while extending the time by 1 month for the Insurance Company to deposit the awarded amount. Pursuant to the liberty granted by the Court, the Insurance Company filed CM APPL. 79119/2025 seeking modification of the order dated 01.09.2025. However, with the consent of learned counsel for the parties, as recorded in the order dated 16.12.2025, the appeal itself was taken up for final hearing]. I am informed that the said amount has since been deposited with the Registrar General of this Court.

63. Under the disbursement scheme directed by the Tribunal, out of the total awarded amount, a sum of Rs. 1,00,00,000/- was directed to be kept in the form of monthly fixed deposit receipts of Rs. 50,000/- each, with the remaining amount to be released to the claimant. Upon compliance with the directions contained herein, the amount lying deposited with this Court shall be transmitted to the learned Tribunal for disbursement in accordance with the aforesaid disbursement scheme, together with accrued interest, if any.

64. As the proceedings have resulted in enhancement of the award, the following directions are passed:

a) The award passed by the learned Tribunal stands enhanced by a sum of Rs. 49,473/-, and the matter is remanded to the learned Tribunal for the purpose of disbursement of the compensation amount in accordance with law and the disbursement scheme already framed.

b) The Insurance Company is directed to deposit the enhanced amount of Rs. 49,473/-, together with interest at the rate of 7.5% per annum from the date of filing of the claim petition, i.e. 31.07.2018, with the learned Tribunal within a period of 8 weeks from today.

c) The amount presently lying deposited with the Registrar General of this Court

pursuant to the interim orders passed earlier shall be transmitted to the learned Tribunal forthwith.

d) Upon receipt of the aforesaid amounts, the learned Tribunal shall ensure disbursement of the entire compensation amount to the claimant in accordance with the disbursement scheme contained in the award, after due verification and compliance with applicable norms.

e) The claimant shall appear before the learned Tribunal on 23.03.2026 for the purpose of further directions regarding disbursement.

65. The appeal is disposed of with these directions. The pending application also stands disposed of.

66. The statutory deposit, if any, be refunded to the appellant – Insurance Company, subject to compliance with directions in paragraph 64(b) of this judgment.