

Urmila vs Mohamad Nijana on 29 November, 2024

IN THE COURT OF SHRI SUDEEP RAJ SAINI
PRESIDING OFFICER, MOTOR ACCIDENT CLAIMS TRIBUNAL-02
SOUTH-WEST DISTRICT, DWARKA COURTS, NEW DELHI

In the matter of:
Urmila Vs. Mohammad Nazam & Anr.
MACT No. 377/2022

1. Urmila
W/o Sh. Sunil
R/o G-88, Gali No. 6
Vishwash Park
Raja Puri, Delhi.

Present address:
(as per Aadhar Card)
K 151, Gali No. 8
Raja Puri, Uttam Nagar, West Delhi
Delhi-110059.

....Petitioner

VERSUS

1. Mohammad Nazam
S/o Mohammad Ramzan
R/o 220 B D Block, Jai Vihar, Phase-1,
Najafgarh, South-West Delhi
Delhi-110043.

(Driver-cum-owner)

2. The Oriental Insurance Company Ltd.
having its registered office at:
"Oriental House" A-25/27, Asaf Ali Road,
New Delhi-110002.

(Insurer)

....Respondents

Date of institution	:	26.04.2022
Date of concluding arguments	:	28.11.2024
Date of decision	:	29.11.2024

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AWARD

1. The present Detailed Accident Report (hereafter 'DAR') was filed by the investigating officer ASI Manoj Kumar in FIR number 56/2020 dated 16.01.2020 lodged at police station Dwarka North under sections 279/337 IPC regarding grievous injuries suffered by the petitioner Ms. Urmila in a road accident. The DAR was treated as a claim petition under section 166(4) of the Motor Vehicles Act, 1988 (hereafter 'M V Act'). The respondent no. 1, Mohammad Nazam, is the driver cum owner of the alleged offending vehicle, a motor cycle bearing registration no. DL 8SCB 2217, and the respondent no. 2, The Oriental Insurance Company Limited, is the insurer of the said offending

vehicle.

DAR

2. As per the claims made in the DAR, the petitioner is a resident of Raja Puri, West Delhi. On 05.01.2020 at about 09.30 am, the petitioner was going towards Dwarka from her house on foot. When she reached Aakash Hospital at Madhu Vihar road, a motorcycle bearing registration no. DL 8SCB 2217, being driven by its driver at high speed and in a rash and negligent manner, hit her. Due to the impact, the petitioner and the driver of the motorcycle fell down and the petitioner received injuries. The petitioner and the said driver were taken to Aakash Hospital for treatment. At the hospital, the petitioner came to know the name and address of the driver of the offending vehicle. During investigation, on obtaining opinion of the doctor on MLC no. 624/20, the injuries suffered by the petitioner in the accident were found grievous, so the offence under section 338 IPC was added.

MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 2 of 23 Defence of the Respondents

3. Notice of the DAR was served on the respondents. The respondent no. 1 in his written statement admitted the ownership of the offending vehicle and claimed that the said vehicle was insured with the respondent no. 2. He, however, denied that the accident took place due to rash and negligent driving on his part.

The respondent no. 2 has admitted that the offending vehicle bearing registration no. DL 8SCB 2217, on the day of the accident, was insured with it and has filed its legal offer of Rs. 40,500/- The respondent no. 2, in its legal offer, has taken the plea of contributory negligence on part of the petitioner.

Inquiry

4. After completion of the pleadings, following issues were framed on 17.11.2022, by my ld. predecessor:

(1) Whether petitioner Ms. Urmila sustained injuries in a motor vehicle accident dated 05.01.2020 due to rash and negligent driving of vehicle bearing registration no. DL 8SCB 2217 being driven and owned by Mohammad Nazam respondent no. 1 and insured with The Oriental Insurance Company Ltd. respondent no. 2? OPP. (2) Whether the petitioner is entitled to claim compensation, if so, what amount and from whom? OPP.

(3) Relief.

Thereafter, the claim petition was fixed for petitioner's evidence.

5. In order to prove her claim, the petitioner Ms. Urmila examined herself as PW¹ and filed her evidence by way of affidavit and the same is Ex. PW¹/A. The petitioner deposed that on 05.01.2020 at about 09.30 am, she was going MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 3 of 23 towards Dwarka from her house on foot. On her way, she reached the traffic signal near Aakash Hospital. On seeing the signal, she started to walk to the other side of the road. In the meantime, a motorcycle bearing registration no. DL 8SCB 2217, being driven by its driver at high speed and in a rash and negligent manner, jumped the red light, and hit her. Due to the impact, the petitioner fell down on the road and received grievous injuries. She was taken to Aakash Hospital where she received treatment.

PW¹ has relied upon following documents in support of her testimony:

Ex. PW¹/1 is her aadhar card.

Ex. PW¹/2 is the DAR.

Ex. PW¹/3 is discharge summary of Aakash Hospital (colly). Ex. PW¹/4 are medical bills (colly).

Ex. PW¹/5 is the Estimated Bill dated 06.09.2021 from Dr. Kanika Kapoor of Kaushalya Devi Dental Hospital.

6. The respondents have not led any evidence.

7. I have heard Id. counsels Sh. Vijay Kumar for the petitioner and Sh. Rajan Mishra for the respondent no. 2. None appeared on behalf of respondent no. 1 to argue the case. I have given my thoughtful consideration to the submissions made by them. I have also perused the record. My issue-wise findings are as under:

Issue No. 1:

Whether petitioner Ms. Urmila sustained injuries in a motor vehicle accident dated 05.01.2020 due to rash and negligent driving of vehicle bearing registration no. DL 8SCB 2217 being driven and owned by Mohammad Nazam respondent no. 1 and insured with The Oriental Insurance Company Ltd. respondent no. 2? OPP.

8. Onus to prove this issue was on the petitioner. The petitioner has MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 4 of 23 relied on her testimony as well as the DAR to prove this issue.

9. At this stage, it will be worth to take a brief look at the legal position regarding the standard of proof required to be met by the petitioner, in an accident case, before a claims tribunal.

10. The Hon'ble Supreme Court in Bimla Devi and Others vs. Himachal Road Transport Corporation and Others (2009) 13 SCC 530 has held:

"15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. For the said purpose, the High Court should have taken into consideration the respective stories set forth by both the parties."

11. The Hon'ble Supreme Court in Mangla Ram vs. Oriental Insurance Company Limited and Others (2018) 5 Supreme Court Cases 656 has laid down in paragraphs 27 & 28:

"27....This Court in a recent decision in Dulcina Fernandes, noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 5 of 23 the Tribunal.

28. Reliance placed upon the decisions in Minu B. Mehta and Meena Variyal, by the respondents, in our opinion, is of no avail. The dictum in these cases is on the matter in issue in the case concerned. Similarly, even the dictum in Surender Kumar Arora will be of no avail. In the present case, considering the entirety of the pleadings, evidence and circumstances on record and in particular the finding recorded by the Tribunal on the factum of negligence of Respondent 2, the driver of the offending jeep, the High Court committed manifest error in taking a contrary view which, in our opinion, is an error apparent on the face of record and manifestly wrong."

12. The Hon'ble High Court of Delhi in National Insurance Company Ltd. Versus Smt. Pushpa Rana & Ors. 2008 (101) DRJ 645 has held:

"12. The last contention of the appellant insurance company is that the respondents claimants should have proved negligence on the part of the driver and in this regard the counsel has placed reliance on the judgement of the Hon'ble Supreme Court in Oriental Insurance Co. Ltd. v. Meena Variyal; 2007 (5) SCALE

269. On perusal of the award of the Tribunal, it becomes clear that the wife of the deceased had produced (i) certified copy of the criminal record of criminal case in

FIR No. 955/2004, pertaining to involvement of the offending vehicle, (ii) criminal record showing completion of investigation of police and issue of charge sheet under Section 279/304A,IPC against the driver;

(iii) certified copy of FIR, wherein criminal case against the driver was lodged; and (iv) recovery memo and mechanical inspection report of offending vehicle and vehicle of the deceased. These documents are sufficient proofs to reach the conclusion that the driver was negligent. Proceedings under Motor Vehicles Act are not akin to proceedings in a civil suit and hence strict rules of evidence are not required to be followed in this regard. Hence, this contention of the counsel for the MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 6 of 23 appellant also falls face down. There is ample evidence on record to prove negligence on the part of the driver."

13. It is clear from the above discussed authoritative pronouncements that in a claim petition under MV Act, strict proof of an accident caused by particular vehicle in a particular manner may not be possible to be done by the petitioner. The petitioner is merely to establish her case on the touchstone of preponderance of probability. Filing of charge sheet against the driver prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even if the driver were to be acquitted in the criminal case, the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal. The Tribunal must take a holistic view of the matter.

14. In the present case, the accident took place on 05.01.2020 and the FIR was lodged on 16.01.2020, therefore, there was delay of 11 days in lodging of the FIR.

A similar question regarding the effect of delay in lodging the FIR of the accident in a motor accident claim petition arose for the consideration of the Hon'ble Supreme Court in Ravi vs. Badrinarayan & Ors.(2011) 4 SCC 693 where the FIR was lodged almost after three months from the date of the accident. The Hon'ble Supreme Court observed:

"4. The question which arises for our consideration in this appeal is: as to whether delay in lodging the FIR of the accident could prove fatal so as to result into dismissal of the claim petition filed by the claimant?"

The Hon'ble Supreme Court held:

"17. It is well settled that delay in lodging the FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 7 of 23 man to first rush to the police station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically

with promptitude in lodging the FIR with the police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim,

18. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so the contents of the FIR should also be scrutinised more carefully. If the court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences.

19. Lodging of FIR certainly proves the factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be a variety of reasons in genuine cases for delayed lodgement of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquillity of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons."

In view of the above authoritative pronouncement, it is clear that the claim petition cannot be dismissed merely on ground of delay in lodging of the FIR and the authenticity of the FIR assumes much more significance than delay in lodging thereof.

15. In the present case, on completion of investigation, the police filed the charge sheet against the respondent no. 1 under sections 279/337/338 MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 8 of 23 IPC showing the involvement of offending vehicle bearing registration no. DL 8SCB 2217 owned by him. The arrest memo dated 21.01.2020 shows that the respondent no. 1 was arrested in the criminal case related to the accident.

The testimony of the petitioner regarding the accident is consistent and has withstood the test of cross examination.

The respondent no. 1, in his reply to the notice dated 20.01.2020 under section 133, MV Act issued to him, admitted that he was driving the offending vehicle on the day of the accident.

Though the respondent no. 1 has denied negligence on his part in the written statement, but he has not led any evidence.

The respondent no. 2 has filed a legal offer and not led any evidence.

The mechanical inspection report of the offending vehicle shows that it suffered damage.

The medical evidence on record further provides credence to the DAR. The MLC no. 624 dated 05.01.2020 of the petitioner conducted at Aakash Healthcare Super Speciality Hospital (Aakash Hospital), New Delhi shows that the petitioner suffered injuries in the said accident.

16. The respondent no. 2, in its legal offer, has taken the plea of contributory negligence on part of the petitioner on the basis of statement u/s 161 CrPC of an eyewitness. Besides the petitioner, there is only one eye witness namely, Sh. Balender S/o Sh. Netrpal named in the charge-sheet. Perusal of statement u/s 161 CrPC of said Sh. Balender reveals nothing showing contributory negligence on the part of the petitioner. Moreover, the respondent no. 2 has failed to produce the said eyewitness in evidence MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 9 of 23 despite having ample opportunity. Therefore, the plea of contributory negligence is devoid of merit and stands rejected.

17. In view of the above discussion and taking a holistic view, it stands proved on the touchstone of preponderance of probabilities that the accident in question was caused due to rash and negligent driving by respondent no.1 of the motor vehicle bearing registration no. DL 8SCB 2217 owned by him thereby causing grievous injuries to the petitioner Ms. Urmila.

Issue no. 1 is therefore decided in favour of the petitioner and against the respondents.

Issue No. 2:

Whether the petitioner is entitled to claim compensation, if so, what amount and from whom? OPP.

18. Onus to prove this issue was on the petitioner.

In view of finding on issue number 1, the petitioner is held entitled to compensation for the grievous injury suffered by her in the said road accident.

19. The main controversy in between the petitioner and respondent no. 2 is regarding the quantum of compensation.

The ld. counsel for the petitioner submitted that the petitioner is entitled to compensation as per claims made by her in her evidence by way of affidavit.

Per contra, the ld. counsel for the respondent no. 2 submitted that the insurance company has made a fair offer to the petitioner and the petitioner is not entitled to even a rupee more.

20. The Hon'ble Supreme Court in Raj Kumar vs. Ajay Kumar & MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 10 of 23 Anr. (2011) 1 SCC 343 has laid down the general principles relating to compensation in injury cases and held:

"6. The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii) (a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life."

Pecuniary damages (Special damages) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure

21. The petitioner, in her evidence by way of affidavit, has claimed that she spent Rs. 25,000/- on her treatment. However, the medical bills related to the treatment of the petitioner placed on record by her amount to Rs. 2,691/- Therefore, the petitioner is awarded Rs. 2691/- towards medicines & treatment.

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22. The petitioner, in her evidence by way of affidavit, has claimed that she spent Rs. 10,000/- on conveyance and Rs. 25,000/- on special diet, However, the petitioner has not produced any bills regarding the same. The respondent no. 2 has offered Rs. 10,000/- each towards special diet and

conveyance.

The petitioner has suffered grievous injury and therefore petitioner must have incurred expenses on conveyance and special diet.

Keeping in view the same, this Tribunal is of the view that the petitioner is entitled to Rs. 10,000/- towards special diet and Rs. 10,000/- towards conveyance.

Loss of earnings (and other gains) which the injured would have made had she not been injured

23. The petitioner, in her evidence by way of affidavit, has claimed that she was working in Beauty Parlor as a massage attendant and earning Rs. 25,000/- per month. However, no documentary proof regarding her education, income and employment has been furnished by the petitioner. She has also not examined her employer or any other person in support of her claims regarding her income and employment.

24. Considering that the petitioner is a resident of Delhi and has failed to prove her income, the same is to be assessed as per Minimum Wages Act, 1948, as applicable to Delhi. As per the said Act, the minimum wages payable in Delhi on 05.01.2020 (the date of accident) was Rs. 14,842/- per month. The same is taken to be the income of the petitioner (A).

25. The petitioner, in her evidence by way of affidavit, has claimed that MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 12 of 23 due to the injuries suffered by her in the accident she could not work for 8 months. The accident took place on 05.01.2020 and the last medical bill produced by the petitioner is dated 08.01.2020.

Keeping in view the last medical bill and the injuries suffered by the petitioner, it must have taken around one month for the petitioner to fully recover. The petitioner is therefore entitled to Rs. 14,842/- towards loss of earning during the period of treatment.

Future Medical Expenses

26. The petitioner, in her evidence by way of affidavit, has claimed that in the accident her upper and lower jaw were fractured and two of her teeth were broken. The petitioner has produced Estimated Bill (Ex. PW 1/5) dated 06.09.2021 from Dr. Kanika Kapoor of Kaushalya Devi Dental Hospital showing estimated cost of Rs. 1,85,000/- for dental implants for five teeth.

However, as per the MLC, the petitioner suffered loss of only one tooth. There is no medical document on record showing that the petitioner suffered any fracture in her jaw. The petitioner did not examine either Dr. Kanika Kapoor or any other dentist. It is not explained in the said Estimated Bill as to why five dental implants are required. The said Estimated Bill is dated 06.09.2021, that is, more than 20 months after the accident. The possibility that during this period of 20 months the petitioner might have suffered from some other dental ailment unrelated to the said accident, cannot be ruled out.

Since the petitioner suffered loss of one tooth in the accident, she is entitled to compensation for dental implant for one tooth. As per the said MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 13 of 23 Estimated Bill, the cost of dental implant per tooth comes to Rs. 37,000/□

In the circumstances, the petitioner is entitled to Rs. 37,000/□as Future Medical Expenses on account of dental implant for one tooth.

Non-pecuniary damages (General damages) Damages for pain, suffering and trauma as a consequence of the injuries

27. The following factors that are to be taken into account for assessing compensation under the head pain and suffering:

- i. Nature of injury ii. Parts of body where injuries occurred iii. Surgeries, if any iv. Confinement in hospital v. Duration of the treatment As per the MLC dated 05.01.2020 of Aakash Hospital, the petitioner suffered grievous injury. There is nothing on record showing that the petitioner was confined to the hospital. The respondent no. 2 has offered Rs. 25,000/□to the petitioner under the head pain and suffering.

This Tribunal is of the view that the amount being offered under this head is fair and the petitioner is entitled to Rs. 25,000/□under the head pain and suffering.

Other heads claimed by the petitioner The petitioner has made exaggerated claims of Rs. 7,33,400/□in her written submissions filed on 26.09.2024. These claims are not supported by any evidence, oral or documentary. In the absence of any evidence on MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 14 of 23 record, no case is made out for grant of compensation to the petitioner under any other head.

28. The compensation payable under various heads is summarized below:

Serial No.	Heads	Amount
	Pecuniary damages (Special damages)	
1.	Medicines & Treatment	Rs. 2,691/-
2.	Special Diet	Rs. 10,000/-
3.	Conveyance	Rs. 10,000/-

4. Loss of Earning during the period of Rs. 14,842/□treatment

5. Future Medical Expenses Rs. 37,000/□Non-pecuniary damages (General damages)

6. Pain & Suffering Rs. 25,000/□Total Rs. 99,533/□(rounded off to Rs.

1,00,000/□ Liability

29. The respondent no. 1 being the principal tortfeasor, is primarily liable to make payment of compensation awarded to the petitioner. However, since the offending vehicle bearing registration no. DL 8SCB 2217 was insured by respondent no. 2 against third party risks, therefore, the respondent no. 2 is liable to pay compensation to the petitioner.

The respondent no. 2 has not placed anything on record showing any right to recover against the respondent no. 1. Therefore, the respondent no. 2, The Oriental Insurance Company Ltd., shall pay the award amount with interest to the petitioner without any right to recover the same from the MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 15 of 23 respondent no. 1/ driver cum owner Mohammad Nazam/ insured.

Issue no. 2 is decided accordingly.

Issue No. 3: Relief

30. In view of findings on issue number 2, the petitioner is held entitled to a sum of Rs. 1,00,000/- (Rupees One Lakh Only) along with simple interest @ 7.5% per annum from the date of filing of claim petition that is, 26.04.2022 till the date of compliance that is, 29.12.2024. Thereafter, simple interest @ 12% per annum for delayed payment, if any. The amount of interim award and interest for the suspended period, if any, during the course of this inquiry, shall be excluded from the award amount. Release

31. As per the provisions of section 168(3) of MV Act, the award amount along with interest shall be deposited/transferred by respondent no. 2/The Oriental Insurance Company Ltd. in bank account of this Tribunal (Bank Account No. 42709452600 at State Bank of India, District Court Complex, Sector 10, Dwarka New Delhi, IFSC Code SBIN0011566 and MICR Code 110002483) by RTGS/NEFT/IMPS within 30 days of award under intimation to the Nazir of this Tribunal and with notice of deposit to the petitioner and her counsel.

32. The statement of the petitioner regarding her financial status, needs and liabilities was recorded.

The petitioner also provided the details of her Savings Bank Account MACT Claims (hereafter 'MACT account') and the same is as follows:

Name	Bank Details
Urmila	A/c Type: Savings Bank Account MACT Claims
MACT No. 377/2022	Urmila Vs. Mohammad Nazam & Anr. Page No. 16 of 23

A/c No. : 42685961417at State Bank of India, Branch District Court Complex, Dwarka, New Delhi, IFSC Code SBIN0011566

33. The Hon'ble High Court of Delhi in Rajesh Tyagi & Ors. Vs. Jaibir Singh & Ors. FAO No. 842/2003 has formulated the Motor Accident Claims Annuity Deposit (MACAD) scheme vide its

order dated 01.05.2018 and implemented the same vide its subsequent orders dated 07.12.2018 and 08.01.2021. As per this scheme, the compensation is to be released to the petitioner in a phased manner.

34. The Hon'ble Supreme Court vide its order dated 16.07.2024 in Bajaj Allianz General Insurance Company Private Ltd. Vs. Union Of India & Ors. Writ Petition (Civil) no. 534/2020 has held:

"9. To clarify the aforesaid position, it is for the Tribunal in a given case to make a decision as to whether the entire amount has to be released or if it is to be released in part. Suffice it is to state that the Tribunal is expected to give its own reasoning while undertaking such an exercise."

35. Keeping in view the quantum of the award, expenses incurred by the petitioner on medicines, special diet and conveyance, loss of earnings during the period of treatment, fifty percent (50%) of the award amount be immediately released to the petitioner.

The remaining 50% of the award amount of the petitioner be kept in the form of one FDR for a period of one year in terms of the aforesaid MACAD scheme.

The Manager, State Bank of India, District Court Complex, Sector 10, MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 17 of 23 Dwarka New Delhi is directed to comply accordingly.

The said Manager is further directed that:

a) The Bank shall not permit any joint name(s) to be added in the MACT account or fixed deposit account of the petitioner.

(b) The original fixed deposit shall be retained by the bank in safe custody.

However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by bank to the petitioner.

(c) No loan, advance, withdrawal or premature discharge be allowed on the FDR without permission of this Tribunal.

(d) The concerned bank shall not issue any cheque book and/or debit card to the petitioner for her MACT account. However, in case the debit card and/or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount.

36. The Form XVI of the Modified Claims Tribunal Agreed Procedure, as per the directions given by the Hon'ble High Court of Delhi in Rajesh Tyagi (supra) on 08.01.2021 is as under:

**FORM □ XVI SUMMARY OF THE COMPUTATION OF AWARD AMOUNT IN
INJURY CASES TO BE INCORPORATED IN THE AWARD**

1. Date of accident: 05.01.2020
2. Name of injured: Urmila
3. Age of the injured: 51 years
4. Occupation of the injured: Massage Attendant (claimed)
5. Income of the injured: Rs. 25,000/□ per month (claimed)
6. Nature of injury: Grievous injury MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 18 of 23
7. Medical treatment taken by the injured: Aakash Healthcare Super Speciality Hospital, Plot No. 201, Sector 3, Dwarka, New Delhi □ 10075.
8. Period of hospitalization: No
9. Whether any permanent disability? No
10. Computation of Compensation S.No. Heads Awarded by the Tribunal
11. Pecuniary Loss
 - (i) Expenditure on treatment Rs. 2,691/□
 - (ii) Expenditure on conveyance Rs. 10,000/□
 - (iii) Expenditure on special diet Rs. 10,000/□
 - (iv) Cost of nursing/attendant Nil.
 - (v) Cost of artificial limb Nil.
 - (vi) Loss of earning capacity Nil.
 - (vii) Loss of income Rs. 14,842/-
 - (viii) Any other loss which may require any Nil special treatment or aid to the injured for the rest of her life
 - (ix) Future Medical Expenses Rs. 37,000/□
12. Non-Pecuniary Loss:

(i) Compensation for mental and physical Nil.

	shock	
(iii)	Pain and suffering	Rs. 25,000/-
(iii)	Loss of amenities of life	Nil.
(iv)	Disfiguration	Nil.
(v)	Loss of marriage prospects	Nil.
(vi)	Loss of earning, inconvenience, As above.	

hardships, disappointment, frustration, mental stress, dejection and unhappiness in future life etc.

13. Disability resulting in loss of earning capacity MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr. Page No. 19 of 23

(i) Percentage of disability assessed and Not Applicable nature of disability as permanent or temporary

(ii) Loss of amenities or loss of expectation Not Applicable of life span on account of disability

(iii) Percentage of loss of earning capacity Not Applicable in relation of disability

(iv) Loss of future income (Income x % Not Applicable Earning Capacity x Multiplier)

14. TOTAL COMPENSATION Rs. 1,00,000/

15. INTEREST AWARDED Simple interest @ 7.5% per annum from the date of institution of the petition (26.04.2022) till the date of compliance (29.12.2024) Thereafter, simple interest @ 12% per annum.

16. Interest amount up to the date of award Rs. 19,438/

17. Total amount including interest up to Rs. 1,19,438/ the date of award

18. Award amount released 50%

19. Award amount kept in FDRs 50%

20. Mode of disbursement of the award Account Transfer amount to the claimant(s)

21. Next date for compliance of the award 29.12.2024.

37. The Form XVII of the Modified Claims Tribunal Agreed Procedure, as per the directions given by the Hon'ble High Court of Delhi in Rajesh Tyagi (*supra*) on 08.01.2021 is as under:

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**FORM XVII COMPLIANCE OF THE PROVISIONS OF THE SCHEME TO BE
MENTIONED IN THE AWARD**

1. Date of the accident 05.01.2020
 2. Date of filing of Form I□First Not Known Accident Report (FAR)
 3. Date of delivery of Form □I to the Not Known victim(s)
 4. Date of receipt of Form □II from Not Known the Driver
 5. Date of receipt of Form □V from Not Known the owner
 6. Date of filing of the Form □Not Known V□Interim Accident Report (IAR)
 7. Date of receipt of Form □VIA and Not Known Form VIB from the Victim (s)
 8. Date of filing of Form □VII□26.04.2022 Detailed Accident Report (DAR)
 9. Whether there was any delay or Yes.

deficiency on the part of DAR was filed on 26.04.2022 the Investigating Officer? If so, whether any action/direction while the accident occurred on warranted? 05.01.2020.

No action warranted as explanation of concerned police officer(s) was sought by my ld. predecessor vide orders dated 08.04.2022 & 04.05.2022 in MISC DJ ADJ No. 369/21 titled Urmila vs. Nizam.

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10. Date of appointment of the 09.05.2022
Designated Officer by the
Insurance Company.

11. Whether the Designated Officer of Legal Offer filed on 06.06.2022.

the Insurance Company submitted his report within 30 days of the DAR?

12. Whether there was any delay or Not Known deficiencies on the part of the Designated Officer of the Insurance Company? If so, whether any action/direction warranted?

13. Date of response of the claimants(s) Not Known of the offer of the Insurance Company.

14. Date of the award 29.11.2024

15. Whether the claimants(s) was/were Yes directed to open savings bank account(s) near their place of residence?

16. Date of order by which 04.05.2022 claimants(s) was/were directed to open savings bank account(s) near her place of residence and produce PAN Card and Adhaar Card and the direction to the bank not issue any cheque book/debit card to the claimants(s) and make an endorsement to this effect on the passbook(s).

17. Date on which the claimant(s) 14.02.2024 produced the passbook of their savings bank account near the place of their residence along with the endorsement, PAN Card and Adhaar Card?

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18. Permanent Residential Address of K 151, Gali No. 8 the claimant(s) Raja Puri, Uttam Nagar, West Delhi, Delhi □10059.

19. Whether the claimant(s) savings Yes bank account(s) is near her place of residence?

20. Whether the claimant(s) was/were Yes examined at the time of passing of the award to ascertain her/their financial condition?

38. Dasti copy of Award be given to the parties free of cost.

39. Attested copy of Award be sent to the following banks for information/ compliance to the Manager, SBI, District Courts Complex, Sector □10, Dwarka, New Delhi.

40. Copy of Award be also sent to the concerned Id. Judicial Magistrate and Delhi State Legal Services Authority.

41. Nazir is directed to maintain the record in Form XVIII as per the directions given by the Hon'ble High Court of Delhi vide its order dated 08.01.2021 in Rajesh Tyagi (supra).

42. Ahlmad is directed to prepare a separate miscellaneous file to be listed on 10.02.2025 for compliance report.

43. File be consigned to the record room after compliance of necessary formalities. SUDEEP by SUDEEP RAJ SAINI RAJ Date:

SAINI 2024.11.29 15:04:23 +0530 ANNOUNCED IN THE OPEN (SUDEEP RAJ SAINI) COURT ON 29.11.2024 PO█MACT█02, SOUTH█WEST DISTRICT DWARKA COURTS, NEW DELHI MACT No. 377/2022 Urmila Vs. Mohammad Nazam & Anr.

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