2025 INSC 1076

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal Nos.12098-12099 of 2024

Anoop Maheshwari

...Appellant

Versus

Oriental Insurance Company Ltd. & Ors.

...Respondents

J U D G E M E N T

K. VINOD CHANDRAN, J.

The appeals are by the claimant/injured in a motor accident, seeking enhancement of the award. The accident occurred on 09.04.2007 when the motorbike, driven by the claimant with a pillion rider, was hit by a truck which was driven rashly and negligently. The Tribunal found the accident to be proven and the negligence to be of the truck driver. The drivers of both the vehicles were having valid licences, and the truck was covered by a valid insurance policy. These findings have attained finality since the insurance company acceded to the dismissal of their appeal before the High Court.

2. On the quantum, the Tribunal found the disability suffered by the claimant to be 45% as against the claim of 90%, sought to be established through production of a disability certificate issued by the Medical Board, produced herein as Annexure 2. The Tribunal looked at the Employees' Compensation Act, 1923 and the schedule therein to find the amputation at hip having been assessed at 90 % for loss of earning capacity; which the Tribunal found to be for the amputation of both legs. It was hence, 45% was adopted by the Tribunal as the disability of the claimant who lost one leg. The High Court deciding the appeal filed by the insurance company and the claimant having rejected the claim of composite negligence made a nominal enhancement of the disability as 50%.

3. On the income of the petitioner/claimant, who had just completed his graduation, the Tribunal disbelieved the income tax returns filed for the years 2005-2006, 2006-2007 and 2007-2008. The Tribunal found that since the parents of the claimant were running a big business, that run in the name of the claimant was only a ruse to save income tax. The Tribunal hence adopted the income as Rs.4,500/- per month and applied the

multiplier of 17 and determined the loss of income due to disability at 45%, totalling Rs.4,13,100/-. As far as the medical expenses, the Tribunal awarded Rs.3,39,926/- out of the total claim of Rs.12,54,985/- for which vouchers were produced. For the purpose of artificial limb, an amount of Rs.4,70,805/- was found payable. Together with Rs.1 lakh for attendant expenses, the total award of the Tribunal came to Rs.13,23,831/-.

4. The High Court in the quantum appeal, enhanced the monthly income to Rs.8,000/- finding that the reasoning of the Tribunal to reject the income tax returns bordered on mere surmises and conjectures and 40% was added for future loss of income, applying the multiplier of 18, as against the multiplier of 17 applied by the Tribunal. Insofar as the medical expenses are concerned, the Tribunal increased the quantum to Rs.8 lakhs. The Tribunal awarded a further sum of Rs.1 lakh for pain and shock and an amount of Rs.2 lakhs as loss of amenities, awarding a total amount of Rs.23,09,600/-.

5. Mr. G.V. Rao, learned Senior Counsel, appearing for the claimant submitted that even going by the Employees' Compensation Act, the amputation of leg at the hip brings in

90% disability which is evidenced further by the disability certificate issued by the Medical Board. There was no reason for the Tribunal or the High Court to go behind the medical certificate issued by experts and reduce the disability to 45% and 50%. It is further submitted that there were no amounts granted for future medical expenses, especially since the petitioner/claimant has been fitted with a prosthetic leg which needs to be changed periodically. The learned Senior Counsel also vigorously challenged the reduction of annual income from that revealed in the income tax returns. Decisions were placed to submit that income tax returns when produced has to be accepted and, in any event, the High Court having found the reasoning of the Tribunal to reject the income tax returns as based on mere surmises and conjectures, failed to accept the returns as such. The High Court merely adopted the income of Rs.8,000/- per month without any basis and the reduction was not reasoned. The learned Senior Counsel would also specifically refer to various documents produced, invoices and receipts for change of the prosthetic leg and its accessories as produced along with the application for early hearing.

6. The learned Counsel appearing for the insurance company sought to uphold the award of the High Court and strenuously resisted any enhancement. It was pointed out that the income tax returns showed cooked up income, especially when the claimant was an undergraduate at the time of the accident. The High Court had doubled the income and awarded future prospects, which cannot be in cases of disability, wherein loss of income on the basis of disability is reckoned.

7. Insofar as the disability is concerned, we have no doubt that the medical board's certificate can be accepted, even without a witness being examined. The disability certificate also indicates that the amputation suffered by the petitioner is of hemipelvectomy; which is the amputation of one leg and a portion of the pelvic bone on the same side. The disability to be assessed for the purpose of awarding compensation arising from a motor accident is the functional disability which reduces the earning capacity of the claimant and not strictly the medical disability. In the present case, admittedly the claimant was running a business, and the claimant has already been fitted with a prosthetic limb to ensure his mobility. In the above

circumstances, the order of the High Court holding the disability to be 50% for the purpose of computing loss of income as relatable to the loss of earning capacity is correct and within the parameters to be considered for assessing the loss of income arising from a motor accident which led to disability of the victim. The disability assessed at 50% is the functional disability and it is quite reasonable.

8. As far as the income is concerned, we agree with the High Court that the Tribunal had entered into mere surmises and conjectures to decline adoption of the income as per the income tax returns. In this context, we have to notice that the registration of the firm of the claimant took place on 06.03.2006 and the income tax returns produced are also for the assessment years 2005-2006 and 2006-2007 relatable to the financial years 2004-2005 and 2005-2006 which are prior to the accident which occurred on 09.04.2007. It cannot be said that the claimant apprehended an accident and got registration of a firm and filed his income tax returns two years prior to the accident. Further, the claimant had also produced sales tax returns which was also rejected by the Tribunal on the ground

that there was no taxable profits in the said year. Insofar as the levy of sales tax is concerned, the levy is on the sales and not on the profits. The finding of the Tribunal also is that in the first year, there was no tax payable and hence there was no profits or income. The exemption from tax is only because the purchase and sales did not exceed the taxable value. The sale proceeds being not within the taxable limit is not an indication of the profit accrued, or the income received from the business which is reflected in the income tax returns. On the above reasoning, we have to accept the income tax returns for the financial year 2007-2008 in which the total gross income is seen as Rs.1,96,000/- out of which the tax of Rs.4,641/- has to be deducted. The income, hence, has to be assessed at Rs.1,91,000/-. In assessing the loss of income, the multiplier of 18 is perfectly in order and the disability is 50% as determined by the High Court.

9. However, since just compensation is granted, we do not find any reason to award compensation for loss of future prospectus. It is clear that the claimant though has suffered a disability, which has been determined to be 50%, there is no

difficulty in continuing with the business and the claimant has also been fitted with a prosthetic leg which ensures his mobility and continuance of the business. The 40% enhancement in the annual income for taking into account the future prospects is found to be improper, especially in the context of 50% disability having been reckoned for the purpose of loss of earning capacity and the claimant enabled to continue his business.

10. Insofar as the medical expenses are concerned, invoices were produced for Rs.12,54,985/-. The Tribunal awarded only an amount of Rs.3,39,926/-, which was held to be valid on verification by the insurance company. It is not clear as to whether in such verification the claimant was participated or heard. There is nothing produced on record also to indicate such verification having been conducted validly on the orders of the Tribunal. The High Court also merely enhanced the claim for medical expenses to Rs.8 lakhs without any reasoning. In the above facts and circumstances, we are of the opinion that the entire medical expenses claimed for which invoices were produced, totalling Rs.12,54,985/- has to be paid to the

claimant. The High Court has awarded an amount of Rs.1 lakh for pain, shock and suffering and an amount of Rs.2 lakhs for loss of amenities which we sustain.

11. In this context, we notice that Rs.1 lakh awarded by the Tribunal for the attendant expenses has not been reckoned by the High Court. Likewise, the Tribunal had granted an amount of Rs.4,70,805/- for the purchase of prosthetic leg based on the vouchers produced which was also not reckoned by the High Court. Both these amounts are restored and awarded to the claimant.

12. The learned Senior Counsel had specifically referred to various vouchers produced and receipts, most of which are dated prior to the order of the High Court, which should have been produced before the High Court for advancing the claim. The photocopies of the receipts produced are also not authenticated and we are unable to place any reliance on the same. However, it is a fact that the claimant would require servicing and replacement of the accessories of the prosthetic limb periodically. We were not shown any evidence led regarding the frequency of change or the servicing of the

prosthetic limb nor was there any evidence regarding the quantum of expenditure. Considering that the Tribunal had initially, on the basis of two vouchers, awarded an amount of Rs.4,70,805/-, for purchase and fitment of prosthetic leg, we are of the opinion that an amount of Rs.10 lakh would suffice to account for the future expenses for continued use of the prosthetic limb and the medical expenses arising. The total compensation, hence, is enhanced and awarded as below.

Sr. No.	Head	Amount
1.	Loss of income Rs.1,91,000 x 18 x 50%	Rs. 17,19,000
2.	Medical expenses	Rs. 12,54,985
3.	Pain and suffering	Rs. 1,00,000
4.	Loss of amenities	Rs. 2,00,000
5.	Attendant expenses	Rs. 1,00,000
6.	Expenses for artificial limb as awarded by the Tribunal	Rs. 4,70,805
7.	Future medical expenses and servicing of the prosthetic limb/purchase of accessories of the artificial limb	Rs. 10,00,000
	Total amount	**Rs. 48,44,790/-**

13. The said amount shall be paid by the insurance company, with interest at the rate of 6% per annum, commencing from the date of application, after deducting the amounts already paid,

within a period of three months from the date of this judgment. The claimant shall be entitled to provide the details of his account to which the insurance company shall transfer online the balance compensation with interest as directed, within the stipulated time.

14. The appeals are allowed as above.

15. Pending applications, if any, shall stand disposed of.

..... J.
(K. VINOD CHANDRAN)

..... J.
(N. V. ANJARIA)

New Delhi;
September 04, 2025.