



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PAVAN KUMAR DWIVEDI

ON THE 14th OF JULY, 2025

MISC. APPEAL No. 4896 of 2018

RAJESH CHOUHAN

Versus

ORIENTAL INSURANCE COMPANY LTD. AND OTHERS

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Appearance:

Shri Abhishek Gilke, learned counsel for the appellant.

Shri Akshansh Mehra, learned counsel for the respondent No.1.
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ORDER

The appellant has filed this appeal under Section 173 of Motor Vehicles Act being aggrieved by the award dated 21.8.2018 passed in Claim Case No.45/2017 challenging the award on the ground of non-grant of compensation for sustaining permanent disability.

2. The relevant facts of the case are that on 17.12.2014 appellant was going by his motorcycle for doing labour work at Indore Brick Clin. When he reached at the turn of village Aalri at about 7.00 PM respondent No.2 came from the front side towards Dewas driving vehicle Tata Chasis No.999999 having temporary registration No.MP-7-TC-0127-0133 in very rash and negligent manner and dashed into the motorcycle of the appellant, because of which appellant sustained grievous injuries.

2.1 The appellant filed claim petition under Section 166 of Motor Vehicles Act claiming compensation for the injuries sustained in the



aforesaid accident. The claims Tribunal after considering the evidence available on record awarded an amount of Rs.2,08,735/- to the appellant. However, the Tribunal concluded in para 16 and 17 of the award that the appellant has not sustained any permanent disability.

3. Learned counsel for the appellant submits that permanent disability certificate Ex.P/33 was duly produced by the appellant in the evidence before the claims Tribunal. The same was proved by Dr. N.K.Gupta (AW-2), who was working as Medical Officer in the District Hospital, Shajapur. He certified that the appellant sustained 45% permanent disability. He certified his signatures on the Ex.P/33 disability certificate.. However, the claims Tribunal after considering the statement of the said witness has concluded that it is not proved that the appellant has suffered any permanent disability. Learned counsel argues that subsequent to passing of the award the appellant subjected himself before the Medical Board of District Shajapur, which on 10.9.2024 has issued a certificate of permanent disability to the appellant, thereby certifying that he has suffered 39% permanent disability. He further points out that Department of Empowerment of Person with Disabilities, Ministry of Social Justice and Empowerment, Government of India has also issued Disability Certificate to the appellant on 12.9.2024 based on the certificate issued by the District Medical Board, Shajapur certifying his permanent disability at 39%. Thus, he submits that the findings of the claims Tribunal were perverse to the evidence available on record, which is Ex.P/33 and statement of AW-2, which has been fortified by the appellant that subsequent permanent disability certificate has been issued by the District



Medical Board and the Department. He, thus prays for award of compensation for sustaining permanent disability.

3.1 In support of his submissions learned counsel for the appellant places reliance on the judgment of the Hon'ble Apex Court in the case of *Prakash Chand Sharma Vs. Rambabu Saini and another*, reported in 2025 ACJ 395.

4. *Per contra*, learned counsel for the respondent No.1/Insurance Company submits that the claims Tribunal has considered the statement of Doctor, who was not able to establish that the appellant has sustained permanent disability. He further points out that the certificates submitted by the appellant alongwith his application under Order 41 Rule 27 of CPC provides that he has suffered 39% permanent disability in relation to his left leg. As such, this cannot be considered as overall permanent disability with respect to his whole body. He, thus prays for dismissal of the appeal.

5. Heard learned counsel for the parties; perused the record.

6. From the record it can be seen that although Ex.P/33 was available on record certifying permanent disability of the appellant at 45%. However, the claims Tribunal did not believe the same by referring to the statement of Doctor, whereas the Doctor has clearly stated that the appellant suffered permanent disability. In this view of the matter the findings of the claims Tribunal with respect to the permanent disability suffered by the appellant appears to be perverse particularly when the District Medical Board has certified permanent disability of the appellant as on 12.9.2024 at 39%. Hence, this Court is of the considered view that the appellant is entitled for



compensation for sustaining permanent disability. However, in view of the fact that 39% permanent disability is only with respect to one lower limb, which cannot be treated as whole with respect to earning capacity of the appellant. In the facts and circumstances of the present case the disability of the appellant is taken at 20% with respect to whole body.

7. As per the prevalent rate of minimum wages income of the appellant is taken at Rs.5,939/- per month and looking to his age at 28 years the multiplier of 17 is to be applied; the total compensation for loss of dependency would come to Rs.3,39,211/-. Thus, the total compensation would come to Rs.6,09,482/- and after deducting the already awarded amount of Rs.2,08,735/-, the appellant is now entitled for enhancement of Rs.4,00,747/- over and above the amount already awarded by the claims Tribunal. The enhanced amount shall carry interest @ 6% per annum from the date of filing claim application till its payment.

8. With the aforesaid, the present misc.appeal stands allowed and disposed off.

(PAVAN KUMAR DWIVEDI)
JUDGE

patil