



NEUTRAL CITATION NO. 2025:MPHC-JBP:53204

IN THE HIGH COURT OF MADHYA PRADESH

AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 16th OF OCTOBER, 2025

MISC. APPEAL NO. 3714 OF 2013

BAJARILAL @ HAJARILAL SHRIVAS

Versus

SHANKARLAL YADAV AND OTHERS

Appearance:

Shri Sanjay Saini, Advocate for appellant.

Smt. Amrit Ruprah, Advocate for respondent No.3.

ORDER

1. This miscellaneous appeal under Section 173(1) of the Motor Vehicles Act, 1988, has been filed against the award dated 08.10.2013, passed by the Additional Motor Accident Claims Tribunal, Mandla in Case No.308/2011.

2. Since the occurrence of the accident on 29.08.2011 and the involvement of the offending vehicle are not in dispute, the detailed facts of the case are not being reproduced herein.

3. Learned counsel for the appellant submits that the Tribunal has erred in holding in para 13 of the impugned that due to amputation of 4th and

5th fingers of right leg of the injured, he was engaged in the business as a barber, caused grievous injuries of 5% only disablement, is contrary to evidence available on record and without recording any observation at the time of evidence of appellant and without compliance of Rule 236 (1) of M.P. Vehicle Rules, 1994. It is further submitted that Claims Tribunal has erred to disbelieve upon Ex.P/16 disablement certificate public document issued U/R 220 (3) (i) of M.P. Motor Vehicle Rules, 1994, after observing recent X-ray of appellant which proved by evidence of PW-2 Dr. R.K. Shrivastava, Orthopedics Specialist of Govt. District Hospital that the appellant suffers from permanent disablement to the extent of 22% supported by other medical evidences and charges sheet and said materials are unrebutted & unchallenged by the respondents. It is further submitted that the Tribunal erred in assessing income of appellant of Rs.3000/- monthly as an unskilled labour while it is established by pleadings & evidence of PW-1 Appellant & PW-2 Krishna that the appellant was engaged in hair cutting works and earned Rs.6000/- monthly who lost his capacity of his right leg & working due to injuries and amputation. In support of his contention, learned counsel for the appellant placed reliance on the judgments passed in cases of ***Singh Ram Vs. Nirmala and others (2018) 3 SCC 800***, ***Subulaxmi Vs. M.D. Tamil Nadu State Transport Corporation and another (2012) 4 ACC 438***, ***S. Perumal Vs. K. Ambika & Anr. (Civil Appeal No.2377 of 2015) dated 24.02.2015*** regarding guidelines for assessment of compensation for grievous hurt.

4. Per contra, learned counsel for the respondent has supported the award passed by the Claims Tribunal.

5. I have considered the rival submissions advanced by learned counsel for the parties and have carefully perused the record.

6. Statement of the witnesses PW-1 Banjarilal & PW-2 Krishna is not reliable regarding the income because the witness Banjarilal has admitted in cross examination that he is aged about 60 year and his eye sight is very weak. Three years prior to the incident he had left the haircutting work due to his eye sight. His treatment was performed at government hospital at free of cost. Therefore, learned tribunal has rightly assessed the monthly income of the injured at Rs.3000/- per month. He is the foster care of the house and other family members.

7. Learned counsel of the appellant has submitted that learned tribunal has not awarded the compensation under the head of loss of amenities. Learned counsel of the Insurance Company has submitted that tribunal has rightly assessed the compensation under the head of loss of amenity and pecuniary losses.

8. Learned tribunal has awarded Rs.16,200/- under the head of pecuniary losses and under the head of pain and suffering Rs.10000/-, under the head of special diet Rs. 3000.-, for the attendant Rs.3000/- and under the head of transportation Rs.3000/- and a total amount of Rs.36,200/- has been awarded. Learned tribunal has assessed the pecuniary losses 5% due to 22% permanent disability. I am of the considered opinion that the loss of income is rightly assessed because injured has admitted that he did not do the work due to his weak eye sight. Secondly, he argued that tribunal had not awarded any amount under the head of loss of amenity. The opponent counsel has submitted that an amount of Rs.16200/- has been given under the head of loss

of amenity or pecuniary loss, under both the heads amount cannot be awarded. Learned counsel has placed reliance on the aforesaid judgements of Hon'ble Supreme Court in which guidelines have been issued to assess the compensation for the grievous injuries.

9. It is evident from the record that the 4th and 5th fingers of the left leg were permanently cut from the left leg which is a grievous hurt therefore, it is a loss of amenity of the injured. Admittedly, at the time of accident, the appellant was a young man of 60 years. For the remaining life, he will suffer the trauma of not being able to do his normal work. Therefore, we feel that ends of justice will be met by awarding him an amount for trauma caused due to the amputation of 4th and 5th fingers of the left leg. In my opinion after the considering the guideline issued in the case of Raj Kumar Vs. Ajay Kumar and another reported in 2011(1) SCC 343, under the head loss of amenity 25000/- ought to be awarded.

10. PW-2 Dr. R.K. Shrivastava, Orthopedics Specialist of Govt. District Hospital has given an opinion that the appellant suffered from permanent disablement to the extent of 22% which is supported by other medical evidences and charges sheet and said materials are unrebutted & unchallenged by the respondents. However, it does not prove that the earning capacity of the injured is reduced 22 % because at the time of accident he was doing nothing due to his old age and weak eye sight. Therefore, the appellant is not entitled to compute his income as per guidelines of the Minimum Wages Act.

11. It is evident from the record that the injured was a non-earning person, so he had no loss in the monthly income during the treatment, therefore he is not entitled to get loss of income during the treatment.

12. Hon'ble Apex Court has issued following guideline to determine compensation for injury cases including permanent disablement in Raj Kumar (supra) that all injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity. The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only regarding the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety. The same permanent disability may result in different percentages of loss of earning capacity in different people, depending upon the nature of profession, occupation or job, age, education and other factors.

13. Upon consideration, this Court finds merit in the submissions made by learned counsel for the appellant. Accordingly, the award passed by the Tribunal deserves to be modified as below.

Head	Awarded by the Tribunal	Re-assessed by this Court
Monthly Income	Rs. 3,000/-	Rs.3000/-
Loss of income during the treatment	Nil	Nil
Loss of Income	Rs. 16,200/-	Rs.16200/-
Diet	Rs. 3,000/- +	Rs.3000/-
Transportation	Rs. 2,000/-	Rs.2000/-
Mental Agony (Pain and suffering)	Rs. 10,000/-	Rs.10000/-
Loss of amenity	Rs.25000/-	Rs.25000/-

Head	Awarded by the Tribunal	Re-assessed by this Court
Cost of medical bill	Rs.2000/-	Rs.2000/-
Attendant	Rs. 3,000/-	Rs.3000/-
Total Compensation	Rs. 36,200/-	Rs.61200/-

14. Therefore, I direct the opposite party to make the payment of Rs. 25000/- with its interest as directed by me within a period of two months from the date of receipt of certified copy of this order failing which the interest shall be payable at the rate of 6% per annum from the date of this order. In the result, the appeal is allowed accordingly with cost of the proceedings which is fixed at Rs. 2,500/-. A copy of this order be conveyed to the parties. Appeal stands allowed with costs.

(PRADEEP MITTAL)
JUDGE

MSP