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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 10.12.2025

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+ MAC.APP. 813/2014 & CM APPL. 14732/2014
ORIENTAL INSURANCE CO LTD Appellant
Through: Mr. Pradeep Gaur, Advocate.

versus

MANOJ JAIN & ORS Respondents
Through: Mr. Manish Maini, Ms. Anjali Singh
and Ms. Aastha Chauhan, Advocates
with R-1 in person.

+ MAC.APP. 240/2016
MANOJ JAIN Appellant
Through: Mr. Manish Maini, Ms. Anjali Singh
and Ms. Aastha Chauhan, Advocates
with Appellant in person.

versus

ORIENTAL INSURANCE CO LTD & ORS Respondents
Through: Mr. Pradeep Gaur, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

1. These two appeals - one by Oriental Insurance Company Limited [“the Insurance Company”], and the other by Mr. Manoj Jain, who was the claimant before the Motor Accident Claims Tribunal [“the Tribunal”] - are directed against an award dated 21.05.2024 passed by the Tribunal in Suit



No. 653/10/09. The proceedings before the Tribunal arose out of a road traffic accident on 20.12.2008, in which, the claimant was injured. By the said award, the Tribunal awarded a compensation of Rs. 69,03,713/-, alongwith interest at the rate of 9% per annum, in favour of the claimant.

A. FACTS

2. The facts relating to the accident, as they appear from the impugned award, are that the claimant, alongwith a pillion-rider, was riding a motorcycle [bearing registration No. DL-7SZ-0755]. On 20.12.2008, at about 9 PM, at a location near Gupta Market Bus Stand, Lajpat Nagar, the motorcycle was hit by a truck [bearing registration No. HR-38-R-7155] ["the offending vehicle"]. Both passengers on the motorcycle suffered grievous injuries. The claimant's right leg was crushed under the wheel of the offending vehicle.

3. The accident resulted in registration of an FIR bearing No. 28/2009, in Police Station Lajpat Nagar, against the driver of the offending vehicle, under Sections 279 and 338 of the Indian Penal Code, 1860. A chargesheet was also filed against him.

4. The claimant was initially treated for his injuries at Jai Prakash Narayan Apex Trauma Centre, AIIMS. Thereafter, he was under further treatment at Metro Hospital and Heart Institute, Noida, Vindhans Hospital, Delhi, and Apollo Hospital, Delhi, during the period spanning from 21.12.2008 to 02.07.2011. The claimant underwent multiple surgical procedures, including amputation of his right leg above the knee.

5. Two disability certificates were issued in the present case. The first certificate dated 09.12.2010 [Ex.PW-1/1], by Lal Bahadur Shastri Hospital, Delhi, showed that his physical impairment was assessed at 87% physical



disability relating to the right lower limb. This certificate described his condition as non-progressive, not likely to improve and did not recommend re-assessment. A second disability certificate was, however, issued by Pandit Madan Mohan Malaviya Hospital, Delhi, on 19.09.2011 [Ex. PW-2/A], in which his disability was assessed at 80% in the same limb. The condition was stated to be progressive, likely to improve, and re-assessment was recommended after six months.

6. The claimant filed compensation proceedings before the Tribunal, and a detailed accident report was also submitted by the police authorities. The driver and owner of the offending vehicle were impleaded as respondents before the Tribunal.

7. The compensation proceedings culminated in a finding of rash and negligent driving against the driver of the offending vehicle, resulting in the impugned award of Rs. 69,03,713/-, alongwith 9% interest per annum, in favour of the claimant, under the following heads:

S. No.	Head	Amount awarded by Tribunal
1.	Compensation for Medical expenses	Rs. 9,19,713/-
2.	Compensation for pain and suffering	Rs. 2,00,000/-
3.	Compensation for special diet and conveyance	Rs. 50,000/-
4.	Loss of future earning capacity/future income	Rs. 51,84,000/-
5.	Compensation for loss of amenities and enjoyment of life	Rs. 2,00,000/-



6.	Attendant Charges	Rs. 1,50,000/-
7.	Compensation for disfigurement	Rs. 1,00,000/-
8.	Loss of income during treatment	Rs. 1,00,000/-
Total		Rs. 69,03,713/-

8. Although the driver and owner of the offending vehicle are also parties to both these appeals, service upon them was dispensed with by order dated 08.09.2014 in MAC.APP. 813/2014.

B. SUBMISSIONS BY LEARNED COUNSEL FOR THE PARTIES

9. I have heard Mr. Pradeep Gaur, learned counsel for the Insurance Company, and Mr. Manish Maini, learned counsel for the claimant. Learned counsel on both sides contended that the Tribunal's computation of compensation is in error.

10. Mr. Gaur submitted that the Tribunal has awarded excess compensation, both for loss of income during the period of treatment, and loss of future income, by over-estimating the claimant's income at the time of the accident. As far as loss of future income is concerned, Mr. Gaur also contended that the Tribunal's computation of functional disability at 80% was, in the facts of this case, inappropriate and inconsistent with the judgment of the Supreme Court in *Raj Kumar v. Ajay Kumar & Anr*¹. He also argued that enhancement for future prospects was wrongly taken at 50%.

11. Mr. Maini, on the other hand, submitted that the Tribunal's final

¹ (2011) 1 SCC 343 [hereinafter, "Raj Kumar"].



award does not include compensation for expenses incurred for an artificial limb, although such compensation was granted by the Tribunal itself. In any event, he submits that the compensation so granted [Rs.2,82,349/-] was grossly inadequate, as it failed to account for the limited life span of a prosthetic limb.

12. Learned counsel on both sides also made submissions with regard to the appropriate non-pecuniary damages to be awarded in the present case.

13. Learned counsel also cited several judgments of the Supreme Court and this Court, which shall be adverted to at the relevant point in this judgment.

C. QUANTUM OF INCOME

14. The Tribunal computed loss of income upon assessment of the claimant's income at Rs. 20,000/- per month. This was based upon his income tax return for the assessment year 2008-09, showing gross annual income of Rs. 2,39,307/-.

15. Mr. Gaur's submission was that the income tax return could not have been relied upon at all, as it was not marked as an exhibit in the proceedings before the Tribunal. He contended that although the document was marked, it was not proved by any witness. In any event, the said document was only an acknowledgement of filing the tax return on 31.03.2009, and not an assessment order under any provision of the Income Tax Act, 1961.

16. Evidence with regard to the claimant's employment and income was provided only by the claimant himself, who deposed as PW-1. In his first affidavit of evidence dated 04.08.2011, he stated as follows:

“12. I say that the deponent was the registered contractor with the ministry of communication vide memorandum dated 18-10-05 the deponent was running the business of electrical contractor in the



*Depart. of Post. With the name and style of M/S Jain Electrical. The copy of the memorandum for issuing the license is marked as **mark P3**. The deponent was earning Rs. 3,50, 000/- (Rs. Three lacs fifty thousand only) per annum. The deponent was assets to income tax the copy of return for the assessment year 2008-09 is marked as **Mark P4**.*

13. I say that the deponent was running the flourishing business and was living a comfortable life which has been hampered permanently. The deponent is married and has the responsibilities of entire family which consists old aged mother namely MS. Kanta Jain and two minor children. The elder son Master Harshit Jain is studying in class 3rd and his two months fees is Rs 2256/- and the minor daughter Baby Ridhima Jain is studying in LKG and her fees for four three month is Rs. 7040/- all the documents of the family and deponent including the fee slips of children are collectively exhibited as PWK (colly).”

17. Even in the said affidavit of evidence, the aforesaid income tax return was marked as “*Mark P4*”, but not treated as an exhibit. This is also the position which emerges from his examination-in-chief. The claimant was cross-examined by learned counsel for the Insurance Company, in which he denied the suggestion that his assertion with regard to quantum of income and loss of income were incorrect. He also filed a second affidavit of evidence dated 05.05.2014, in which he reiterated the above contents. He was again cross-examined, in which he denied the suggestion that he had not filed any documentary proof with regard to his income.

18. The Tribunal has analysed this evidence as follows:

*“21. **Loss of income during treatment:** Petitioner in his affidavit of evidence stated that petitioner was registered contractor with Ministry of Communication vide memorandum dated 18.10.2005 and running business of electrical contractor in the name and style of M/s Jain Electricals. Memorandum of M/O Communication (Mark P-3) showing petitioner firm as class-IVth electrical contractor. Petitioner's income tax return (Mark P-4), for assessment year 2008-2009 showing petitioners gross annual income 02,39,107/- Petitioner in his affidavit of evidence also stated that his entire family consists of old age mother namely Kanta Jain and two minor children Master Harshit studying in IIIrd class having two months fees of Rs. 2256/- and her daughter Ridhima Jain studying in LKG and her three months fees is Rs. 7040/-.*



Therefore, keeping in view the income tax returns and other expenses of the petitioner, petitioner income is assessed around 20000/- per month. Petitioner remained under treatment for a long duration of time. Hence, a lump sum around of Rs.1 lac is granted to petitioner for loss of income during treatment.”

19. The first question to be considered is whether the Tribunal has correctly proceeded on the basis of the income tax return placed on record by the claimant, or the Tribunal ought to have assessed income on the basis of minimum wages.

20. The claimant was working as an electrical contractor with the Department of Posts, Ministry of Communication, and was enlisted as a Class IV contractor, for a period of 5 years from 18.10.2005. The document issued by the Ministry was also marked as “*Mark P-3*” in the claimant’s evidence. It shows that he was eligible to submit tenders upto a limit of Rs. 3,00,000/-, and validity of empanelment was 5 years. Although the income tax return was marked for identification and not exhibited, it is settled law that the Tribunal is not bound by strict rules of pleadings and evidence. Reference in this connection may be made to a judgment of the Supreme Court in *Vimla Devi v. National Insurance Co. Ltd.*² The claimant disclosed the document in both his affidavits of evidence, and the veracity of the document was not challenged in cross-examination. In such circumstances, having regard to the fact that the Tribunal is required to proceed on the basis of preponderance of probabilities, I am of the view that the Tribunal was right in considering the aforesaid documents to ascertain the claimant’s income. However, there is a relatively small error in the Tribunal’s

² (2019) 2 SCC 186, paragraph 15 and 20.8.



computation on the basis of income of Rs. 20,000/- per month, as this does not account for tax liability of Rs.5,877/-, revealed in the very same document. A correct assessment of the claimant's income, as on the date of the accident, must be based upon annual income, net of taxes. The declared annual income was Rs. 2,39,307/-, which, after deduction of the applicable tax liability, works out to a net annual income of Rs. 2,33,430/-.

D. LOSS OF INCOME DURING TREATMENT

21. The Tribunal granted a sum of Rs. 1,00,000/- towards loss of income for the period of treatment. Mr. Maini submitted that this aspect requires enhancement, as the Tribunal itself notes that he was under treatment at least until July 2011, i.e. for a period of 31 months. The Tribunal in this connection has recorded as follows:

*“16. **Medical Expenses:** Petitioner in his affidavit of evidence deposed that after accident he was removed to AIIMS Trauma Centre. As per MLC (Ex. PW- 1/A), petitioner has suffered grievous injuries, thereafter, petitioner admitted himself in Metro Hospital and Heart Institute where he remained admitted from 21.12.2008 till 16.01.2009. Discharge summary shows that petitioner was diagnosed to have suffered RTA, cross injury both lower limb with degloving right leg with compound comminuted tibia, fibula, B/L medical Malleoli, loss of skin over dorsum of Lt. foot, clavicle RT. During hospitalisation, debridement operation was conducted, first operation was conducted on 22.12.2008, thereafter second operation was conducted on 31.12.2008. Petitioner again admitted himself at Vimhans on 16.01.2009 and remained admitted till 31.01.2009. During his stay, debridement, removal of anti-biotic impregnated cement and titanium elastic nail fixation and SSG was conducted, thereafter, petitioner again admitted in this hospital on 10.06.2009. After operation, discharged on the same day, then again admitted on 21.08.2009 discharged on 22.08.2009. Petitioner again admitted on 06.08.2011 and discharged on 09.01.2011. Petitioner thereafter admitted himself at Apollo hospital on 01.07.2011 discharged on 02.07.2011. The photographs of the injury shows petitioner right lower limb amputated.”*



22. The Tribunal has also awarded reimbursement of medical expenses for this entire period. There was, thus, no reason to limit the compensation towards loss of income to five months. Having regard to the nature of treatment as noticed by the Tribunal, we can proceed on the basis that the claimant would not have been able to earn during this period, i.e. 31 months. He had to undergo at least four surgeries, including an amputation. The loss of income for the period of treatment on the basis of the income as assessed above, would be Rs. 6,03,028/- [Rs. 2,33,430/12 x 31].

23. Accordingly, the award under this head is enhanced from Rs.1,00,000/- to Rs. 6,03,028/-.

E. ASSESSMENT OF FUNCTIONAL DISABILITY

24. The two disability certificates, one showing disability of 87% and the other showing disability of 80%, have been discussed above. The key question for consideration is whether the Tribunal's assessment of functional disability, i.e. potential loss of income of 80%, is justified by these disability certificates.

25. The Tribunal has rightly adverted to the judgment of the Supreme Court in *Raj Kumar*, which lays down a three-step process for this purpose:

“13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser



scale of activities and functions so that he continues to earn or can continue to earn his livelihood.

14. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of "loss of future earnings", if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity."

26. As far as the extent of disability is concerned, Mr. Gaur pointed out that the second disability certificate recommended further assessment after six months, which was not carried out in this case at all. While this argument is borne out from the record, relevant evidence was given by Dr. Joginder Kumar, Senior Resident, Orthopedics, Pandit Madan Mohan Malviya Hospital, Delhi, before the Tribunal [PW-2]. He exhibited the second disability certificate [Ex.PW2/A], and reiterated in his examination-in-chief as well as in his cross-examination, that further assessment was to be carried out after six months. He also stated in cross-examination that the condition of the patient was likely to improve with treatment. However, the Tribunal posed a Court question to him, which is of considerable assistance in assessment of his permanent disability. The question and answer are reproduced below:



“Court question: Since the disability certificate reflects that the injured has to undergo another assessment being a case of temporary disability of 80%, is there any likelihood of reduction of the percentage of disability in re-assessment, present being an amputation case?

A: At the time of examination of the patient by the disability board, the amputation stump of right thigh was immature and a further re-assessment was advised so that in the meantime the stump could get matured and a permanent certificate may be issued, but in any case, 80% is the minimum disability the patient will have which will remain forever the present being a case of amputation.

The disability certificate reflects that patient condition may improve and not the percentage of disability. The disability percentage will remain as it is in the present case.”³

27. The doctor who proved the disability certificate, thus, clarified that 80% disability was the minimum disability which the claimant, having undergone an amputation, would suffer. I am therefore of the view that the medical evidence in this case was sufficient to enable the Tribunal to proceed with the assessment.

28. Having regard to this evidence, the next question is whether the Tribunal has rightly assessed the claimant's functional disability at 80%.

29. Mr. Maini argued that the assessment ought to have been higher. He cited the judgment of the Supreme Court in *Basappa v. T. Ramesh & Anr.*⁴, wherein the disability certificate showed permanent disability of 58% of the whole body, which was taken by the Supreme Court to constitute 85% functional disability, having regard to the claimant's occupation as a construction worker.

30. Mr. Gaur, on the other hand, contended that disability of 80% in one limb ought not to have been taken as 80% functional disability or loss of earning capacity.

³ Emphasis supplied.

⁴ (2014) 10 SCC 789, [hereinafter, “*Basappa*”].



31. In the present case, it is correct that the disability is assessed to the extent of 80% only in one limb. Unlike in *Basappa*, the claimant's profession is also not of a labourer, but of an electrical contractor. On facts, this case is much closer to the case in *Mohd. Sabeer alias Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation*⁵. The claimant in that case was 37 years of age and underwent amputation of right lower limb as a result of his accident. He was assessed with 70% permanent disability in the right lower limb. The High Court assessed functional disability at 35%, which the Supreme Court enhanced to 60%, having regard to the claimant's occupation as a self-employed person who has to manage his own business. Having regard to the fact that the claimant in the present case was also of a similar age, and suffered a similar injury, as well as runs his own business as a contractor, I am of the view that a similar assessment would be appropriate.

32. The assessment of functional disability of 80% as applied by the Tribunal is, therefore, reduced to 60%.

F. FUTURE PROSPECTS

33. In the computation of loss of future income, the Tribunal has applied an enhancement of 50% to the income of the claimant. However, for a self-employed person, as submitted by Mr. Gaur, the enhancement should in fact, have been 40%, in terms of the judgment of the Constitution Bench in *National Insurance Company Ltd. v. Pranay Sethi & Ors.*⁶, which reads as follows:

“59.4. In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant

⁵ (2023) 20 SCC 774 [hereinafter, “*Mohd. Sabeer*”].

⁶ (2017) 16 SCC 680.



where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”⁷

34. Accordingly, the assessment of future prospects is modified to 40%.

G. ASSESSMENT OF LOSS OF FUTURE INCOME

35. The Tribunal's computation of loss of future income is reproduced below:

*“22. **Loss of future income:** Petitioner in his affidavit of evidence stated that due to these amputation injuries, he lost his business and have no source of income whatsoever from any source. Petitioner is found to have suffered 80% disability. PW2 Dr. Jogender Kumar in cross examination deposed that petitioner suffered 80% minimum disability which will remain forever as the present case is of amputation, therefore there is no merit in the arguments of the learned counsel for the insurance company that petitioner not suffered permanent disability to the extent of 80%. Keeping in view the nature of business, it can be held that petitioner has suffered a loss of earning capacity to the extent of 80%. As per driving license, petitioner is found to be born on 15.10.1972, therefore he is more than 36 years of age on the date of accident. Petitioner is found to be earning around Rs. 20000/- per month, being aged around 36 years further entitled for 50% increase in income towards future prospect. Therefore, his monthly income is assessed around Rs. 30,000/-. Apex court in Raj Kumar Vs. Ajay Kumar 2011(1) SCC 343, mandated multiplier method for calculation of compensation for future loss of earning capacity which is as follows:*

- (a) Annual income= Rs 30000X12=Rs. 3,60,000/-*
- (b) loss of future earning per annum (80% of the prior annual income) = Rs. 3.60.000X12X 80% =Rs 3,45,600/-*
- (c) Petitioner is found to be around 36 years of age at the time of accident. Therefore, applicable multiplier as per Sarla Verma Case is 15.*
- (d) Loss of future earnings = Rs. 345600/- X 15= Rs. 51,84000/-*
Thus sum of Rs. 5184000/- is granted towards loss of future income.”

⁷ Emphasis supplied.



36. It may be noted that the aforesaid calculation is mathematically inaccurate, inasmuch as 80% of Rs.3,60,000/- is Rs.2,88,000/-, and not Rs.3,45,600/-. The Tribunal has therefore come to the figure of Rs.51,84,000/- by applying an incorrect multiplicand.

37. As a result of the aforesaid modifications, loss of future income payable to the claimant is re-computed as follows:

Heads	Amount
Annual income [A]	Rs. 2,33,430/-
Addition of future prospects [40% of A = B]	Rs. 93,372/-
Annual income (including future prospects) [A + B = C]	Rs. 3,26,802/-
Loss of future earnings after accounting for functional disability (per annum) [60% of C = D]	Rs. 1,96,081.2/-
Loss of future income (after applying the applicable multiplier) [D x 15]	Rs. 29,41,218/-

H. REIMBURSEMENT FOR PROSTHETIC LIMB

38. In the present case, the Tribunal has granted the claimant a sum of Rs.2,82,349/- towards cost of artificial limb based upon the evidence of a representative of M/s PO International, Vimhans Hospital, Delhi [PW-3]. Mr. Maini has correctly pointed out that, although this amount is awarded in paragraph 26 of the impugned award, it has been missed in the enumeration of awarded heads, and therefore in the final calculation of compensation in paragraph 27 of the impugned award. In any event, he submits that the Tribunal has erred in granting only costs of one artificial limb, whereas an artificial limb admittedly has a limited life. Mr. Maini has relied on the aforementioned decision in *Mohd. Sabeer*, and of this Court in *Oriental*



*Insurance Co. Ltd. v. Master Anshu Kumar and Ors.*⁸, to submit that future replacement of the artificial limb must also figure in the computation.

39. The evidence in this regard was led by PW-3, who was a clerk in the accounts department of M/s PO International, Vimhans Hospital, Delhi, which had issued a bill for prosthetic services. His evidence clearly stated that the limb has a life for 5 years, after which it has to be replaced. He has also testified that the cost is likely to go up in future, and the change of limb may be required even before 5 years, if there are physiological changes in the claimant's body, such as weight gain. He gave evidence that, in such an event, the socket would require change, which will cost another Rs.50,000/-. His cross-examination related only to the fact that the proposed limb was imported, whereas a similar prosthetic limb could be manufactured in India. The witness also proved the invoice of Rs. 2,82,394/- exhibited as Ex.PW3/1.

40. In *Mohd. Sabeer*, the Supreme Court has decided a case similar to the present case, as follows:

“21. The High Court has awarded a compensation of Rs.5,20,000/- for the prosthetic limb and Rs.50,000/- towards repair and maintenance of the same. The Appellant submits that the cost of the prosthetic limb itself is Rs. 2,60,000/- and the life of the prosthetic limb is only 5-6 years. The prosthetic limb also requires repair and maintenance after every 6 months to 1 year, and each repair costs between Rs.15,000 to Rs.20,000/-. This would mean that the prosthetic limb would last the Appellant for only 15 years under the current compensation. The Appellant at the time of the accident was aged 37 years and has a full life ahead.

22. It has been clearly stated by this Court in the case of Anant⁹ that the purpose of fair compensation is to restore the injured to the position he was in prior to the accident as best as possible. The relevant paragraph of the judgment is being extracted herein:

⁸ 2023 SCC OnLine Del 5416 [hereinafter, “Master Anshu Kumar”].

⁹ *Anant v. Pratap*, (2018) 9 SCC 450.



“12. In cases of motor accidents leading to injuries and disablements, it is a well settled principle that a person must not only be compensated for his physical injury, but also for the non-pecuniary losses which he has suffered due to the injury. The Claimant is entitled to be compensated for his inability to lead a full life and enjoy those things and amenities which he would have enjoyed, but for the injuries.

13. The purpose of compensation under the Motor Vehicles Act is to fully and adequately restore the aggrieved to the position prior to the accident.”

23. As per the current compensation given for the prosthetic limb and its maintenance, it would last the Appellant for only 15 years, even if we were to assume that the limb would not need to be replaced after a few years. The Appellant was only 37 years at the time of the accident, and it would be reasonable to assume that he would live till he is 70 years old if not more. We are of the opinion that the Appellant must be compensated so that he is able to purchase three prosthetic limbs in his lifetime and is able to maintain the same at least till he has reached 70 years of age. For the Prosthetic limbs alone, the Appellant is to be awarded compensation of Rs. 7,80,000 and for maintenance of the same he is to be awarded an additional Rs. 5,00,000/-.”

41. The same principle was followed by this Court in *Master Anshu Kumar*.

42. In terms of the decision of the Supreme Court, that the cost of prosthetic limb should be assessed until the victim attains the age of 70 years, in the present case, the claimant would have required seven sets of prosthetic limbs, as he was aged 36 years at the time of the accident. Although PW-3 gave evidence that the cost of the limb would increase over time, this Court in *Master Anshu Kumar*, has noticed that such uncertainty is balanced against the fact that the amount which would be spent in future, would be paid to the victim upfront in lump-sum:

“45. I have considered the submissions made. While, on the one hand, the cost of the prosthetic limb will not remain static throughout the lifetime of the respondent no. 1, at the same time, the respondent no. 1 would receive the compensation in a lump sum, upfront. The two



would, therefore, balance each other out in the final outcome. I, therefore, proceed to consider the cost of the prosthetic limb to be Rs. 2,10,000/-."

43. Following the same principle, the amount of seven prosthetic limbs at the rate proved before the Tribunal [Rs.2,82,349/-] amounting to Rs.19,76,443/-, is awarded towards cost of the prosthetic limbs, and a further sum of Rs. 5,00,000/- towards maintenance of the prosthetic limbs is also awarded, as in *Mohd. Sabeer and Master Anshu Kumar*.

I. Conclusion

44. As a result of the above discussion, the award is modified to the following extent:

Heads	Awarded by the Tribunal	Awarded by this Court	Difference
Compensation for Medical expenses	Rs.9,19,713/-	Rs.9,19,713/-	NIL
Compensation for pain and suffering	Rs.2,00,000/-	Rs.2,00,000/-	NIL
Compensation for special diet and conveyance	Rs.50,000/-	Rs.50,000/-	NIL
Loss of future earning capacity/future income	Rs.51,84,000/-	Rs.29,41,218/-	(-) Rs.22,42,782/-
Compensation for loss of amenities and enjoyment of life	Rs.2,00,000/-	Rs.2,00,000/-	NIL
Attendant Charges	Rs.1,50,000/-	Rs.1,50,000/-	NIL
Compensation for	Rs.1,00,000/-	Rs.1,00,000/-	NIL



disfigurement			
Loss of income during treatment	Rs.1,00,000/-	Rs.6,03,028/-	(+) Rs. 5,03,028/-
Medical expenses for artificial limb and its maintenance	NIL	Rs.24,76,443/-	(+) Rs.24,76,443/-
Total	Rs.69,03,713/-	Rs. 76,40,402/-	(+) Rs.7,36,689/-

45. In sum, the award stands enhanced by Rs.7,36,689/- from Rs.69,03,713/- to Rs. 76,40,402/-.

46. By an interim order dated 08.09.2014, this Court had stayed execution of the award, subject to deposit of the awarded amount before this Court, 60% thereof was to be released to the claimant, in terms of the directions in the impugned award.

47. The impugned award provided for disbursement of the awarded amount to the claimant within a period of 6 years from the date of award. The said period has also since lapsed. There is, therefore, no impediment to release the awarded amount in favour of the claimant.

48. The Insurance Company is directed to deposit the amount of Rs.7,36,689/-, by which the award has been enhanced, alongwith interest, with the Registry, within a period of eight weeks from today. Interest will be computed at the rate of 9% per annum from the date of filing of the petition before the Tribunal, i.e. the rate awarded by the Tribunal. This amount and the balance amount lying in fixed deposits, alongwith accrued interest thereupon, be released to the claimant.



2026:DHC:859



49. In the impugned award¹⁰, recovery rights were granted to the Insurance Company against the driver and owner of the offending vehicle, who remained *ex parte* before this Court. The Insurance Company stated that no relief was sought against them, and notice was therefore, not issued to them *vide* order dated 08.09.2014. Even while entertaining the cross-objection by the order dated 03.03.2016, no notice was sought upon the driver and the owner of the offending vehicle. It is, therefore, made clear that recovery by the Insurance Company against the driver and owner of the offending vehicle will be limited to the sum awarded by the Tribunal in the impugned award, i.e. Rs. 69,03,713/- and interest thereupon.

50. The appeals are therefore disposed of with the aforesaid directions.

51. Statutory deposit be refunded to the Insurance Company.

PRATEEK JALAN, J

FEBRUARY 03, 2026

DY/Ainesh/

¹⁰ Paragraph 30.