



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 8708 OF 2026
[ARISING OUT OF S.L.P. (CIVIL) NO. 35337 OF 2025]**

M. PARAMESH

... APPELLANT(S)

VERSUS

VRL LOGISTICS LTD. AND ANOTHER

... RESPONDENT(S)

J U D G M E N T

PRASHANT KUMAR MISHRA, J.

1. Leave granted.

2. The present Appeal arises out of the judgment and order dated 29.11.2023 passed by the High Court of Judicature at Madras¹ in C.M.A. No.1388 of 2021 whereby the High Court partly allowed the appeal preferred by the appellant-claimant and enhanced the compensation awarded by the Motor Accident Claims Tribunal/Sub Court, Rasipuram² in M.C.O.P. No. 157 of 2017 from Rs. 10,84,330/- to Rs. 23,86,320/- together with interest at the rate of 7.5% per annum.

3. The facts, in brief, necessary for the adjudication of the present Appeal are that on 18.04.2017 at about 6:50 p.m., the appellant was proceeding on his bicycle on the left side of the Namakkal-Salem NH-7 Road near

¹ For short 'High Court'

² For short 'Tribunal'

Anaipalayam PACE Bank when a lorry bearing Registration No. KA-25-B-5035, coming from behind, hit the bicycle in a rash and negligent manner. As a result of the accident, the appellant sustained grievous injuries including injuries to his head, jaw, eye and right leg. Owing to the severity of the injuries suffered, his right leg subsequently came to be amputated above the knee.

4. Pursuant to the accident, FIR bearing Crime No. 279 of 2017 came to be registered at Rasipuram Police Station under Sections 279 and 338 of the Indian Penal Code, 1860³ against the driver of the offending vehicle. Since there is no challenge before us to the concurrent findings recorded by the Courts below on the aspect of negligence, it is unnecessary to advert to the said issue in any greater detail except to note that the Tribunal held the driver of the offending lorry negligent and consequently fastened liability upon the owner and insurer of the vehicle.

5. The appellant instituted claim proceedings under Section 166 of the Motor Vehicles Act, 1988⁴ before the MACT claiming compensation of Rs. 25,00,000/- for the injuries and permanent disability suffered by him in the aforesaid accident. It was the case of the appellant that at the time of the accident he was aged about 30 years and was working as a mason earning approximately Rs. 20,000/- per month. The appellant further asserted that on account of the amputation of his right leg and the permanent disability suffered by him, he had lost his earning capacity and was no longer in a

³ For short 'IPC'

⁴ For short 'MV Act'

position to continue his avocation as a mason. The disability certificate issued by the competent authority assessed his permanent disability at 70%.

6. The respondents contested the claim by filing their written statements disputing both the manner of accident and the quantum of compensation claimed by the appellant. Before the Tribunal, the appellant examined himself as P.W.-1 and produced documentary evidence including the FIR, medical records, disability certificate and medical bills. The respondents, however, did not adduce either oral or documentary evidence.

7. The Tribunal, by its award dated 29.11.2019, held that the accident had occurred due to the rash and negligent driving of the driver of the offending lorry and awarded compensation of Rs. 10,84,330/- together with interest at the rate of 7.5% per annum from the date of filing of the claim petition till realization. While computing compensation, the Tribunal assessed the monthly income of the appellant at Rs. 6,000/- and awarded compensation under various heads including loss of earning capacity, pain and suffering and medical expenses.

8. Aggrieved by the quantum of compensation so awarded, the appellant preferred C.M.A. No.1388 of 2021 before the High Court seeking enhancement of compensation. The principal grievance raised before the High Court pertained to the assessment of income, non-grant of future prospects and inadequacy of compensation awarded under various heads considering the nature of injuries and permanent disability suffered by the appellant.

9. The High Court, by the impugned judgment, partly allowed the appeal and enhanced the monthly income of the appellant from Rs. 6,000/- to Rs. 12,000/- and further granted addition of 40% towards future prospects. The High Court also enhanced the compensation awarded under certain conventional heads and granted compensation towards attendant charges, loss of amenities and future medical expenses including artificial limb/prosthesis. Consequently, the compensation awarded by the Tribunal came to be enhanced from Rs. 10,84,330/- to Rs. 23,86,320/- together with interest at the rate of 7.5% per annum.

10. Still dissatisfied with the quantum of compensation so determined by the High Court, the appellant-claimant is before this Court seeking further enhancement of compensation.

11. Before advertng to the rival submissions advanced on behalf of the parties, it would be apposite to notice the compensation awarded by the Tribunal under various heads and the modifications carried out by the High Court in the impugned judgment while enhancing the award amount. The comparative position of compensation as awarded by the Tribunal and as modified by the High Court via the impugned judgment is reproduced hereunder for ready reference:

HEADS	TRIBUNAL	HIGH COURT
Loss of Income (Disability @ 70%)	Rs 6000 x 12 x 17 x 70% = Rs 8,56,800/-	Rs 12,000 x 12 x 17 x 70% = Rs 17,13,600/-
Future Prospects	Not considered	40% of Rs 8,56,800 = Rs 3,42,720/-

Pain and Suffering	Rs 50,000/-	Rs 1,00,000/-
Transportation	Rs 5,000/-	Rs 25,000/-
Nutrition	Rs 10,000/-	-
Clothing and Ornaments	Rs 5,000/-	-
Medical expenses	Rs 1,57,530/-	-
Attendant Charges	Not Considered	Rs 30,000/-
Loss of Amenities	Not Considered	Rs 75,000/-
Future Medical Expenses for Artificial Limb	Not Considered	Rs 1,00,000/-
TOTAL COMPENSATION	Rs. 10,84,330/-	Rs 23,86,320/-⁵

12. We have heard learned counsel appearing for the parties and have carefully perused the material available on record including the award passed by the Tribunal as well as the impugned judgment of the High Court.

13. At the outset, before advertng to the plea of the appellant seeking further enhancement of compensation, certain infirmities in the calculations undertaken by the High Court while determining the compensation deserve to be noticed.

14. A perusal of the impugned judgment would reveal that while the High Court enhanced the monthly income of the appellant from Rs. 6,000/- to Rs. 12,000/-, it awarded a sum of Rs. 3,42,720/- towards future prospects by applying addition of 40%. However, on a closer scrutiny of the calculation undertaken by the High Court, it becomes evident that the said amount of Rs.

⁵ This amount has been wrongly calculated by High Court. Our analysis from Para 14 onwards addresses this.

3,42,720/- has been arrived at by applying 40% future prospects on the amount of loss of income as calculated by the Tribunal, namely Rs. 8,56,800/-.

15. Once the High Court itself enhanced the monthly income of the appellant to Rs. 12,000/- and consequently recalculated the loss of earning capacity at Rs. 17,13,600/- ($12,000 \times 12 \times 70/100$), the addition towards future prospects ought to have been computed on the said recalculated amount. In such circumstances, the correct amount towards future prospects would work out to Rs. 6,85,440/- being 40% of Rs. 17,13,600/-. The High Court appears to have inadvertently computed the addition towards future prospects on the basis of the income assessed by the Tribunal instead of the recalculated income determined by the High Court itself.

16. That apart, a further careful perusal of the table hereinabove and the comparative calculation undertaken by the High Court would also reveal that though the High Court did not interfere with the amounts awarded by the Tribunal under the heads of nutrition, clothing and ornaments and medical expenses, the said amounts were inadvertently omitted from the final computation of compensation undertaken by the High Court. The aforesaid amounts, having not been disturbed by the High Court, ought to have formed part of the final computation of compensation.

17. Having noticed the aforesaid infirmities in the computation undertaken by the High Court, we may now advert to the claim of the appellant seeking further enhancement of compensation.

18. Insofar as the monthly income of the appellant is concerned, we are not inclined to interfere with the determination made by the High Court assessing the income of the appellant at Rs. 12,000/- per month. Though it was the claim of the appellant that he was earning approximately Rs. 20,000/- per month by working as a mason, no cogent documentary evidence has been placed on record to substantiate the said claim. In the facts and circumstances of the case, we find the determination of monthly income by the High Court to be just and reasonable requiring no further interference.

19. The next aspect which falls for consideration is with regard to the assessment of disability and loss of earning capacity suffered by the appellant.

20. The disability certificate issued by the competent authority assessed the permanent disability suffered by the appellant at 70%. The Tribunal as well as the High Court proceeded on the basis of the said physical disability and accordingly assessed the loss of earning capacity at 70%. However, in our considered view, both the Courts below failed to examine the aspect of functional disability suffered by the appellant in the peculiar facts of the present case.

21. In ***Raj Kumar vs. Ajay Kumar and Another***⁶, this Court has elaborately explained the distinction between physical disability and functional disability and has held that for the purposes of determining compensation, the effect of the permanent disability on the earning capacity

⁶ (2011) 1 SCC 343

of the injured is the relevant consideration. The relevant observations are reproduced hereinbelow:

“10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.

11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567]

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

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.

19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) 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. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to 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.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”

(emphasis supplied)

22. From the above observations in **Raj Kumar** (*supra*), it becomes crystal clear that though the physical disability may be assessed at a particular percentage, the functional disability affecting earning capacity may, depending upon the nature of avocation carried on by the injured, be assessed at a higher percentage including 100%. The assessment of compensation in cases of permanent disability cannot be undertaken by mechanically applying the percentage of physical disability as the percentage of economic loss.

23. There is no dispute with regard to the fact that the appellant was working as a mason at the time of the accident. The work of a mason is essentially a physical and manual avocation requiring continuous use and support of both legs. The material on record further reveals that on account of the injuries suffered in the accident, the appellant underwent amputation of his right leg above the knee.

24. By virtue of the aforesaid amputation, the appellant has effectively lost his capacity to continue the work of a mason which was admittedly the sole avocation being pursued by him for earning his livelihood. It is not even the case of the respondents that the appellant was engaged in any other sedentary

occupation or that despite the amputation suffered by him, his earning capacity remained unaffected.

25. The amputation of the right leg above the knee has not merely caused physical disability to the appellant but has rendered him incapable of effectively carrying on the manual and physical work which constituted his only source of livelihood. In such circumstances, restricting the loss of earning capacity to 70% merely on the basis of physical disability would not be justified.

26. Having regard to the nature of avocation carried on by the appellant, the extent of injuries suffered by him and the principles laid down by this Court in **Raj Kumar** (*supra*), we are of the considered opinion that the functional disability suffered by the appellant is required to be assessed at 100% and not at 70% as assessed by the Tribunal and affirmed by the High Court. Consequently, the loss of earning capacity suffered by the appellant deserves to be computed by treating the functional disability at 100%. Taking the monthly income of the appellant at Rs. 12,000/- with addition of 40% towards future prospects and applying the multiplier of '17' as adopted by the Courts below, the compensation payable towards loss of earning capacity is recalculated accordingly.

27. We are also of the considered view that the amount awarded by the High Court towards future medical expenses including artificial limb/prosthesis requires enhancement. The appellant has suffered amputation above the knee and would require periodic replacement and maintenance of artificial limb/prosthesis throughout his lifetime besides continued medical assistance

and rehabilitation. In the facts and circumstances of the case, the amount awarded by the High Court under the said head deserves to be enhanced from Rs. 1,00,000/- to Rs. 2,00,000/-.

28. Save and except the modifications indicated hereinabove, we do not find any reason to interfere with the compensation awarded by the High Court under the remaining heads and the same are accordingly affirmed.

29. In view of the discussion made hereinabove, the compensation awarded to the appellant stands modified and enhanced accordingly. The revised compensation payable to the appellant under the various heads, after incorporating the modifications made by this Court, is reproduced hereunder for ready reference:

HEADS	TRIBUNAL	HIGH COURT	THIS COURT
Monthly Income	Rs. 6000/-	Rs 12,000/-	Rs 12,000/-
Functional Disability Assessed	70%	70%	100%
Multiplier (age 30 years)	17	17	17
Loss of Income	Rs 6000 x 12 x 17 x 70% = Rs 8,56,800/-	Rs 12,000 x 12 x 17 x 70% = Rs 17,13,600/-	Rs 12,000 x 12 x 17 x 100% = Rs 24,48,000/-
Future Prospects	Not considered	Rs 17,13,600 + 40% of Rs 17,13,600 = Rs 23,99,040/-	Rs 24,48,000/- + 40% of Rs 24,48,000 = Rs 34,27,200/-
Pain and Suffering	Rs 50,000/-	Rs 1,00,000/-	Rs 1,00,000/-
Transportation	Rs 5,000/-	Rs 25,000/-	Rs 25,000/-
Nutrition	Rs 10,000/-	Rs 10,000/-	Rs 10,000/-

Clothing and Ornaments	Rs 5,000/-	Rs 5,000/-	Rs 5,000/-
Medical expenses	Rs 1,57,530/-	Rs 1,57,530/-	Rs 1,57,530/-
Attendant Charges	Not Considered	Rs 30,000/-	Rs 30,000/-
Loss of Amenities	Not Considered	Rs 75,000/-	Rs 75,000/-
Future Medical Expenses for Artificial Limb	Not Considered	Rs 1,00,000/-	Rs 2,00,000/-
TOTAL COMPENSATION	Rs. 10,84,330/-	Rs. 29,01,570/-	Rs. 40,29,730/-

30. The impugned judgment passed by the High Court stands modified to the aforesaid extent. Consequently, the Appeal is partly allowed.

31. The enhanced compensation shall carry interest at the same rate as awarded by the High Court. The respondent no. 2-Insurance Company is directed to deposit the enhanced amount before the Tribunal within a period of six weeks from today. On such deposit being made, the appellant shall be entitled to withdraw the same in accordance with law.

.....**J.**
(PRASHANT KUMAR MISHRA)

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

NEW DELHI;
JUNE 23, 2026.