

**HIGH COURT OF JUDICATURE AT ALLAHABAD****FIRST APPEAL FROM ORDER No. - 892 of 2015**

Sangam Lal

.....Appellant(s)

Versus

The New India Assurance Co. Ltd. And Anr.

.....Respondent(s)

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Counsel for Appellant(s) : Amit Kumar Sinha, Deepali Srivastava Sinha  
Counsel for Respondent(s) : Anubhav Sinha

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**Along with :****1. First Appeal From Order No. 697 of 2015:**

The New India Assurance Co. Ltd.

Versus

Sangam Lal and Anr.

**A.F.R.****Court No. - 38****HON'BLE SANDEEP JAIN, J.**

1. FAFO No. 697 of 2015 under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the insurer of the offending Truck No.MH-04-DK-4585 against the impugned judgment and award dated 15.01.2015 passed by the Motor Accident Claims Tribunal/Additional District Judge, court no.1, Allahabad, in MACP No. 521 of 2011, Sangam Lal Vs. Jitendra Pal Singh & another, whereby, for the injuries sustained in a motor accident which occurred on 29.03.2009, the claimant has been awarded a compensation of Rs.5,03,310/-, alongwith interest at the rate of 7% per annum, which has been ordered to be indemnified by the insurer of the offending Truck No.MH-04-DK-4585.

2. FAFO No.892 of 2015 under Section 173 of the Motor Vehicles Act, 1988 has been preferred by the claimant for enhancement of compensation against the impugned judgment and award dated 15.01.2015 passed by the Motor Accident Claims Tribunal/Additional District Judge, court no.1, Allahabad, in MACP No. 521 of 2011, Sangam Lal Vs. Jitendra Pal Singh & another, whereby, for the injuries sustained

in a motor accident which occurred on 29.03.2009, the claimant has been awarded a compensation of Rs.5,03,310/-, alongwith interest at the rate of 7% per annum, which has been ordered to be indemnified by the insurer of the offending Truck No.MH-04-DK-4585.

3. FAFO No.892 of 2015 is admitted.

4. Since, both the appeals arise from the same judgment and award as such, they are being heard and decided by the common judgment.

5. Learned counsel for the appellant-insurance company in FAFO No.697 of 2015 submitted that the claimant allegedly suffered only 60% permanent disability due to the injuries sustained in the accident but it was considered to be 80% by the tribunal only on the basis of certificate issued by the Physiotherapist, which was not at all admissible in evidence. It is further submitted that the claimant was a minor who was not earning, but still the tribunal has assessed compensation by taking his monthly income at Rs.3,000/- which is erroneous. With these submission, it was prayed that the appeal be allowed and the compensation paid to the claimant be reduced.

6. Per contra, learned counsel for the claimant-respondent submitted that due to the injuries suffered in the accident, the right leg of the claimant was amputated from the knee and his two little toes of left foot were also amputated due to which he suffered 100% functional disability but the tribunal has only assessed the disability of the claimant at only 80% which requires enhancement. She further submitted that due to the amputation, the claimant was unable to do any manual labour, as such, it was a fit case where the tribunal should have awarded compensation by taking functional disability of the claimant at 100%. She further submitted that the claimant was also entitled to compensation for future prospects at the rate of 50% in accordance with **Rule 220-A of the UP Motor Vehicle Rules,1998**, but the tribunal has not awarded any compensation towards it. It was further submitted that since the deceased was about 16 years old, a multiplier of 18 was to be applied for assessing compensation, but the tribunal has applied a multiplier of 16, which requires enhancement. It was further submitted that the tribunal has awarded inadequate amount of compensation towards non pecuniary heads which require substantial

enhancement keeping in view of the various precedents of the Apex Court. With these submissions, it was prayed that the appeal preferred by the insurance company be dismissed and the appeal preferred by the claimant for enhancement of compensation be allowed.

7. I have learned counsel for the parties and perused the documents submitted with the appeal.

8. The Apex Court in the case of ***Raj Kumar Vs. Ajay Kumar & Another (2011) 1 SCC 343*** has held that the tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity and in each case, the tribunal has to independently assess the earning capacity loss of the claimant by ascertaining what activities the claimant could carry on inspite of the permanent disability and what he could not do as a result of his injuries. It was further held that where the disability certificates are given by duly constituted Medical Boards, they may be accepted subject to evidence regarding the genuineness of such certificates.

9. The Apex Court in the case of ***Sarnam Singh vs. Sriram General Insurance Co. Ltd. & Ors. (2023) 8 SCC 193***, while analysing when partial disability will amount to 100% earning capacity loss, held as under:-

*10. As to how compensation, in case where permanent disability of an injured affects his functional disability, is to be assessed has been considered by this Court, repeatedly. Reference can be made to the judgment of this Court in Mohan Soni v. Ram Avtar Tomar [Mohan Soni v. Ram Avtar Tomar, (2012) 2 SCC 267 : (2012) 1 SCC (Civ) 747 : (2012) 1 SCC (Cri) 641] . In the aforesaid case the injured was working as a cart puller. As a result of the accident, his left leg was amputated. His permanent disability was assessed at 60%. The Tribunal assessed the compensation taking the loss of earning at 50% on the theory that he can still do some other work while sitting. The High Court did not disturb the finding regarding loss of income on account of disability. This Court found that the Tribunal was in error in taking the loss of earning at 50% as the injured was 55 years of age and it may be difficult for him to find a job at that stage. In fact, any physical disability resulting from an*

*accident has to be judged with reference to the nature of the work being performed by the person who suffered disability. The same injury suffered by two different persons may affect them in different ways. Loss of leg by a farmer or a rickshaw puller may be end of the road as far as his earning capacity is concerned. Whereas, in case of the persons engaged in some kind of desk work in office, loss of leg may have lesser effect. This Court enhanced the loss of earning capacity from 50% to 90%.*

*11. Applying the same principle to the case in hand, we find that the appellant herein was working as a gunman with Bharat Hotel Limited. On account of amputation of his right leg above the knee, he was terminated from service w.e.f. 31-5-2015. It is not a matter of dispute that a person with his right leg amputated cannot perform the duty of a gunman. This is his functional disability. He was 50 years & 5 months old at the time of accident. Considering the aforesaid facts, in our view, the Tribunal was right in assessing the loss of earning capacity of the appellant at 100% and assessing the compensation accordingly. The High Court was in error in reducing the loss of earning capacity to 80%, relying upon the judgment [Shri Ram General Insurance Co. Ltd. v. Sarnam Singh, 2017 SCC OnLine Del 13011] of the High Court, despite there being a judgment of this Court available on the issue.*

10. In the instant case, due to the injuries suffered by the claimant his right leg has been amputated through knee and he has also suffered amputation of his two small toes in left foot due to which as per the certificate issued by the CMO, Pratapgarh, he has suffered 60% permanent disability. The certificate has been issued by the duly constituted medical board whose authenticity has not been challenged by the appellant-insurance company by filing any contra evidence.

11. The claimant has also filed certificate issued by Department of Physiotherapy, B.Y.L. Nair Charitable Hospital & T.N.M. College, Bombay, which discloses that he has suffered 75% permanent disability in right lower limb due to right knee disarticulation and 5% permanent disability in left lower limb due to 4th-5th ray amputation, due to which the claimant has suffered total disability of 80%.

12. The tribunal has noted that the right leg of the claimant has been

amputated from the knee and his fourth and fifth toe of left leg have also been amputated and on this basis the tribunal has assessed functional disability of the claimant at 80%. From the written statement filed by vehicle owner, it is evident that the claimant was working as a Khalasi on his truck which involves physical labour. It is apparent that due to the amputation suffered by the claimant he is unable to do any job involving physical labour in future and, as such, there was 100% functional disability. The tribunal has only assessed the functional disability at 80%, which requires enhancement.

13. The Apex Court in the case of *Kajal vs. Jagdish Chand & Ors.* (2020) 4 SCC 413, *Master Ayush vs. Branch Manager, Reliance General Insurance Co. Ltd. & Anr.* (2022) 7 SCC 738, *Baby Sakshi Greola vs. Manzoor Ahmad Simon & Anr.* 2024 SCC OnLine SC 3692 and *Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari & Another* 2025 INSC 1070 has held that where a claimant has suffered 100% permanent functional disability due to an accident, the compensation under the head of loss of income must be awarded on the basis of the minimum wages of a skilled workman prevailing at the time of the accident in that region and should not be assumed on a notional basis.

14. In view of this, even if, it is assumed that the claimant was only 16 years old and was not in any gainful employment at the time of the accident even then, he is entitled to get compensation on the basis that he was a skilled workman. Since, the accident occurred on 29.03.2009 and at the time of the accident the minimum wages of a skilled workman prevailing in the State of U.P. was about Rs.4,500/- per month, the claimant is entitled to get compensation on this basis.

15. The Apex Court in the case of *Pappu Deo Yadav vs. Naresh Kumar* (2022) 13 SCC 790 (By Three Judges) while considering the issue of awarding future prospects in cases of permanent disablement from motor accident, held as under:-

*7. Two questions arise for consideration : one, whether in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects too; and two, the extent of disability. On the first question, the High Court no doubt, is technically correct in holding*

*that Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] involved assessment of compensation in a case where the victim died. However, it went wrong in saying that later, the three-Judge Bench decision in Jagdish [Jagdish v. Mohan, (2018) 4 SCC 571 : (2018) 3 SCC (Civ) 102 : (2018) 2 SCC (Cri) 572] was not binding, but rather that the subsequent decision in Anant [Anant v. Pratap, (2018) 9 SCC 450 : (2018) 4 SCC (Civ) 378 : (2018) 3 SCC (Cri) 756] to the extent that it did not award compensation for future prospects, was binding. This Court is of the opinion that there was no justification for the High Court to have read the previous rulings of this Court, to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading of Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205] is illogical, because it denies altogether the possibility of the living victim progressing further in life in accident cases — and admits such possibility of future prospects, in case of the victim's death.*

16. The Apex Court in the case of **Sidram vs. Divisional Manager, United India Insurance Co. Ltd. & Another (2023) 3 SCC 439**, while directing that in cases of serious permanent disability, compensation for future prospects should also be awarded, held as under:-

*31. It is now a well-settled position of law that even in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects as well. We have come across many orders of different tribunals and unfortunately affirmed by different High Courts, taking the view that the claimant is not entitled to compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. That is not a correct position of law. There is no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading is illogical because it denies altogether the possibility of the living victim progressing further in life in accident cases-and admits such possibility of future prospects, in case of the victim's death.*

17. The Apex Court in the case of **Rahul Ganpatrao Sable vs. Laxman**



***Maruti Jadhav (Dead) through LRS. and others, (2023) 13 SCC 334*** while directing that in cases of permanent disability, there should not be any deduction for personal expenses, held as under:-

*15. The High Court deducted 50% of compensation towards personal expenses. The present case being not of death and the claim not being made by the dependents, but the same being by a survivor in the accident with severe injuries resulting into permanent disability, there could not be any justification for deduction of personal expenses. We do not approve the said deduction in view of the judgment of this Court in Lalan D. [Lalan D. v. Oriental Insurance Co. Ltd., (2020) 9 SCC 805 : (2021) 1 SCC (Civ) 253 : (2021) 1 SCC (Cri) 238]*

18. As per ***Rule 220-A of the UP Motor Vehicle Rules, 1998***, if the claimant was below 40 years at the time of accident, he is entitled to compensation for loss of future prospects @50% in cases of serious permanent disability.

19. A Division Bench of this Court in ***FAFO No.2581 of 2011, Sushil Kumar & Another vs. M/S Sampark Lojastic Pvt. Ltd. & Another***, decided on 26.04.2017 has held that even if the accident occurred prior to 26.09.2011, the claimants are entitled to compensation on future prospects as per amended Rule 220-A of the UP Motor Vehicle Rules, 1998, since it is a beneficial legislation.

20. The claimant is also entitled to get compensation for future prospect at the rate of 50% of his income keeping in view of the above law laid down by the Apex Court in the case of ***Pappu Deo Yadav*** (supra) and ***Sidram*** (supra) as well as ***Rule 220-A of the UP Motor Vehicle Rules, 1998***. The tribunal has not awarded any compensation on this account. It is further apparent that since it is a case of permanent disability no deduction towards personal expenses of the claimant is to be made while assessing compensation, in view of the judgment of the Apex Court in the case of ***Rahul Ganpatrao Sable*** (supra). It is further apparent that since the claimant was only about 16 years old at the time of the accident, a multiplier of 18 is to be applied for assessing compensation, but the tribunal has applied a multiplier of 16 which requires enhancement, keeping in view the judgment of the Apex Court in the case of ***National Insurance Co. Ltd. vs Pranay Sethi & Ors. (2017) 16 SCC 680***.

21. Keeping in view the nature of injuries and the amputation suffered by the claimant, compensation towards non pecuniary heads also requires enhancement, since the tribunal has only awarded an amount of Rs.15,000/- towards pain and suffering and Rs.1,000/- towards special diet, which is grossly inadequate. The claimant is also entitled to compensation for loss of marriage prospects, due to permanent disability.

22. It is pertinent to mention here that the claimant has not led any evidence as to whether he is using artificial leg or not and the future medical expenses, as such, no compensation can be awarded to the claimant under these heads.

23. In view of the above statutory law and precedents of the Apex Court, the compensation payable to the claimant is redetermined as under:-

S.No.	Compensation Head	Amount Awarded (in Rs.)	In accordance with
1.	Monthly Income of the claimant on the basis of minimum wages of skilled workman	4,500/-	<i>Kajal</i> (supra), <i>Master Ayush</i> (supra), <i>Baby Sakshi Greola</i> (supra) and <i>Hitesh Nagjibhai Patel</i> (supra)
2.	Annual income of the claimant	4,500X12=54,000/-	<i>Kajal</i> (supra), <i>Master Ayush</i> (supra), <i>Baby Sakshi Greola</i> (supra) and <i>Hitesh Nagjibhai</i>



			<i>Patel</i> (supra)
3.	Add future prospects @50% since claimant was about 16 years old on the date of the accident.	27,000/-	<i>UP Motor Vehicle Rules,1998 , Pappu Deo Yadav</i> (supra) and <i>Sidram</i> (supra)
4.	Total annual loss of future income	81,000/-	<i>UP Motor Vehicle Rules,1998 , Pappu Deo Yadav</i> (supra) and <i>Sidram</i> (supra)
5.	Multiplier applied since age of claimant was about 16 years	18	<i>Pranay Sethi</i> (supra)
6.	Total future loss of income due to 100% functional disability	81,000X18=14,58,000/-	<i>Pranay Sethi</i> (supra)
7.	Medical Expenses	26,510/-	<i>As awarded by the tribunal</i>
8.	Compensation towards pain,suffering and loss of amenities	1,00,000/-	-
9.	Special diet expenses	25,000/-	-
10.	Loss of future marriage	50,000/-	-

	prospects		
11.	Total compensation	16,59,510/-	

24. In this way, the claimant is entitled to total compensation of Rs.16,59,510/- alongwith interest @ 7% per annum (as awarded by the tribunal) from the date of filing of the claim petition till it's actual payment, which is to be indemnified by the insurer of the offending Truck No.MH-04-DK-4585.

25. Accordingly, FAFO No.697 of 2015 preferred by the insurance company is dismissed.

26. FAFO No.892 of 2015 preferred by the claimant for enhancement of compensation is allowed. The award of the tribunal dated 15.01.2015 is modified to the above extent.

27. If any amount has been paid by the insurance company previously, then the insurance company is entitled to adjust it accordingly. The insurance company is directed to deposit the enhanced amount of compensation before the concerned tribunal within two months.

28. Office is directed to remit the statutory deposit made by the appellant insurance company in FAFO No.697 of 2015 to the concerned tribunal, forthwith.

29. Interim order, if any, in FAFO No. 697 of 2015, stands vacated.

(Sandeep Jain,J.)

January 8, 2026  
Himanshu