



2026:AHC:178760

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 1115 of 2011

Sri Onkar Singh Chauhan

.....Appellant(s)

Versus

Oriental Insurance Compnay Limited Meerut And
Another

.....Respondent(s)

Counsel for Appellant(s)	: Ravi Agrawal
Counsel for Respondent(s)	: Ajay K.Singh, Udai Shankar Mishra

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. Heard Shri Ravi Agrawal, learned counsel for the appellant and Shri Ajay Kumar Singh, learned counsel for the respondent-Insurance Company.

2. This appeal, at the instance of the claimant seeking enhancement of compensation, challenges the judgment and award dated 3.10.2006 passed by the Motor Accident Claims Tribunal, Meerut (hereinafter referred to as the "Tribunal") in M.A.C.P. No.628 of 2005 (Sri Onkar Singh Chauhan vs. Mohd. Lukman and Anr.), whereby a sum of Rs.1,25,750/- has been awarded to the claimants.

Facts of the Case

3. Briefly stated, the appellant-claimant, Omkar Singh, was travelling as a pillion rider on a scooter being driven by his brother Jasveer Singh. On 24.05.2005, while they were travelling on the said scooter, the same was hit by Truck No. UP-15-8851. In the said accident, the appellant sustained severe injuries in his right leg, including fracture, resulting in permanent disability.

4. The appellant instituted a claim petition seeking compensation on account of the injuries and permanent disability suffered by him in the accident. It was pleaded that at the time of the accident, he was earning Rs.5,000/- per month from agricultural work as well as from running a general store.

5. The learned Tribunal, upon consideration of the evidence on record, found that the age of the appellant was between 45 and 50 years. In this regard, the Tribunal noticed that different ages, ranging from 45 to 54 years, were mentioned in the various documents produced by the appellant and, therefore, his exact age could not be established with certainty.

6. With regard to disability, the appellant relied upon a disability certificate showing 50% permanent disability and examined P.W.-2 Dr. Ravindra Singh in support thereof. The learned Tribunal, however, noticed that the doctor himself had stated that the disability was partial and, accordingly, assessed the disability of the appellant at 25% for the purpose of determining the loss of earning capacity.

7. So far as the income of the appellant is concerned, the learned Tribunal found that although the appellant had claimed an income of Rs.5,000/- per month from agriculture and running a general store, no documentary evidence was produced to establish his agricultural income or to show that he was actually running a general store. In the absence of any reliable evidence regarding his income, the Tribunal assessed his annual notional income at Rs.15,000/-.

8. Applying the multiplier of 13, the Tribunal assessed the loss of future income at Rs.1,95,000/- and, after taking 25% disability into consideration, awarded Rs.48,750/- towards loss of earning capacity. The Tribunal further awarded Rs.70,000/- towards medical expenses, Rs.1,000/- towards special diet and Rs.1,000/- towards pain and suffering. Accordingly, the learned Tribunal awarded a total compensation of Rs.1,25,750/- to the appellant-claimant.

Submissions on behalf of the Appellant-Claimant

9. Learned counsel for the appellant-claimant submits that the learned Tribunal has committed an error in assessing the permanent disability of the appellant at 25% instead of 50%, despite the disability certificate showing 50% permanent disability. It is submitted that the disability certificate was duly proved by examining P.W.-2 Dr. Ravindra Singh, who was the doctor concerned, and there was no sufficient reason for the

learned Tribunal to discard or reduce the percentage of disability certified by the competent doctor. The Tribunal, merely on the basis of the statement that the disability was partial, could not have reduced the disability from 50% to 25% without any medical basis.

10. It is next submitted that the learned Tribunal has erred in disbelieving the appellant's claim that he was earning Rs.5,000/- per month from agriculture and running a general store, merely on the ground that no documentary evidence was produced in support of such income. Learned counsel submits that in cases relating to compensation under the Motor Vehicles Act, particularly where the claimant is engaged in agricultural work or small business, a claimant cannot ordinarily be expected to produce documentary evidence establishing his precise monthly income. Reliance has been placed upon paragraph 6 of the judgment of the Supreme Court in **R. Logeshkumar Vs. P. Balasubramaniam, 2025 INSC 1392**, to contend that the income of a claimant cannot be rejected merely for want of documentary proof and has to be assessed having regard to the nature of his occupation and the evidence available on record.

11. It is further submitted that the learned Tribunal has failed to consider the future prospects of the appellant while determining the loss of earning capacity. According to learned counsel, even if the income assessed by the Tribunal is accepted, an appropriate addition towards future prospects ought to have been made while computing the compensation payable to the appellant.

12. On these grounds, it is submitted that the compensation awarded by the learned Tribunal is inadequate and deserves to be suitably enhanced.

Submissions on behalf of the Respondent-Insurance Company

13. Per contra, learned counsel for the respondent-Insurance Company submits that the compensation awarded by the learned Tribunal is just, proper and reasonable, based upon the evidence available on record and does not call for any interference by this Court.

14. It is submitted that the appellant failed to produce any reliable documentary or other cogent evidence to establish that he was earning

Rs.5,000/- per month either from agriculture or from running a general store. In the absence of proof of income from either of the alleged sources, the learned Tribunal has rightly assessed his annual income on a notional basis at Rs.15,000/-.

15. Learned counsel further submits that the learned Tribunal has rightly assessed the disability at 25%, although the disability certificate mentioned 50%, as P.W.-2 Dr. Ravindra Singh himself admitted that the disability was partial. Therefore, the Tribunal was justified in determining the extent of disability relevant for assessing loss of earning capacity.

16. It is further submitted that the appellant failed to establish even his alleged income and occupation. In such circumstances, there was no reliable basis before the Tribunal to determine the extent to which the disability actually affected his earning capacity or resulted in any functional disability. Nevertheless, the Tribunal, taking a liberal view, has already awarded compensation by treating 25% disability as resulting in loss of earning capacity. According to learned counsel, the compensation awarded is, therefore, rather on the higher side and the appellant is not entitled to any further enhancement.

17. It is thus submitted that the award passed by the learned Tribunal is based upon proper appreciation of the evidence and the appellant has failed to demonstrate any error warranting interference by this Court. The appeal, accordingly, deserves to be dismissed.

Discussion and Conclusion

18. I have considered the submissions advanced by learned counsel for the parties and perused the material available on record.

19. So far as the income of the appellant is concerned, it is true that in every case a claimant cannot be expected to produce documentary evidence in support of his income, particularly where the income is alleged to have been derived from agriculture, petty business or self-employment. The Supreme Court in **R. Logeshkumar** (supra) has also proceeded on the principle that absence of documentary evidence by itself cannot be made a ground to reject a claim regarding income and, in the facts of that case, accepted a reasonable notional income.

20. However, the said proposition cannot be understood as laying down a principle that a bald assertion made by a claimant regarding his income has to be accepted as gospel truth. The claimant is still required to place before the Tribunal such material as may enable it to form a reasonable assessment of his income. The absence of documentary evidence may be understandable; absence of any convincing evidence regarding the very source, nature and extent of income is a different matter altogether.

21. In the present case, the appellant claimed that he was earning Rs.5,000/- per month from agriculture and from running a general store. He stated before the Tribunal that he was the owner of about 13-14 bighas of agricultural land, but did not produce even the basic revenue record or any other material to establish ownership or cultivation of such land. Likewise, though a claim of running a general store was made, the appellant did not disclose the name of the shop, when it was established, whether it was being run by him personally or with the assistance of family members, the nature or extent of the business, or the income being generated from it. Significantly, the appellant did not even state the income derived separately from agriculture and from the general store; both sources were clubbed together and a monthly income of Rs.5,000/- was claimed.

22. These circumstances cannot be brushed aside merely by invoking the proposition that documentary evidence of income is not indispensable. The issue is not merely whether a document evidencing income was produced; the issue is whether the assertion regarding income has sufficient factual foundation to enable the Court to make a reasonable assessment. In the present case, the claim regarding income remains wholly unsubstantiated and, therefore, the learned Tribunal cannot be said to have committed any error in declining to accept the claimed income of Rs.5,000/- per month.

23. There is another aspect of the matter. The Motor Vehicles Act proceeds on the principle of awarding just compensation, and where actual income cannot be established, the courts have evolved the concept of notional income. The very purpose of assessing notional income is to provide a reasonable basis for computation where the claimant has suffered loss but his actual income cannot satisfactorily be proved. Thus,

the concept of notional income does not mean that the claimant's asserted income is to be automatically accepted in the absence of documentary evidence; rather, it enables the Tribunal to determine a reasonable income on the basis of the available circumstances, nature of occupation and other relevant material. The learned Tribunal, therefore, cannot be faulted for resorting to notional income in the facts of the present case.

Disability and Loss of Earning Capacity

24. The contention regarding disability also does not merit acceptance, though for reasons somewhat different from those advanced by the respondent.

25. It is no doubt true that the appellant proved a disability certificate showing 50% disability by examining P.W.-2 Dr. Ravindra Singh, the doctor who had issued the certificate. However, in a claim for compensation arising out of permanent disability, proof of the percentage of physical disability, by itself, does not conclude the issue of loss of future earning capacity.

26. The distinction between physical disability and functional disability is well settled. In **Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343**, the Supreme Court explained that the percentage of permanent disability with reference to the whole body cannot be mechanically treated as the percentage of loss of earning capacity. What has to be considered is the effect of the permanent disability upon the earning capacity of the injured and the extent to which his capacity to earn has actually been affected. The Court has repeatedly emphasised that the functional disability relevant for computation of compensation has to be assessed having regard to the nature of the work or occupation of the injured.

27. Thus, proof of a disability certificate and examination of the doctor issuing it establishes the medical disability; it does not, by itself, establish the extent of loss of earning capacity. The first requirement for assessing such loss is to ascertain the income which the injured was earning and the nature of his occupation or vocation. Only thereafter can the Court examine how far the proved disability affects his capacity to continue that occupation or to earn his livelihood.

28. In the present case, the difficulty faced by the appellant is fundamental. His alleged income of Rs.5,000/- per month from agriculture and a general store has not been established. His occupation and the nature and extent of the alleged business have also not been satisfactorily proved. In such circumstances, there was no reliable factual foundation before the Tribunal on the basis of which the extent of functional disability, as distinct from physical disability, could have been determined.

29. The mere fact that the doctor described the appellant as suffering from 50% disability cannot, therefore, result in an automatic award of compensation by treating 50% as loss of earning capacity. At the same time, the observation of the learned Tribunal that the disability should be reduced to 25% merely because the doctor described it as “partial” also cannot, by itself, furnish a sound medical basis for such reduction. The relevant question is not whether the disability is described as partial, but what effect the proved disability has upon the earning capacity of the injured. The Supreme Court has consistently required this distinction to be maintained while assessing compensation for permanent disability.

30. In the present case, however, the appellant has failed to establish the very factual foundation necessary for undertaking such an exercise, namely, his actual occupation and income and the manner in which the permanent disability has impaired his earning capacity. Consequently, the appellant cannot claim enhancement merely by relying upon the percentage mentioned in the disability certificate.

31. The decision in **R. Logeshkumar** (supra) does not advance the case of the appellant any further. The Supreme Court therein dealt with the assessment of compensation in the facts and evidence of that case and, after determining the income, proceeded to assess the loss of earnings due to functional disability and also considered future prospects. The said judgment cannot be read as dispensing with the requirement of establishing the factual basis necessary for determining loss of earning capacity in every case.

32. Accordingly, the contention of the appellant that the Tribunal was bound to accept 50% disability as the percentage of loss of earning

capacity has no substance. Likewise, in the absence of proof of the claimed income, the appellant cannot seek computation of loss of future earnings on the basis of Rs.5,000/- per month.

Future Prospects

33. The appellant has also contended that future prospects have not been considered. The principle that future prospects are to be taken into account while determining loss of future earnings in an appropriate case is no longer in doubt. The Supreme Court has, in **R. Logeshkumar** (supra) itself, made an addition towards future prospects while recalculating the loss of earnings due to functional disability.

34. However, the addition towards future prospects necessarily presupposes a legally sustainable determination of the income and loss of earning capacity of the injured. Where the claimant has failed to establish his occupation, income and the extent of functional impairment affecting his earning capacity, future prospects cannot be calculated in isolation or as an independent head of compensation.

35. In the present case, therefore, the failure of the Tribunal to make a separate addition towards future prospects does not, in the facts found herein, furnish a ground for enhancement of compensation.

36. For the reasons aforesaid, the appellant has failed to establish that the compensation awarded by the learned Tribunal suffers from any such legal infirmity as would warrant interference by this Court.

37. The appeal deserves to be dismissed and is, accordingly, **dismissed**. The impugned order of the learned Tribunal is upheld.

(Anil Kumar-X,J.)

August 24, 2026
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