



2026:AHC:15820

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 2491 of 2019

Mohd. Zahir

.....Appellant(s)

Versus

Chairman U.P.S.R.T.C. Lucknow Thru A.R.M.

.....Respondent(s)

Counsel for Appellant(s)	:	Anju Shukla, Nigamendra Shukla
Counsel for Respondent(s)	:	S.K. Misra

Along with :

- 1. First Appeal From Order No. 1698 of 2008:**
U.P. State Road Transport Corporation Thru Chairman
Versus
Mohd. Zaheer
-

A.F.R.

Court No. - 38

HON'BLE SANDEEP JAIN, J.

1. FAFO. No. 1698 of 2008 has been preferred under Section 173 of the Motor Vehicles Act, 1988 by the owner-UPSRTC of the offending Bus No.UP-21L-0405 against the impugned judgment and award dated 17.03.2008 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.7, Meerut in Motor Accident Claim Petition No. 682 of 2004 (Mohd. Zaheer vs. UPSRTC), whereby, for the injuries suffered by the claimant in a road accident that occurred on 18.12.2003, a compensation of Rs. 1,98,600/- along with interest at the rate of 6% per annum has been awarded to the claimant, which has been ordered to be indemnified by the owner-UPSRTC of the offending Bus No.UP-21L-0405.

2. FAFO No. 2491 of 2019 has also been preferred by the claimant under Section 173 of the Motor Vehicles Act, 1988 for enhancement of compensation, against the impugned judgment and award dated 17.03.2008 passed by the Motor Accident Claims Tribunal/Additional District Judge, Court No.7, Meerut in Motor Accident Claim Petition No. 682 of 2004 (Mohd. Zaheer vs. UPSRTC), whereby, for the injuries

suffered by the claimant in a road accident that occurred on 18.12.2003, a compensation of Rs. 1,98,600/- along with interest at the rate of 6% per annum has been awarded to the claimant, which has been ordered to be indemnified by the owner-UPSRTC of the offending Bus No.UP-21L-0405.

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

4. Learned counsel for the appellant-UPSRTC submitted that the claimant alleged that on the date of the accident, he was travelling as a pillion rider on Scooter No.DL-1-SB-0460, which collided head-on with the offending bus No.UP-21-L-0405, which was wholly improbable.

5. It was submitted that the factum of the accident was wholly doubtful and even if it is assumed that the accident was indeed caused, even then, from the evidence on record, it was proved that it occurred due to the sole negligence of the scooter driver, who was not made party in the claim petition. It was further submitted that the Tribunal has erroneously concluded that there was only 40% contributory negligence of the scooter driver, whereas, as per the evidence on record, it was 100%.

6. With these submissions, it was prayed that the appeal be allowed and the claim petition be dismissed.

7. Per-contra, learned counsel for the claimant-respondent submitted that from the evidence on record, it was proved that the accident occurred head-on, when claimant was travelling as a pillion rider on the above scooter and at the time of the accident, the offending bus was being driven in a rash and negligent manner.

8. It was further submitted that due to the injuries suffered by the claimant, his right leg below knee was amputated due to which, he has suffered 100% functional disability, because he was unable to work as a salesman in a Saree Shop.

9. It was submitted that prior to the accident, the claimant was working as a salesman in a Saree Shop, but after the accident due to the permanent

disability suffered by him, he was unable to do that work, which was also proved from the evidence of his employer PW-2 Sanjay, but still the Tribunal has assessed compensation on the basis that the claimant only suffered 50% functional disability, as was mentioned in the permanent disability certificate, which was erroneous.

10. Learned counsel submitted that the Tribunal was not bound by the percentage of permanent disability mentioned in the disability certificate and should have assessed independently the quantum of functional disability, but it has failed to do so.

11. It was further submitted that the claimant was entitled to compensation towards loss of future prospects due to permanent disability at the rate of 50%, in accordance with **Rule 220-A of the U.P. Motor Vehicle Rules, 1998**; however, the Tribunal has not awarded any compensation under this head.

12. It was also submitted that the Tribunal has awarded inadequate compensation under the non-pecuniary heads and has granted interest on the compensation at the rate of 6% per annum, whereas, under the aforesaid Rules, the claimant was entitled to interest at the rate of 7% per annum.

13. 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.

14. I have heard the learned counsel of both the sides and perused the record of the lower court.

15. Before the Tribunal, the claimant examined himself as PW-1, Sanjay as PW-2, Dr. Rajeev Singh as PW-3, Mohd. Usman as PW-4, Dr. Ravindra Singh as PW-5 and Dr. Praveen Jain as PW-6, whereas, no oral evidence was adduced by the UPSRTC.

16. The claimant, Mohd. Zaheer PW-1 deposed that on the day of accident, he was travelling with Yaseen as a pillion rider on scooter from Meerut-Mawana road, then in Chhota Mawana in front of dairy, near a

transformer, a roadways bus no.UP-21-L-0405, which was being driven in a rash and negligent manner by its driver, came from the opposite side, and the bus hit his scooter by coming to the wrong side of the road due to which he fell down and suffered grievous injuries, the accident occurred at 3:30 PM. In this accident, his right leg was badly crushed, he got 31 stitches in his body, he was admitted to Divya Jyoti Hospital. He remained admitted for about 15 days in that hospital. He further deposed that due to the injuries suffered in the accident, his right leg was crushed and was amputated below knee.

17. He further deposed that at the time of the accident, the scooter was being driven by Yaseen in a controlled speed towards the left side of the road. He further deposed that prior to the accident, he was working in Bhavik Sari Centre, Mawana and was getting a salary of Rs.3,600/- per month, but due to the permanent disability suffered in the accident, he has been fired from the job and is not able to work anymore. His family was dependent on his income. He has now got no source of income. He further deposed that he has filed his permanent disability certificate, which was obtained from Pyare Lal Sharma Hospital, Meerut. In cross-examination, the claimant deposed that the offending bus came from the front, from the side of Bada Mawana. He was going from Chhota Mawana to Bada Mawana, and after the accident, he became unconscious. He was admitted to Divya Jyoti Nursing Home, Ganganagar, Meerut by the passer-by and he regained consciousness after five days.

18. During cross-examination, he deposed that he can not stand for a long duration and requested the court to permit him to sit down on a chair, and his cross examination was conducted seated on a chair. He further deposed that he has been fired from his job after the accident. He further deposed that as a salesman, he used to sell sarees, ladies suit salwar, pant shirt pieces and his job was to carry the above items, fold them, keep them in the proper place in the shop and also he used to display the above clothes to the proposed buyers, who came to the shop.

19. The employer of the claimant Sanjay was examined as PW-2, who deposed that he owns a shop in the name and style of M/s Bhavik Saree Centre in Mawana, in which the claimant used to work, who was being

paid a salary of Rs.3,600/- per month in cash. This witness has proved the salary certificate of the claimant. He further deposed that in the accident, the right leg of the claimant has been amputated below knee, due to which, he is not able to do any job now and for this reason, he has been fired from the job and he has employed another person in claimant's place. In cross-examination, this witness deposed that he has employed a person, namely Aslam in place of the claimant, who was being paid the same salary as was being paid to the claimant. He admitted that he has got no documentary proof of payment of salary to the claimant, but disclosed that he was earning about Rs.20,000/- per month from his shop. He denied the suggestion that the claimant was not employed at his shop, who was not being paid salary of Rs.3,600/- per month.

20. Dr. Rajeev Singh PW-3 deposed that due to the injuries sustained by the claimant in the accident on 18.12.2003, his liver was lacerated and right leg was crushed, which was operated by him and the leg was amputated below knee and the claimant remained admitted in his hospital from 18.12.2003 to 02.01.2004. In cross-examination, he deposed that the claimant's leg was amputated in his nursing home.

21. Mohd. Usman PW-4 deposed that on 18.12.2003 at about 3:30 p.m., on the Meerut-Mawana Road, the claimant was travelling on a scooter belonging to his brother Yaseen, then a roadways bus bearing No. UP-21-L-0405, which was being driven in a rash and negligent manner, came to the wrong side of the road and collided head-on with the scooter, as a result of which the persons travelling on the scooter sustained serious injuries. He further deposed that he and other persons present on the spot, took the injured in a DCM vehicle for treatment to Divya Jyoti Nursing Home, Ganganagar, Meerut, where the claimant was admitted. The driver of the offending bus was apprehended and shortly afterwards, the police also arrived to whom the driver of the offending bus was handed. He further deposed that he got the FIR registered at Police Station Mawana at 5:30 PM, in which the police had inquired from him and the site plan was also prepared at this instance. In the cross examination, this witness deposed that he saw the accident from a distance of about one hundred meter and the scooter was being driven by his brother Mohd. Yaseen. He admitted that he himself did not give any information to the police but

some passer-by had informed the police. He also deposed that after the accident, a crowd had gathered on the road, and the traffic was jammed. He further deposed that the driver side of the bus collided with the scooter and with the help of the police, the claimant was admitted to the hospital. He further admitted that he had gone to his house for informing the family members regarding the accident, but he denied the suggestion that he did not see the accident and was not present at the site of the accident. He denied the suggestion that the accident was caused due to the rash and negligent driving of the scooter driver.

22. PW-5 Dr. Ravindra Singh, Senior Orthopaedic Specialist, District Hospital, Meerut was examined as PW-5, who has proved the disability certificate, issued to the claimant which disclosed that he has suffered permanent disability of 50% due to the amputation of right leg below the knee. He further deposed that due to the disability, the claimant must be having difficulty in doing his daily routine work, and he was further disabled from doing any work, which he was doing prior to the accident. In the cross examination, this witness failed to disclose the functional disability suffered by the claimant due to the permanent disability. He also deposed that the abdomen of the claimant was also operated.

23. It is apparent that the Insurance Company has not cross-examined this witness (PW-5) as to whether the claimant could still work as a salesman at a Saree Shop even after the permanent disability suffered by him in the accident.

24. The claimant also examined Dr. Praveen Jain as PW-6, who deposed that he was a plastic surgeon, who had treated the claimant on 18.12.2003 in Divya Jyoti Speciality Hospital, Ganganagar, Meerut, who had examined the injured right leg of the claimant, which was found badly crushed below knee, in which both the bones were found fractured and there was also compound dislocation of the ankle joint and all muscles were also crushed. He further deposed that there was no sensation, movement or blood flow in the right leg of the claimant and hence had advised the amputation of right leg below knee. He further deposed that on 18.12. 2003, he along with Dr. Manoj Gupta and Dr. Rajeev Singh had amputated the right leg of the claimant below knee. Dr. Rajeev Singh had

operated the abdomen of the claimant, while Dr. A Mukherji was present as anesthetist.

25. The Apex Court in the case of ***ICICI Lombard General Insurance Company Limited vs. Rajani Sahoo and Others*** (2025) 2 SCC 599, has held as under:-

"8. As regards the reliability of charge-sheet and other documents collected by the police during the investigation in motor accident cases, this Court in Mangla Ram v. Oriental Insurance Co. Ltd. [(2018) 5 SCC 656 : (2018) 3 SCC (Civ) 335 : (2018) 2 SCC (Cri) 819 : 2018 INSC 311] , held in para 27, thus : (SCC p. 672)

"27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 and 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] , noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the tribunal."

9. It is true that the Tribunal had looked into the oral and documentary evidence including the FIR, final report and such other documents

prepared by the police in connection with the accident in question. The Tribunal had also taken note of the fact that based on the final report, the driver of the offending truck was tried and found guilty for rash and negligent driving. The High Court took note of such aspects and found no illegality in the procedure adopted by the Tribunal and consequently dismissed the appeal.

10. In the contextual situation it is relevant to refer to a decision of this Court in *Mathew Alexander v. Mohd. Shafi* [(2023) 13 SCC 510 : 2023 INSC 621] , this Court held thus : (SCC p. 514, para 12)

“12. ... A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account of death or injury in a road traffic accident. To the same effect is the observation made by this Court in *Dulcina Fernandes v. Joaquim Xavier Cruz* [(2013) 10 SCC 646 : (2014) 1 SCC (Civ) 73 : (2014) 1 SCC (Cri) 13] which has referred to the aforesaid judgment in *Bimla Devi* [*Bimla Devi v. Himachal RTC*, (2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101] .”

11. Thus, there can be no dispute with respect to the position that the question regarding negligence which is essential for passing an award in a motor vehicle accident claim should be considered based on the evidence available before the Tribunal. If the police records are available before the Tribunal, taking note of the purpose of the Act it cannot be said that looking into such documents for the aforesaid purpose is impermissible or inadmissible.

12. It is also a fact that the appellant had attributed that the respondent claimants connived with police and fraudulently prepared the charge-sheet. The contention is that the vehicle insured with the appellant was not involved in the accident and the accident had occurred solely due to the rash and negligence on the part of the deceased. But the evidence on record would reveal that pursuant to the filing of the final report,

cognizance was taken for rash and negligent driving which resulted in the death of Udayanath Sahoo."

(emphasis supplied)

26. The Apex Court in the case of ***Ranjeet and another vs. Abdul Kayam Neb and another*** 2025 SCC OnLine SC 497, has held as under:-

"4. It is settled in law that once a charge sheet has been filed and the driver has been held negligent, no further evidence is required to prove that the bus was being negligently driven by the bus driver. Even if the eyewitnesses are not examined, that will not be fatal to prove the death of the deceased due to negligence of the bus driver."

(emphasis supplied)

27. It is apparent from the evidence of claimant PW-1, who is an injured witness, that he was travelling as a pillion rider on scooter no.DL-1-SB-0460 at the time of the accident, then the offending bus came from the opposite side and collided head-on with the scooter, which was not contradicted by the UPSRTC by examining the driver of the offending bus before the Tribunal.

28. It is well settled that in order to contradict the finding of negligence, the offending driver must have been examined by the appellant-UPSRTC before the Tribunal, but no such endeavour was made by it.

29. It is further apparent that the Tribunal has disbelieved the testimony of Mohd. Usman PW-4 on the ground that after the accident he went to his house for informing the family members regarding the accident which was unusual, as such, he cannot be an eyewitness of the accident, which is a perverse finding.

30. It is well settled that the claimants are not supposed to prove the accident and the negligence of the offending bus driver beyond reasonable doubt and only they have to prove it on the preponderance of probabilities, which they have proved.

31. It was further proved from the evidence of the claimant, who was an

injured witness and eyewitness PW-4, that at the time of the accident, the scooter was being driven towards the left side of the road, which was hit head-on by the offending bus, as such, there was no occasion for the Tribunal to assume that the scooter driver contributed 40% to the accident.

32. Merely on the basis that right palm of scooter driver and right leg of the claimant came in contact with the body of the bus, it cannot be presumed that if the scooter driver was cautious, then the accident could have been averted. It is apparent that since right leg of the claimant was injured, the tribunal has presumed composite negligence of scooter driver in the accident, which is a perverse finding. It is further apparent that since scooter driver was not party to the claim petition, this finding of composite negligence, could not have been recorded by the tribunal and keeping in view the judgment of the Apex Court in the case of ***Khenyei vs New India Assurance Co. Ltd. and others (2015) 9 SCC 273***, the claimant was entitled to claim compensation from any tortfeasor i.e. either from scooty driver or from the bus driver/owner but the claimant has chosen to claim compensation from the owner of bus, UPSRTC.

33. The above finding of the Tribunal insofar as the contributory negligence of the driver of the scooter is concerned, is liable to be set-aside and is accordingly set-aside and it is held, that the accident occurred due to the sole negligence of the driver of the offending bus no.UP-21-L-0405, which was being driven in a rash and negligent manner at the time of the accident.

34. It is further apparent that in the criminal case after investigation, a charge-sheet has been submitted against the offending bus driver Mohd. Aslam, under Sections 279, 337, 338, 427 IPC, on which cognizance has been taken by the competent criminal court, who has not been examined by the UPSRTC, to prove that he was driving his bus cautiously with controlled speed at the time of the accident and there was no negligence on his part in the accident.

35. From the evidence of PW-3, PW-5 and PW-6, it was proved that due to the injuries suffered by the claimant in the accident, his right leg was

badly crushed, which was amputated below knee, due to which he has suffered 50% permanent disability, which was proved by examining PW-5, Dr. Ravindra Singh.

36. The Apex court in the case of **Raj Kumar vs. Ajay Kumar and Another (2011) 1 SCC 343**, while analysing how to determine compensation in cases of permanent disability, has held as under:-

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])

37. 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.

38. 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 compensation for loss of 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.

39. 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.*

40. 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.

41. It is well settled that in a case of permanent disability, the Tribunal is not bound by the quantum of permanent disability mentioned in the disability certificate and it has to independently assess the functional disability, keeping in view, the nature of the job, which was being performed by the claimant before the accident. In each case, the Tribunal has to assess whether after the accident, the claimant is in a position to do the same work, which he was doing prior to the accident.

42. From the evidence of Sanjay PW-2, it was proved that the claimant was working as a salesman in a garment shop, in which, Sarees, Suit Salwar, Pant-Shirt was sold and he was paid a salary of Rs.3,600/- per month. Although, the Tribunal has disbelieved the salary certificate issued by the PW-2 and has assessed the monthly income of the claimant at Rs.3000/-, which is perfectly justified, since PW-2 failed to submit any documentary proof of his income from the shop.

43. As per ***Rule 220-A of the UP Motor Vehicle Rules, 1998***, even in

cases of permanent disability, the claimant is entitled to get compensation for loss of future income due to the permanent disability at the rate of 50%, if he was below 40 years old at the time of the accident.

44. It is apparent that the Tribunal has not awarded any compensation towards loss of future prospects, due to the disability to the claimant, whereas since he was only 36 year old at the time of the accident, he was entitled to get it at the rate of 50%, in accordance with **Rule 220-A of the U.P. Motor Vehicle Rules, 1998.**

45. From the evidence of PW-2 it was proved that the claimant was employed as a salesman in his garment shop, who was fired from his job after accident due to the permanent disability suffered by him. It is apparent that, owing to the amputation of his right leg below the knee, the claimant became incapable of sitting cross-legged, standing up frequently, or standing for long durations, which rendered him unfit to perform the duties of a salesman after the accident, and for this reason, he was fired from his job. In view of this, it will be deemed that the claimant has suffered 100% functional disability due to injuries suffered in the accident.

46. As per **Rule 220-A of the U.P. Motor Vehicle Rules, 1998**, the claimant was entitled to interest at the rate of 7% per annum on the compensation awarded; however, the Tribunal has awarded it @ 6% per annum, which requires enhancement.

47. It is also apparent that the Tribunal has awarded inadequate amount of compensation under non-pecuniary heads, which requires substantial enhancement, keeping in view, the various precedents of the Apex Court.

48. 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 Heads	Amount Awarded(in Rs.)	In Accordance with.

1.	Monthly Income of the claimant	3,000/-	<i>As determined by the tribunal</i>
2.	Annual income of the claimant	3,000X12= 36,000/-	<i>As determined by the tribunal</i>
3.	Add future prospects @50% since claimant was about 36 years old	18,000/-	<i>UP Motor Vehicle Rules,1998, Pappu Deo Yadav(supra) and Sidram (supra)</i>
4.	Total annual loss of future income due to 100% functional disability	36,000+18,000=54,000/-	<i>UP Motor Vehicle Rules,1998, Pappu Deo Yadav(supra) and Sidram (supra)</i>
5.	Multiplier applied since age of claimant was about 36 years	15	<i>Pranay Sethi (supra)</i>
6.	Total future loss of income due to 100% functional disability	54,000X15=8,10,000/-	<i>Pranay Sethi (supra) Raj Kumar(supra) and Sarnam Singh(supra)</i>

7.	Compensation towards pain,suffering and loss of amenities	1,00,000/-	-
8.	Special diet and transportation expenses	25,000/-	-
9.	Treatment expenses	38,000/-	<i>As awarded by the tribunal</i>
10.	Total compensation	9,73,000/-	

49. In this way, the claimant is entitled to total compensation of Rs.9,73,000/- alongwith interest @ 7% per annum from the date of filing of the claim petition till it's actual payment, which is to be indemnified by the owner-UPSRTC of the offending Bus No.UP-21L-0405.

50. Accordingly, FAFO No.1698 of 2008 preferred by the UPSRTC is dismissed.

51. FAFO No.2491 of 2019 preferred by the claimant for enhancement of compensation is allowed. The award of the tribunal dated 17.03.2008 is modified to the above extent.

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

53. Office is directed to remit the statutory deposit made by the appellant UPSRTC in FAFO No.1698 of 2008 to the concerned tribunal, forthwith.

54. Interim order, if any, in FAFO No. 1698 of 2008, stands vacated.

January 20, 2026
Mayank

(Sandeep Jain,J.)