



BEFORE THE MEMBER, MOTOR ACCIDENT CLAIMS
TRIBUNAL NO. 3, KAMRUP (M), GUWAHATI

Present: - **Sri S.K. Ghosh, AJS,**
Member, MACT No.3,
Kamrup (M), Guwahati.

MAC Case No. 1398/2022.

1. Chandmahammad Ali
S/O Jafat Ali
Vill- Ag-Gumi
P.S. Chhaygaon
Dist. Kamrup, Assam
(Represented by his son Afnur Ali)

.... **Claimant**

-VS-

1. M/S New India Assurance Co. Ltd.
....insurer of vehicle No. AS-01-GE-9711
2. Md. Saddam Hussain
....owner of vehicle No. AS-01-GE-9711
3. Md. Saker Ali
.....driver of vehicle No. AS-01-GE-9711

..... **Opposite parties**

ADVOCATE APPEARED

For Claimant	: Mr. Kurban Ali, learned advocate
For OP No.1	: Mr. A. Acharyya, learned advocate
For OP No.2 & 3	: Ms. R. Begum, Learned Advocate

Claim petition filed on : 01.09.2022

Claimant's evidence recorded on : 18.12.2023 and 06.12.2024.

Arguments heard on : 20.03.2025

Judgment delivered on : 26.03.2025

J U D G M E N T .

1. This is an application filed under section 166 of the Motor Vehicles Act, 1988 by one Afnur Ali, praying for granting compensation on account of injury sustained by his father Chanmahammad Ali in a motor vehicular accident occurred on 03.03.2022 at about 07.30 P.M. at Ag-Gumi under Chhaygaon police station in the district of Kamrup, Assam with the involvement of a vehicle bearing registration No. AS-01-GE-9711 (Tipper).
2. The brief facts of the case of the claimant is that on the fateful day i.e. on 03.03.2022 at about 07.30 P.M. while the victim Chanmahammad Ali was proceeding from Gumi Chowk towards his residence situated at Ag-Gumi on foot through the left side of the road, on the way he was dashed from back side at Ag-Gumi by the offending vehicle bearing Regn. No. AS-01-GE-9711 (Tipper) coming from Chhaygaon towards Goroimari in a very rash and negligent manner and at a high speed. As a result the accident took place and the victim Chanmahammad Ali sustained grievous injuries on his person. The matter was immediately informed to police and police brought the victim to Chhaygaon CHC but after giving

preliminary treatment the victim was referred to GMCH. But, the victim was brought and admitted at GNRC Hospital, Dispur on 04.03.2022 and was discharged on the same day. Thereafter the victim was brought to K.P. Sinha Memorial Super Specialty Hospital, Patna on 05.03.2022 and his amputation of lower limb above knee joint was done under SA on 05.03.2022. The victim was discharged on 28.03.2022.

3. It is contended in the claim petition that the accident occurred due to rash and negligent driving of the driver of the vehicle bearing Regn. No. AS-01-GE-9711 (Tipper) and in this respect Chhaygaon police station registered a case vide Chhaygaon P.S. Case No.200/2022 u/s. 279/338 IPC against the driver of the offending vehicle.
4. The claimant has accordingly filed this case against the insurer, owner and driver of the vehicle by arraying them as opposite party No.1 to 3 respectively. All the opposite parties have entered their appearance and contested the case by filing written statements.
5. Opp. Party No. 1, New India Assurance Co. Ltd., the insurer of the vehicle by filing written statement has pleaded that the claim petition is not maintainable against OP No.1. The claim petition is bad for mis-joinder and non-joinder of necessary parties. OP No.1 has denied the allegation averred in the claim petition. However, the company urged upon the

claimant to prove the case strictly.

6. OP No.2, owner of the vehicle in his written statement has pleaded that the claim petition is not maintainable in law as well as in the facts and circumstances of the case. OP No.2 has denied the allegations as averred in the claim petition and has further pleaded that the vehicle in question was duly insured with OP No. 1 vide policy No. 53090131210100001376 valid up to 15.09.2022. OP No.2 also pleaded that OP No.3 driver of the vehicle was also holding valid driving licence being No. As-0220166500032 valid up to 31.12.2035.

7. OP No.3, the driver of the vehicle in his written statement has also pleaded in the same tune as that of OP No.2, the owner of the vehicle. However, he has denied his rash and negligent driving.

8. Upon pleadings of the respective parties, the following issues were framed by one of my learned predecessor of this Tribunal to arrive at a just decision :

a. Whether the victim Chanmahammad Ali sustained injury in the alleged road accident occurred on 03.03.2022 at about 07.30 P.M. at Ag-Gumi under Chhaygaon P.S. in the district of Kamrup, Assam due to rash and negligent driving of the driver of the vehicle bearing Regn. No. AS-01-GE-9711 (Tipper)?

b. Whether the victim is entitled to get any compensation and if yes, to what extent and by whom amongst the opposite parties, the said compensation amount will be payable ?

9. During the course of trial, the injured has examined himself as PW-1 along with witness, Dr. P.K. Padmapati as PW-2 and exhibited some documents namely, accident information report as Ext-1, advice slip of Chhaygaon CHC as Ext-2, X-ray reports and discharge certificates as Ext-3 to 15, bills and vouchers as Ext-16 to 39, certified copy of FIR as Ext-40, photo copies of Aadhar card, Pan card and voter ID card as Ext-41 to 43, copy of photo graphs of victim as Ext-44, unique disability ID and disability certificate as Ext-45 and 46, certificate of Gaonburah as Ext-47.
10. On the other hand, the contesting opposite parties have not examined any witness in support of their contentions made in their respective written statement.
11. I have perused the case record along with the exhibited documents. I have heard argument advanced by the learned counsel for the claimant as well as Opp. Party No.1. The learned counsel for the claimant as well as OP No.1 have also submitted written arguments, which have been carefully gone through.

DISCUSSION, DECISION AND REASONS THEREFOR:

12. I have carefully examined the evidence on record both oral and documentary and after hearing the argument advanced by the learned counsel for the claimant and Opp. Party No.1, I do hereby pronounced judgment on the above issues as follows :

ISSUE NO.I

13. Before, appreciating the evidences, I am of the opinion that the evidence adduced by the injured as PW-1, needs to be reflected.

14. PW-1 Chanmahammad Ali, the injured has stated in the affidavit of his examination-in-chief that his son Afnur Ali has filed the case on his behalf claiming compensation for the grievous injury sustained by him in a motor vehicular accident occurred on 03.03.2022 at about 07.30 P.M. at Ag-Gumi under Chhaygaon police station.

15. PW-1 has further stated that on 03.03.2022 at about 07.30 P.M. while he was proceeding from Gumi Chowk towards his residence situated at Ag-Gumi on foot through the left side of the road, on the way he was dashed from back side at Ag-Gumi by the offending vehicle bearing Regn. No. AS-01-GE-9711 (Tipper) coming from Chhaygaon towards Goroimari in a very rash and negligent manner and at a high speed. As a result the accident took place and he has sustained grievous injuries on his person. The matter was immediately informed

to police and police brought the victim to Chhaygaon CHC but after giving preliminary treatment the victim was referred to GMCH. But, the victim was brought and admitted at GNRC Hospital, Dispur on 04.03.2022 and was discharged on the same day. Thereafter the victim was brought to K.P. Sinha Memorial Super Specialty Hospital, Patna on 05.03.2022 and his amputation of lower limb above knee joint was done under SA on 05.03.2022. The victim was discharged on 28.03.2022. But, he is not fully cured till date and further better treatment is necessary. He had sustained crush injury both lower limb and degloving injury, Lower limb below knee joint amputation, fracture dislocation of multiple tarsal and metatarsal bones on both sides with extensive soft tissue injury and surgical emphysema and scallop swelling in left parietal region.

16. PW-1 furthermore deposed that he has incurred medical expenditure for more than Rs.7,00,000/- but unable to produce all the bills and vouchers and now could submit bills and vouchers of Rs. 5,62,939/- only.

17. P.W-1 also stated that the accident took place under the jurisdiction of Chhaygaon police station and his wife Hanufa Bibi lodged an ejahar before the Chhaygaonu police station and after due enquiry police has registered a case vide Chhaygaon P.S. Case No. 200/2022 u/s. 279/338 IPC against the driver of the offending vehicle bearing Regn. No. AS-01-GE-9711 (Tipper). The accident took place due to sole rash

and negligent driving of the driver of the offending vehicle.

18. PW-1 further deposed that he was examined physically and clinically by the members of District Medical Board, Kamrup for issuing disability certificate and thereafter his permanent disability certificate to the extent of 79% was issued on 01.02.2023 by the concerned authority.
19. PW-1 furthermore stated that at the time of accident he was a mason by profession and his monthly income was Rs. 20,000/-.
20. During cross examination by Opp. Party No.1, PW-1 has stated that the case was filed by his son Afnur Ali but he has not given any authority letter to him. He came to court in public transport. He has denied the suggestion that the accident occurred when he all of a sudden crossed the road without signal. He has denied the suggestion that the vehicle bearing Regn. No. AS-01-GE-9711 (Tipper) had not been driven in rash and negligent manner. He has not submitted the extract copy of GDE. He has not submitted the MVI report, seizure list and charge sheet in connection with the case. He was admitted in K.P. Singh memorial Superspecialty Hospital, Patna on 05.03.2022 till 28.03.2022. He has denied the suggestion that the medical treatment including discharge certificate of K.P. Singh Memorial Hospital, Patna are all fraudulent and manipulated documents. He has denied the suggestion that he was not a mason at the time of accident

and did not earn Rs. 20,000/- per month. The Gaonburah is present to prove Ext-47 regarding his income. He has denied the suggestion that the accident took place absolutely due to his negligence/fault.

21. PW-2 is Dr. Paban Kumar Padmapati, retired superintendent of Tularam Bafna Civil Hospital, Kamrup. PW-2 has deposed that on receipt of summons from this Tribunal, the Joint Director of Health Services, Kamrup, Amingaon endorsed him to appear and depose evidence in the case. Ext-48 is the authority letter. Ext-49 is the summons issued to Joint Director of Health Services, Kamrup, Amingaon. On 01.02.2023 he was servicing in the capacity of Superintendent and posted at Tularam Bafna Civil Hospital, Kamrup, Amingaon. Patient namely Chanmahammad Ali visited Tularam Bafna Civil Hospital in respect of amputation of both lower limbs. He being a member of locomotor disability of district Disability Board, Kamrup, Amaingaon has physically and clinically examined Chanmahammad Ali and forward his recommendation to the Joint Director of Health Services, Kamrup, who issued disability certificate in favour of patient. During examination he found said Chanmahammad Ali had 79% of locomotor disability and it was permanent in nature because there was amputation of both lower limbs. He has forward his recommendation following the guidelines of the Govt. of India. The nature of disability of Chanmahammad Ali will affect in all affairs of his life pertaining to movement. If

prosthetic limb is affixed the ability of movement would be enhanced. Prosthetic limb are subject to replacements by elapse of time. The percentage of disability of Chanmahammad would not decrease in future. Ext-46 is the disability certificate issued by Joint Director of Health Services, Kamrup, Amingaon on the basis of his recommendation. Ext-45 is the Unique disability ID card of Chanmahammad Ali.

22. During cross examination by Opp. Party No.1, PW-2 has stated that he is a surgeon of orthopedics. He has no expertise in prosthetic limbs. He has not medically treated the patient. He does not know whether the disability certificate issued under RPWD Act 2016 notified by Govt. of India vide S.O.76(E) dated 04.01.2018 is for employment purpose or for other purposes. He has recommended his forwarding in respect of Chanmahammad Ali under the guidelines of RPWD Act, 2016. He does not aware whether the guidelines issued by Ministry of Social Justice and Empowerment, Govt. of India is only applicable in case of issuance of disability certificate. He has not submitted the calculation sheet. He has denied the suggestion that Ext-46 has not been issued following the guidelines of Govt. of India and also as per medical jurisprudence.

23. With regard to issue No.1, learned counsel for the claimant has submitted that PW-1 has stated that the alleged accident occurred on account of the fault of the offending

vehicle bearing registration No. AS-01-GE-9711 (Tipper). The relevant exhibited police papers has corroborated the evidence of PW-1 and proved that the alleged accident occurred due to the fault of the driver of the offending vehicle i.e. the Tipper. Thus the claimant has succeeded to prove issue No. 1 in his favour.

24. On the other hand learned counsel for Opp. Party No.1 the insurer of the vehicle bearing Regn. No. AS-01-GE-9711 (Tipper) has not raised any specific plea in respect of rash and negligent driving by the driver of the offending vehicle or adduced any evidence to show that the accident occurred due to negligence on the part of the claimant.

25. Upon hearing both sides on issue No.1, I have gone through the evidence adduced by PW-1 (injured) and also perused the documents submitted before this Tribunal. In support of the case, the claimant has submitted Ext-1 Accident Information Report. From Ext-1 Accident Information Report, it is found that the accident occurred on 03.03.2022 at about 07.30 P.M. at Ag-gumi and the vehicle has been mentioned as AS-01-GE-9711 (Tipper). The name of the driver has been mentioned as Md. Saker Ali. It is also found that the vehicle was insured with New India Assurance Co. Ltd. at the time of accident vide policy No. 53090131210100001376 valid up to 15.09.2022.

26. From Ext-1, it further reveals that Chhaygaon police

station registered Case No. 200/2022 u/s. 279/338 IPC. The claimant has submitted the certified copy of FIR as Ext-40 showing registration of Chhaygaon P.S. Case No. 200/2022 u/s. 279/338 IPC based on the FIR.

27. It is to be remembered that, "while conducting the enquiry into a claim under Section 166 of the M.V. Act, the Tribunal is not expected to search for proof of evidence beyond reasonable doubt, rather it is preponderance of probability, what the tool is for assessment of the Tribunal can arrive at it's finding on the prima-facie material such as the First Information Report to presume the existence of certain facts, in absence of other evidence which might debase such presumptions". (**Godavari Devi Sarma and Ors. Vs. United India Insurance Co. Ltd. and Ors. [2012 (4) GLT) 516]**).

28. Similarly, in the case of **Bimla Devi v. Himachal Road Transport Corporation [(2009) 13 SCC 530]**, Hon'ble Supreme Court has observed that the standard of proof of negligence as required in a claim petition u/s 166 M V Act is on the touchstone of preponderance of probability.

29. It is settled law that the person who files an application under Section 166 of the Motor Vehicle Act, 1988 seeking compensation, must show that the respondent was negligent. It is pertinent to mention here that for a person to be legally responsible for his action, it is essential to have evidence

that he is at fault.

30. Here in the instant case, the evidence of PW-1 is supported by the police papers such as Accident Information Report and FIR and thus it can be inferred about the involvement and fault of the driver of the offending vehicle, which could not be controverted by the Opp. Party although PW-1 has been thoroughly cross examined by the contesting opposite party. Thus it can easily be presumed that the alleged accident occurred due to rash and negligent driving of the driver of the offending vehicle bearing Regn. No. AS-01-GE-9711 (Tipper).

31. Moreover, the owner and driver of the vehicle though contested the case but have not cross examined PW-1 to negate his evidence.

32. From the above ratio of evidence as well as exhibited documents, it is established that the accident is a fact and the claimant sustained injuries in the accident. It is also established that the driver of the offending vehicle drove the vehicle in a rash and negligent manner at the time of accident. Therefore, it is held that on 03.03.2022 at about 07.30 P.M. the accident occurred due to the rash and negligent driving of the driver of the offending vehicle bearing registration No. AS-01-GE-9711 (Tipper) causing grievous injuries to the claimant namely, Chanmahammad Ali. Accordingly issue No. 1, is decided in

affirmative and goes in favour of the claimant.

ISSUE NO. II

33. As the accident has arisen due to rash and negligent driving of the vehicle bearing registration No. AS-01-GE-9711 (Tipper) on the part of the driver of the offending vehicle and since the said accident has caused injuries to the victim Chanmahammad Ali, the injured is certainly entitled to receive just and proper compensation.

34. Now, let us decide what should be the just and proper compensation under the facts and circumstances of the case in hand.

35. Ext-2 advice slip issued by Chhaygaon BPCH/CHC shows that the injured was taken there with crush injury, B/L injury and was referred to GMCH.

36. Ext-8 discharge summary issued by GNRC shows that the injured was admitted there on 04.03.2022 with the history of crush injury both lower limb with degloving injury following RTA on 03.03.2022 and was discharged on 04.03.2022 with advice to take treatment in plastic surgery and orthopedics set up.

37. Ext-15 discharge summary issued by K.P. Sinha Memorial Super Specialty Hospital, Patna shows that the

injured was admitted there on 05.03.2022 and the diagnosis was done as B/L lower limb crush injury. Surgical procedure was done under SA B/L lower limb above knee joint amputation followed by stump closer done. He was discharged on 28.03.2022.

38. From the above exhibited medical documents and discharge certificates, it can be presumed that the injured was taken to hospitals for the injury sustained in a motor vehicular accident and the injuries sustained by the injured is reliable and believable.

39. Ext-16 to 39 are bills and vouchers submitted by the claimant claiming cost of hospitalization, investigation and purchase of medicines incurred for the purpose of his treatment. I have gone through the said exhibited bills and vouchers and the same are accepted as valid proof of expenditure incurred for the treatment of the claimant. Learned counsel for OP No.1 raised objection in respect of advance payment and discounted amount. I have scrutinized the exhibited bills and vouchers. It is found that an amount of total **Rs. 4,63,539/-** was actually incurred by the claimant during the course of treatment of the victim. Thus, the injured is entitled to the said amount of bills and vouchers.

40. PW-1 has further deposed that due to the accident, he suffered permanent disability to the extent of 79%. PW-2 Dr.

P.K. Padmapati, retired Superintendent Tularam Bafna Civil Hospital has proved the Disability Certificate Ext-46 which was issued in respect to injured Chanmahammad Ali to the tune of 79% permanent disability. PW-2 has stated in his evidence that due to amputation of both lower limbs it was permanent in nature and the percentage of disability would not decreased in future.

41. Opposite Party No.1 has failed to prove that Ext.46 is not a genuine document. The contesting opposite party has not examined any medical officer from it's side to prove that the injured has not been suffering from alleged injury and has not become a permanent disable person to the tune of 79% due to amputation of both lower limbs below knee.

42. It is to be remembered that in ***Golla Rajanna and Ors vs. Divisional Manager and Anr***, reported in ***(2017) 1 SCC 45***, the Hon'ble Supreme Court has held in paragraph No. 9 as follows:

"The Workmen's Compensation Commissioner, having regard to the evidence, had returned a finding on the nature of injury and the percentage of disability. It is purely a question of fact. There is no case for the insurance company that the finding is based on no evidence at all or that it is perverse. Under Section 4(1)(c)(ii) of the Act, the percentage of permanent disability needs to be assessed only by a qualified medical practitioner. There is no case for the respondents that the doctor who issued the disability

certificate is not a qualified medical practitioner, as defined under the Act. Thus, the Workmen's Compensation Commissioner has passed the order based on the certificate of disability issued by the doctor and which has been duly proved before the Workmen's Compensation Commissioner."

43. It is pertinent to mention here that the disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human being. A disability in any condition of the body or mind (impairment) that makes it more difficult for the person with the condition to do certain activities and interact with the world around them (participation restrictions). Permanent disability refers to a condition in which an individual is no longer able to work due to injuries. Total permanent disability, also called permanent total disability, applies to cases in which the individual may never be able to work again. Partial disablement refers to partial loss of functionality in one or more limbs. It is considered as a permanent disability if there is no chance of treatment or recovery.

44. Now coming back to the instant story, it is found that Ext.46 i.e. the disability certificate issued by the Office of the Joint Director of Health Services, Kamrup, Amingaon certifying that the injured (claimant) has suffered from disability to the extent of 79% due to amputation of both lower limbs.

45. From the above cited judgment it is apparent that a

qualified doctor can form opinion in regard to the disability of a person. In the instant case, the opposite party has failed to establish that the doctor i.e. the PW-2, who issued the disability certificate to the injured, is not a qualified doctor.

46. In view of the aforesaid legal proposition and looking at the nature of injuries and taking note of Ext-46 disability certificate, it is proved that claimant has suffered from Permanent 79% disability due to the accident. On the other hand, PW-2 the Medical Officer has categorically stated that the nature of disability will affect in all affairs of his life pertaining to movement. However, prosthetic limb if affixed the ability of movement would be enhanced. Therefore, I am of the considered view that the functional disability is assessed at **60%** with regard to the whole body.

47. Now, coming to the income of the injured at the relevant time it is contended by the claimant that he was working as mason and his income was Rs. 20,000/- per month and due to the disability he could not continue his job and lost his income. The claimant has exhibited one certificate of Gaonburah showing him to be a mason but the said Gaonburah is not present to prove the said certificate. Mere submission of a document is not enough to prove the fact mentioned there unless it is proved by the maker of the same. Thus the claimant has failed to substantiate his claim that he

was earning an amount of Rs. 20,000/- per month. Though the claimant has failed to prove his actual income, but the injured is a man of 48 years as per medical documents and can be presumed that he was earning certain amount of money for the maintenance of his family's livelihood by doing some work. Since the monthly income could not be established, it is to be assumed that the notional income of the injured was about **Rs. 7,500/-** per month.

48. As observed above, the victim's age at the relevant time of the accident was in between the age group of 46 to 50 years, as per the decision of ***Sarla Verma and others -Vs- Delhi Transport Corporation*** reported in ***(2009) 6 SCC 121***, the appropriate multiplier for the age group of 46 to 50 years is 13. Thus, the multiplier 13 has to be taken for ascertaining the loss of earning capacity in this instant case.

49. Apart from that, there should be an addition of 25% as per the decision of *Hon'ble Apex Court in Pranay Sethi* towards **future prospect**. In view of above, the loss of earning capacity is calculated as follows:

Monthly income	Rs.7,500/-	
Annual income	Rs.7,500 X 12	Rs.90,000/-
Multiplier 13	Rs.90,000/- X 13	Rs.11,70,000/-
Disability	Rs.11,70,000/-	Rs.7,02,000/-

60%		
Add 25% towards future prospect	25 % of 7,02,000 =	Rs.1,75,500/-
Total	Rs.7,02,000/- + Rs.1,75,500/-	Rs.8,77,500/-

50. Thus, an amount of **Rs.8,77,500/-** the injured would be entitled towards loss of earning capacity.

51. Now, let me consider, whether the victim is entitled to get any other compensation. The injured/victim was aged about 48 years at the time of accident. He has sustained grievous injuries. It shows that, he finds difficulty in doing day to day activities as he might have suffered pain, loss of amenities and comforts in life, he might have also need treatment in future. Therefore, considering the age, nature of injuries and physical disableness and cost of future treatment **Rs. 2,00,000/-** is awarded under the Head for cost of **Future treatment**.

52. The medical documents, shows that the injured got grievous injury such as B/L lower limb above knee joint amputation and got treated for about 24 (twenty four) days altogether as an indoor patient. Hence, considering gravity and seriousness of the injuries sustained by the injured and taking note of the, duration of treatment and also considering

the age of the injured at the time of accident, I have awarded **Rs. 30,000/-** on the **Head of nourishing food and special diets**, which is deem fit and proper in the interest of justice.

53. It is not disputed that the occurrence of accident and resultant of the accident. It is also not disputed the age of the injured. Admittedly, in view of the road traffic accident, the victim has to be amputated his both lower limb below knee. During the period of treatment and also follow-up treatment he must had undergone lot of unsaid pain and agony. Apart from this the injured has also suffered from permanent disability of 79% as transpires from the Ext-46. Therefore, it would be just and reasonable to award a sum of **Rs.1,00,000/-** towards the Head of **pain, shock and sufferings and mental agony**.

54. From the evidence of claimant and medical documents, it is found that the injured sustained serious type of injuries, and due to the injury sustained he was undergoing treatment at K. P. Sinha Memorial Hospital, Patna altogether for a period of almost 24 days as indoor patient and therefore, he had to take help from others. As the injured is found to be physically disable he might have to take help till he alive, therefore, it would be just and reasonable if it is awarded an amount of **Rs. 20,000/-** towards **attendants charge**. Apart from that, **Rs. 3,00,000/-** is awarded on the Head of **loss of**

expectation of life.

55. Now point to be considered, whether the claimant is entitled to get any other amount or not? From the record it appears that the injured became victim when he was aged about 48 years. The injured is expected to live more than 70 years. Due to injury sustained in the accident, he will suffer lots of difficulties. Considering the injury sustained by the injured and in absence of any contrary evidence adduced by the opposition, one can easily understand that the injured cannot live like a normal man and also remain deprived of enjoyment of his normal life. Hence, it would be just and reasonable to award him a sum of **Rs. 2,00,000/-** for the loss of amenities and enjoyment of life. Besides this, the claimant is also awarded **Rs. 50,000/-** as travelling expenditures considering the fact that the injured was treated at Patna and might have incurred expenditure for travelling. Except the aforesaid amount as compensation the claimant is not entitled to any other amount as compensation. Now, on computation the total amount of compensation is as follows:

Medical expenditure	: Rs. 4,63,539/-
Loss of income due to Disability	: Rs. 8,77,500/-
Nourishing food	
on the ground of grievous injury	: Rs. 30,000/-
Loss of expectation of life	: Rs. 3,00,000/-
Future treatment	: Rs. 2,00,000/-
Attendants charge	: Rs. 20,000/-

Loss of amenities	: Rs.2,00,000/-
Travelling expenditures	: Rs. 50,000/-
<u>Pain, shock and sufferings etc.</u>	<u>: Rs. 1,00,000/-</u>
Total	: Rs. 22,41,039/-

56. In total the claimant is entitled to get **Rs. 22,41,039/- (Rupees Twenty Two Lakhs Forty One Thousand and Thirty Nine) only.**

57. Before parting with it may be worth mentioning here that the instant petition has been filed by the son of the victim/injured but there is no authority letter either annexed with the claim petition or any whisper in the evidence of the injured/victim although Sec.166(d) of the M.V. Act mandates that the claim petition may be filed by any agent duly authorized by the person injured. Hence, there is clear violation of Sec.166(d) of the M.V. Act.

58. Nevertheless, considering the gravity of the injury sustained by the victim and also bearing in mind that on dismissal of the claim petition on the technical ground, the victim would suffer irreparably in the one hand and the offender would get scot free. Hence, the aforesaid technicalities is overlooked for the interest of justice.

59. Now, let us decide who amongst the opposite parties is liable to pay the compensation amount.

60. The victim has stated in his evidence that on the day of the said accident, the offending vehicle bearing registration No. AS-01-GE-9711 (Tipper) was insured with Opp. Party No.1 insurance company vide policy No.53090131210100001376 valid up to 15.09.2022. Opp. Party No.2 also in his written statements has contended that his vehicle was duly insured with Opp. Party No.1 which is not denied by OP No.1. Further Opposite party No.1 Insurance Company has failed to prove that the driver of the vehicle was not holding a valid driving license. On scrutiny, it appears from accident information report (Ext-1) that the driver was holding DL being No. AS-0220166500032 valid up to 21.01.2025 (Trans). Ext-1 Accident Information Report shows that at the time of the alleged accident the offending vehicle was duly insured with the Opp. Party No.1 New India Assurance Co. Ltd. So, the insurance company by way of adducing any credible and trustworthy evidence failed to establish that there is any infraction/ violation of section 150 of M.V. Act so far driving license of the driver of the offending vehicle is concern.

61. In view of the above discussion and reasons, it is held that the Opposite party No.1 New India Assurance Company Ltd. is liable to pay the compensation amount of **Rs. 22,41,039/- (Rupees Twenty Two Lakhs Forty One Thousand and Thirty Nine) only**, towards compensation, to the victim Chanmahammad Ali. Accordingly issue No. II is

decided in affirmative and goes in favour of the victim.

ORDER

62. In the result, the claim petition is allowed on contest and an amount of **Rs. 22,41,039/- (Rupees Twenty Two Lakhs Forty One Thousand and Thirty Nine) only**, is awarded as compensation to the injured claimant Chanmahammad Ali. The Opposite party No.1, the insurer of the vehicle is directed to pay **Rs. 22,41,039/- (Rupees Twenty Two Lakhs Forty One Thousand and Thirty Nine) only** within a period of 30 (thirty) days from today, to this Tribunal for onward disbursement to the claimant in time along with interest at the rate of **6%** per annum **from the date of filing the claim petition.**

63. Under the facts and circumstances of the case, parties are left to bear their own costs.

64. The MAC case is disposed of accordingly.

65. Signed, sealed and delivered in the open court on this the **26th day of March, 2025** at Guwahati.

Member, MACT No. 3
Kamrup (M), Guwahati.

Dictated & corrected by me-

Member, MACT No. 3
Kamrup (M), Guwahati

APPENDIX

A. Claimant's witnesses:

1. Chanmahammad AliPW-1
2. Dr. P.K. PadmapatiPW-2

B. Opposite parties witness :

Nil

C. Claimant exhibited the following documents:

1. Ext- 1 : Accident information report in form 54
2. Ext-2 : Advice slip of Chhaygaon PHC
3. Ext-3 to 15 : X-ray report and discharge certificates
4. Ext-16 to 39 : Medical bills and vouchers
5. Ext-40 : FIR
6. Ext-41 to 43 : Aadhar card and Pan card
7. Ext-44 to 46 : Photographs and disability certificates
8. Ext-47 : Certificate of Gaonburah

D. Opposite parties exhibits :

Nil

Member, MACT No.3
Kamrup(M), Guwahati

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