

IN THE HIGH COURT OF JHARKHAND AT RANCHI

M.A. No. 709 of 2017

Branch Manager/ Chief Executive Officer, Bajaj Allianz General Insurance Co. Ltd. Branch Office At 504, Mahabir Tower Opposite Church Complex, P.S. Hindpirih, P.O. & District – Ranchi.

... O.P. No.2/Appellant

Versus

1. Dr. Shihir Kumar Suman, son of Jawahar Prasad Singh, resident of Panchwati Chowk, Gangjala, P.S. Saharasa Sadar, P.O. & District- Saharsa, At present residing at Hostel No.6, Room No.3, RIMS, Ranchi, P.O. & P.S. Bariyatu, Town & District – Ranchi.

Applicant/Respondent

2. Md. Majul Ansari, son of Md. Salim Ansari, resident of Village Nadkari, P.S. Markacho, District- Koderma at Present residing at C/o Arshad Ali Suttar Colony, Bariyatu, Ranchi, P.O. & P.S.- Bariyatu, Town & District- Ranchi

... O.P. No.1/Respondent

CORAM: HON'BLE THE CHIEF JUSTICE

For the Appellant:	Mr. Alok Lal, Advocate
For Respondent No.1:	Mr. Samavesh Bhanj Deo, Advocate Mr. Raj, Advocate
For Respondent No.2:	Mr. Bharat Kumar, Advocate Mr. Sparsh Kumar Rai, Advocate Mr. Rahul Sinha, Advocate

07/Dated: 20.03.2026

1. Heard the learned counsel for the parties.
2. This appeal challenges the judgment and award dated 6th September 2017, by which the MACT, Ranchi, has allowed the Motor Accident Claim Case No. 19 of 2009 and awarded the respondent-claimant compensation of Rs. 22,53,243/- with 9% interest from the date of admission of the claim, till the realisation of the award.
3. Mr. Lal, the learned counsel for the appellant-Insurance Company, raised two contentions in support of this appeal.

4. Firstly, he submitted that a permanent disablement certificate dated 05.03.2009 was never proved by examining its author. He submitted that the claimant was under an obligation to prove the said document, and a bare and bald testimony cannot be a substitute for evidence. He relied on ***Oriental Insurance Co. Ltd. v. Johan Shah @ Md. Johan and Others***, reported in **2001(2) JLJR 163** to support this contention.

5. Secondly, he contended that the Tribunal has gone by the physical disability of 50% as stated in the certificate, but has failed to determine the functional disability, if any, suffered by the claimant. He submitted that what is crucial in such matters is the functional disability and not the mere physical disability. He relied on ***Raj Kumar v. Ajay Kumar & Anr*** reported in **(2011) 1 SCC 343** to support this contention.

6. Mr. Samavesh Bhanj Deo, the learned counsel for the claimant, defended the impugned award based on the reasoning reflected therein. He submitted that the certificate was quite clear, and its exhibition was accordingly admitted in evidence. He submitted that the claimant was himself a Doctor and, therefore, competent to depose on his medical condition. He submitted that there was no serious cross-examination on the extent of disability suffered by the claimant. He submitted that in this case the functional disability would be greater than the physical disability suffered by the claimant and, therefore, the principle in **Raj Kumar** (supra) stands adhered to. For all these reasons, he submitted that this appeal may be dismissed.

7. The rival contentions now fall for determination.

8. In this case, the claimant, Dr Shihir Kumar Suman, who, at the time of the accident giving rise to this claim petition, was only a PG student, was involved in an accident with a motorcycle bearing Registration No. JH-01U-6835 (insured vehicle). The claimant was also riding his motorcycle bearing Registration No. JH-01D-5407. It was the claimant's case that the insured vehicle, which was driven rashly and negligently, came on the wrong side and dashed against him, because of which the claimant sustained grievous head injuries.

9. The claimant, Dr Shihir Kumar Suman, examined himself and produced several documents, including a certificate regarding permanent disablement from the office of Civil Surgeon-cum-C.M.O., Ranchi. This certificate states that it was based on an examination by the Medical Board, as certified vide Certificate No. 272 dated 05.03.2009. The record discloses that original copies of these certificates were produced and have been substituted by their certified copies.

10. In addition to the above, the claimant produced a certificate dated 10.03.2009 from RIMS, Ranchi under the signature of the Head of the Department of Neurosurgery, RIMS, Ranchi; discharge summary issued by the Apollo Hospital, Ranchi for the claimant's treatment; discharge sheet issued by RIMS, Ranchi after treating the claimant's injuries; discharge summary issued from Indian Spinal Injuries Centre, New Delhi, after offering treatment to the claimant. Apart from the above certificates, the petitioner has produced prescriptions, medical bills and physiotherapist's charges to establish

the injuries and disabilities suffered by the claimant and the expenses incurred for the treatment.

11. In cross-examination on behalf of the appellant-Insurance Company, apart from objecting to the production of certain documents, including the permanent disablement certificate, there was no serious challenge to the claimant's testimony about his suffering injuries, which resulted in his permanent disablement. The cross-examination is extremely sketchy and does not indicate any serious challenge to the claimant's condition. The ground that the permanent disablement certificate was not proved in accordance with the law will therefore have to be evaluated in this background.

12. The record shows that most of the certificates, except perhaps the discharge summary issued by Apollo Hospital, Ranchi, were public documents in the sense that they were issued by the office of the Civil Surgeon or by doctors from RIMS, Ranchi, which is a Government Hospital. These documents were ultimately exhibited as evidence. Further, what is crucial is that the claimant, who deposed in the matter, was himself a Doctor. The certificates produced on record are entirely consistent with the case pleaded by the claimant regarding the injuries sustained and the consequent permanent disability to the extent of 50%.

13. The claimant has deposed that after the accident, he was admitted to the Neurosurgery Department of RIMS, Ranchi and on the CT scan, it was found that on the left side of the head, there was a blood clot. He deposed that his bleeding continued as he was feeling difficulties in breathing, and finally, the claimant was paralysed and

continued vomiting. Considering his serious condition, he was shifted to Apollo Hospital, where again a CT scan was carried out, which showed internal bleeding and clotting in the brain/head. He has deposed about being kept on a ventilator and subjected to Tracheotomy because he was unable to breathe by himself.

14. The claimant has also deposed to his being referred to the Indian Spinal Injuries Centre at New Delhi, because it was certified that he had suffered 50% permanent disability. He has also deposed that this disability was found after his examination by the Medical Board. All this was not seriously challenged.

15. Therefore, based on a hyper-technical plea that the Doctors who issued the certificate were not examined, there is no case made out to reject the overwhelming evidence on record regarding the 50% permanent disability suffered by the claimant due to the vehicular accident.

16. The facts in **Johan Shah** (supra) can offer no comparison whatsoever. In that case, the claimant (who was not a doctor himself), made a bald statement about the injuries and disablement suffered by him. It is in this context that this Court observed that no Doctor was produced, no other evidence, medical or otherwise, was adduced by the claimant before the Tribunal to prove the injuries and the consequent disablement. In the present case, as noted earlier, certificates from authentic sources have been placed on record. Apart from a formal objection, in the cross, there was no serious challenge to the claimant's statement or the admission of such public documents

in evidence. The claimant was himself a doctor and, therefore, competent to depose on his medical condition.

17. Besides these certificates, there is ample evidence which also suggests the permanent disability and the treatment for the same. The other evidence refers to the treatment that the claimant had to undergo in relation to the injuries and disability suffered by him due to the vehicular accident. Therefore, the decision in **Johan Shah** (supra) can be of no assistance to the Insurance Company to make good its hyper-technical plea.

18. The first contention on behalf of the Appellant insurance Company, therefore, cannot be upheld.

19. Regards the second contention, suffice to note that In **Raj Kumar** (supra), the Hon'ble Supreme Court has explained that in all cases the extent of permanent disability of a limb cannot be considered to be a functional disability of the body, nor could it be assumed to result in a corresponding extent of loss of earning capacity, as the disability would not have prevented him from carrying on avocation as a cheese vendor, though it might impede its smooth functioning. In effect, **Raj Kumar** (supra) holds that there should be no mechanical equation of the physical and the functional disability.

20. In the present case, there is no mechanical equation for the physical and functional disabilities. The Tribunal has considered that at the time of the accident, the claimant may have been a Postgraduate Student after having obtained his MBBS degree. However, on account of the brain injuries and paralysis of almost half

of his body, his functions as a Doctor would be affected to the extent of 50%.

21. From the evidence on record, it was possible to say that functional disability might have even exceeded the physical disability. In any event, the finding that the functional disability was equal to the physical disability, i.e. 50%, cannot be said to be contrary to the evidence on record or otherwise vulnerable. Therefore, this is not a case in which the principle in **Raj Kumar** (supra) has been ignored by mechanically equating physical disability with functional disability.

22. Therefore, even the second contention raised in this appeal cannot be accepted.

23. No other point was urged on behalf of the appellant. The two points urged lack merit and are based upon the same; no case is made out to interfere with the impugned award.

24. For the above reasons, this appeal is dismissed, without any order for costs.

25. The appellant has deposited Rs. 25,000/- at the time of institution of this appeal. Similarly, Mr Lal, learned counsel for the appellant, submitted that the appellant had deposited an amount of Rs. 9.00 Lakhs before the Tribunal. This means that the appellant has, in all, deposited an amount of Rs. 9.25 lakhs so far.

26. The appellant is now directed to deposit the balance amount, together with interest, within four weeks from today in this Court. The Tribunal should also remit the amount of Rs. 9.00 Lakhs, together with any interest that may have accrued thereon, to this Court within two weeks from today. Upon such deposit, the Registry will pay the

compensation amount, together with interest, to the claimant, Dr Shishir Kumar Suman, by transferring it to his bank account.

27. The learned counsel for the claimant has agreed to provide the claimant's identity and bank details to the Registry as soon as possible. Under no circumstances should the amounts be transferred to the claimant other than through the Banking channels.

28. The direction for 'pay & recover' made by the Tribunal is not disturbed, because the Owner of the insured vehicle has not challenged the said direction.

29. The appeal is disposed of in the above terms. No costs.

30. Pending interim applications, if any, stand disposed of.

(M. S. Sonak, C.J.)

March 20, 2026

N.A.F.R.

Manoj/Sharda/Cp.2

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