



2025:JKLHC-JMU:3042

Serial No. 09

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

MA No. 307/2013

Faiz Ali

.....Appellant(s)/Petitioner(s)

Through: Mr. M. P. Gupta, Advocate.

vs

Br. Manager, New India INS. Co. Ltd and
another

..... Respondent(s)

Through: Mr. Rupinder Singh, Advocate
Ms. Damini Singh Chauhan, Advocate.

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER
27.09.2025

ORAL

1. This appeal is directed against the award dated 28.02.2013 passed by the learned Motor Accident Claims Tribunal, Doda (for short '*the Tribunal*'), whereby the learned Tribunal has directed the owner of the offending vehicle i.e. respondent No. 2 to pay an amount of Rs. 7,00,000/- to the appellant along with interest at the rate of 7.5 percent per annum from the date of institution of the claim petition till realisation of the awarded amount and as the offending vehicle was insured, the respondent No. 1-Insurance Company has been directed to satisfy the award.
2. The appellant has impugned the award on the ground that just compensation under various heads has not been awarded to the appellant.
3. **Mr. M. P. Gupta**, learned counsel for the appellant has submitted that the learned Tribunal has not granted any compensation to the appellant



on account of attendant's expenses, particularly when the positive evidence was led by the appellant that he had engaged an attendant to assist him in his routine/daily activities and further insufficient compensation has been awarded under the heads of "Pain and Sufferings" and "Loss of Amenities of life".

4. *Per contra*, **Mr. Rupinder Singh**, learned counsel for the respondent No. 1-Insurance Company has submitted that the learned Tribunal has rightly awarded the compensation on the basis of the evidence led by the appellant and further that the appellant was a government employee, as such, he had not suffered any loss of income.
5. **Heard and perused the record.**
6. Record depicts that the appellant filed a claim petition for grant of compensation on account of injuries suffered by him in a motor vehicular accident that took place on 28.03.2006. The said petition was objected to by the respondent No. 1, however, the respondent No. 2 did not choose to appear before the learned Tribunal, as such, was set *ex parte* vide order dated 05.06.2007.
7. On the basis of pleadings of the contesting parties, following issues were framed:-
 - I. *Whether on 28.03.2006 petitioner Faiz Ali while travelling in Vehicle bearing No. JK-02J-3335 from Goha to Khalenni met with an accident at near Panchhi Nalla and sustained injuries due to rash and negligent driving of the driver of its vehicle? OPP*
 - II. *If issue No. 1 is proved in affirmative, to what amount of compensation the petitioner is entitled to and from whom? OPP*



III. *Whether the offending vehicle was being driven in violation of terms and conditions of Insurance Policy, if so, what is its effect on the claim petition? OPR-1*

IV. *Whether the driver of the offending vehicle was not having a valid driving license and Route Permit at the time of accident, if so, what is its effect on the claim petition? OPR-1*

V. *Relief.*

8. The appellant, besides examining himself, also examined Mushtaq Ahmed, Dev Raj, Shakeela Begum and Dr. Z. S. Mughal in support of his claim, whereas the respondent No. 1 did not choose to lay any evidence.

9. After perusing the pleadings and appreciation of the evidence, the learned Tribunal awarded compensation of Rs. 7,00,000/- in favour of the appellant under the following heads:-

1) Medical expenses (Hospitalization, medicines, transportation & nourishing food etc.)	Rs. 2,50,000/-
2) Future medical expenses	Rs. 2,00,000/-
3) Pain and sufferings	Rs. 50,000/-
4) Loss of amenities of life	Rs. 1,00,000/-
5) Loss of expectation of life	Rs. 1,00,000/-
Total	Rs. 7,00,000/-

10. A perusal of statement of the **claimant-Faiz Ali** reveals that he has specifically made a statement before the learned Tribunal that he is unable to move from his bed and can't go to Bathroom without assistance of attendant, as such, he has engaged one attendant for Rs. 3,000/-.

11. **Appellant Witness (AW)-Mushtaq Ahmed**, who is the real brother of the appellant has stated that he assists his brother as his attendant and it has affected his personal life including his daily earnings.



12. **AW- Shakeela Begum** has also stated that the petitioner cannot move from his place and he needs a permanent attendant.
13. **AW- Dr. Z. S. Mughal**, in his statement, has stated that the appellant cannot move, however, his upper limbs are functioning properly. He proved the disability certificate, which demonstrates that the appellant has suffered permanent disability of 80 percent. He has further stated that the lower limbs of the appellant are totally non-functional.
14. Thus, in view of the evidence led by the appellant, it is established that the appellant cannot move without assistance of the attendant.
15. A perusal of the impugned award reveals that no compensation has been awarded to the appellant on account of expenses of attendant. Though there is no concrete evidence in respect of the expenditure incurred by the appellant on account of attendant, as he has very vaguely stated in his testimony that he was paying Rs. 3,000/- to the attendant.
16. Be that as it may, sum of Rs. 3,000/- per month cannot be termed as an exorbitant amount on account of attendant's expenses.
17. Age of the appellant was 42+ years at the time of accident, as such, this Court is of the considered view that a sum of Rs. 5,00,000/- in lump sum shall suffice the requirement of the appellant on account of attendant's expenses.
18. Further, this Court finds that insufficient compensation on account of 'pain and sufferings' has been awarded by the learned Tribunal, which in the opinion of this Court can be enhanced to Rs. 2,00,000/-.



19. Lastly, this Court finds that compensation of Rs. 1,00,000/- on account of loss of expectation of life could not have been awarded by the learned Tribunal, but at the same time compensation awarded under the head of loss of amenities of life is on lower side and the same is enhanced to Rs. 2,00,000/- .

20. In view of above, award passed by the learned Tribunal is modified as under:-

1) Medical expenses (Hospitalization, medicines, transportation & nourishing food etc.)	Rs. 2,50,000/-
2) Future medical expenses	Rs. 2,00,000/-
3) Pain and sufferings	Rs. 2,00,000/-
4) Loss of amenities of life	Rs. 2,00,000/-
5) Attendant Expenses	Rs. 5,00,000/-
Total	Rs. 13,50,000/-

21. The enhanced amount shall carry an interest at the rate of 6 percent per annum from the date of institution of the claim petition till its realization. Accordingly, the award passed by the learned Tribunal is modified.

22. **Disposed of.**

(RAJNESH OSWAL)
JUDGE

Jammu
27.09.2025
Sahil Padha

Whether the order is speaking: Yes/No.
Whether the order is reportable: Yes/No.