

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 2340/2016

Kirodi Lal Alias Kirodi Mal Meena son of Omkar Mal, aged about 26 years, resident of Nareda Ki Dhani, Village Dattwas, Tehsil Niwai, District Tonk.

----Appellant

Versus

1. Sattar Khan son of Aziz Khan, resident of Chawdi Chowk Mohalla, Alanpur, Sawai Madhopur (Driver-Truck No.RJ-14-A-2948).
2. Mukesh Gurjar son of Ramchanra Gurjar, resident of Mohalla Bhopa Pada, Alanpur, Sawai Madhopur (Owner Truck No. RJ-14-A-2948)
3. National Insurance Company Limited, Division office at Lalsot Road, Dausa having its regional office at Near Nidhi Bhawan, High Court Circle, C-Scheme, Jaipur through its Regional Manager, (Insurer Truck No.RJ-14-GA-2948).

----Respondents

For Appellant(s)	:	Mr. Vinay Mathur with Mr. Ashish Mittal
For Respondent(s)	:	Mr. Om Prakash Kharra for Mr. Sushil Sharma

JUSTICE ANOOP KUMAR DHAND

Order

27/02/2026

1. By way of filing the instant appeal, a challenge has been led to the impugned award dated 08.12.2025 passed by the Motor Accident Claims Tribunal, Dausa, District Dausa (for short 'the Tribunal') in MAC Case No.240/2013, by which the claim petition submitted by the claimant-appellant (hereinafter referred to as 'the claimant') has been partly allowed and the respondents have

been directed to pay a compensation of Rs.6,40,500/- to the claimant.

2. The facts of the case are that the claimant met with an accident on 13.01.2023 and the accident was caused by the driver of the truck bearing registration No.RJ14-GA-2948, i.e., respondent No.1. In the aforesaid accident, the claimant has sustained several injuries and also lost his right leg which was amputated above the knee. For this purpose, a Medical Board consisting of three Doctors has also issued a disability certificate, which indicates that the claimant has suffered 80% permanent disability. It has been stated in the claim petition that the claimant was a labour-cum-agriculturist and was also unmarried at the time of accident and owing to the injuries suffered in the accident, the claimant would be deprived of the enjoyment of marital life.

3. Considering overall facts and circumstances of the case, the learned Tribunal has awarded a sum of Rs.5000/- for hospitalization, Rs.1,000/- for sustaining one simple injury, Rs.16,100/- for medical bills and a lump sum amount of Rs.1,00,000/- towards deprivation of marital life and future pain and suffering due to amputation of leg. Further, he has been granted Rs.5,18,400/- by the Tribunal under the head of loss income in future because of the amputation of his right leg.

4. Perusal of the record indicates that at the time of accident, the age of the claimant was 23 years and he has lost his right leg, which has been amputated above knee and he has suffered 80% permanent disability and the same has been reflected in the

disability certificate (Exhibit-33) issued by the Medical Board consisting of three Doctors.

5. Learned counsel for the respondent opposed the contentions raised in the appeal.

6. Heard and perused the material available on the record.

7. Hon'ble Apex Court in the case of **Sarnam Singh v. Shriram General Insurance Co. Ltd.** reported in **2023 (8) SCC 193**, has dealt with the identical issue, where the injured had suffered 80% permanent disability, but considering the age of the injured, his 80% permanent disability was treated as 100% disability for determining the compensation awardable. This fact has been dealt in detail, by the Hon'ble Apex Court, in para No.8 to 10, which reads as under:

"8. The issue required to be considered in the present appeal falls in a very narrow campus. It is with the reference to the functional disability of the appellant for the purpose of assessment of compensation. The fact remains that he suffered injuries in a road accident on account of which his right lower limb was amputated. This resulted in permanent disability. There is a certificate produced by the appellant from Madan Mohan Malviya Hospital, (Government of NCT Delhi) showing his permanent physical disability at 85% with further note that the condition is not likely to improve and no further reassessment is recommended. The certificate was issued by a board of doctors on 28.03.2014. As per the photograph of the appellant appearing in the disability certificate, his right leg has been amputated above the knee. The income of the appellant, his age and other factors are not in dispute.

9. 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 vs. Ram Avtar Tomar And Others** reported in **(2012) 2 SCC 267**. 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%.

10. 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. 31.05.2015. 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 of High Court, despite there being a judgment of this Court available on the issue."

8. In the instant case as well, the claimant has suffered 80% disability wherein his right leg has been completely amputated from the knee joint and as such, he is unable to discharge the functions of a normal person. Hence, considering the overall facts

and circumstances of the case, the Tribunal should have treated 80% disability of the claimant as 100% for the purpose of determining the amount of compensation awardable to him under the head of loss of income.

9. This Court finds that the age of the claimant at the time of the accident was 23 years, but looking to the injuries suffered by him and looking to the amputation in his right leg, now the claimant would not be in a position to get married and he would be deprived of all the benefits of a married life. But the Tribunal has not awarded a single penny to the claimant under this head.

10. In the considered opinion of this Court, the claimant is entitled to get a compensation amount of Rs.5,00,000/- under the head of loss of marital prospects.

11. This Court further finds that under the head of pain, suffering and mental agony, the Tribunal has awarded a meagre amount of Rs.1,00,000/-, which needs to be suitably enhanced by this Court. Accordingly, the compensation under the head of pain, suffering and mental agony is enhanced to Rs.2,00,000/-.

12. Once a person has lost a limb such as his leg, he is not in a position to walk and discharge his daily routine activities, hence, under these circumstances, an artificial limb/leg is required for the said purpose. However, the Tribunal has not awarded a single penny under this head. In the considered opinion of this Court, the claimant is entitled to get a lump sum amount of Rs.2,00,000/- under the head of artificial leg/limb.

13. At the relevant time, when the accident occurred in the year 2013, the daily wages of unskilled labour was Rs.166 per day. This

Court in the case of **Nandu Devi and Anr. Vs. Sohanlal and Ors.**, while deciding **S.B. Civil Misc. Appeal No. 769/2017** on 23.02.2022 after relying upon the judgment passed by the Co-ordinate Bench of this Court in the case of **Jalaur Singh and Ors. vs. Barkat Singh Ors.** reported in **202(2) MACT Raj. 692**, has held that the monthly income of a daily wager is to be determined for 30 days instead of 26 days in a month for the purpose of assessing loss of income. Hence, under these circumstances, the claimant's montly income for the purpose of assessing loss of income shall be 4980/-.

14. Considering overall facts and circumstances of the case, the claimant is entitled to get compensation in the following terms as reproduced in the table hereunder:

Monthly Income (along with 40% future prospects)	$166 \times 30 + 166 \times 30 \times 40 / 100$ $4980 + 1992$ $= \text{Rs.} 6972/-$
Annual Income	$\text{Rs.} 6972 \times 12$ $= \text{Rs.} 83,664/-$
Multiplier to be applied	18 $\text{Rs.} 83664 \times 18$ $= \text{Rs.} 15,05,952/-$
Loss of Income (owing to 100% permanent disability)	$\text{Rs.} 15,05,952/-$
For one simple injury	$\text{Rs.} 1000/-$
Hospitalization Charges (for 10 days)	$\text{Rs.} 5000/-$
Medical Bills	$\text{Rs.} 16,100/-$
Pain & Suffering	$\text{Rs.} 2,00,000/-$
Loss of Marital Prospects	$\text{Rs.} 5,00,000/-$
Artificial Leg/Limb	$\text{Rs.} 2,00,000/-$
Total Compensation Awardable	$\text{Rs.} 24,28,052/-$
Less Compensation awarded by Tribunal	$\text{Rs.} 6,40,500/-$
Enhanced Compensation	$\text{Rs.} 17,87,552/-$

15. With the aforesaid observations and directions, the instant civil misc. appeal stands disposed of and the impugned award passed by the Tribunal stands modified to the extent that the claimant is entitled to get a sum of Rs.17,87,552/- by way of enhanced compensation and the remaining terms and conditions of the impugned award shall remain intact.

16. It is further ordered that out of the enhanced compensation amount, a sum of Rs.1,00,000/- be deposited in the Savings Bank Account of the claimant and the remaining amount be deposited in the fixed deposit with any Nationalized Bank initially for a period of three years and the interest accrued on the said amount shall be paid to the claimant on monthly basis.

17. The respondents are directed to deposit the enhanced amount within a period of four weeks from today with interest @6% per annum from the date of filing of the claim petition.

18. Pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J