

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 1312/2016

Ashok Kumar S/o Chhajuram, R/o Dhani Kankadwali,
Kotadidhaylan, P.S. Ringus, Tehsil Shrimadhampur, District Sikar
Raj.

----Appellant/Claimant

Versus

1. IFFCO Tokio General Insurance Co. Ltd. through Manager,
Divisional Office, third floor A-13 and Hanuman Nagar,
Khatipura Tiraha, Sirsi Road, Vaishali Nagar, Jaipur Raj.
(Insurance Co. Of Vehicle Motorcycle No.RJ-23-SL-8552)
2. Phoolchand S/o Shyamlal, R/o Malakali P.S. Ringus,
District Sikar
(Owner & Driver of Vehicle Motorcycle No.RJ-23-SL-8552)

----Respondents

For Appellant(s)	:	Mr.Akshat Choudhary
For Respondent(s)	:	Mr.Chanderdeep Singh Jodha

JUSTICE ANOOP KUMAR DHAND

Order

25/02/2026

1. The instant appeal has been preferred by the claimant-appellant (hereinafter referred to as "the claimant") against the impugned judgment and award dated 08.12.2015 passed by the Motor Accident Claims Tribunal, Shrimadhampur, District Sikar (for short, "the Tribunal") in MAC No.131/2014 by which the claim petition submitted by the claimant has been partly allowed and the respondents have been directed to pay compensation amount of Rs.14,93,375/- to the claimant.

2. Learned counsel for the claimant submits that the claimant met with an accident on 05.10.2013 and the same was caused by

the driver of the motorcycle bearing registration No.RJ23-SL-8552 and at the relevant time, his age was 33 years and he was engaged as agriculturist and milk vendor. Counsel submits that because of the aforesaid accident, the claimant has suffered several injuries and his left leg was amputated above the knee and three Members of the Medical Board have issued a Permanent Disability Certificate, which indicates that the claimant has suffered 75% permanent disability. Counsel submits that at the relevant time, the minimum wages of the unskilled labour in the year 2013 was Rs.166/- per day, but without any basis, the same has been assessed as Rs.155/- per day. Counsel submits that because of the aforesaid amputation, artificial leg has been implanted in the amputated leg of the claimant, but not a single penny has been awarded for the same and under other heads also, a very petty and inadequate amount has been awarded, which needs suitable enhancement, hence, interference of this Court is warranted.

3. *Per contra*, learned counsel appearing on behalf of the Insurance Company opposes the arguments raised by counsel for the claimant and submits that looking to the overall facts, evidence and documents available on record, a sufficient amount of compensation has been awarded by the Tribunal to the claimant, which does not require any interference of this Court and the instant appeal is liable to be rejected.

4. Heard and considered the submissions made at the Bar and perused the material available on record.

5. Perusal of the record indicates that the claimant met with an accident on 05.10.2013, wherein he sustained several injuries and he has lost his left leg and the same was amputated above the knee and has suffered 75% permanent disability. This fact is not in dispute that as per the facts pleaded in the claim petition, the claimant was engaged as an agriculturist and the work of the agriculturist falls within the purview of unskilled labour. Looking to the fact that the accident has occurred in the year 2013 and the daily wages of the unskilled daily wager was Rs.166/- and without any basis, the Tribunal has determined the same as Rs.155/- per day purely on the basis of hypothecation.

6. This fact is not in dispute that not a single penny has been awarded for artificial limb/ prosthetic limb/ artificial leg, obviously the petitioner is using artificial leg to perform his daily routine life, hence, under these circumstances, the claimant is entitled to receive a fixed amount of Rs.2,00,000/-. Under other heads, petty amount has been awarded and not a single penny under the head of pain and suffering has been awarded. Looking to the fact that the claimant has suffered and lost his left leg and the same has been amputated and he remained hospitalized for a period of more than 43 days and an operation has also been carried out for almost four times and this fact has been established on the record, hence, under these circumstances, under the head of pain and suffering, the claimant is entitled to receive a sum of Rs.2,00,000/-.

7. Considering the overall facts and circumstances of the case, the claimant is entitled to get the following amount of enhanced compensation as reproduced in the table hereinunder:-

Monthly income (along-with 40% addition towards future prospectus)	Rs.166 X 30 = Rs.4,980/- Rs.4,980/- + Rs.1,992/- = Rs.6,972/-
Annual income	Rs. 6,972 X 12 = Rs.83,664/- p.a.
Multiplier to be applied	16 Rs.83,664 /- X 16 = Rs.13,38,624/-
Loss of Income (Owing to 75% disability)	Rs.10,03,968/-
Pain and suffering	Rs.2,00,000/-
Artificial/ Prosthetic Limb	Rs.2,00,000/-
Expenses incurred on medicines, transportation etc.	Rs.2,94,700/-
Expenses incurred during hospitalization	Rs.21,500/-
Operating Expenses	Rs.10,000 X 4 =Rs.40,000/-
For nutritious food and diet	Rs.10,000/-
Attendant's expenses	Rs.10,000/-
Other expenses	Rs.50,000/-
Total compensation awardable	Rs.18,30,168/-
Less amount awarded by the Tribunal	Rs.14,93,375/-
Enhanced amount of compensation	Rs.3,36,793/-

8. Accordingly, the instant appeal stands partly allowed. The award passed by the Tribunal stands modified to the extent that the claimant would now be entitled to get a further sum of Rs.3,36,793/- by way of enhanced compensation and the remaining terms and conditions of the award shall remain intact.

9. It is further ordered that out of the enhanced amount a sum of Rs.50,000/- be deposited in the Savings Bank Account of the claimant and the remaining amount be deposited in a fixed deposit with any Nationalized Bank initially for a period of three

years and the interest accrued on the said amount shall be paid in the savings bank account of the claimant on monthly basis.

10. It is further made clear that the respondents would 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.

(ANOOP KUMAR DHAND),J

Aayush Sharma/23