

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 3892/2024

Sonu S/o Takchand, aged about 32 Years, R/o Ward No. 1
Govindgarh, Tehsil Laxmangarh, Distt. Alwar, Raj.

----Appellant

Versus

1. Shivram S/o Madanlal, R/o Village Sikri Tehsil Nagar,
District Bharatpur, Driver Vehicle Motorcycle No. RJ-02-
BR-6871.
2. Pawan Kumar S/o Mansingh, R/o Village Sikri Tehsil
Nagar, District Bharatpur, Owner Vehicle Motorcycle No.
RJ-02-BR-6871.
3. HDFC Ergo General Insurance Company Limited, Through
Branch Manager Office Bhagatsingh Circle Alwar, (Insurer
Of Vehicle Motorcycle No. RJ-02-BR-6871).

----Respondents

For Appellant(s)	:	Mr.Ram Sharan Sharma
For Respondent(s)	:	Mr.Chanderseep Singh Jodha with Mr.Vikas Bana

JUSTICE ANOOP KUMAR DHAND

Order

27/02/2026

1. By way of filing the instant appeal, a challenge has been made to the impugned judgment and award dated 20.06.2024, passed by the Motor Accident Claims Tribunal, Alwar (for short, "the Tribunal") in Claim Case No.295/2021, 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 compensation of Rs.1,95,354/- to the claimant along-with interest @ 6% p.a. from the date of filing of the claim petition.

2. Learned counsel for the claimant submits that the claimant has suffered several serious injuries on his body and fractured one of his legs on account of the accident, which occurred on 01.01.2021 by the driver of motorcycle bearing No.RJ02-BR-6871, i.e., respondent No.1 by driving the same in a rash and negligent manner.

3. Counsel submits that on account of the various injuries suffered by the claimant, he has sustained 24% permanent disability, but without any basis, the same has been reduced to 10% by the Tribunal while calculating the loss of income. Counsel further submits that the claimant has sustained fracture of Tibia and Fibula bone and now he cannot sit cross-legged on the floor. In spite of the above, 24% permanent disability of the claimant has been treated as 10% only by the Tribunal.

4. Counsel submits that while assessing the loss of income, the daily wages have been granted for 26 days in the month, which should have been granted for 30 days in a month in terms of the judgment passed by this Court in the case of **Nandu Devi & Anr. Vs. Sohan Lal & Ors.**, while deciding **S.B. Civil Misc. Appeal No.769/2017**.

5. Lastly, he argued that even under the head of future prospects, not a single penny has been awarded and under the head of pain and suffering, a petty amount of Rs.10,000/- only has been awarded by the Tribunal. Hence, the impugned award needs suitable enhancement.

6. *Per contra*, learned counsel appearing on behalf of the respondent-Insurance Company opposes the arguments raised by counsel for the claimant and submits that the disability certificate

issued in the name of the claimant has no mention of the fact that the injuries so suffered by him are for the whole body, rather it has been mentioned that this permanent disability has been sustained by the claimant on account of the fracture in Tibia and Fibula bone. Counsel further submits that the Doctor has not been examined by the claimant in the witness box before the Tribunal to support his contention that the injuries so suffered by him has resulted in 24% permanent disability of whole body. Counsel submits that after considering entire facts and material available on record, a just and proper compensation has been awarded in favour of the claimant by the Tribunal under all the heads. Hence, under these circumstances, the impugned judgment and award dated 20.06.2024 requires no interference of this Court and the instant appeal is liable to be rejected.

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

8. This fact is not in dispute that the claimant has suffered fracture of Tibia and Fibula bone on account of the accident which occurred on 01.01.2021. As per the disability certificate issued by the Members of the Medical Board, the claimant has suffered 24% permanent disability, but this fact has not been mentioned in the certificate that this disability pertains to the whole body and as per the disability certificate, this 24% permanent disability has been caused on account of the fracture of Tibia and Fibula bone. Hence, under these circumstances, the Tribunal has not committed an error in treating the disability of the claimant as 10% in light of the judgment passed by the Hon'ble Apex Court in the case of **Rajkumar Vs. Ajay Kumar** reported in **(2011) 1 SCC 343**.

9. This Court finds substance in the argument raised by counsel for the claimant that the loss of income of the claimant should have been determined for 30 days instead of 26 days in a month in light of the judgment passed by this Court in the case of **Nandu Devi** (supra). This Court also finds substance in the argument of the counsel for the claimant that the claimant is entitled to get additional amount of compensation under the head of future prospects. Looking to the age of the claimant on the date of accident, i.e., 29 years, he is entitled to receive additional amount of future prospects @ 40% in light of the judgment passed by the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.** reported in **2017 (16) SCC 860**. Under the head of pain and suffering, a meagre amount of compensation has been awarded by the Tribunal which is liable to be increased and hence, the claimant is entitled to get an additional Rs.5,000/- under this head.

10. Considering overall above facts and circumstances of the case, the instant appeal stands partly allowed and the claimants would be entitled to get following enhanced amount of compensation, which is reproduced as under:

Monthly income (along-with 40% addition towards future prospectus)	Rs.252 X 30 = Rs.7,560/- Rs.7,560/- + Rs.3,024/- = Rs.10,584/-
Annual income	Rs.10,584/- X 12 = Rs.1,27,008/- p.a.
Multiplier to be applied	17 = Rs.21,59,136/-
Loss of Income (Owing to 10% disability)	Rs.2,15,913.6p
Pain and suffering	Rs.15,000/-
Loss of one month salary	Rs.6,552/-
Medical Bills	Rs.45,142/-

Total compensation awardable	Rs.2,82,607.6p
Less amount awarded by the Tribunal	Rs.1,95,354/-
Enhanced amount of compensation	Rs.87,253.6p

11. Accordingly, the instant appeal stands partly allowed and the award passed by the Tribunal stands modified to the extent that the claimants would now be entitled to get a further sum of Rs.87,253.6p by way of enhanced compensation and the remaining terms and conditions of the award shall remain intact.

12. 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.

13. It is further made clear that the respondents would deposit the enhanced amount within a period of four weeks from today with interest @ 6% p.a. from the date of filing of the claim petition.

(ANOOP KUMAR DHAND),J