

IN THE HIGH COURT OF BOMBAY AT GOA**FIRST APPEAL NO. 64 OF 2009**

Shri Shirkant @ Srikant Kashinath Gaude,
about 26 years of age, service, unmarried,
r/o. H.No.127, Morod, Dharbandora,
Sanguem - Goa. Appellant

V e r s u s

1. Shri Suryakant Uttam Gaude,
of major age, r/o. H. No. 204, Navelim,
Sanquelim - Goa (Bicholim Taluka)
2. Shri Shivaji Tukaram Naik,
of Major age, r/o. H. No. 326, Maina,
Navelim, Sanquelim -0 Goa (Bicholim Taluka)
3. The New India Assurance Co. Ltd.
Kurla Complex, bandra Mumbai
(As per order dated 23/02/2012
passed by the Id Re.(Judl) ,
appeal stands dismissed for
want of prosecution) Respondents

Mr. V.G.P. Dukle, Advocate for the Appellant.

Mr. Amey Kakodkar, Advocate for the Respondents.

Coram :- SMT. M. S. JAWALKAR,J.

Reserved on : 23rd October, 2020

Pronounced on: 6th November, 2020

JUDGMENT

1. Heard Mr. V.G.P. Duple, learned Advocate for the Appellant and Mr. Amey Kakodkar, learned Advocate for the Respondents.

2. The present appeal is filed being aggrieved by the judgment and award dated 3rd and 4th April, 2008 passed by the Motor Accident Claims Tribunal, Margao, in Claim Petition No.43 of 2006.

3. The case of the claimants before Claims Tribunal was as under:

The applicant was working as helper on wheel loader, on 29/10/2005 after his duty was over, he was waiting for vehicle. It was at about 10.30p.m. A Tata tipper

truck bearing No.GA-01-U-7975 came and stopped there. When the applicant was talking with driver of the Tata tipper truck i.e. with the respondent no.1 by standing on footrest and in a rash and negligent manner put the Tata tipper in motion, as a result, the applicant was thrown on road. He sustained fracture to hip bone, fracture to pelvis, fracture to R Medral Malleous and bladder and injuries over other parts of his body resulting into permanent disablement. He was taken in Goa Medical College Hospital, Bambolim. He was admitted in this hospital till 16-11-2005. He was of 25 years of age. Because of this injuries it is not possible for him to work as a helper on wheel loader or to do any other hard work. He is physically handicapped. He is unemployed. He spent ₹30,000/- for medicines. The accident occurred due to rash and negligent driving of the tata tipper truck by respondent no.1. He claimed ₹3,00,000/- as compensation on account of injuries sustained by him in the said motor vehicle accident.

4. It appears that the learned Tribunal while giving facts in the Claim Petition referred to unamended claim petition. From record it appears that the claimant amended the petition in respect of occurrence of accident as well as amount of compensation. In the amended petition, it is case of the petitioner that when he was proceeding on his motor bike (number not given) respondent no.1, the driver of the truck bearing registration no. GA01-U-7975 while overtaking came to extreme side of the road. The applicant managed himself to get saved from putting his motor cycle in the road side gutter. Thereafter he saw the said truck stopped at the middle of the road on the speed breaker, he stopped his motor cycle to the side of the road to ask the driver of the truck why he was driving so rash. He came to the driver's side of the truck and while he was asking suddenly driver of the truck started the truck and gave dash to the applicant and ran away. In this process the rear tyre of the truck went over the body of the applicant i.e. part of left leg.

5. The learned Claims Tribunal framed issues and after considering the evidence on record, came to the conclusion that the claimant was entitled to the compensation of ₹1,18,100/- with further interest @9% per annum from the date of Claim Petition until full payment and respondents no.2 and 3 were ordered to pay jointly and severally to the claimant.

6. The appeal is preferred for enhancement of compensation. It is a matter of record that earlier the claimant claimed amount of ₹3,00,000/- towards compensation, however, by way of an amendment it is enhanced to ₹6,00,000/-.

7. It is the contention of the claimant that at the time of the accident his age was 23 years. Due to accident his prospects of marriage have come to an end and the appellant is compelled to live the life of impotent person thereby having physical, biological and mental degradation in his life. The present appeal is filed on the ground that the

compensation awarded is not fair and just. The learned Claim's Tribunal failed to consider that the claimant has completely lost entire sexual powers and have become completely impotent. Though the claimant claimed an amount of ₹6,00,000/- the Court/Tribunal should award just and fair compensation. It the contention of the claimant that in fact the claimant is entitled for an amount of ₹20,00,000/- but for want of proper advise he claimed ₹6,00,000/-.

8. The learned Tribunal erred in holding that no compensation can be awarded towards permanent disablement merely because there was no scales available to assess the percentage thereof. The learned Tribunal ought to have considered that though there are no scales available the Tribunal is empowered to come to the conclusion about the "would be future loss" based on the injuries and after effects of the same. **Sunil Kumar v/s. Inder Sing and others (F.A.O.No.408 of 2007 @ F.A.O.No.350 of 1998**

of Delhi High Court): Wherein relying on judgment in Rajkumar v/s. Ajaykumar in F.A.O. No. 408 of 2002 compensation enhanced from ₹1,10,642/- to ₹4,50,013/- and the rate of interest on enhanced amount awarded as 7.5% and in F.A.O. No.350 of 1998 from ₹1,47,000/- enhanced to ₹8,27,766/-. In the said matter compensation for impotency and loss of matrimonial prospects amount of ₹1,00,000/- was awarded. Pain and suffering ₹1,00,000/- and loss of amenities ₹1,00,000/-.

9. In the above matter, Hon'ble Apex Court appointed amicus curiae and as per her report, Government of India published guidelines for evaluating permanent disabilities under Persons With Disabilities (Equal Opportunities, Protection of Right, Full Participation) Act, 1995. The said guidelines did not define disability arising out of the loss of sexual organs. Nor they have been described in schedule I to the Workman's Compensation Act, 1922. According to the medical Journal, the loss of testis result in loss of

reproduction and side effect of breast enlargement, hot flushes, infertility, loss of sexual interest, osteoporosis, loss of muscle mass and weight gain, which materially affect the functional disability. It is submitted that in various countries, such as Australia and USA loss of sexual organs is described as a disability and the percentage of disability has been given for assessing the compensation.

10. In the matter before Apex Court, the urinary bladder of the injured has become completely damaged. He has also become permanently impotent. He is unable to do any work and no control over stool and urine and therefore, injuries suffered have affected his functional disability. He was required to under go urethral dilation after every six months.

11. It is contended that the learned Tribunal ought to have granted ₹52,000/- towards loss of salary also. The learned Tribunal seriously erred in not granting any compensation towards claimant's impotency and compelling the claimant to live life of impotent person. On these all

counts prayed for enhancement of compensation. Learned Counsel Shri V.G.P. Duple, submitted that the claimant at the time of accident was a young boy of age 24 years.

12. Learned Counsel Shri Kakodkar contended that the amended petition is false if the other documents on record are perused. Learned Counsel Shri Duple in reply submitted that when the amendment is allowed, one cannot go behind and look into the unamended portion of the petition. In fact, in view of the amendment issues were also recasted. The recasted issues are at page 47 of the paper book. Learned Counsel relied on judgment in **Appeal (Civil) 5839 of 2002** of Hon'ble Apex Court in **Sampath Kumar vs Ayyakannu And Anr.** In the said appeal, the question involved was "whether it is permissible to convert through amendment a suit merely for permanent prohibitory injunction into a suit for declaration of title and a recovery of possession." The Hon'ble Apex Court held that the basic structure of the suit is not altered by the proposed

amendment. It is also further held that an amendment once incorporated relates back to the date of the suit but has no universal application and Court is competent while permitting an amendment to direct that it shall not relate back to the date of the suit but from the date on which the application seeking the amendment was filed.

13. Learned Counsel also relied on judgment in **Siddalingamma And Anr vs Mamtha Shenoy(Appeal No. 7292 of 2001)** of the Hon'ble Apex Court in support of his similar contention that amendment relates back unless for reasons the Court excluded the applicability of the Doctrine of relation back in a given case.

14. It is submitted that if there is no order directing otherwise it relates back to the date of institution of the claim petition.

15. It is the contention of the learned Counsel that the complaint/information was given by the truck driver and on

that basis the claim was drafted. In fact, I have gone through the record in claim petition, if scene of offence panchanama is perused, it appears that the person who has shown the spot stated that claimant fell down from the truck on speed breaker. The scene of offence panchanama and other police papers filed by the claimant himself. There is even no reference of any motor bike standing by the road nor number of motor cycle is given in the amended claim petition. As such, in fact it is really doubtful that whether the claimant was returning on his motor cycle or that the story put forth by him in unamended petition was correct. If as alleged by the learned Counsel for claimant, unamended claim petition is drafted as per complaint to police by truck driver, there is history of patient in evidence of doctor, immediately examined at G.M.C. was that of a fall with blunt injury. Be that as it may, the learned Tribunal recorded his finding that the driver of the truck was rash and negligent and there is no challenge by the insurance company. Even in the present appeal there are no cross

objections filed by the insurance company. In such circumstances, without going into the question of rashness and negligence, I proceed to decide the amount of compensation.

16. Appellant examined himself and filed his affidavit in evidence. After the said accident dated 29.10.2005 he was immediately shifted to I.D. Hospital Ponda wherefrom he was shifted to GMC Bambolim. He was discharged on 16.11.2005. He had regularly attended OPD thereafter for eleven times. There was severe pain due to grievous injuries and as the required treatment was not available in GMC, he was given Mediclaim of ₹1,50,000/- and was sent to Apollo Victor Hospital at Margao for further operation and treatment. He was admitted there on 25.02.2006 and theurothoplasty was done on 28.02.2006, Suprapubic cystostomy tube noted in situ and he was discharged on 08.03.2006. The amount of ₹1,50,000/- was paid by the Government of Goa. He deposed that he was completely on

bed for around five months after discharge. He was unable to work and was suffering from pain, frustration, disappointment, unhappiness. He was not in a position to maintain himself. He does not have any family life due to urethral rupture and has become impotent. Due to the said accident he sustained permanent disability and he was permanently disabled and was confined to home from the date of accident till date. He claimed amount of ₹50,000/- on medicines, ₹20,000/- on travel, ₹10,000/- on miscellaneous expenses. He claimed amount of ₹4,67,500/- towards loss of amenities of life, happiness, frustration, loss of marriage prospects, expectation of life, loss of earnings, future earnings and permanent disability. He deposed that he was earning ₹3,500/- per month, from his job of helper on the wheel loader. He placed on record, medical papers alongwith medical bills to the tune of ₹4,929.30. He also placed on record certificate from Department of Orthopedic, Goa Medical College and Disability Certificate dated 30.11.2006, issued by Department of Surgery. He also placed on record

certificate issued by Apollo Victor Hospital. He placed on record hurt certificate.

17. He has also examined one Shrikant Gaonkar as AW2. Though this witness deposed that he has seen the accident. He is pancha witness to the scene of offence and signed panchanama and sketch. Panchanama shows something else.

18. He examined Dr. Patil as AW3 from GMC Bambolim. He has deposed as per the treatment he had given and he referred the patient to Department of Surgery. He also deposed that there are no scales to assess the percentage of disability, however, with the type of injuries suffered by the patient, his sexual life could be adversely affected.

19. Claimant also examined Dr. Kamat, Neurologist of GMC Bambolim as AW4. He deposed that the patient was regularly attending the OPD and was under his treatment from 25.02.2006 to 08.03.2006. He also deposed that till

today no percentage scale has been done in case of neurological disability. He further deposed that on account of the injury the applicant has erectile dysfunction on account of which he will not be able to have sex. The applicant will be able to have children in case married but not by the natural course. In cross examination he deposed that there are less chances of recovery from this dysfunction even by passage of time. Except for the dysfunction, he will enjoy normal life. He will not have any problem in performing his duties in the job.

20. Learned Counsel Mr. Amey Kakodkar, submitted that except for dysfunctioning, he can lead normal life and there is no loss of any earning as he can perform his duty. He also submitted that the claimant is not coming with true facts. Though amendment was allowed, from the police papers relied on by the claimant himself, it is clear that the false story put forth by the claimant. As discussed earlier as there was no challenge to the finding nor there are any cross

objections filed, I do not see any reason now to interfere in the finding recorded by the Tribunal in respect of rashness and negligence.

21. As per Dr. Patil, patient sustained bilateral superior and inferior rami fracture in x-ray of pelvis. Certificate at exhibit 47 issued by Department of Orthopedic shows that as the fracture has united and there is full functional recovery, the percentage of disability is zero percent. The Disability certificate at exhibit 48 issued by the Department of Surgery shows that "assessment of percentage of permanent disability due to healed abdominal trauma with ruptured urethra was not possible due to non existence of scales for above percentage disability". From this medical evidence there is no doubt that the claimant had lost sexual power due to accident. From record it appears that he was hospitalised on 29.10.2005 and was discharged on 16.11.2005. Thereafter he was admitted in Apollo on 25.02.2006 and discharged on 08.03.2006. It appears from

record that he attended OPD for eleven times till 25.11.2006 in GMC, Bambolim.

22. It is submitted by the learned Counsel for the appellant that the accident is not denied by respondent no.3. The only contention was that the driver of the truck not holding effective driving license. The Company has not led any evidence nor called driver or owner or other witness in defence. The Company even not challenged the award by filing any appeal. As such, issues in respect of rashness and negligence has attained finality at it cannot be reopened.

23. Learned Counsel for the appellant relied on judgment in **Vijay Kumar Baburao Modi v/s. State of Gujarat (First Appeal No.2071/2005)**: In the said matter learned Tribunal awarded ₹75,000/- towards loss of marital life and non-possibility of marriage which was confirmed by the Hon'ble Apex Court. It is observed for pain and suffering a person not only suffers injuries on account of accident but also suffers in mind and body on account of the

accident through his life as a feeling is developed that he is no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities of life the features like his age, marital status and unusual deprivation he has undertaken in his life has to be reckoned. The Hon'ble Apex Court awarded ₹4,00,000/- towards physical pain and metal shock.

24. However, the case cannot be equated with the present case. In the matter before the Apex Court injured was only 17 years of age and has lost several pleasures of childhood and other things including the ability to move, run and play freely as other children do. His condition has confined him to four walls of the house and he will never be able to lead a normal life. There is also a loss of expectation of life. The injured there, has sustained various serious injuries in his spinal cord. There were fractures to his spinal cord, urethra has been permanently damaged. The injured

has no control over his bowl movement and urine. In the present case, Doctor examined by the claimant himself deposed that the applicant will not have any problem in performing his duties. Only on account of injury the applicant has erectile dysfunction on account of which he will not be able to have sex. He will be able to have children in case he marry but not by natural course.

25. In **Rupee Manohar v/s. Mohd. Ansari and another (MAC Appeal No. 602 of 2015 of Delhi High Court decison dated 17/08/2017)**: relied on by the learned Counsel for the appellant, child of two years sustained injury in accident and suffered 100% disability relating to whole body as per the disability certificate. Hon'ble Delhi High Court awarded amount of ₹3,50,000/- towards loss of amenities and ₹3,00,000/- towards pain and sufferings. Loss of matrimonial prospects ₹75,000/-. In my considered opinion compensation should be just compensation and it is always depend on the facts and

circumstances of each case. The injured was in the said case is of two years and sustained 100% permanent disability. Thus, it cannot be equated with the facts involved in the present case.

26. In **Civil Appeal No. 11495 of 2018 in Ramla vs National Insurance Co. Ltd,** relied on by the appellant, Hon'ble Apex Court held that there is no restriction that the Court cannot award compensation exceeding the claimed amount, since the function of the Tribunal or Court under Section 168 of the Motor Vehicles Act, 1988 is to award just compensation. The Motor Vehicle Act is beneficial and welfare legislation. A just compensation is one which is reasonable on the basis of evidence produced on record. The Courts are duty bound to award just compensation.

27. Claimant claimed amount towards future treatment and relied on **G. Ravindranath @ R. Chowdary v/s. E. Srinivas & Anr(Civil Appeal No. 5520 of 2013)** wherein a boy of 19 years suffered fracture to pelvis region

due to accident and he will require to take life long treatment for recurrence of urethral strictures and consequential dysfunction due to fracture of pelvis but Tribunal or High Court failed to award expenses towards future treatment. Considering the nature of injuries and the fact that he will have to take treatment for the remaining life it is held that it will be reasonable to infer that he will be required to spend a minimum of ₹1,000/- per month for treatment which would necessarily include fees of the Doctor, medicine, transportation etc. and awarded an amount of ₹2,00,000/- as there were no concrete evidence about the anticipated expenditure. Hon'ble Apex Court awarded ₹2,00,000/- towards marriage prospects.

28. Learned Counsel for the appellant also relied on **Kajal v/s. Jagdish Chand and others (Civil Appeal No.735 of 2020)**. In the matter before Apex Court Kajal was a bright young girl sustained serious brain injury in the accident and sustained disability as assessed 100%. The

Hon'ble Apex Court held that when compensation is paid in lump sum the Court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges etc.

29. **Jabbar s/o Maliksab Bagwan v/s. Maharashtra State Road Transport Corporation (First Appeal No. 678 of 2002)**, wherein the claimant was selling fruits and sustained injuries to his right hand which ultimately, required to be amputated. Hon'ble Apex Court considering the age enhanced the amount of compensation from ₹1,50,000/- to ₹2,50,000/-.

30. Learned Counsel Shri Duple for the appellant also relied on **Pappudev Yadav v/s. Naresh Kumar and others (Civil Appeal No.2567 of 2020)** wherein Hon'ble Apex Court following the National Insurance Company Vs. Pranay Sethys (2018) 4 SCC 571 principles awarded future prospects @40%. The learned Counsel for the respondent

submitted that he suffered 89% disability in the said matter and his right upper limb which had to be amputated. The claimant in the said matter was working as a data entry operator. Therefore facts cannot be equated with the facts in the present case.

31. Learned Counsel also relied on **Fakruddin Mulla, s/o late Allisab and others v/s. Gangaram Ghadi (First Appeal No.11 of 2013)** judgment of this Court. The learned Counsel relied on this judgment in support of his contention that the claimant is entitled for future loss of income. The Court has granted amount in addition to loss of income 40% future prospects. The learned Counsel for the respondent submitted the claimant was in the said matter was driver and suffered shortening one of the leg and therefore it was held that disability is bound to affect his future earning capacity as a driver of a heavy vehicle.

32. Learned Counsel for the appellant also relied on **Raj Kumar Vs Ajay Kumar, 2011(1) ALL MR 402 SC** there

are certain general principles related to compensation in injury cases which are laid down for the guidance of the Court and Tribunal. As per the provisions of the Motor Vehicles Act, the Award must be just, which means that compensation should, to the extent possible, fully and adequately restored the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The Court or Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences is inevitable. A person is not only to be compensated for the physical injury but also for the loss which he suffered as a result of such injury such as his inability to lead a full life, his inability enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. Hon'ble Apex Court held

under which compensation can be awarded in personal injury cases broadly divided in to pecuniary damages and non-pecuniary damages. In the said citation itself Hon'ble Apex Court held as under :

"6. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human-being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some

gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accidents injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ('Disabilities Act' for short). But if any of the disabilities enumerated in section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

7. The percentage of permanent disability is expressed by the Doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45%

permanent disability with reference to the whole body.”

33. After considering the citations and propositions laid down in the citations, it is clear that claim for personal injury can be awarded under the head of pecuniary damages and non pecuniary damages. In the present matter, medical record shows that there was hospitalisation for around 31 days which is a period of one month. Considering the year of accident, his notional income can be considered as Rs.3000/- per month. It also appears that he was under treatment till 21.11.2006. Thus it can safely be concluded that he could not have been gainfully employed from 29.10.2005 till 25.11.2006. Thus he might have suffered loss of income for around 13 months for which he is entitled to be compensated. Thus the amount towards loss of earnings will come (3000 x 13 months) comes to ₹39,000/-.

34. It appears that he was required to visit to GMC for around 11 times during this period. Considering the distance

between his place of residence which is at Sanguem, Darbandora and his visit to GMC, Bambolim and Apollo hospital, which is around 60 kms. he is entitled for traveling expenses. As he suffered pelvic bone fracture, his claim for attendant charges requires consideration. Thus he is entitled under the head of travelling expenses, attendant expenses and other miscellaneous expenses, ₹15,000/-.

35. Claimant is claiming amount of ₹1,00,000/- towards future treatment. However, there is no any apprehended amount specified. As per Dr. Shailesh Kamat, applicant will have to be assessed for structure redevelopment there was no any problem till 21.11.2007. As such, expenses towards future treatment cannot be granted. So far as medical expenses towards medicine are concerned, he has placed on record medical bill amounting to ₹4,929/- which are marked as exhibit 46 collectively. It is admitted fact that he has received mediclaim of ₹1,50,000/- which was paid to Apollo Hospital. The rest of the treatment was carried out in GMC,

Bambolim. Thus he is entitled for amount of ₹4,930/- only towards medical bills.

36. The claimant is also entitled for pain and sufferings to the tune of ₹20,000/-.

37. Now question is amount towards permanent disability, loss of marriage prospects and loss of amenities, enjoyment in life. Admittedly, there are no scales for disability on the count of failure of power of sexual organs as held in **Sunil Kumar** (supra). Hon'ble Apex Court took assistance of Amicus Curaie and considering the law provision in various countries, awarded amount of compensation for impotency the claimant has suffered therein. In the same matter Hon'ble Apex Court awarded compensation for impotency and loss of matrimonial prospects ₹100,000/- and also awarded ₹100,000/- for pain and sufferings and ₹1,00,000/- for loss of amenities. However as discussed earlier, facts involved in the said matter cannot be compared with the present case. The claimant in the said matter was not

having any control over his stool and urine and which affected his functional disability. His urinary bladder was totally ruptured. In the present matter doctor deposed that claimant can perform his duties except loss of sexual powers he was not having any other problem. However, it also cannot be overlooked that he is deprived of enjoyment of life, he lost his sexual powers consequently marriage prospects and as such, he is entitled to be duly compensated for this disability for ₹1,00,000/- and for loss of marriage prospects and loss of amenities the claimant is entitled for compensation of ₹1,00,000/-

38. Thus claimant is entitled for total amount of compensation as under.

Loss of earnings (3000 x 13 months)	₹ 39,000/-
Travelling expenses, attendant charges & miscellaneous expenses	₹ 15,000/-
Medical Bills	₹ 4,930/-
Pain & sufferings	₹ 20,000/-
Impotency and disability	₹ 1,00,000/-

loss of matrimonial prospects and loss of amenities	₹ 1,00,000/-
	₹ 2,78,930/-

39. Accordingly, I proceed to pass the following:

O R D E R

1. The appeal is partly allowed.

2. The judgment and award passed in Claim Petition No. 43/2006 dated 03.04.2008 passed by the Claims Tribunal, is hereby modified as under:-

(i) Claim Petition is partly allowed with proportionate cost.

(ii) Claimant is entitled for total compensation of ₹2,78,930 (Rupees Two Lakhs Seventy Eight Thousand, Nine Hundred Thirty only) (including amount awarded under Section 140 of the M.V.Act). The respondent nos.2 and 3 to pay jointly and severally to the claimant amount of ₹2,78,930/- as compensation with future interest at the rate of 9% from the date of filing of the claim petition till its

realisation.

(iii) Award be drawn accordingly.

3. If any amount is deposited by respondents as per the award dated 03.04.2008, the respondents are entitled to adjust the said amount.

M. S. JAWALKAR,J.

MF/-