

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**MACA No.541 of 2019**

***Ambika Prasad Baral***

***.... Appellant***

**Mr. S.B. Das, Advocate**

***-versus-***

***Kamalendu Panda and another***

***.... Respondents***

**Mr. S. Roy, Advocate for Respondent No.2**

**CORAM:**

**JUSTICE B. P. ROUTRAY**

**ORDER**

**25.04.2022**

**Order No.**

**10.**

1. Heard Mr. S.B. Das, learned counsel for the Appellant-claimant as well as Mr. S. Roy, learned counsel for the Respondent No.2-insurer.

2. The claimant-injured has preferred the present appeal against the impugned judgment of the learned 1<sup>st</sup> M.A.C.T., Jajpur in M.A.C. No.101 of 2014 wherein compensation to the tune of Rs.9,91,130/- along with 6% interest per annum has been granted to the claimant from the date of filing of the claim application, i.e.23.7.2014 on account of injuries sustained by him in the motor vehicular accident dated 21.02.2014.

3. The injuries sustained by the claimant in the accident and amputation of his right leg from knee and his consequent disability up-to 80% is not disputed. The only challenge is limited to the extent that the learned Tribunal has awarded a meager amount of Rs.1 lakh towards loss of amenities in life and it did not grant any compensation for future medical expenses.

4. It is submitted on behalf of the Appellant-claimant that the claimant is a young boy aged about 22 years on the date of accident and the prosthetic limb has been fitted for amputation of his leg below the knee, which is required to be replaced at regular intervals. As per the Appellant, the cost of such prosthetic leg is around Rs.5 lakhs in average as per the rates quoted under Annexure-1 & 2 appended to I.A. No.391/2022.

5. Mr. S. Roy, learned counsel for the Respondent No.2-insurer in reply submits that the requirement of replacement of prosthetic limb in future has not been brought in evidence through any doctor or any authorized person. Further, the rates of such prosthetic legs as quoted in the annexures to the I.A. by the Appellant are not correct in view of his own admission in the claim petition that he used the same at Rs.1,03,000/- as reflected in the judgment of the learned Tribunal.

6. Admittedly, the learned Tribunal did not grant any amount towards future medical expenses for replacement of such prosthetic leg. It is further seen that an amount of Rs.1 lakh each has been granted towards loss of amenities and loss of prospects of marriage.

7. First, dealing with the compensation about grant of future expenses for replacement of the prosthetic leg, it is seen that as per the evidence of the claimant, the same needs to be replaced in a regular interval of 4/5 years. However such opinion of the claimant is not supported with any medical opinion. But

considering the undisputed age of the claimant on the date of accident, the requirement of replacement of said prosthetic leg in future cannot be completely discarded with. Further, no denial is there from the side of the insurer that no such replacement would at all be necessary in the future life of the claimant. Thus, taking a balance and doing some guess work, the claimant is found entitled for a further sum of Rs.5,00,000/- towards future cost of medical expenses including replacement of his prosthetic leg. While determining such amount, this Court kept in mind the amount admitted by the claimant before the learned Tribunal and reflected in the impugned judgment.

8. Next coming to the aspect of grant of compensation towards loss of amenities and loss of prospects of marriage, the claimant is found entitled for a further sum of Rs.3,00,000/- taking into account his age on the date of accident and the nature of his employment on the said date.

9. In the result, the compensation amount is enhanced to a further sum of Rs.8,00,000/-. Since as per submissions of both parties, the amount as per the direction of the Tribunal has already been paid and received by the claimant in the meantime, to avoid any complicity towards interest component, the insurer-Respondent No.2 is directed to pay a further consolidated sum of Rs.10,00,000/- (rupees ten lakhs).

10. In the result, the appeal is disposed of with a direction to the insurer-Respondent No.2 to pay a further consolidated sum of Rs.10,00,000/- (rupees ten lakhs) within a period of two months

from today to the claimant-Appellant by depositing the same before the learned Tribunal; whereafter the same shall be disbursed in favour of the claimant-Appellant on such terms and proportion to be fixed by the learned Tribunal.

11. An urgent certified copy of this order be granted on proper application.

**( B.P. Routray )**  
**Judge**

