

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

FIRST APPEAL NO. 606 OF 2009

APPELLANT: Ashish s/o Vinod Sureka,
 Aged about 25 years, Occu: Agriculturist,
 R/o Rajanda, Tq. Barshitakli, Dist. Akola.

..V E R S U S..

RESPONDENTS 1] Zakir Husain s/o Mohd. Khan,
 (Ori. Respondents) Aged about 30 years, Occu: Driver,
 Respondent Nos. 1 and R/o Sand, Tq. Nimbaheda,
 2 deleted vide order Dist. Chittorgarh (Rajasthan)
 dated 02/12/2013 and
 02/05/2017
 respectively. 2] Manishkumar Shah,
 Aged 40 years, Occu: Owner,
 R/o Himatnagar, Saurashtra (Gujrat)

3] The Divisional Manager, National
 Insurance Company Ltd., having its office
 at M.G. Road, Akola.

 Shri A.P. Wachasunder with Shri Rohan Malviya, advocates for the
 Appellant.

Shri Mangesh Kadu, Advocate for the Respondent No. 3.

CORAM : URMILA JOSHI-PHALKE, J. .

DATE OF RESERVE : 18/01/2023

DATE OF DECISION : 01/03/2023

ORAL JUDGMENT :

1. The present appeal is preferred by the appellant against
 the judgment and award passed by the Member, Motor Accident

Claims Tribunal, Akola in M.A.C.P. No.113/2007, by which, the claim petition of the claimant is allowed and the compensation was granted to the tune of Rs. 11,67,200/-.

2. By this appeal, the appellant is claiming enhancement of the compensation along with the accrued interest. Parties shall here-in-after referred as per their original nomenclature in the claim petition.

3 The brief facts of the case which is necessary for the disposal of the appeal are as under :-

On 03/05/2004, the claimant was proceeding to his house at Rajanda on his motorcycle bearing MH30/Q-6066 from Akola. As per his contention, he was riding the motorcycle with the moderate speed from village Kapsi, by observing traffic rules and regulations. When he was proceeding at about 9.00 pm, the truck bearing No. GJ-09/Y-5101, which came from the opposite direction in a high and excessive speed to the wrong side of the road and dashed against the motorcycle of the claimant. Due to the severe dash, he was thrown on the road and sustained multiple injuries on his person.

4. As per the contention of the claimant, the truck was driven by its driver in a rash and negligent manner without right-side head light and caused the accident. Due to the injuries, he became unconscious and was admitted in Government Hospital, Akola. From the Government Hospital, Akola, he subsequently shifted to the hospital of Dr. Abhay Patil, wherein he was treated by

various doctors. He also undergone the surgery for both legs. Considering his deteriorating condition, he was shifted to Nagpur and was admitted in Shanti Prabha Nursing Home Intensive Care Unit for further treatment for a considerable period due to the head injury.

5. As per the contention of the claimant, as the said accident took place due to rash and negligent driving of the truck driver, the crime was registered against him at Patur Police Station, Akola. The said truck is owned by opponent No.2 and driven by opponent No.1 and validly insured with opponent No.3. As the said accident took place, due to the rash and negligent driving of the truck driver, all the opponents are jointly and severally liable to pay him compensation.

6. It was further his contention that, he had incurred huge expenses for his medical treatment. Due to the accidental injuries, he is suffering from permanent disablement. He had sustained 65% of permanent disablement. He is agriculturist by profession. Due to the accidental injuries, he is unable to carry out agricultural operations. He was cultivating his land as well as the land of his uncle. Due to accidental injuries, there is nobody to look after the agricultural operations. He was getting Rs.10,000/- per month from the said agricultural. Now, due to accidental injuries, he lost his source of income. At the time of the accident, he was only 26 years of age and due to accidental injuries, his marriage prospects are also ruined. Therefore, for various heads towards pecuniary and non-pecuniary damages and he claimed compensation to the tune

of Rs. 21,00,000/-.

7. In response to the notice, respondent Nos.1 and 2 both served with the notice, but they failed to appear. Therefore, the petition was proceeded with ex-parte against them. Respondent No.3/Insurance Company denied all the contentions of the claimant and submitted that accident took place due to negligence on the part of the claimant himself. The insurance company also denied the fact that vehicle i.e. offending vehicle truck is insured with it and therefore, the insurance company is liable to pay compensation. It is further contention of the insurance company that, there was head-on collusion. The claimant is also responsible for the said accident and prayed for the dismissal of the petition.

8. In perusal of the rival pleading, to substantiate his claim, the claimant has examined himself as well as four medical officers and his uncle Rajendra Surkeha, no evidence is adduced on behalf of the insurance company. Besides oral evidence, the petitioner also placed reliance on Police Papers including FIR, Spot Panchanama, Driving License, Disability Certificate, and Medical Bills etc.,

9. The learned trial Court has appreciated the evidence and granted compensation to the tune of Rs. 11,67,700/- towards loss of income, loss of future income, medical expenses, future care and other expenses pains and suffering.

10. Being aggrieved and dissatisfied with the amount of compensation, the present appeal is preferred by the claimant on the

ground that, the learned Tribunal has granted inadequate compensation without considering the injuries sustained by the claimant. It is submitted by the claimant that, the claimant has lost his entire source of income and therefore, the tribunal ought to have consider his loss of income by applying the multiplier of 17. Moreover, the tribunal has not awarded the compensation under other heads like, his marriage prospects, future loss of income etc. Therefore, the judgment and award passed by the Member, Motor Accident Claims Tribunal, needs to be modified.

11. Heard, Shri A.P. Wachasunder along with Rohan Malviya, counsels for the appellant, he submitted that claimant has adduced the evidence of four medical officers. He had also proved the bills. It is not in dispute that the claimant is agriculturist, and due to the accidental injuries now, he is unable to carry out the agricultural operations and now, there is nobody to cultivate the land as other family members are not residing in the village, due to their job. So, the claimant has to employ somebody and carry out agricultural operations which is not considered by the Tribunal.

12. He further submitted that, at the time of the incident, his age was 26 years and he was unmarried. His marriage prospects are affected. The learned trial Court ought to have considered his disabilities to the extent of 100%. The tribunal had also not considered the compensation under the head of transportation, special diet and attendance. The claimant is still under the treatment and therefore, he is entitled for an enhancement amount of compensation.

13. Per contra, the learned advocate Shri M.A. Kadu, appearing for the Insurance Company submitted that, the claimant has not proved his Income, 7/12 Extracts filed on record show that he is a cultivator of the said agricultural land. No evidence is shown, how the injured has to suffer whole life. However, he has admitted that marriage prospects are not considered by the tribunal.

14. After hearing both the sides, following points arises my consideration:-

a) Whether the claimant has made out the case for enhancement of the compensation ?

.. If yes, to what rate?

b) Whether the award passed by the Tribunal needs to be modified?

It is not in dispute that, on 03/05/2004, the claimant was proceeding towards his house on his motorcycle bearing No. MH-30/Q-6066 from Akola. As per his contention, the motorcycle which was driven by him in a moderate speed from village Kapsi. However, the truck driver has driven his truck, in a rash and negligent manner without observing the traffic rules and regulations.

15. Admittedly, regarding the said accident, the crime was registered against the truck driver. The claimant placed reliance on the Police Papers, FIR, Spot Panchanama etc.. The certified copy of

the FIR report is at Exhibit No.31. The Spot Panchanama is at Exhibit-32, Driving License of respondent No.1 is at Exhibit No.36.

16. It is not in dispute that regarding the said accident, crime is registered against the truck driver. Though insurance company has raised the defence that, there was head-on collusion of two vehicles, and therefore, the claimant has also contributed for the said accident, however, the insurance company has not adduced any evidence to prove the said contention.

17. Admittedly, when insurance company has come with the case that, the claimant was also negligent in riding the motorcycle then burden is on the Insurance to prove the same. Here in the present case, the crime is registered against the truck driver vide crime No. 37/04 at Patur Police Station under Section 279, 337, 427 of the Indian Penal Code and 183 and 184 of the Motor Vehicles Act,1988.

18. Admittedly, the respondent No.1 Driver has not contested the claim and not entered into the witness box to prove that the claimant has also contributed for the said accident. The recitals of the FIR which is lodged by Kashiram Govindrao Tayade shows that, he is working as a Police Patil on 03/05/2004. He received the information that, the accident was occurred therefore, he immediately went at the said place and saw that the claimant was lying in injured condition on road and his motorcycle is also lying there. He removed him to the hospital. The injured was shifted to

the hospital in a luxury bus.

19. At the spot of incident, police have drawn spot panchanama. The spot panchanama shows that the alleged accident has taken place on Akola Patur Road, at a distance of 1k.m. from village Kapsi. The said road is South North and width of the road is 24 ft, having 5ft each footpath. The motorcycle was found lying on the road at a distance of 50ft. There are marks of dragging of the motorcycle. Whereas, the truck was found towards North Side at a distance of half kilometre from the spot of incident.

20. It is apparent from the spot panchanama that the vehicle is also lying on the spot. Thus, it is apparent that the driver left the vehicle as it is and fled away from the spot of the incident. Thus, it is not disputed that the claimant met with an accident and sustained injuries in the said accident. As already observed, though the insurance company has raised the plea that, the alleged accident occurred due to the head-on collusion of two vehicles, however, the spot panchanama did not support it and the insurance company has not adduced any evidence by examining the truck driver. So, the contention of the insurance company that, the claimant has also contributed to the said accident is not supported by oral evidence or by Police Papers. Therefore, there is no substance in the contention of the Insurance Company that the petitioner has also contributed for the said accident.

21. Now, the question remains regarding the quantum of compensation. In order to prove the accidental injuries sustained by

the claimant. He has adduced his oral evidence by examining himself vide Exhibit No.29. He stepped into the witness box and narrated about the occurrence of the accident. The recitals of the FIR as well as oral evidence of the claimant show that, after the accident, he was shifted to the Government Hospital Akola by removing in one luxury bus which was coming from Washim side and proceeding towards Akola.

22. As per the oral evidence, initially he was taken in the District Hospital, Akola and he was attended by Dr. Abhay Patil. Thereafter, he was taken to City Scan to Khandelwal Imagine Center. He had also sustained a head injury and compound fractures to his both legs, he was then admitted to Vidharbha Neuro Surgical and Spinal Institute, Akola of Dr. Gadpal and Dr. Manoj Jain. He was an indoor patient in ICU from 3.5.2004 to 5.6.2004.

23. Thereafter, he was admitted in the hospital on 06/06/2004 and discharged on 05/09/2004. Thus, medical papers show that from the date of the accident till 5/9/2004, he was continuously hospitalized as an indoor patient. To prove the nature of the injuries, the claimant has examined Dr. Abhay Kashinath Patil vide Exhibit No. 44. Dr. Abhay Kashinath Patil testified before the Court that injured Ashish was admitted in his hospital namely Vidharbha Neuro Centre, Akola. He was operated for fracture of neck femur, compound tibia fibula left side and right knee and condyles of femur and tibia.

24. As per his evidence, initially he was admitted in

another hospital but he was shifted to his hospital for surgery. He treated the claimant. He had a head injury and with pneumothorax. His evidence further shows that, when the patient was admitted in civil hospital, he was attended by him and thereafter patient was shifted to Vidharbha Polyclinic. On admission, the patient was on ventilator. He further testified that for his treatment, he had incurred expenses of Rs. 29,700/- to Rs. 7600/- and Rs. 5950/-. After discharge also, the claimant was attending his hospital for further treatment. Regarding the effect of the injuries, he testified that because of accidental injuries, there are no movements of right knee, and the movements of the right heap are restricted. The right leg is shortened and these injuries are of permanent nature. Thus, he has sustained a permanent disability and therefore, he is unable to walk properly.

25. The evidence of P.W.3 Dr. Umesh Golandas Gadpal also shows that the claimant was admitted in his hospital from 04/05/2004 to 16/05/2004. On his admission, his condition was very weak and he was on ventilator. On 16/05/2004, he was shifted to the hospital at Dr. Abhay Kashinath Patil and again readmitted in his hospital, on the same day. He was discharged from his hospital on 06/06/2004. He had sustained a fracture on the right acatabulum, tibia febula condyle. So also, he had a fracture of left tibia febula with fracture of ribs with acute respiratory distress syndrome with by frontal contusion and hyper tension. Accordingly, he issued the case summary for the period of 04/05/2004 to 16/05/2004 and 16/05/2004 to 08/06/2004, which is at Exhibit

30/1 and 30/2

26. Dr. Ranjeet Nilkanthrao Deshmukh was also examined vide Exhibit No. 47. As per his evidence he is orthopedic surgeon. He was attached to District General Hospital, Akola and he was member of board. He examined the patient name Ashish Vinod Surekha. On examination, he found the following injuries on his person and noted the disabilities namely :-

- i) Arthodesis right knee joint
- ii) Shortening of right lower limb by 1 inch.
- iii) Mild to moderate restriction of movement of left hip
- iv) Moderate restriction of movement of left knee.

He assessed the disability to the extent of 65%. Accordingly, he issued the certificate in Form-B, which is at Exhibit-38.

27. Lastly, the claimant has examined Dr. Satyanarayan Ramjilal Agrawal, vide Exhibit No.51 who testified that he has a partner in Shanti Prabha Nursing Home at Dhantoli, Nagpur. The claimant was his patient. He was admitted in his hospital on 06/06/2004 and was discharged on 5/09/2004.

28. At the time of admission, the injured was semi-conscious with badly crushed knee with Grom infection with spreading cellulites, right thigh with septicemia. So also, he discharged pus from the site of fracture fixation left lower limb bone with exposed plate. He had also sustained diffuse neuronal injury of

the frontal lobe of brain. He also testified that the injured has sustained permanent of disability of 65%. Due to disability, he cannot perform his day-to-day activities without the support of attendance. Due to the nature of the disability, there is remote possibility of having a married life.

29. All the four medical officers are cross-examined by the Insurance Company. During cross-examination of Dr. Abhay Patil, it is elicited that the operations conducted by him were successful. The plants were removed as they were causing the infection but he denied that the claimant has not sustained permanent disability.

30. Dr. Umesh Golandas Gadpal was also cross-examined but nothing is elicited from his cross-examination which will affect the case of the claimant. Likewise, during the cross-examination of Dr. Ranjeet Nilkanthrao Deshmukh also, nothing incriminating is brought on record. Dr. Ranjeet Nilkanthrao Deshmukh denied that the percentage of injuries sustained by the claimant can be reduced by the lapse of time. He is specifically stated that even by the treatment of psychotherapy, percentage of disability cannot be reduced.

31. The cross-examination of Dr. Agrawal shows that all surgeries performed on the claimant were of emergent in nature and results are as per their satisfaction. He also denied that the disabilities of the claimant are curable in future. Thus, sum and substance of the evidence of all the medical officers is that, the disability sustained by the claimant is of permanent nature and no

treatment can cure this disability in future. Thus, the evidence on record, adduced by the claimant clearly establishes that he had sustained permanent disability which cannot be reduced.

32. The law regarding the assessment of compensation in case of injured is well settled. A man is compensated for physical injury, he is compensated for the loss, which he suffers as a result of that injury. Due to disability, he cannot live a full life, his inability to enjoy those amenities which depend on freedom of movement and his inability to earn as much as he used to earn or could have earned.

33. Thus in calculating the compensation, it is the object of the Tribunal to award an amount which will put the injured person in the same position had he not sustained injury. Though it is true that the money cannot renew the physical frame which has been damaged, the Tribunals are supposed to endeavour in awarding sums which can be said to be a just and reasonable compensation.

34. The tribunals on one hand are required to be bear in mind that exorbitant, inflated and unreasonable demands of the victim cannot be fulfilled. However, the tribunal has to strike the balance by considering the actual loss and claimant needs to be compensated adequately. Thus, this is a balancing act. The consideration for the precious human limb cannot be forgotten as it is manifest that no award of money can possibly compensate the injured and renew his battered body. But the sympathy for the

victim, an emotional consideration, should not come in the way for analytical and rational assistant by resorting to thinking activity.

35. Thus tribunal is required to determine the damages objectively by removing all speculations or some conjecture with reference to the nature of disability and its consequences. A victim is not only entitled for the compensation for the permanent disability but also for the pecuniary and other loss which he suffered on account of sustaining such injury. This means that he has to be compensated for his inability to lead his full life, enjoy normal amenities which he would have enjoyed had he not suffered the injuries and his inability to earn as much as he used to earn or could have earned.

36. The principles of determination of loss of future earnings of the injured with reference to extent of his personal disabilities is explained by the Hon'ble Apex Court in case of *Rajkumar vs Ajay Kumar*¹. The principles laid down by the Hon'ble Apex Court are that the provision of the Motor Vehicles Act makes it clear that the award must be just which means that compensation should to the extent possible, full and adequately restored the claimant to the position prior to the accident. The heads under which compensation is awarded in personal injury cases are pecuniary damages and non-pecuniary damages. In routine personal injury case, compensation will be awarded only under the head i.e. expenses relating to treatment, hospitalization, medicines and transportation, nourishing food, and miscellaneous expenditure, loss

of earning, during the period of treatment, loss of future earning, on account of permanent disability and future medical expenses. Now pecuniary damages are awarded for pain, sufferings and as a consequences of the injures, loss of amenities, loss of expectations of life etc.

37. The Hon'ble Apex Court further considered the aspect of determination of compensation in cases of permanent disability and held that all injuries do not result in loss of earning capacity. The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently the percentage of loss but earning capacity is not the same as the percentage of permanent disability. The Doctor who treated an injured claimant or who examined subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed. The same permanent disability may result in different percentage of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

38. In the light of the above principles, if the evidence in the present case is appreciated, the claimant has adduced the evidence of medical officers who treated him during the hospitalization. The sum and substance of the evidence of all the medical practitioners is that the claimant has sustained permanent disability to the extent of 65%. The evidence of the medical

practitioner further discloses that the claimant had undergone two surgeries, though the implants are removed but his injuries are a permanent nature and due to permanent disability sustained by him, he is unable to walk properly. They specifically stated that there is no possibility of reduction of said disability. The evidence of these medical practitioner further shows that the right lower limb of the claimant is shortened by one inch.

39. If this evidence is taken into consideration, there is no dispute that the injured has sustained the permanent disability. As observed by the Hon'ble Apex Court, the same permanent disability may result in different percentage of loss of earning capacity in different person depending upon the nature of profession, occupation or job, age, education and other factors. Admittedly, the claimant is agriculturist in the present case. Though it is considered that the claimant will not suffer from deprivation of income as the land still remains with him. However, the issue involved is whether the claimant is in position to carry out the agricultural operations in future. The injury sustained by claimant is that right limb is shortened by one inch. The medical evidence on record shows that he had sustained crush injury on his right knee joint. There are restrictions of movement of left limb and moderate restrictions of movement on left knee. Though it is held that he will not lose the income as agricultural land will remain with him. However, he has to appoint somebody to carry out the agricultural operations and therefore, he has to incur the expenses towards the person who is appointed by him. This aspect is considered by the Hon'ble Apex

Court in the case of *the State of Haryana and another V/s Jasbir Kaur and others*² and Hon'ble Apex Court held that it has to kept in view that tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be the real sense of 'damages' which in tern appears to it to be just and reasonable. It is to be borne in mind, that compensation for loss to limbs or life can hardly be weighed in golden scale but at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. The statutory provisions clearly indicates the compensation must be just and it cannot be a bonanza nor the source of profit but the same should not be a pittance. The Court and Tribunals have a duty to weigh the various factors and quantify the amount of compensation which should be just. What would be just compensation is a vexed question, there can be no golden rule applicable to all cases for majoring the value of human life or a limb. The measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested on the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness, and non-arbitrary.

40. The Hon'ble Apex Court further held that in case agricultural land which the claimant or legal heirs of the claimant are possessing, the matter can be approached from a different angle. The land possessed by the deceased still remains with them, there is however a possibility that the claimants may be required to engage persons to look after agriculture. Therefore, the normal rule about the deprivation of income is not strictly applicable to cases, where agricultural income is the source. Attendant circumstances have to be considered. Considering the loss of the claimant in a managerial capacity, as claimants have to engage a person to equitable amount. Same rule is applicable in the present case also. As the claimant has sustained 65% of permanent disability, he has to engage somebody to carry out the agricultural operations and he has to incur the expenses towards the said persons, who would be appointed towards the managerial capacity and therefore, the loss of income of the claimant is to be assessed.

41. In the year 2005, the Hon'ble Apex Court has considered loss at the rate of Rs. 3000/- per month for appointment of any person to carry out the agricultural operation. In the present case, the accident occurred on 03/05/2004 so the applicant has to incur the expenses towards the person who is to be appointed the agricultural operation and said amount would be increased in future. After 10 years of the accident, it would be doubled. Considering the same, the claimant is entitled to receive the compensation by adopting the multiplier procedure. If the loss of income of the claimant is considered as Rs. 6000/- per month, his

yearly incomes Rs. 72,000/-. Considering the injury sustained by the claimant and on the date of accident his age was 26 years and if the disabilities is considered to be 100% by using multiplier of 17 gross amount of compensation would be $\text{Rs. } 72,000 \times 17 = 12,24,000/-$. Here in the present case, the claimant has not sustained 100% disability. Considering the percentage of disability the 65% of the loss of incomes to $\text{Rs. } 12,24,000/- = 7,95,600/-$. The tribunal has already awarded Rs. 3,31,000/- towards future loss of income. He is entitled to receive additional amount of loss of future income Rs. 4,64,600/-.

42. The trial Court has granted loss of income of Rs. 20,000/- during treatment period. The medical evidence on record shows that since date of accident i.e. from 3.5.2004 till 5.9.2004, he was under treatment. Considering the nature of injuries, definitely the claimant was unable to move from one place to another for more than one year. He was under treatment for more than five months. So, he is entitled to receive loss of income by calculating monthly income of $\text{Rs. } 5000 \times 12 \text{ months} = 60,000/-$

43. As already observed that he has sustained the grievous injuries and definitely from the nature of injury, it can be ascertained that he is unable to move from one place to another place at least for one year. So he is entitled to receive total loss income for more one year is comes to Rs. 60,000/-

44. Besides this loss of income, tribunal has awarded total expenses, he had incurred towards medical treatment and medicine.

The Tribunal has also awarded future care and other expenses at the rate of Rs. 50,000/-. So, no enhancement is required under the said head. The tribunal has awarded Rs. 1,00,000/- towards pains and suffering. The medical evidence on record shows that his knee was totally crush, his leg is shortened by one inch and he has to lead his life as handicap person through out his life. So, he has to undergo pain and sufferings for whole life. The claimant is only 26 years of age. Considering the same, the amount awarded under the pain and sufferings is very meagre amount and compensation is to be enhanced by Rs. 1,50,000/- under the head of Pain and Sufferings, in addition to Rs. 1,00,000/-.

45. Admittedly, the claimant was unmarried at the time of accident, his marriage prospects is affected, due to the said injuries. Now, he has very restricted choice and he has to depend upon the person who would choose him as her bride groom. So, definitely his marriage prospects are affected and on that ground also, the claimant is entitled to receive compensation of Rs. 1,00,000/-.

46. The Tribunal has not awarded the compensation to the claimant under the head of special diet and transportation. The claimant was under treatment for more than six months thereafter also for healing the injuries, he need the nutritious food for which he has to incur the expenses. He has to incur the expenses beyond the treatment period also to come out from the said injuries and to become strong and stout. So, amount of Rs. 50,000/- will be just and proper towards the special diet. The evidence on record shows that, initially the claimant was admitted in the hospital at Akola.

Thereafter, he was shifted to Nagpur. He was under treatment at Nagpur. So he had incurred the expenses towards transportation. Moreover, he was constantly in need of one attendant, who can look-after him, during his hospitalization. Considering the same, the amount of Rs. 50,000/- would be just and proper under the head of transportation and attendance.

47. As already observed that just compensation is to be awarded to the claimant, in view of the provisions under Section 168. The word damages shows that claimant is to be compensated appropriately by granting just and reasonable compensation. The human life or loss of any limbs cannot be compensated in terms of money. But at the same time, it is to be considered that claimant has lost the right to lead the normal life, like any other person. He is unable to live the normal life, like any other common-man and he has to undergo pain and sufferings and therefore, just compensation. Considering the equitable fairness and reasonable things is to be granted.

48. In view of that the appeal deserves to be **partly allowed** and claimant is entitled to receive the enhanced compensation in the following manner:

Sr. No	Head	High Court Allowed in rupees	Allowed in MACT Tribunal in rupees	Enhancement In rupees..
1.	Loss of Income during hospitalization.	60,000/- (for 12 months)	20,000/-	40,000/-
2.	Loss of future income @ Rs.72000/- per year multiplier 17 Disability @ 65%	12,24,000/- 7,95,600/-	3,31,000/-	4,64,600/-

3.	Medical expenses	6,65,000/-	6,65,000/-	---
4.	Future care and other expenses.	50,000/-	50,000/-	---
5.	Expenses of family members for attending the appellant at hospital and traveling expenses.	50,000/-	--	50,000/-
6.	Pain and suffering.	2,50,000/-	1,00,000/-	1,50,000/-.
7.	Loss of marriage prospects and denial of lively pleasures.	1,00,000/-	Nil	1,00,000/-.
Total Rs.				8,04,600/-

Therefore, I proceed to pass the following order.

- a) The appeal is partly **allowed**.
- b) The respondent Nos. 2 and 3 are jointly and severely liable to pay compensation of Rs.8,04,600/- as an enhanced amount of compensation @ Rs. 7.5% interest from the date of appeal till its realization.
- c) The respondent No.3 shall deposit the amount within 10 weeks from receipt of copy of the judgment.

JUDGE