



2025:DHC:9747



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on 06.11.2025

+ MAC.APP. 709/2025 and CM APPLs. 69137-69139/2025

THE NEW INDIA ASSURANCE COMPANY LTDAppellant

Through: Mr. Amit Kumar Singh, Ms. K. Sema, Ms. Chubalemla Chang and Mr. Prang Newmai, Advocates.

versus

ASHISH & ORS.

.....Respondents

Through: Mr. A.K. Dhama, Advocate for R1.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J (ORAL)

1. The appellant – New India Assurance Company Limited [“the Insurance Company”] assails an award of the Motor Accident Claims Tribunal [“the Tribunal”] dated 22.05.2025, by which a sum of Rs. 66,33,256/-, alongwith interest at the rate of 7.5% per annum, has been awarded in favour of respondent No. 1 – claimant.

2. The facts of the case, as recorded in the impugned judgment, are that the claimant, alongwith others, was travelling to Jaisalmer by road on 19.01.2017. At about 9 P.M., the vehicle lost control, resulting in one fatality, and grievous injury to the claimant. The driver of the vehicle was respondent No. 2 herein. The claimant, who was then 20 years of age, sustained injuries to both his legs, resulting in a disability of 75% in both lower limbs. He placed on record a disability certificate to this effect. It was undisputed that he will remain confined to a wheel chair for the rest



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of his life.

3. The Tribunal has returned a finding that the injuries sustained by the claimant were on account of rash and negligent driving of the vehicle, which was admittedly covered by a policy issued by the appellant - Insurance Company.

4. Three grounds are urged in support of the appeal by Mr. Amit Singh, learned counsel for the appellant - Insurance Company:

- a) That the claimant was a student at the time of the accident, and the Tribunal ought to have assessed the compensation payable to him on the basis of minimum wages.
- b) That the Tribunal erroneously accepted the disability certificate relied upon by the claimant without proof thereof.
- c) That the Tribunal has erroneously reckoned the claimant's disability at 75% permanent functional disability.

5. As far as the first ground is concerned, Mr. Singh submits that a student's loss of earnings is to be computed on the basis of minimum wages alone, which would have worked out to Rs. 11,830/- per month, rather than at Rs. 20,000/- per month, as awarded by the Tribunal.

6. On the question of the claimant's vocation and income, the claim petition filed by the claimant stated that he was a student of Arena Animation College, Delhi. The claimant's evidence, by way of affidavit, further stated as follows:

"10. That at the time of this accident, the petitioner was only 21 years old and he was doing the course of Animation from Arena Animation, Kohat Enclave, Pitampura, Delhi. If petitioner would have completed this course, he would have earned Rs. 50,000/- per month if not more. As such due to the said accident and injuries there to the petitioner has suffered 100% financial loss of his future income besides other heads."



The claimant was not cross-examined on his evidence of being a student of Animation in the abovementioned institution.

7. Having regard to this evidence, the Tribunal did not accept the claimant's case that his income should be computed at Rs. 50,000/- per month, but also rejected the Insurance Company's argument that it should be assessed on the basis of minimum wages alone. In doing so, the Tribunal relied upon the judgment of this Court in *Babli Dixit & Anr. v. Satendra Kumar & Ors.*¹, wherein this Court observed as follows:

"6. The law with respect to the earning capacity of a student pursuing a professional course is well-settled that the Claims Tribunal has to assess the earning capacity of the deceased considering the nature of the professional course being pursued by the deceased and the prospects of his income after completing the course..."

8. On this basis, the Tribunal came to the conclusion that a minimum salary of Rs. 20,000/- per month at the entry level, for a student pursuing a course in Animation, is just and equitable.

9. I am of the view that the contention of the appellant - Insurance Company, that the compensation should have been assessed on the basis of the minimum wages, is untenable. The evidence that the claimant was pursuing a course in Animation was unrebutted. The course of action adopted by the Tribunal in determining the notional income on the basis of minimum entry-level salary for the particular profession was therefore the correct method of determination of his income, as held in *Babli Dixit*.

10. With regard to Mr. Singh's second argument, the record reveals that the evidence of one of the doctors, who was part of the Medical Board which issued the disability certificate, was recorded as PW-2. The

¹ (2018) SCC OnLine Del 13153 [hereinafter, "*Babli Dixit*"].



doctor deposed as follows:

“I have seen the disability certificate No. 7477, dt. 05.01.2019, issued by board consisting of Dr. Aseem Taneja, Dr. Vijay Kumar Gupta and myself qua patient Ashish. The said disability certificate alongwith the assessment sheets are Ex.PW2/A (colly) (OSR), bearing my signatures at point X.

As per the said disability certificate, the patient suffered permanent physical disability to the tune of 75% in relation to both left lower limbs with diagnosis of post traumatic paraparesis of both lower limbs.

The said disability is permanent and the patient would be confined to wheel chair for the entire life. The patient would be unable to walk on slope, plain surface, he would be unable to stand on both lower limbs, he would be unable to squat on floor, he would be unable to kneel and would not be able to take turns.

The patient requires services of an attendant for his whole life.
XXXXX by Sh. Daanveer Singh Chhilar, Ld. Counsel for R1.

Nil. Opportunity given.

XXXX by R2.

None is present for R2 despite repeated calls. Nil. Opportunity given.

XXXXX by Sh. Lalit Dhingra, Ld. Counsel for the insurance co./R3.

The disability of the patient was not assessed upon any directions of the court but as a general patient under the jurisdiction of the hospital. The board had examined the patient only upon the history as given by the patient. The patient did not submit any paper at that time. We did not conduct any test upon the patient except his X-ray, however we physically examined the patient. I have brought the X-ray film also.

It is wrong to suggest that the paraparesis can occur due to bladder infection also. Vol. In the present case, it has occurred due to spine injury. It is wrong to suggest that I cannot say whether the disability is due to accidental injuries as I have not seen the MLC and other papers. It is wrong to suggest that patient does not require an attendant at all time or his whole life. **It is further wrong to suggest that disability is not assessed as per the guidelines issued from time to time by the Ministry of Government of India, Social and Justice of Empowerment. It is further wrong to suggest that I have not conducted all tests as prescribed by the Government of India before issuing the disability certificate. We have filled the format as prescribed by Government of India while assessing the disability of a patient and the said assessment proforma is already part of Ex.PW2/A (colly).** The said assessment proforma is as per the guidelines of Government of India. The word locomotor relates to the



*movement of joint and movement of the body. **It is wrong to suggest that while assessing the disability the correct formula is not applied. The hands and mind of the patient are in perfect condition. The patient can do of his work with hands while sitting on a wheel chair.** I cannot say if he can also increase his educational qualification also in the said state.”²*

11. In view of this evidence, I am of the view that the Tribunal has correctly relied upon the disability certificate produced by the claimant. It is settled law that the Tribunal is not bound by the strict rules of pleadings and evidence, and is to render its findings on a preponderance of probabilities. Reference in this connection may be made to the Supreme Court judgment in *Rajwati alias Rajjo & Ors. v. United India Insurance Company Ltd. & Ors.*³, which held as follows:

*“20. It is well settled that Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in *Sunita v. Rajasthan State Road Transport Corporation*⁴ and *Kusum Lata v. Satbir*⁵, **strict rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation cases,** i.e., to say, “the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.”⁶*

12. In the present case, the doctor who had issued the disability certificate was examined, and confirmed that he had assessed the claimant's disability at 75% permanent disability in both lower limbs. In the course of cross-examination by learned counsel for the appellant - Insurance Company, the witness stated that the claimant had been

² Emphasis supplied.

³ 2022 SCC OnLine SC 1699.

⁴ (2020) 13 SCC 486.

⁵ (2011) 3 SCC 646.

⁶ Emphasis supplied.



physically examined and reiterated that the disability had been computed on the basis of the correct formula, stipulated by the Government of India. This was, in my view, sufficient to enable the Tribunal to rely upon the disability certificate.

13. The final argument of Mr. Singh concerns the Tribunal's assessment of the claimant's functional disability at 75%. Although the disability certificate recorded the claimant's disability at 75% in the lower limbs, Mr. Singh submits that the evidence on record shows that the claimant has completed his course in Animation, and would be able to pursue his vocation using his upper limbs, even though he is confined to a wheelchair.

14. In support of this submission, Mr. Singh draws my attention to the cross-examination of the claimant, wherein he stated that he had completed his graduation from the School of Open Learning after the accident, as well as a course in Computer Graphics. Mr. Singh specifically relies on the following contents of his cross-examination to suggest that the claimant was, in fact, capable of pursuing his vocation while sitting on a chair:

*"My date of birth is 23.07.1996. It is correct that I have completed the course of computer graphics after my accident. It is wrong to suggest that I can do the work of computer animation even while sitting on a chair. **Vol. I can only do the work computer graphics while sitting on a chair.**"⁷*

He also draws my attention to the medical witness PW-2, who, in his cross-examination, *inter alia* stated as follows:

"...The hands and mind of the patient are in perfect condition. The patient can do of his work with hands while sitting on a wheel chair ..."

⁷ Emphasis supplied.



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15. Mr. Singh relies upon the judgment in *Raj Kumar v. Ajay Kumar & Anr.*⁸, to submit that the functional disability must be assessed having regard to the nature of the injuries and the nature of the work carried out by the claimant.

16. As far as this aspect is concerned, it is evident from the impugned award of the Tribunal, that the Tribunal has taken into account all these factors while assessing the claimant's functional disability at 75%, rather than accepting his claim of 100% functional disability. The claimant was 20 years of age at the time of the accident and was undertaking a course in Animation. He, thereafter, completed his course from the School of Open Learning and also completed a course in Computer Graphics. The evidence both of the claimant and of the doctor indicates that he would be able to undertake work from a sitting position. In the light of such evidence, the Tribunal has rightly refused the claimant's claim of 100% functional disability. However, the claimant's prospects of employment and earning would undoubtedly be affected by loss of use of both his lower limbs, and being wheelchair bound for life. The Tribunal's assessment of 75% functional disability in these facts and circumstances is, in my view, consistent with its duty to award just and equitable compensation to the claimant.

17. For the aforesaid reasons, the three points urged by Mr. Singh are rejected. No other ground has been argued in support of this appeal. The appeal, alongwith pending applications, is accordingly dismissed.

⁸ (2011) 1 SCC 343.



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18. The statutory deposit of Rs. 25,000/- be refunded to the Insurance Company.

PRATEEK JALAN, J

NOVEMBER 6, 2025/UK/KA/

Signature Not Verified

Signed By: SOMYA
SATIJA
Signing Date: 07.11.2025
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