IN THE HIGH COURT OF ORISSA AT CUTTACK

MACA NO.231 of 2023
CNR No. ODHC010207892023

(An appeal Under Section-173 of M.V. Act, 1988).

Bijay Kumar Roul … ***Appellant***

-versus-

V. Krishna Kumar & Another … ***Respondents***

For Appellant : ***Mr. B.B. Singh, Advocate***

For Respondents : ***Mr. S. Das, Advocate (R-2)***
None (R-1)

CORAM: JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT: 05.11.2026 (ORAL)

G. Satapathy, J.

1. This is an appeal U/S.173(1) of the Motor Vehicles Act, 1988 (In short "the Act") by the claimant-appellant assailing the quantum of compensation as awarded by the impugned judgment dated 05.01.2023 passed by the learned 7th Motor Accident Claims Tribunal, Bhubaneswar in MAC No.70 of 2010 directing R2-The Manager, Reliance General Insurance Co. Ltd.(in short "the insurer") to pay a sum of Rs.7,30,000/- along with simple interest @ 6% per annum w.e.f. 20.05.2010 till its

actual realization to the claimant as compensation in an application U/S.166 of the Act for the injuries sustained by him in a motor vehicular accident

2. Facts being largely not disputed are not reiterated to avoid prolixity, but it needs to be stated here that the insurer has already satisfied the award by not challenging the same in any appeal and thereby, the finding of the learned tribunal qua the monthly income of the claimant at Rs.20,000/- and 60% permanent disability cannot be disputed by the insurer.

3. Heard Mr. Bishnu Brata Singh, learned counsel for the appellant and Mr. Subrat Satapathy, learned counsel for R-2 in the matter and perused the record. None appears for R-1 despite duly noticed.

4. After having considered the rival submissions and upon perusal of record, the only dispute remains right now between the claimant and insurer is with regard to quantum of compensation, but the claimant challenges the quantum of compensation for computing the same without applying multiplier method since he is 60%

permanent disabled and loss of future income can only be computed by following multiplier method. It is of course true that the learned tribunal has accepted the permanent disability of the claimant at 60%, but it has not granted any compensation by following the multiplier method and thereby, the computation of compensation needs to be revisited. What cannot be disputed that the merely because the claimant is 60% permanently disabled, it would not automatically lead to a conclusion of 60% functional or 60% whole body disability. It is found from Ext.6 that the claimant has suffered post-traumatic deformity of both legs and stiffness of both ankle and his disability has been quantified as 60% permanent disability of loco-motor impairment, but he has not been diagnosed or considered as 60% permanent disabled of whole body.

5. The learned tribunal has of course taken the profession of the claimant as script writer preparing script for TV serials, but it has discarded the profession of claimant as an Advocate, however, the learned counsel for the appellant strongly submits that the appellant is

not only a script writer, but also an advocate by profession. Adverting to such contention, it appears that the learned tribunal has categorically and specifically observed in paragraph 9 of the impugned judgment that no document has been filed to show that the appellant was practicing the profession of advocacy. Besides, the appellant has not averred anything in his claim application that he has conducted cases in courts, but on the other hand, the appellant has produced a certificate issued by Nayantika Studio as a member of Utkal Television Parivar vide Ext.7 showing his monthly income at 20,000/- which was rightly accepted by the learned tribunal. In this situation and in absence of any concrete evidence to show that the appellant is practicing as an advocate, this Court only concurs with the finding of the learned tribunal that the appellant is a script writer and he is earning Rs.20,000/- per month.

6. It was not only observed, but also found from the evidence on record that due to accident, the appellant had sustained fracture of right femur, right pelvis, comminuted fracture of left tibia and fibula,

degloving injury involving woes of right thigh and buttock, compartment syndrome of right leg, fat embolism, hematoma in spleen and his discharge certificate proved under Ext.8 discloses the aforesaid injuries on his person and he was admitted to Ayush hospital on 20.11.2009 and discharged on 08.12.2009. The aforesaid evidence clearly suggests that the appellant has not sustained any injury on his hand/palm/fingers, which are his principal organs for script writing but looking at the injuries keeping in view the permanent disability of the claimant quantified at 60% by the Medical Board, Nayagarh, this Court takes the functional disability of the appellant at 25% for calculation of loss of future income. It is to be remembered here that the income of the appellant would likely to increase in future and thereby, applying the future prospect formula as laid down by the Apex Court in ***National Insurance Company Limited Vrs. Pranay Sethi and others; (2017) 16 SCC 680***, the appellant is entitled to 40% towards future prospect. Accordingly, taking the unchallenged monthly income of the injured-claimant at

Rs.20,000/- and adding 40% of Rs.20,000/- towards future prospect, the net monthly income of the injured-claimant would come to Rs.28,000/-, but since the appellant is aged about 34 years at the relevant time of accident, appropriate multiplier would be 16. Thus, the loss of future income of the claimant would come to 25% of (Rs.28,000/- X 12 X 16) =Rs.13,44,000/-. Hence, the claimant is entitled to different amount under following heads: -

(i)	Cost of treatment	Rs.5,00,000/-
(ii)	Loss of future income including loss of income during treatment	Rs.13,44,000/-
(iii)	Loss of pain, suffering and trauma, shortening of life and loss of amenities	Rs.2,00,000/-
(iv)	Attendant's charges	Rs.15,000/-
(v)	Special diet for 30 days	Rs.30,000/-
(vi)	Conveyance charges	Rs.20,000/-
	Total	**Rs.21,09,000/-**

7. Since the appellant is entitled to interest @ 6% per annum and the insurer has already paid the compensation of Rs.7,30,000/- together with the

aforesaid interest, the appellant is only entitled to the f differential amount Rs.21,09,000/ – Rs.7,30,000/- = Rs.13,79,000/-together with simple interest @ 6% per annum w.e.f.20.05.2010 until the date of actual realization.

8. In the result, the appeal stands allowed on contest, but in the circumstances, there is no order as to costs. Consequently, the appellant is entitled to further compensation of Rs.13,79,000/- together with simple interest @ 6% w.e.f. 20.05.2010 till its payment. The insurer shall accordingly pay to the claimant the re-determined enhanced compensation within eight weeks hence and in case of deposit of the enhanced compensation before the learned tribunal; the same shall be disbursed to the claimant-appellant by keeping 80% in fixed deposits.

(G. Satapathy)
Judge

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Date: 06-Nov-2026 17:19:45

Orissa High Court, Cuttack,
Dated the 05th November, 2026/Jayakrushna