IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2025
(@ SPECIAL LEAVE PETITION (C) NOS.15621/2025)

S. ETTIAPPAN …APPELLANT

VERSUS

D. KUMAR & ANR. …RESPONDENTS

O R D E R

1. Leave granted.

2. This is a claimant's appeal for enhancement of the compensation, not being satisfied with the quantum of compensation awarded by the tribunal and modified by the High Court.

3. The occurrence of the accident, appellant sustaining injuries and as a consequence thereof, sustaining permanent disability, issuance of policy to the offending vehicle and said policy being in force on the date of the accident are all undisputed facts and same having been discussed in detail by

the tribunal as well as by the High Court, we would not burden this judgment by repetition of those facts, except to the extent required for considering the claim for enhancement of compensation.

4. The appellant while walking on the road on 28.09.2011 was hit by a lorry driven in a rash and negligent manner which resulted in grievous injuries being sustained by the appellant and it resulted in amputation of his right leg below the knee. A claim petition came to be filed seeking compensation of Rs.80,00,000/-and the tribunal after considering the pleadings and appreciation of both oral and documentary evidence by its judgment and award dated 01.04.2022 awarded a total compensation of Rs.10,30,500/- with interest @ 7.5% per annum from the date of petition till date of payment. By the impugned order, the High Court allowed the appeal in part and enhanced the compensation to Rs.15,99,000/- with interest @ 7.5% per annum. Hence, the present appeal.

5. Learned counsel appearing for the appellant has vehemently contended that the compensation awarded by the tribunal is abysmally on the lower side and same be enhanced

under all heads. She has also vehemently contended that on account of the amputation of right leg, the appellant would now be required to use artificial limb and compensation for artificial limb which has not been awarded by both the courts deserves to be granted. She would further elaborate her submission by contending that the claimant was a labourer and working as a loader in the vegetable market and by virtue of the disability now suffered, his functional disability is 100% though the courts below have assessed the disability at 70%. Hence, she prays for suitable modification of the award.

6. Per contra, learned counsel appearing for the insurer would vehemently contend that compensation awarded by the tribunal which has been enhanced by the High Court itself is on the higher side and it would not require any enhancement and as such he has prayed for dismissal of the appeal.

7. Having heard the learned counsel appearing for the parties and on perusal of the records, we are of the considered view that compensation deserves to be enhanced for reasons more than one. ***Firstly***, while assessing the quantum of compensation, an onerous duty is cast on the tribunal or the

appellate court to award just and reasonable compensation keeping in mind the nature of injury sustained, consequential functional disability suffered and offset the loss of income. ***Secondly***, a claimant being ignorant or being rustic villager or not being aware of the procedural law would seek award of compensation on account of disability suffered in a road traffic accident and while adjudicating such claims the social beneficial legislation requires to be interpreted and applied in a meaningful manner or in other words it would be the duty of the adjudicating tribunal or Court to award just and reasonable compensation and procedural lacunae should not come in the way. The present case is a mirror to the said proposition. We say so for the simple reason that the undisputed facts of the instant namely claim made before the tribunal and reiterated before the High Court would reveal that appellant was working as a labourer - loader in a vegetable market and earning his livelihood by performing the duties of loading & unloading vegetables into the vehicles. On account of the accidental injuries sustained, right leg of appellant came to be amputated below the knee and thereby he would not be in a position to even stand without support or in other words, his avocation as a

labourer or loader had come to a standstill.

7.1 While assessing the compensation in case of claims arising out of motor vehicle accident, it would be the functional disability which will have to be taken into consideration for award of future loss of income. In the instant case, though the doctors have assessed physical disability to whole body at 70%, the tribunal has substituted its view to that of the experts inspite of there being no contra-material available before it to arrive at a conclusion that functional disability being 50%. This Court has time and again stated that tribunal would not sit in the armchair of an expert and re-assess the disability, particularly, when there is clear evidence available. In the instant case, the disability assessment certificate Exhibit-C1 revealed that appellant had suffered 70% physical disability as certified by the Medical Board. There being no other evidence tendered by the insurer or the insured, the tribunal could not have substituted its view by assessing the disability at 50%. This erroneous view of the tribunal has been rightly set aside by the High Court. However, the High Court while reappreciating the evidence has restricted the whole-body disability at 70% on the

basis of Medical Board Certificate (Ex. C-1) without noticing the fact that on account of said disability suffered by the claimant, his functional disability would be 100%. It is not in dispute that appellant was working as a loader who used to discharge his duties of loading and unloading vegetables into the vehicles. This physical or manual activity would require support of both legs or in other words claimant is required to use both the legs for discharging his duties as a loader. By virtue of amputation of his right leg below the knee, he has become immobile or in other words, he is not in a position to discharge his daily routine work as a loader. It is not the case of insurer or insured that claimant was carrying on any other avocation and as such the disability of 70% suffered would not come in the way of his earning. To earn his bread, he had to work by loading or unloading vegetable into the vehicle which was the only avocation he was carrying on. Now by virtue of amputation of his leg below the knee appellant is not only unable to work as a loader but even unable to stand without support. As such the functional disability requires to be considered at 100% and not 70% as held by High Court.

8. In the teeth of the functional disability being 100% the compensation towards 'loss of income' by construing the monthly income of the claimant at Rs9,000/- requires to be reassessed.

9. Though the learned counsel appearing for the appellant has vehemently contended that appellant requires to be awarded compensation towards purchase of artificial limb, we are not impressed by the said argument for reasons more than one. ***Firstly***, the claimant did not produce any material to show the cost or value of the artificial limb which he proposed to purchase. ***Secondly***, fourteen years have lapsed and no additional evidence has been placed before this Court to establish this fact. For these reasons, the claim of Rs.3,10,000/- towards purchase of artificial limb would not be in the realm of reality and as such we are unable to accept the said contention. However, taking into consideration that the claimant may have to spend some amount toward purchase of artificial limb a reasonable compensation can be awarded and it would meet the ends of justice.

10. The compensation award under other heads being

marginally on the lower side, same requires to be enhanced keeping in mind the nature of injury, the period of hospitalization, amount expended towards himself and his attendants during the hospitalization. Accordingly, it is recomputed and marginally enhanced.

11. In the light of the discussions made hereinabove, we are of the considered view that the claimant would be entitled for the compensation under the following heads:

i.	**Loss of income:** Rs.9,000/- - Income per month 2250 = Loss of future prospects 25% 11250 x 12 x 14	Rs.18,90,000/-
ii.	Loss of income during laid-up period (Rs.9,000/- x 3 months)	Rs.27,000/-
iii.	Medical expenses	Rs.5,000/-
iv.	Food, nourishment and special diet	Rs.50,000/-
v.	Attendant expenses/charges	Rs.25,000/-
vi.	Pain and suffering	Rs.1,00,000/-
vii.	Cost of artificial limb	Rs.1,00,000/-
viii.	Transportation charges for himself and for the attendant during hospitalisation and thereafter	Rs. 25,000/-

ix.	Loss of amenities	Rs.1,00,000/-
	Total	**Rs.23,22,000/-**

12. Accordingly, the appeal is allowed in part. The compensation as awarded by the tribunal and modified by the High Court is substituted by awarding a total compensation of Rs. 23,22,000/-, with interest @ 7.5% per annum from the date of petition till the date of payment or deposit whichever is earlier. The insurer shall deposit the compensation as awarded with interest before the jurisdictional tribunal within an outer limit of six (6) weeks from today excluding the amount if any already paid or deposited.

13. Pending application(s), if any, shall stand disposed of. No order as to costs.

…….....J.
(ARAVIND KUMAR)

…….....J.
(N.V. ANJARIA)

NEW DELHI;
OCTOBER 16, 2025

ITEM NO.40 COURT NO.15 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).15621/2025

[Arising out of impugned final judgment and order dated 03-07-2024 in CMA No. 1739/2023 passed by the High Court of Judicature at Madras]

S. ETTIAPPAN Petitioner(s)

VERSUS

D. KUMAR & ANR. Respondent(s)

Date : 16-10-2025 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE N.V. ANJARIA

For Petitioner(s) : Mr. N.k. Mody, Sr. Adv.
Mr. Prabuddha Singh Gour, Adv.
Ms. Ishita M Puranik, Adv.
Ms. Jigisha Agarwal, Adv.
Ms. Aniya, Adv.
Mr. Praveen Swarup, AOR

For Respondent(s) : Mr. Ravi Bakshi, Adv.
Mr. Manvendra Pratap Singh, Adv.
Mr. Varinder Kumar Sharma, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in part in terms of the signed order placed on the file.

Pending application(s), if any, shall stand disposed of. No order as to costs.

(NEHA GUPTA) (DIVYA BABBAR)
COURT MASTER (SH) COURT MASTER (NSH)