

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 10839 OF 2025**  
(Arising out of SLP(C)No.4701 of 2025)

**ASHOK CHOUBEY**

**... APPELLANT(S)**

**VERSUS**

**DASHRATH KEWAT & ORS.**

**... RESPONDENT(S)**

**ORDER**

| <b>Time taken for disposal of the claim petition by MACT</b> | <b>Time taken for disposal of the appeal by the High Court</b> | <b>Time taken for disposal of the appeal in this Court</b> |
|--|--|--|
| 3 years 9 months<br>20 days                                  | 3 years 6 months<br>7 days                                     | 11 months 30 days  |

Leave granted.

**2.** The main challenge in this appeal by the claimant-appellant(s), is on the aspect of inadequate compensation, having been awarded by the High Court *vide* impugned order dated 8<sup>th</sup> September 2023, passed in Misc. Appeal No.3050 of 2020 by the High Court of Madhya Pradesh at Jabalpur, while computing the functional disability of claimant-appellant(s), as a doctor of Ayurvedic Medicine and who, as a consequence of rashness and negligence on the part of respondent no. 1, namely, Dasharatha Kevat, has undergone numerous surgeries and remained in continued medical intervention.

**3.** The genesis of the dispute is from a cold day in December 2015, when the claimant-appellant(s) aged 48 years was in his car, stationed near Kundam turn, Village Negai and a Tata Sumo bearing Registration No. MP-18T-2445 (*hereinafter referred to as the “offending vehicle”*), driven by Respondent No. 1, collided with the vehicle of the claimant-appellant(s), due to which he suffered serious injuries. Thereafter, he underwent surgeries and treatment at Dr. Mukherjee PG Hospital, Wright Town, Jabalpur.

**4.** He filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, before the Tribunal<sup>1</sup> seeking compensation to the tune of Rs.31,50,000/-, claiming monthly income to be Rs.50,000/-.

**5.** The Tribunal, in its assessment dated 22<sup>nd</sup> February 2020, while taking the whole-body permanent disability to be 5% and monthly income at Rs. 30,000/-, granted Rs.17,66,000/- along with interest @ 6% per annum. It was directed that all respondents herein would be jointly and severally liable. Cross appeals were filed before the High Court by the Insurance Company, and also the claimant-appellant. The former's points of contention were that no certificate of fitness had been issued *qua* the offending vehicle by the competent authority. This contention was rejected by the High Court noting that the Regional Transport Office, Jabalpur had indeed issued such a certificate. On the point of functional disability, the High Court took the same to be at 10% and in so far as the income was concerned the same was taken to be Rs.39,278.75/- per month taking the average of the last two years' income tax return. The total compensation was increased to

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<sup>1</sup> MACC No. 1171 of 2016 passed by the Additional Motor Accidents Claims Tribunal, Jabalpur (M.P.)

Rs.22,99,460/-. The detailed breakdown of the compensation as awarded by both the Courts below is as under:

| <b>Particulars</b>                           | <b>Tribunal</b> | <b>High Court</b> |
|--|-----------------|-------------------|
| Permanent Disqualification                   | Rs.2,92,500/-   | Rs.7,65,960/-.    |
| Physical Pain and Mental Pain                | Rs.15,000/-     | Rs.30,000/-       |
| Nutritious Food                              | Rs.10,000/-     | Rs.20,000/-       |
| Commuting Expenses                           | Rs.35,000/-     | Same as Tribunal  |
| Loss of Income during Treatment for 3 months | Rs.90,000/-     | Rs.1,15,000       |
| Bill of Attendant                            | Rs.10,000/-     | Rs.20,000/-       |

**6.** Still dissatisfied, the claimant-appellant has carried the matter in appeal before this Court. Taking support of the disability certificate, which records his disability to be at 55%, it is submitted that computation of functional disability at 10% is grossly inadequate. It is further submitted that the compensation as awarded under the medical head is insufficient, amongst others in the conventional heads of compensation.

7. The computation of functional disability does not share its characteristics with the computation of permanent disability which is the estimation to be made upon examination of the patient by a doctor or by a duly constituted medical board. When it comes to the former what is to be considered is the extent to which the chosen profession/vocation of the injured person, has been affected. This, of course, depends on the facts and circumstances of each case. This position of law has been stated in **Raj Kumar v. Ajay Kumar**<sup>2</sup>, the relevant paragraphs whereof are extracted as under:

*“10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity.*

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2 (2011) 1 SCC 343

*In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.*

*11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567] )”*

**8.** In the present case, how much does a doctor earning approximately Rs.3,60,000/- per annum lose as a result of injuries sustained on the shoulder and hip, remedy of which continues by way of surgeries and physical therapy. Considering the fact, that undergoing surgeries would mean that for some days the claimant-appellant would not be able to attend his clinic, which directly impacts the number of patients visiting him/relying upon the medicine prescribed by him, we find functional disability of 10%

to be inadequate. We have already noted that he continues to undergo treatment, even today, 10 years after the accident had taken place. Thus, we assess the functional disability at 30%.

**9.** On the aspect of reimbursement of medical expenses, as also future medical expenses, we find that the claimant-appellant had placed before the Tribunal bills worth Rs. 13,13,789/-, being the exact amount that was awarded under this head. Before us it is submitted that since the award of the Tribunal, he has further undergone surgery and bills in respect thereof have been annexed as Annexures P/9 and P/10, totalling to Rs. 3,25,000/-. The claimant-appellant has also annexed bills worth Rs.90,000/- for expenses incurred on physiotherapy. It has to be noted that the duration of physiotherapy to be undergone and its effectiveness are subjective, dependent on each individual patient. No rule of absolute certainty can be laid down so as to say that all expenses incurred on physiotherapy, however long it may be, has to be paid. Afterall, the metric for consideration is just and fair compensation. Fairness extends to both sides viz., the receiver and the payer. Medical expenses, therefore, would be Rs.13,13,789 + Rs.3,25,000/- + Rs.90,000/- = Rs.17,28,789/-.

**10.** We further find that the claimant-appellant is entitled to higher compensation towards other heads as per the settled principles of law.

**11.** As a result of the discussion above, the compensation payable to the claimant-appellant in accordance with law, would be recalculated as under:

#### **CALCULATION OF COMPENSATION**

| <b>Compensation Heads</b>                        | <b>Amount Awarded</b>   | <b>In Accordance with:</b>  |
|--|---|---|
| Monthly Income                                   | Rs.39,278.75/-  |   |
| Yearly Income                                    | Rs.4,71,345/-   |   |
| Future Prospects (25%)                           | 4,71,345 + 1,17,836.25<br>= Rs.5,89,181.25/-  | <b>National Insurance Co. Ltd. v. Pranay Sethi</b><br>(2017) 16 SCC 680<br><i>Para 42 and 59</i>          |
| Multiplier (13)                                  | 5,89,181.25 x 13<br>= Rs.76,59,356.25/-   |   |
| Permanent Disability (30%)                       | 30% of<br>76,59,356.25/-<br>= Rs.22,97,806.8/-<br>(Rounding off to Rs. 22,97,807/-) | <b>Arvind Kumar Mishra v. New India Insurance Co. Ltd.,</b><br>(2010) 10 SCC 254<br><i>Para 13 and 14</i> |
| Loss of Income/Future Earnings due to Disability | Rs. 22,97,807/-   |   |
| Medical Expenses                                 | Rs.17,28,789/-  | <b>Sidram v. Divisional Manager, United India</b>   |
| Future Medical                                   | Rs.2,00,000/-   |   |



|  |                                   |   |
|--|-----------------------------------|---|
| Expenses   |                                   | <b><i>Insurance Ltd.</i></b><br>(2023) 3 SCC 439<br><i>Para 63-66, 89</i>                                 |
| Special Diet/Nourishment, Conveyance & Attendant | Rs.1,00,000/-                     |   |
| Loss of Income during treatment i.e., 3 months   | Rs.39,278.75 X 3<br>Rs.1,17,836/- | <b>Raj Kumar v. Ajay Kumar</b> , (2011) 1 SCC 343<br>Para 6   |
| Pain and Suffering                               | Rs.1,00,000/-                     | <b><i>T.J. Parameshwarappa v. New India Assurance Co. Ltd.,</i></b><br>(2022) 17 SCC 51<br><i>Para 12</i> |
| Loss of Amenities                                | Rs.1,00,000/-                     |   |
| <b>TOTAL</b>                                     | Rs.46,44,432/-                    |   |

Thus, the difference in compensation is as under:

| <b>MACT</b>    | <b>High Court</b> | <b>This Court</b> |
|----------------|-------------------|-------------------|
| Rs.17,66,000/- | Rs.22,99,460/-.   | Rs.46,44,432/-    |

**12.** The Civil Appeal is allowed in the aforesaid terms. The impugned Award dated 22<sup>nd</sup> February 2020 in MACC No. 1171 of 2016 passed by the Additional Motor Accident Claims Tribunal, Jabalpur (M.P.), as modified in terms of the impugned order dated 8<sup>th</sup> September 2023, passed in Misc. Appeal No.3050 of 2020 by the High Court of Madhya Pradesh at Jabalpur stands modified

accordingly. Interest is to be paid on such terms as is awarded by the Tribunal i.e., 6% per annum, from the date of filing of the claim petition.

**13.** The amount be directly remitted to the bank account of the claimant-appellant. The particulars of the bank account are to be immediately supplied by the learned counsel for the appellant to the learned counsel for the respondent. The amount be remitted positively before 30<sup>th</sup> September, 2025.

Pending application(s), if any, shall stand disposed of.

.....**J.**  
**(SANJAY KAROL)**

.....**J.**  
**(SANDEEP MEHTA)**

**New Delhi;  
19<sup>th</sup> August, 2025.**