

Non-Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 1241-1242 OF 2023

(Arising out of SLP (CIVIL) NOS. 7281-7282 of 2022)

CHAUS TAUSHIF ALIMIYA ETC. ...APPELLANT(S)

VERSUS

**MEMON MAHMMAD UMAR
ANWARBHAI & ORS. ...RESPONDENT(S)**

J U D G M E N T

VIKRAM NATH,J.

Leave granted.

2. Both the appellants, namely Chaus Taushif Alimiya (hereinafter referred to as “Alimiya”) and Saikh Taufik Mohammad Sokat (hereinafter referred to as “Sokat”) were travelling together in the same vehicle Wagon-R Car

bearing registration No. GJ-18-AM-7711. The said vehicle met with an accident on 22.08.2012, resulting into severe injuries to both the appellants.

3. M.A.C.P. No. 638 of 2012 was filed by Sokat claiming compensation of Rs. 5,00,000/- whereas M.A.C.P. No. 122 of 2013 was filed by the other appellant Alimiya who claimed compensation of Rs. 50,00,000/- under section 166 of the Motor Vehicle Act, 1988. In the accident, Sokat suffered a permanent disability of 70% whereas Alimiya suffered permanent disability of 95%. The Tribunal vide order dated 04.08.2017 awarded compensation as per the following tables:

M.A.C.P. No. 122 of 2013 (Claimant: Tausif Alimiya):

1	Rs. 6,15,600-00	Future loss of income
2	Rs. 90,453-00	Medical bills.
3	Rs. 3,00,000-00	Future Medical treatment expenses.
4	Rs. 10,000-00	For pain, shock & suffering

5	Rs. 10,000-00	For Transportation charges
6	Rs. 10,26,053-00	Total amount of compensation
7	Rs. 3,00,000-00	Amount awarded for future medical expenses is to be deducted from counting interest on total amount of Rs. 10,26,053/-
8	Rs. 7,26,053-00	9% per annum interest would be calculated upon amount of Sr. No. 8 as mentioned.

M.A.C.P. No. 638/2012 (Claimant:Taufik Mohmad Sokat):

1	Rs. 4,53,600-00	Future loss of income
2	Rs. 94,419-00	Medical bills.
3	Rs. 18,000-00	Actual loss of income.
4	Rs. 10,000-00	For pain, shock & suffering
5	Rs. 10,000-00	For Transportation charges
6	Rs. 5,86,019-00	Total amount of compensation

4. Aggrieved by the aforesaid order of the Tribunal, the appellants preferred appeals before the High Court bearing First Appeal No. 3022 of 2018 by Alimiya and First Appeal No. 3234 of 2021 by Sokat. The High Court partly allowed both the appeals and enhanced the

compensation adding future prospects by 50% and also enhancing the income per month from Rs. 2,000/- determined by the Tribunal to Rs. 3,000/- per month as claimed by the appellants before it. It also enhanced amount under other heads as would be apparent from the table given hereunder prepared by the High court in its order:

First Appeal No. 3022 of 2018, the appellant Alimiya would be entitled to compensation as under-

Rs. 3000/- (income per month)
 + Rs. 1,500/- (50% prospective income)
 = Rs. 4,500/- x 95% (disability)
 = Rs. 4,275/- x 12 = 51,300/- x 18 (multiplier)
 = Rs. 9,23,400/- (Future Loss of income)

Future Loss of income	Rs. 9,23,400/-
Medical bills	Rs. 90,453/-
Future Medical expenses	Rs. 3,00,000/-
Pain, shock and suffering	Rs. 1,25,000/-
Transportation charges	Rs. 10,000/-
Total Compensation	Rs. 14,48,853/-

First Appeal No. 3234 of 2021, the appellant Sokat therein would be entitled to compensation as under-

Rs. 3000/- (income per month)
 + Rs. 1,500/- (50 % prospective income)
 = Rs. 4,500/- x 70% (disability)
 = Rs. 3,150/- X 12= Rs 37,800/- x 18 (multiplier)
 = Rs. 6,80,400/- (Future Loss of income)

Future Loss of income	Rs. 6,80,400/-
Medical bills	Rs. 94,419/-
Pain, shock and suffering	Rs. 75,000/-
Transportation charges	Rs. 10,000/-
Actual loss of income	Rs. 18,000/-
Total Compensation	Rs. 8,77,819/-

5. Aggrieved by the same, appellants are before this Court claiming enhancement in compensation. Civil Appeal @ SLP (C) No. 7281 of 2022 is filed by Alimiya whereas Civil Appeal@ SLP (C) No. 7282 of 2022 is filed by Sokat. Enhancement has been claimed under the following different heads by the appellants:

i) monthly income of Rs. 3,000/- is too less in today's time, and therefore, should be enhanced to Rs. 10,000/- per month for Alimiya and Rs. 6,500/- per month for Sokat;

ii) future prospects of Rs. 8 lacs should be awarded to Alimiya and Rs. 10 lacs should be awarded to Sokat;

iii) future medical expenses should be enhanced to Rs. 9,72,000/- (for physiotherapy) and Rs.2,00,000/- (for conveyance) in respect of Alimiya. In respect of Sokat, it should be enhanced to Rs. 50,000/- and Rs. 25,000/-, respectively.

iv) for pain, suffering and shock suffered by Alimiya, compensation should be enhanced to Rs. 15 lacs whereas for Sokat it should be enhanced to Rs. 10 lacs.

v) under the head of 'loss of amenities to life', Rs. 50,000 should be awarded to both the appellants.

vi) for loss of marriage prospects, an amount of Rs. 3 lacs each be awarded to both the appellants.

vii) for shortened life expectancy, Alimiya may be awarded Rs. 10 lacs whereas Sokat may be awarded Rs. 5 lacs;

viii) Alimiya maybe awarded attendant charges of Rs. 10,80,000/-. No claim for Sokat on account of Attendant charges has been made;

ix) for special diet and nourishment, both the appellants may be awarded Rs. 1,00,000/- each; and

x) as against litigation expenses, both the appellants may be awarded Rs. 50,000/- each.

6. On the other hand, learned counsel for the respondent Insurance Company submits that the High Court has given a fair and reasonable award accommodating compensation under different heads admissible under law and no further enhancement is

required. The appeals are without merit and liable to be dismissed. In respect of the claims made by the appellants, it has been submitted by the learned counsel that the monthly income of Rs. 3,000/- was claimed by the appellants before the High Court. The said figure was accepted and as such there is no question of any further enhancement by this Court in terms of monthly income. Rest of the claims now being made are contrary to the pleadings and the submissions advanced before the Courts below.

7. It is next submitted that High Court has already awarded benefit of future prospects to the tune of 50 per cent for both the appellants. This claim also deserves to be rejected.

8. In so far as the claims of attendant charges, special diet and conveyance charges, learned counsel for the respondent submitted that the compensation amount of

Rs. 3,00,000/- awarded by the High Court towards medical expenses also takes care of the above claims. Such claims are thus not tenable. In so far as transport charges are concerned, the High Court has awarded Rs. 10,000/- to both the appellants. The claims made under various other heads by the appellants are not sustainable in law. It is, thus, submitted that the appeals deserve to be dismissed.

9. Before proceeding to deal with the claims made, it would be appropriate to reproduce the findings of the Tribunal with respect to the medical conditions of both the appellants which has not been assailed.

10. The Tribunal while deciding issue no. 2 regarding the entitlement and the quantum of compensation, has given detailed finding in paragraph no. 20.1 regarding the disabilities suffered by both the appellants. The same is reproduced hereunder:

“20.1. Now, while assessing and calculating the amount of compensation, the learned Advocate Mr. S.G. Shah for the opponent No. 3 has raised an objection regarding the percentage of disability and submitted that the detailed cross examination has been made by him for the insurance company of the doctors who have issued the disability certificate to the claimant Tausif and claimant Taufik. The learned Advocate has submitted that the doctor namely, Nayan Pancholi, who is not a specialist of Urology has opined the disability of kidney to the tune of 25% and has assessed the disability of spleen to the tune of 45% and drawn the attention of this Hon’ble Tribunal that the said doctor has admitted the aforesaid facts in his cross examination. But, while considering the disability certificate of witness namely, **Taufik I am of the firm opinion that due to the accident he was compelled to remove the spleen and one kidney from the body** and, therefore, this is no any hesitation to believe that body as a whole he is having **permanent disability of 70%**. Whereas, the claimant **Tausif who is suffering from paraplegia and he sustained the injury of fracture of spinal cord of D-10 & D-11 tibia Fibula and dislocation of Telus, he is unable to live his life as a common man and is**

completely in such a bad condition that even he cannot pass urination and stools at his own and has also lost control over the essential parts of the body, therefore, I have no hesitation to believe that the **Tausif is having the permanent disability of 95%** body as a whole therefore, I am not in agreement with the arguments advanced by the learned Advocate Mr. S.G. Shad for the insurance company and I deem it fit to assess the disability of claimant Tausif at 95% and Taufik at 70%. These disability certificates are produced here vide Exhs. 35 & 37, respectively.”

11. We find from the judgment of the High Court as recorded in paragraphs No. 7 and 8 that the appellants had claimed enhancement of monthly income of Rs. 3,000/- only, which the High Court has accepted along with 50% future prospects.

12. The High Court awarded Rs. 3,00,000/- towards future medical expenses for the appellant Alimiya. However, no such future medical expenses have been awarded to the other appellant Sokat.

13. The High Court also enhanced the compensation under the head 'pain, shock and suffering' from Rs. 10,000/- to Rs. 1,20,000/- for Alimiya and Rs. 75,000/- for Sokat.

14. With respect to medical conditions, the findings as recorded by the Tribunal are not challenged either by the Insurance Company or the owner of the vehicle.

15. Having considered the submissions advanced by the learned counsel for the parties and the material on record, each of the claims raised by the appellants are dealt with hereinafter.

16. The claim for enhancement of income cannot be accepted. The appellants themselves had claimed Rs. 3,000/- before the High Court which claim had been accepted. The High Court has held that it was just and reasonable considering the year when the accident had taken place and also relying upon the contention raised

by the appellants. The High Court had also awarded 50 per cent addition under the head 'future prospects' and therefore, any claim in respect of the same cannot be entertained.

17. With regard to the claim for future medical expenses for the appellant Alimiya who has suffered 95% disability and would require physiotherapy services throughout his life, the compensation awarded by the High Court at Rs. 3,00,000/- appears to be less. In this connection, reference may be made to a recent judgment of this Court dated 06.07.2022 passed in Civil Appeal No. 4648 of 2022, **Abimanyu Pratap Singh vs. Namita Sekhon & Another**, wherein this Court awarded charges for physiotherapist at the rate of Rs. 150/- per day and applied the multiplier of 18 considering the age of appellant therein. In the present case also, the multiplier applied is 18. Therefore, the charges for

future medical expenses (physiotherapy) would come to Rs. 9,72,000/- which this Court approves as just and proper.

18. Insofar as the second appellant Sokat is concerned, the claim for future medical expenses maybe for follow-up treatment etc. is only Rs. 50,000/- which also this Court finds to be justified and approves it.

19. The claim for conveyance for the appellant Alimiya is Rs. 2,00,000/- and for the appellant Sokat it is Rs. 25,000/-. The Tribunal as well as the High Court awarded Rs. 10,000/- only to both the appellants under the head 'Transportation charges'. Considering the medical condition of appellant Alimiya who had suffered 95% disability and appellant Sokat who suffered 70% disability would require extra use of transportation even for going to short distances. It would be just and proper to award Rs. 50,000/- and Rs. 25,000/- to the

appellants Alimiya and Sokat, respectively as transportation charges.

20. Under the head 'pain and suffering', the High Court awarded Rs. 1,25,000/- and Rs. 75,000/- to the appellants Alimiya and Sokat, respectively. Considering the findings on the medical conditions of both the appellants, the amount awarded is less. Award of such compensation cannot be based on any mathematical formula, but has to be commensurate to the nature of suffering and pain, its extent, length and duration. In the facts of the present case, amount of Rs. 5,00,000/- appears to be just for the appellant Alimiya and Rs. 2,50,000/- to the appellant Sokat under the aforesaid head. The same is accordingly approved.

21. Under the head 'loss of marriage prospects', no compensation has been awarded. Reliance was placed upon the judgment in the case of **Master Ayush** vs.

Branch Manager, Reliance General Insurance Company Limited and Another¹, where this Court awarded Rs. 3,00,000/- as loss of marriage prospects to a child who had suffered total disability at an age of about 5 years at the time of the accident. The appellants considering their medical conditions, deserve to be suitably compensated for under the head 'loss of marriage prospects'. Appellant Alimiya be awarded Rs. 3,00,000/- under this head, whereas appellant Sokat be awarded Rs. 1,50,000/-.

22. Appellant Alimiya, because of his medical condition, cannot even stand or walk on his own and would therefore, require an attendant all his life. In the case of **Kajal vs. Jagdish Chand and Others**², this Court awarded Rs. 5,000/- per month for whole time attendant. Applying the multiplier of 18, an amount of

1 (2022) 7 SCC 738

2 (2020) 4 SCC 413

Rs. 10,80,000/- would be just and proper compensation under the aforesaid head.

23. Both the appellants, considering their medical conditions, would be requiring special diet supplements which may be assessed at Rs. 1,00,000/- each. In this connection, reference may be made to the judgment of this Court dated 18.10.2022 passed in Civil Appeal No. 7605 of 2022 between **Divya** vs. **The National Insurance Co. Ltd. & Anr.**

24. The compensation, thus, due and admissible to the appellants as discussed above may be summarized hereunder:

Appellant-Alimiya:

Sr.No.	Heads	Amount
1	Future Medical Expenses (including physiotherapy)	Rs. 9,72,000/- (-Rs. 3,00,000/-) = Rs. 6,72,000/-
2.	Transportation charges	Rs.50,000/- (-10,000/-) = Rs. 40,000/-

3.	Pain and suffering	Rs. 5,00,000/- (-Rs. 1,25,000/-) =Rs. 3,75,000/-
4.	Loss of marriage prospects	Rs. 3,00,000/-
5.	Attendant charges	Rs. 10,80,000/-
6.	Special diet and nourishment charges	Rs. 1,00,000/-

25. Thus, we award additional sum of Rs. 25,67,000/- to the appellant Alimiya along with the same interest as awarded by the High Court.

Appellant-Sokat:

Sr.No.	Heads	Amount
1	Future Medical Expenses	Rs. 50,000/-
2.	Transportation charges	Rs.25,000/- (-Rs. 10,000/-) Rs. 15,000/-
3.	Pain and suffering	Rs. 2,50,000/- (-Rs. 75,000/-) =Rs. 1,75,000/-
4.	Loss of marriage prospects	Rs. 1,50,000/-
5.	Special diet and nourishment charges	Rs. 1,00,000/-

26. Thus, we award additional sum of Rs. 4,90,000/- to the appellant Sokat along with the same interest as awarded by the High Court.

27. The appeals are allowed accordingly.

28. There shall be no order as to costs.

29. Pending applications, if any, are disposed of.

.....J.

[ABAHY S. OKA]

.....J.

[VIKRAM NATH]

NEW DELHI

FEBRUARY 16, 2023.