

VERDICTUM.IN

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2024

(Arising out of SLP (C) No. 3511 of 2020)

HANS RAJ

APPELLANT(s)

VERSUS

**ORIENTAL INSURANCE
COMPANY LIMITED & ANR.**

RESPONDENT(s)

ORDER

1. Leave granted.
2. Questioning the findings of the High Court to reduce the amount of compensation in a case of disability, modifying the Award of the Motor Accident Claims Tribunal (hereinafter referred to as 'MACT' for brevity), the claimant has filed the present appeal.
3. On perusal of the material placed, it is revealed that the claimant, aged 28 years, suffered 63% permanent disabilities proved by the certificate of the medical board (Exhibit 204) having paralysis, difficulty in moving,

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speaking, writing and doing work by hand etc. The MACT awarded a sum of ₹15,51,000/- accepting annual earning of ₹1,00,000/- relying upon the Income Tax returns. *Vide* impugned order, the High Court reduced the amount, and relied upon the guidelines of the Rajasthan State Legal Services Authority, in particular, clause 3(d) thereof, without having any material to disbelieve the income tax returns, and reduced the compensation to ₹7,35,000/- only.

4. In the facts, it is revealed that on the date of accident i.e., 23rd March, 2007, while appellant was sitting as pillion rider on a motorcycle, a white colored pick-up Van bearing No. RJ-07-GA-0931 driven by driver Chetan Ram dashed them, due to which he received various injuries and his treatment was continued with Dr. R.G. Gupta and Dr. L.N. Agarwal. The medical board opined that the appellant has suffered 63% permanent disabilities and issued the certificate Exhibit 204 verifying the injuries. He has suffered paralysis towards right side due to such accident and is facing difficulty in moving, speaking, writing, doing

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work by hand and sitting with cross-legs. Prior to the date of accident, in the financial year 2005-06, he has shown his earning as Rs. 1 lakh as per Exhibits 19 to 23 which has been adversely affected due to the permanent disabilities, however, relying on the material placed, MACT accepted the annual income of the injured as Rs. 1 lakh and commensurate with the percentage of disability, the loss of future income was calculated as ₹63,000/- per annum and as per age, the multiplier of 18 was applied. The future loss of earning was calculated as ₹11,34,000/- without adding any future prospects. The MACT has further awarded under the head of medical expenses, future medical treatment, mental pain and agony, attendant charges for one month and nutrition, thereby awarding a total sum of ₹15,51,000/-. In our view, the finding of the MACT and award of compensation in the facts of the case was just and reasonable. The High Court was not justified in reducing the amount of compensation and directing to pay only ₹7,35,000/- merely relying upon the guidelines issued by the Rajasthan State Legal Services Authority.

5. Having considered the submissions and looking at the findings recorded by the High Court, it is required to be observed that the guidelines issued from time to time by the State Legal Services Authority were to ordinarily apply where the proof of earning is not available and to settle such disputes in Lok Adalat. It is also required to be observed that such guidelines ought not to be made applicable for determining just and reasonable compensation in the cases where the proof of earning has been brought on record. In the facts of this case, we have no hesitation to conclude that the High Court had misdirected itself while reducing the amount of compensation relying upon the guidelines of Rajasthan State Legal Services Authority, which were not binding on them.

6. In view of the foregoing, it is to conclude that henceforth, the guidelines, if any, issued by any of the State Legal Services Authority of the High Court would apply as guiding factor in the cases where the proof of income is not available and ordinarily to decide the cases in Lok Adalat.

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Such guidelines are not binding either on the High Court or on MACT to determine just and fair compensation. The Courts are at liberty to decide the amount of compensation while appreciating the evidence so brought on record and what is just and reasonable in the facts. In absence of such evidence, the guidelines of the legal services authority may be relied upon but only for guidance.

7. In view of the foregoing discussion, we set aside the award of the High Court to reduce the amount of compensation and restore the award of MACT. Accordingly, this appeal is allowed and the appellant is held entitled to the compensation as directed by the MACT. Pending application(s), if any, shall stand disposed of.

....., **J.**
[**J.K. MAHESHWARI**]

....., **J.**
[**RAJESH BINDAL**]

New Delhi;
August 20, 2024.

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ITEM NO.47

COURT NO.8

SECTION XV

S U P R E M E C O U R T O F I N D I A R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No. 3511/2020

(Arising out of impugned final judgment and order dated 15-10-2019 in SBCMA No. 1305/2009 passed by the High Court of Judicature for Rajasthan at Jodhpur)

HANS RAJ

Petitioner(s)

VERSUS

ORIENTAL INSURANCE COMPANY LIMITED & ANR.

Respondent(s)

(FOR ADMISSION and IA No.22491/2020-EXEMPTION FROM FILING O.T.)

Date : 20-08-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI

HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. H. D. Thanvi, Adv.
Mr. Nikhil Kumar Singh, Adv.
Mr. Achal Singh Bule, Adv.
Mr. Rishi Matoliya, AOR

For Respondent(s) Mr. T. Mahipal, AOR
Mr. Rohit Kumar Sinha, Adv.
Mr. Sanjay Kumar Singh, Adv.

Mr. Abhishek Gautam, AOR
Ms. Suruchi Mittal, Adv.
Mr. Karan Kapur, Adv.
Mr. Neeraj Goswami, Adv.
Mr. Md. Imran, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.
Pending application(s), if any, shall stand disposed of.

(NIDHI AHUJA)

AR-cum-PS

(ANU BHALLA)

COURT MASTER (NSH)

[Signed order is placed on the file.]