2025 INSC 1179

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.12567/2024

MOHAMMED MASOOD ...Appellant(s)

VERSUS

THE NEW INDIA ASSURANCE CO. LTD. & ANR. ...Respondent(s)

J U D G M E N T

N.V. Anjaria

Heard learned counsels for the respective parties.

2. The present appeal preferred by the original claimant is directed against the judgment and order dated 23.01.2020 of the High Court of Karnataka in M.F.A. No.2903 of 2018 (MV), whereby the High Court allowed in part the appeal of the insurance company, reducing the amount of compensation, and giving consequential directions.

3. The facts briefly stated are *inter alia* that the appellant-claimant suffered serious injuries in the vehicular accident which took place on 01.12.2015. He was a loader in the lorry travelling from Kunigal to Nelamangala. At about 2.50 a.m. near NH-75 Road, the said lorry driven at a high speed and in negligent manner, dashed with an unknown ongoing vehicle. The appellant sustained injuries in the right leg and his leg was required to be amputated below the knee. A claim petition under Section 166 of the Motor Vehicles Act, 1988 came to be filed before the Motor Accident Claims Tribunal (hereinafter referred to as 'the Tribunal') seeking compensation of Rs.35,00,000/-

3.1 While assessing the compensation for the 23 years injured appellant, the took the monthly income of the appellant-claimant to be Rs.9,000/- at the time of the accident. However, the claimant (PW-1) asserted his monthly wages to be Rs.15,600/. Because of amputation of the right leg, the medical evidence registered that the disability of the left lower limb was

70%. The Tribunal took the disability for the whole body to be 85%. Multiplier of 18 was applied to calculate the compensation. The final compensation totalling Rs.19,35,400/- was awarded.

3.2 The different heads under which the amounts were awarded, as under,

Pain and sufferings	50,000/-
Food and attendant charges	48,000/-
Future loss of income	16,52,400/-
Loss of enjoyment of life	50,000/-
Conveyance charges	10,000/-
Future medical treatment	1,00,000/-
Loss of marriage prospects	25,000/-
Total	Rs. 19,35,400/-

3.3 Against the aforesaid judgment and award of the Tribunal, the insurance company preferred an appeal before the High Court. The High Court took a different view in respect of the income of the injured-appellant to take it to be Rs.8,000/- instead of Rs.9,000/- taken by Tribunal.

3.4 The High Court was of the view that since under the Workmen's Compensation Act, 1923 the

maximum income that could be considered is Rs.8,000/- the said figure should have been adopted towards the income of the injured appellant. It was observed by the High Court as under, extracting from paragraph 10,

> "Admittedly, as on the date of accident, the claimant was aged about 23 years; though he has contended that he was earning Rs.16,500/- per month, under the Workmen's Compensation Act, the maximum income that could be considered is only Rs.8,000/- per month. Since this is a case of injury, only 60% of that should be considered for calculating the compensation, which comes to Rs.4,800/- per month. In that the compensation is required to be considered taking into account the percentage of disability that he has suffered. In the instant case, the doctor who has treated the claimant has adduced evidence indicating that the claimant has suffered the disability to an extent of 85%. If the evidence of the doctor is accepted, then the compensation that the claimant would be entitled to is on the basis of the factor which is applicable to the case on hand, i.e., 219.95"

3.5 Consequentially, as per the calculation provided in paragraph 11 of the impugned judgment, the compensation was reduced by the High Court from 19,35,400/- to 10,41,022/-.

4. In the present appeal, the appellant-claimant has raised two contentions. Firstly that the High Court committed an error in taking the income with

reference to the Workmen's Compensation Act, thereby reducing the figure of income which was considered and applied by the Tribunal. In this regard, the appellant relied on the decision of this Court in **National Insurance Company Limited vs. Mastan and Anr.**[1]**.**

4.1 The second contention was in respect of not adding future prospects in arriving at the total compensation. It was submitted that the addition of 40% of the established income should have been granted when the injured was below 40 years in the light of the decision in **National Insurance Company Limited vs. Pranay Sethi**[2].

5. The first limb of submission has substance. The appellant chose to file a claim petition for compensation in respect of injuries he suffered in the accident. After consent by the parties, the Tribunal adjudicated the same and assessed the income to be Rs.9,000/- per month to calculate the amount of

[1] (2006) 2 SCC 641
[2] (2017) 16 SCC 680

compensation accordingly. The Tribunal having determined the compensation on that basis, the High Court misdirected itself in applying the criteria under the provisions of the Workmen's Compensation Act, 1923 to take the view that the income of the appellant-claimant was liable to be considered at Rs.8,000/-. The High Court consequently reduced the compensation.

5.1 It was not permissible in law for the High Court to apply the parameters under Workmen's Compensation Act, 1923 regarding fixing of income when the compensation was assessed and fixed by the Tribunal in a claim petition under Section 166 of the M.V. Act by applying principles under the said Act.

5.2 In **Mastan & Anr. (supra)**[1], this Court observed,

> "Section 167 of the 1988 Act statutorily provides for an option to the claimant stating that where the death of or bodily injury to any person gives rise to a claim for compensation under the 1988 Act as also the 1923 Act, the person entitled to compensation may without prejudice to the provisions of Chapter X claim such compensation under either of those Acts but not under both. Section 167 contains a non obstante clause providing for such an option

notwithstanding anything contained in the 1923 Act." (Para 22)

The issue stand answered by this Court in **Mastan & Anr. (supra)**[1], which held that once the remedy under the Motor Vehicles Act, 1988 was elected to be pursued by the claimant and the Tribunal adjudicated the compensation by applying the criteria and fixing the income, falling back upon the parameters under the Workmen's Compensation Act, was not permissible. The insurer could not have raised such a defence seeking to apply the provisions of Workmen's Compensation Act. Both the remedies are different.

6. In the aforesaid view, the reasons supplied by the High Court in paragraph 10 and consequential reduction in the compensation could not be permitted to stand. The compensation awarded by the Tribunal on the basis of income of Rs.9,000/-has to be restored.

6.1 As far as ground of non-adding of 'future prospects' raised by the appellant is concerned, it would not be permissible for this Court to go into it

and entertain the same in view that the appellant did not file any appeal to challenge the judgment and order of the Tribunal. It was the insurance company who approached the High Court.

6.2 Accordingly, the judgment and order of the High Court dated 23.01.2020 in M.F.A. No.2903 of 2018 is set aside. The impugned judgment and award of the Tribunal stands restored.

7. The present appeal is allowed accordingly.

..... J.
K. VINOD CHANDRAN

..... J.
N.V. ANJARIA

NEW DELHI;
September 26, 2025