

APHC010450912025



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3558]**

WEDNESDAY, THE EIGHTH DAY OF APRIL  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

**THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**

**THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**

**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 819/2025**

**Between:**

1. CHOLAMANDALAM MS GENERAL INSURANCE COMPANY,  
REPRESENTED BY ITSMANAGER (CLAIMS), HAVING ITS OFFICE  
AT SHOP NO-2, GROUND FLOOR, PSN COLONY, BESIDE HERO  
SHOWROOM, VISAKHAPATNAM-16.

**...APPELLANT**

**AND**

1. DONTALA GOVINDA RAO, S/O SURYANARAYANA HINDU, AGED  
28 YEARS, RESIDING AT D.NO 1-189 BANTUPALLIVARIKALLALU,  
ANANDAPURAM MANDAL VISAKHAPATNAM.

2. PARTHIBAN P, S/O PERIYASWAMY.A, DRIVER OF LORRY  
BEARING REGISTRATION NO TN88 A9924, RESIDING D.NO  
KARAPPUR OMALLUR, SALEM, BARKATH D.S., SALEM  
TAMILNADU-636012. AT 19/101, NADAR STREET.

3. RAMASWAMY R, S/O RAMASWAMY.K, OWNER OF RESPONDENT  
NO. 1,2 LORRY BEARING REGISTRATION NOTN 88 A9924,  
RESIDING AT 2/18 WEST  
THOTTIPALAYAMSAMAYASANGILI, AGRAHARAM, TIRUCHINGODE,  
NAMAKKAL POST, TAMILNADU- 638008.

**...RESPONDENT(S):**

Appeal filed under Order 41 of CPC praying that the High Court may be pleased to allow the Appeal of Appellant / Respondent No 3 and set aside the Judgment and Decree dated 28th January, 2025, in MVOP.No.778 of 2021 before the Chairman, Motor Accidents Claims Tribunal - XII Additional District and Sessions Judge, Visakhapatnam and Pass

**IA NO: 1 OF 2025**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of the Judgment and Decree dt.28th January, 2025, in M.V.O.P.No.778 OF 2021 before The Chairman, Motor Accidents Claims Tribunal - XII Additional District & Sessions Judge, Visakhapatnam, pending disposal of the above MACMA and pass

**IA NO: 2 OF 2025**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to permit me to withdraw the amount deposited pursuant to the Order, dt.8.9.2025 passed in I.A.No.1/20025 in M.A.C.M.A.No.819/2025 and pass

**Counsel for the Appellant:**

1.KORAGANTI SREENIVASARAO

**Counsel for the Respondent(S):**

1.G RAMESH BABU

**The Court made the following:**

**THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**  
**&**  
**THE HONOURABLE SRI JUSTICE TUHIN KUMAR GEDELA**  
**MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO.819 OF 2025**

**JUDGMENT:** *(Per Hon'ble Sri Justice Tuhin Kumar Gedela)*

Heard,

Sri Koraganti Sreenivasa Rao, learned counsel for the appellant, and Sri G.Ramesh Babu, learned counsel for the respondent No.1/claimant.

1. The parties are arrayed as arrayed in the present appeal.

2. Dissatisfied with the Judgment and Decree dated 28.01.2025, passed in M.V.O.P.No.778 of 2021, by the Motor Accidents Claims Tribunal-cum-XII Additional District and Sessions Judge, Visakhapatnam (hereinafter referred to as "the Tribunal"), wherein a sum of Rs.61,89,998/- was awarded as compensation with subsequent interest @ 9% per annum from the date of petition i.e., 28.04.2021, till the date of payment, the Insurance Company preferred this appeal.

3. The facts germane to decide the issue are capsuled as hereunder:

(i) The respondent No.3 before the Tribunal is the appellant herein; the claimant before the Tribunal is respondent No.1 and respondent Nos.2 and 3 herein are the driver and owner of the lorry respectively.

(ii) The petition filed before the Tribunal was under Section 166 of Motor Vehicles Act, 1988, r/w Rule 455 of A.P. Motor Vehicle Rules, claiming compensation of Rs.1,00,00,000/- for the grievous injuries sustained in the accident occurred on 08.12.2020 at 08.40 p.m. at Vegetable Market, Anandapuram Mandal, Visakhapatnam District. The vehicle involved is a lorry

bearing No.TN88A9924, driven by the driver-2<sup>nd</sup> respondent herein and the 3<sup>rd</sup> respondent herein is the owner of the lorry.

(iii) The claimant is an MBA graduate residing at Anandapuram village, aged about 28 years and unmarried. On the night of 08.12.2020, while he was returning from his work place i.e., Rushikonda to his house at Anandapuram on his motorcycle wearing a helmet and when he reached Vegetable Market, Anandapuram, Visakhapatnam District, at about 08:40 p.m., a goods carrier lorry bearing No.TN88A9924, driven by the driver in a rash and negligent manner at high speed came from the side of Pendurthi towards Anandapuram and dashed against the motorcycle of the petitioner from behind due to which the accident occurred rendering the legs of the petitioner crushed besides injuries, as a result the right leg of the petitioner above knee was amputated and the left leg is multiply fractured and has undergone several operations and hospitalized for 22 days.

(iv) The claimant further asserts that academically he stood in first division in the year 2016 and has bright academic record throughout and is in search of job. He attempted the State Service Examinations. The claimant is running a business of his own under a proprietary concern in the name and style of VIZAG BEACH BIKES, and in tune to the same, he purchased 10 motorcycles on loan and his monthly earning is Rs.1,50,000/-. To substantiate this, he filed the bank statement and he repaid the loan amount within a short period.

(v) The claimant states that he is the sole breadwinner in the family consisting of aged parents and a younger sister who is mentally challenged and the claimant is taking care of the sister. Due to the accident, the dreams of the petitioner are nipped off at the budding stage because of the negligent driving of the driver and he lost his future on the economic front and also the dreams of having a beautiful wife and children and a family is eternally lost

and has to live alone. A confirmed marriage alliance was also broken due to the accident and the claimant is having no other properties to support himself or his family and the father of the claimant is an agricultural coolie.

(vi) The claimant further specifically pleaded that the pain and suffering endured by him cannot be explained in words and unable to sleep for an hour a day during his days at hospital. Though he was administered with medication and sedation, suffered from pain and mental trauma. In consonance to the above facts and circumstances, claimed a sum of Rs.1,00,00,000/- as compensation.

(vii) The claimant took treatment as inpatient in Q1 Hospitals, Visakhapatnam from 09.12.2020 to 31.12.2020 and underwent operation to his both legs. He spent Rs.16,00,000/- towards treatment and requires future medical expenses of Rs.5,00,000/-. He spent Rs.36,000/- towards physiotherapy charges, Rs.60,000/- to purchase a wheel chair, Rs.2,00,000/- for hiring a personal attendant, Rs.20,000/- towards transportation and in total, claimed compensation of Rs.1,00,00,000/- as stated supra.

4. Crime No.562 of 2020 was registered by the Anandapuram Police Station under Section 338 of IPC and a charge sheet is also filed against the driver of the lorry-2<sup>nd</sup> respondent and the 3<sup>rd</sup> respondent being the owner of the lorry is vicariously liable for the wrongful act done by his servant and the appellant, who is the insurer of the lorry, are jointly and severally liable to pay compensation sought.

5. Respondent Nos.2 and 3 herein though received notices, remained *ex parte* before the Tribunal by an order dated 10.12.2021.

6. In oppugnation, the appellant/3<sup>rd</sup> respondent-Insurance Company, while refuting the contentions, filed counter contending that no Income Tax returns are filed to establish the pleading of income of Rs.1,50,000/- per month and mere registering a police case cannot

automatically entitle the claimant to claim compensation and has to independently prove the rash and negligent driving of the driver of the lorry. The owner of the lorry is duty-bound to intimate the accident to the appellant/3<sup>rd</sup> respondent and in consonance of these infirmities, the appellant cannot be made liable to pay the compensation.

7. The appellant/3<sup>rd</sup> respondent further asserted that the policy is not done with the appellant-Insurance Company and even if the policy is confirmed, he has no liability under Section 64V(B) of the Insurance Act. Regarding the amount of compensation claimed, the 3<sup>rd</sup> respondent categorically states that the claim is exorbitant and highly exaggerated and need not pay the compensation in view of the facts narrated above and the claimant is put to strict proof.

8. Considering the adversaries of both the parties, the Tribunal framed the following issues:

- i. Whether the petitioner is entitled for Rs.1,00,00,000/- as prayed for?
- ii. Whether the petitioner is entitled for subsequent interest at 12% per annum on the claim?
- iii. Whether the 3<sup>rd</sup> respondent is entitled for provisions under Sections 147, 149 and 170 of M.V. Act? And
- iv. To what relief, if any, is the petitioner is entitled for?

9. During the course of trial, on behalf of the claimant, PWs.1 to 5 were examined and got marked Exs.A1 to A35. On behalf of the appellant/3<sup>rd</sup> respondent, RW1 was examined and got marked Ex.B1, copy of the insurance policy.

10. Answering issue Nos.1 and 2 together, the Tribunal cautiously taken note of the pleadings and also the examination adduced by the claimant as well as the appellant/3<sup>rd</sup> respondent. The Tribunal construed the admission by the 3<sup>rd</sup> respondent that except the quantum of compensation, the other

expenditure incurred by the claimant towards partial loss of earnings to a tune of Rs.3,00,000/-, Rs.15,00,000/- spent towards medicines and extra nourishment, Rs.20,00,000/- for pain and suffering and Rs.40,00,000/- towards mental disability and Rs.21,80,000/- for loss of earnings. As seen from the above, the appellant/3<sup>rd</sup> respondent while admitting the expenditure incurred under the heads referred above, cannot take shelter that the accident has not occurred due to rash and negligent driving.

11. The Tribunal meticulously considered the documents marked by the claimant, which are as follows:

- Ex.A1: Certified copy of FIR.No.562/2020, dated 09.12.2020, of Anandapuram Police Station, Visakhapatnam District.
- Ex.A2: Certified copy of Wound Certificate issued by M/s.Q-1 Hospitals, Arilova, Visakhapatnam.
- Ex.A3: Certified copy of Accident Report issued by Motor Vehicle Inspector, Visakhapatnam, dated 22.12.2020.
- Ex.A4: Original Discharge Summary, dated 31.12.2020 issued by M/s.Q-1 Hospitals, Arilova, Visakhapatnam.
- Ex.A5: Essentiality Certificate issued by M/s.Q-1 Hospitals, Arilova, Visakhapatnam.
- Ex.A6: Bunch of receipts issued by M/s.Q-1 Hospitals, Arilova, Visakhapatnam, for purchase of pharmacy items from 03.12.2020 to 31.12.2020.
- Ex.A7: Pharmacy purchase bills for purchase of pharmacy items issued by M/s.Q-1 Hospitals, Arilova, Visakhapatnam, for the month of December, 2020.
- Ex.A8: Certified copy of the driving license of Respondent, P.Partiban.
- Ex.A9: Certified copy of bank statement from 01.01.2019 to 31.12.2019, issued by State Bank of India, Vellanki branch.
- Ex.A10: Certified copy of the bank statement issued by State Bank of India, Vellanki branch from 01.01.2020 to 31.12.2020.
- Ex.A11: Certified copy of the bank statement issued by Bank of Baroda, Verilavalasa Branch from 01.01.2019 to 31.12.2020.
- Ex.A12: Certified copy of the bank statement issued by Bank of Baroda, Vemulavalasa branch from 01.01.2020 to 31.12.2020.

- Ex.A13: Provisional Certificate of the petitioner issued by Jawaharlal Nehru Technological University, Kakinada.
- Ex.A14: Original Disability certificate of the dependent sister of the petitioner.
- Ex.A15: Certified copy of the Insurance Policy belonging to Truck No.TN88A9924 in the name of Ramaswamy.
- Ex.A16: Estimation copy of the Implant and removal cost issued by M/s.Q-1 Hospitals, Arilova, Visakhapatnam.
- Ex.A17: Certified copy of the Transport Permit of Truck No.TN88A9924, issued by Department of Transport, Tamilnadu State, valid from 13.10.2020 to 12.10.2021.
- Ex.A18: Registration Certificate of Truck No.TN88A9924, certified copy with tax paid up to 31.12.2021.
- Ex.A19: Bunch of pharmacy bills issued by M/s.Q-1 Hospitals from 03.03.2021 to 14.12.2021.
- Ex.A20: Bunch of dressing bills issued by Dr.Ramkumar Boyapalem, Visakhapatnam on various dates from 02.01.2021 to 01.03.2021.
- Ex.A21: Estimation/Invoice for proposed purchase of the prosthetic artificial limb issued by M/s.Ottoback, dated 18.02.2021 for Rs.7,02,825/-.
- Ex.A22: Cash Invoice of wheel chair issued by M/s.United Surgicals, dated 08.01.2021.
- Ex.A23: Certified copy of the Account Statement issued by State Bank of India, Vellanki branch from 02.12.2020 to 31.12.2020.
- Ex.A24: Certified copy of Medico Legal issued by M/s.Q-1 Hospitals, Arilova, Visakhapatnam.
- Ex.A25: Original Disability Certificate of the petitioner issued by Chairman, Medical Board, King George Hospitals, Visakhapatnam.
- Ex.A26: Certified copy of the charge sheet filed by Sub-Inspector of Police, Anandapuram.
- Ex.A27: The purchase, invoice of artificial limb M/s.Hobert, dated 18.03.2021 for Rs.2,69,850/-.
- Ex.A28: The Implant Certificate of the petitioner issued by M/s.Q-1 Hospitals, dated 11.06.2022.

- Ex.A29: Essentiality Certificate of the petitioner issued by M/s.Q-1 Hospitals, dated 11.06.2022.
- Ex.A30: Essentiality Certificate of the petitioner issued by M/s.Q-1 Hospitals, dated 25.06.2022.
- Ex.A31: Driving License Xerox Copy, verified with original AP03100305542018 issued by RTO, Visakhapatnam on 05.12.2018 valid up to 05.02.2038, belonging to the petitioner.
- Ex.A32: PAN of the petitioner with No.CAYPD9541F, verified with original.
- Ex.A33: Attested copy of the Registration Certificate of Vizag Beach Bikes issued by Labour Department, Government of Andhra Pradesh.
- Ex.A34: Bunch of Scan Reports and Lab Test Reports of the petitioner.
- Ex.A35: Case Sheet.

12. The Tribunal further observed that the claimant purchased calcium injections at Rs.6,000/- per month, but could not file the bills. While advertng to the evidence of PWs.1 to 5 on behalf of the claimant, the Tribunal categorically stated that nothing is elucidated from the cross-examination of PWs.1 and 2 regarding the accident and the other related questions regarding the accident. The entire evidence on behalf of the claimant was taken *in toto* and considered.

13. With regard to the evidence of RW1/appellant/3<sup>rd</sup> respondent in his cross-examination, he categorically admitted that the quantum of compensation is seriously disputed and admitted the amputation of right leg of the petitioner and also admitted that the personal verification of the vehicles is not possible as the petitioner/claimant sustained amputation of his right leg. In totality, the arguments of the appellant/3<sup>rd</sup> respondent before the Tribunal were elucidated threadbare.

14. The appellant vehemently argued that, as per the disability certificate, it is observed that the petitioner/claimant can stand and walk and can perform his duties by running business of bike rentals. So, the loss of

earning capacity cannot be said to be lost and the earning capacity depends upon the nature of profession or occupation or job, age, education and other factors and sought for interference of this Court regarding the compensation.

15. The arguments of the 3<sup>rd</sup> respondent before the Tribunal to fortify his stance taken in the counter that the business which is carried on by the claimant can be done by sitting and there will not be any hindrance due to the disability and the disability cannot be equated with the loss of earning capacity and both cannot run concurrently. The claim regarding the medical expenses of Rs.15,00,000/- is exorbitant and the bills furnished by the claimant are only for Rs.7,63,000/- and therefore argued to confine the medical bills to Rs.7,63,000/- only.

16. In reply to the arguments advanced by the appellant/3<sup>rd</sup> respondent, the claimant admitted that Income Tax returns are not filed and reiterated his stand regarding the expenditure incurred towards the other heads as mentioned in the claim petition. The claimant further amplified his stance that the disability certificate assessed his disability at 80% though he can do his day to day activities for running the bike business and denied that the disability now occurred will not hamper his income.

17. Issue No.3, as dealt by the Tribunal, deserves no interference.

18. Heard Sri Koraganti Sreenivasa Rao, learned counsel for the appellant and Sri G.Ramesh Babu, learned counsel for the claimant.

19. To strengthen his arguments, Sri G.Ramesh Babu, learned counsel for the claimant relied upon the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Limited vs. Pranay Sethi**<sup>1</sup>, dated 31.10.2017, wherein the Hon'ble Supreme Court held that *"Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, "just*

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<sup>1</sup> (2017) 16 SCC 680

*compensation". The tribunal and the Courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality".*

20. Another judgment relied upon by Sri G.Ramesh Babu, learned counsel for the claimant before the Tribunal and reiterating the same before this Court, is **Raj Kumar vs. Ajay Kumar and another**<sup>2</sup>, wherein, at paragraph Nos.5 to 9 and 13, the Hon'ble Supreme Court held as follows:

*"5. The heads under which compensation is awarded in personal injury cases are the following:*

*Pecuniary damages (Special Damages)*

*(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.*

*(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:*

*(a) Loss of earning during the period of treatment;*

*(b) Loss of future earnings on account of permanent disability.*

*(iii) Future medical expenses.*

*Non-pecuniary damages (General Damages)*

*(iv) Damages for pain, suffering and trauma as a consequence of the injuries.*

*(v) Loss of amenities (and/or loss of prospects of marriage)*

*(vi) Loss of expectation of life (shortening of normal longevity).*

*In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future 5 medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life. Assessment of pecuniary damages under item (i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses - item (iii) -- depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages - items (iv), (v) and (vi) -- involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant. Decision of this Court and High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability - item (ii)(a). We are concerned with that assessment in this case. Assessment of future loss of earnings due to permanent disability.*

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<sup>2</sup> (2011) 1 SCC 343

6. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human-being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, 6 after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accidents injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ('Disabilities Act' for short). But if any of the disabilities enumerated in section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

7. The percentage of permanent disability is expressed by the Doctors with reference to the whole body, or more often than not, with reference to a 7 particular limb. When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body. If there is 60% permanent disability of the right hand and 80% permanent disability of left leg, it does not mean that the extent of permanent disability with reference to the whole body is 140% (that is 80% plus 60%). If different parts of the body have suffered different percentages of disabilities, the sum total thereof expressed in terms of the permanent disability with reference to the whole body, cannot obviously exceed 100%.

8. 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, percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent 8 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. 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. 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 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) SCALE 298 and **Yadava Kumar v. D.M., National Insurance Co. Ltd.** - 2010 (8) SCALE 567).

9. Therefore, the Tribunal has to first decide whether there is any permanent disability and if so the extent of such permanent disability. This means that the tribunal should consider and decide with reference to the evidence: (i) whether the disablement is permanent or temporary; (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement, (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is the permanent disability suffered by the person. If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

13. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to

be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors”.

21. Sri G.Ramesh Babu, learned counsel for the claimant further draws the attention of this Court to the judgment of the Hon'ble Supreme Court in the case of **Smt. Meena Pawaia and others vs. Ashraf Ali and others**<sup>3</sup>, wherein, at paragraph No.11, the Hon'ble Supreme Court observed as follows:

*“11. We see no reason why the aforesaid principle may not be applied, which apply to the salaried person and/or deceased self employed and/or a fixed salaried deceased, to the deceased who was not serving and/or was not having any income at the time of accident/death. In case of a deceased, who was not earning and/or not doing any job and/or self employed at the time of accident/death, as observed herein above his income is to be determined on the guesswork looking to the circumstances narrated hereinabove. Once such an amount is arrived at he shall be entitled to the addition over the future prospect/future rise in income. It cannot be disputed that the rise in cost of living would also affect such a person. As observed by this court in the case of Pranay Sethi (Supra), the determination of income while computing compensation has to include future prospects so that the method will come within the ambit and sweep of just compensation as postulated under Section 168 of the Motor Vehicles Act. In case of a deceased who had held a permanent job with inbuilt grant of annual increment and/or in case of a deceased who was on a fixed salary and /or self employed would only get the benefit of future prospects and the legal representatives of the deceased who was not serving at the relevant time as he died at a young age and was studying, could not be entitled to the benefit of the future prospects for the purpose of computation of compensation would be inapposite. Because the price rise does affect them also and there is always an incessant effort to enhance one's income for sustenance. It is not expected that the deceased who was not serving at all, his income is likely to remain static and his income would remain stagnant. As observed in Pranay Sethi (Supra) to have the perception that he is likely to remain static and his income to remain stagnant is contrary to the fundamental concept of human attitude which always intends to live with dynamism and move and change with the time. Therefore we are of the opinion that even in case of a deceased who was not serving at the time of death and had no income at the time of death, their legal heirs shall also be entitled to*

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<sup>3</sup> (2021) 17 SCC 148

*future prospects by adding future rise in income as held by this court in the case of Pranay Sethi (supra) i.e. addition of 40% of the income determined on guesswork considering the educational qualification, family background etc., where the deceased was below the age of 40 years.”*

22. Sri G.Ramesh Babu, learned counsel for the claimant/respondent No.1 emphasizes that, in light of the said judgments, the Hon’ble Supreme Court confirmed that a person is entitled to live with dignity and Human attitude intends to live with dynamism and move and change with the time and he further addresses that the claimant being a first-class graduate with a flourishing business, sustained huge loss and in view of the pronouncements, the order of the Tribunal needs no interference and that the Tribunal has rightly awarded the compensation after elucidating the facts and circumstances threadbare.

23. Sri G.Ramesh Babu, learned counsel for the claimant/respondent No.1 further argues that the disability certificate or any other proof submitted by the claimant before the Tribunal was not contravened or denied and the Insurance Company, having graciously admitted the facts, cannot now agitate that the order of the Tribunal is erroneous or suffers from any infirmity.

24. This Court, after hearing the learned counsel for the claimant, finds force in the contention and holds that the compensation awarded to the claimant is justified and needs no interference. The reasoning given by the Tribunal for arriving to such a conclusion is well established and deserves no interference. To be in particular, the Tribunal held that the claimant is entitled to compensation after elaborately considering and diagnosing the entire facts, as under:

- |                               |                  |
|-------------------------------|------------------|
| a) Pain and Suffering         | : Rs.15,00,000/- |
| b) Loss of earnings           | : Rs.4,99,998/-  |
| c) Medical expenses           | : Rs.15,00,000/- |
| d) Transportation to hospital | : Rs.15,000/-    |

- e) Permanent Disability : Rs.11,75,000/-  
 f) Loss of future earning power : Rs.15,00,000/-

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 Rs.61,89,998/-  
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25. With regard to the entitlement of interest, the Tribunal, after taking note of the judgment of the Apex Court rendered in the case of **Lakkamma and others vs. Regional Manager, M/s.United India Insurance Company Limited and another<sup>4</sup>**, fixed the rate of interest @ 9% per annum, which needs no interference, and, resultantly, the total compensation awarded to the claimant was Rs.61,89,998/- with subsequent interest @ 9% per annum from the date of petition, i.e., 28.04.2021, till the date of payment and all the respondents are made jointly and severally liable to pay the awarded amount, is upheld and confirmed, thereby dismissing the appeal filed by the Insurance Company as totally devoid of merit.

26. In fine, the Motor Accident Civil Miscellaneous Appeal is dismissed, confirming the Judgment and Decree of the Tribunal passed in M.V.O.P.No.778 of 2021, dated 28.01.2025. There shall be no order as to costs.

27. As a *sequitur*, Interlocutory Applications pending, if any, shall stand closed.

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**CHEEKATI MANAVENDRANATH ROY, J**

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**TUHIN KUMAR GEDELA, J**

Date : -04-2026  
 BMS

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<sup>4</sup> (2021) 20 SCC 797