
(2014) 03 RAJ CK 0164
In the Rajasthan High Court
Case No : Civil Misc. Appeal No. 869 of 2013

ICICI Lombard General Insurance Co. Ltd.	APPELLANT
Vs	
Raj Kumar	RESPONDENT

Date of Decision : 10-03-2014

Acts Referred:

Motor Vehicles Act, 1988 — Section 149, 149(2), 170

Citation : (2014) 4 ACC 629 : (2015) ACJ 973 : (2015) 2 AnWR 377 : (2015) 1 RLW 146 : (2015) 1 WLN 38

Hon'ble Judges : R.S. Chauhan, J

Bench : Single Bench

Advocate : Man Singh Chundawat, Advocate for the Appellant; Vinay Mathur, Advocate for the Respondent

Judgement

R.S. Chauhan, J.—Aggrieved by the award dated 2.2.2013 passed by the Motor Accident Claims Tribunal, Kotputali, District Jaipur, both the Insurance Company and the claimant have filed two separate appeals before this Court. Since both these appeals arise out of the same impugned award, they are being decided by this common judgment. The facts of the case are being taken from the appeal filed by the Insurance Company, namely S.B. Civil Misc. Appeal No. 869/13.

2. Raj Kumar, the claimant, was working as a skilled driver on Truck No. HR66-4613 on 15.4.2008. While he and the other driver, Sudarshan, were coming from Narnol to Jaipur, near Village Pragpura, Sudarshan stopped the truck in order to answer the call of nature. While Raj Kumar was sitting inside the truck, suddenly a Trailer, bearing registration No. HR47-C-0241, being driven rashly and negligently, came and hit the truck from the back. Consequently, Raj Kumar suffered certain injuries on both his hands, on both his legs, on his face, on his chest, and most importantly, he suffered a fracture of the backbone. Consequently he became totally paralyzed. Initially he went into a coma. Initially he was admitted to the B.D.M. Hospital. Subsequently he was referred to the SMS Hospital at Jaipur. He has undergone a few operations. At the time of

accident, he was twenty-nine years old; he was earning about Rs. 12,000 per month. Due to his physical immobility, he has to keep a attendant for the rest of his life. Therefore, he filed a claim petition before the learned Tribunal. In order to support his case, he had examined four witnesses and submitted nineteen documents. The Insurance Company neither examined any witness, nor submitted any document.

3. By award dated 2.7.2011, the learned Tribunal granted a compensation of Rs. 10,76,000 to Raj Kumar. Since he was dissatisfied by the said award, he filed an appeal before this Court. Since the Insurance Company was also aggrieved by the said award, it filed a cross-objection before this Court. By judgment dated 11.9.2012, while upholding the findings of the learned Tribunal on other issues, this Court remanded the case back qua issue No. 3. The issue No. 3 is "whether Raj Kumar is entitled to claim a compensation of Rs. 1,08,64,000, and if so, how much he is entitled to from the respondents?" After hearing both the parties, by award dated 2.2.2013, the learned Tribunal has enhanced the compensation from Rs. 10,76,000 to Rs. 32,28,000. Since both the Insurance Company and the claimant are aggrieved by the said award, they have approached this Court. Hence, the present two appeals before this Court.

4. Mr. Vinay Mathur, the learned Counsel for the claimant, has raised a preliminary objection to the maintainability of the appeal filed by the Insurance Company. According to the learned Counsel, the Insurance Company has made a false declaration before this Court wherein it has claimed that it had filed an application under Section 170 of the Motor Vehicles Act ("the Act", for short) and the same was allowed by the learned Tribunal. According to the learned Counsel, although an application was filed, but it was never allowed by the learned Tribunal. Moreover, in case an application under Section 170 of the Act has not been allowed, the Insurance Company is precluded from challenging the quantum of compensation. Therefore, the present appeal deserves to be dismissed on this ground alone.

5. On the other hand, Mr. Man Singh Chundawat, the learned Counsel for the Insurance Company, has relied on the case of United India Insurance Company Ltd. v. Shila Dutta & Ors., II (2012) ACC 303 (SC) : 2012 (1) WLC (SC) Civil 17, in order to contend that where the claimant chooses to voluntarily implead the Insurance Company as a party respondent, then all the defences mentioned in Section 149(2) of the Act are available to the Insurance Company. Hence, the Insurance Company need not even file an application under Section 170 of the Act seeking permission of the Tribunal. In the present case, the Insurance Company was impleaded as party-respondent. Therefore, even if the application filed by the Insurance Company under Section 170 of the Act has not been dealt with by the learned Tribunal, even then the appeal would be maintainable before this Court. In order to buttress this point, the learned Counsel has drawn the attention of this Court to the five contentions which were raised before the Hon"ble Supreme Court and which were dealt by the Apex Court. The

contentions are as under:

"(i) There is a significant difference between insurer as a "noticee" [a person to whom a notice is served as required by Section 149(2) of the Act] in a claim proceedings and an insurer as a party respondent in a claim proceedings. Where an insurer is impleaded by the claimants as a party, it can contest the claim on all grounds, as there are no restrictions or limitations in regard to contest. But where an insurer is not impleaded by the claimant as a party, but is only issued a statutory notice under Section 149(2) of the Act by the Tribunal requiring it to meet the liability, it is entitled to be made a party to deny the liability on the grounds mentioned in Section 149(2).

(ii) When the owner of the vehicle (insured) and the insurer are aggrieved by the award of the Tribunal, and jointly file an appeal challenging the quantum, the mere presence of the insurer as a co-appellant will not render the appeal as not maintainable. When insurer is the person to pay the compensation, any interpretation to say that it is not a "person aggrieved" by the quantum of compensation determined would be absurd and anomalous.

(iii) When an insurer is aggrieved by the quantum of compensation, it is not seeking to avoid or exclude its liability, but merely wants determination of the extent of its liability. The restrictions imposed upon the insurers to defend the action by the claimant or file an appeal against the judgment and award of the Tribunal will apply, only if it wants to file an appeal to avoid liability and not when it admits its liability to pay the amount awarded, but only seeks proper determination of the quantum of compensation to be paid.

(iv) Appeal is a continuation of the original claim proceedings. Section 170 provides that if the person against whom the claim is made, fails to contest the claim, the insurer may be permitted to resist the claim on merits. If and when an award is made by the Tribunal which is excessive, arbitrary or erroneous, the owner of the vehicle has to challenge the same by filing an appeal before the High Court. If the insured (owner of the vehicle) fails to challenge an award even when it is erroneous or arbitrary or fanciful, it can be considered that the insured has failed to contest the same and consequently under Section 170, the High Court or the Tribunal may permit the insurer to file an appeal and contest the award on merits.

(v) The Motor Vehicles Act, 1988 ("the Act" for short) creates a liability upon the insurer to satisfy the judgments and awards against the insured. The Act expressly restricts the right of the insurer to avoid the liability as insurer, only to the grounds specified in Section 149(2) of the Act. Though it is impermissible to add to the grounds mentioned in the statute, the insurer has a right, if it has reserved such a right in the policy, to defend the action in the name of the insured. If it opts to step into the shoes of the insured it can defend the action in the name of the insured and all defences open to the insured will be available to it and can be urged by it. Its position contesting a claim under Section 149(2) of

the Act is distinct and different, when it is contesting the claim in the name of or on behalf of the insured-owner of the vehicle. In cases where it is authorised by the policy to defend any claim in the name of the insured and the insurer does so, it cannot be restricted to the grounds mentioned in Section 149(2) of the Act, as the defence is on behalf of the owner of vehicle."

6. Relying on the point No. (i), mentioned above, the learned Counsel has further contended that in case an Insurance Company is impleaded as a party-respondent by the claimant, then the Insurance Company need not file an application under Section 170 of the Act. Thus, without having to file an application under the said provision, the Insurance Company is free to challenge the impugned award.

7. In rejoinder, Mr. Vinay Mathur has vehemently contended that in the case of National Insurance Co. Ltd., Chandigarh Vs. Nicolletta Rohtagi and Others, , the Apex Court had clearly held that an appeal challenging the quantum of compensation cannot be filed by the Insurance Company until and unless it has filed an application under Section 170 of the Act and the said application has been allowed by the Tribunal. Moreover, in the case of Shila Datta (supra), it is contention No. (iv), as mentioned above, which specifically deals with the issue regarding applicability of Section 170 of the Act. However, the said contention has not been answered by the Apex Court. In fact, the said contention, along with contention Nos. (iii) and (v), have been referred to a Larger Bench of the Apex Court. But so far, the Larger Bench has not answered the reference. Therefore, the case of Nicolletta Rohtagi (supra), still holds the field. Since the application filed by the Insurance Company in the present case has not been allowed by the Tribunal, the present appeal is not maintainable.

8. Heard the learned Counsel for the parties on the preliminary objection.

9. A bare perusal of the five contentions, quoted above, clearly reveals that contention No. (i) does not deal with the applicability of Section 170 of the Act. The said contention deals with the defences available to the Insurance Company either as a noticee, or as a party-respondent. The Apex Court has answered the said contention by holding that in case an Insurance Company has not been impleaded as a party-respondent, but is merely a noticee under Section 149 of the Act, then it is confined to the defences mentioned in Section 149(2) of the Act. The other defences available to the insurer are not available to the Insurance Company. However, where the Insurance Company has been impleaded as the party-respondent, then all the defences which are available to the insurer are equally available to the Insurance Company. Thus, contention No. (i) does not deal with the scope, the ambit, and the applicability of Section 170 of the Act.

10. It is contention No. (iv) which specifically deals with the scope and applicability of Section 170 of the Act. However, at the end of the judgment, the Hon'ble Supreme Court has clearly referred contention No. (iv) to a Larger

Bench of the Apex Court. The Larger Bench is yet to express its views about contention No. (iv). Hence, presently the decision of the Apex Court in the case of Nicolletta Rohtagi (supra), holds the field. In the case of Nicolletta Rohtagi (supra), the Apex Court had clearly opined as under:

"Unless the conditions precedent specified in Section 170 of 1988 Act are satisfied, an Insurance Company has no right of appeal to challenge the award on merits. However, in a situation where there is a collusion between the claimants and the insured or the insured does not contest the claim and, further, the Tribunal does not implead the Insurance Company to contest the claim in such cases it is open to an insurer to seek permission of the Tribunal to contest the claim on the grounds available to the insured or to a person against whom a claim has been made. If permission is granted and the insurer is allowed to contest the claim on merits in that case it is open to the insurer to file an appeal against award on merits, if aggrieved. In any case, where an application for permission is erroneously rejected the insurer can challenge only that part of the order while filing appeal on grounds specified in Sub-section (2) of Section 149 of 1988 Act. But such application for permission has to be bona fide and filed at the stage when the insured is required to lead his evidence."

11. Thus, if an application under Section 170 of the Act has not been moved, or has been declined by the learned Tribunal, then the Insurance Company would not be entitled to question the compensation amount granted by the Tribunal. In the present case, the learned Tribunal has not granted permission under Section 170 of the Act. Therefore, the Insurance Company is clearly debarred from challenging the compensation amount before this Court. Hence, the appeal filed by the Insurance Company deserves to be dismissed on this ground alone.

12. Even otherwise on merits, the Insurance Company has a rather weak case. The learned Counsel for the Insurance Company, has raised numerous contentions treating the lis between the Insurance Company and the claimant almost as an adversarial litigation. However, in the case of Shila Datta (supra), the Hon"ble Supreme Court has clearly observed that a claim petition is not an adversarial litigation. Instead, it is a dispute which has to be dealt with by the learned Tribunal in a summary manner. Moreover, neither the law of pleadings, nor the law of evidence is to be applied with mathematical precision. Therefore, the contentions raised by the learned Counsel, with all the vehemence at his command, cannot be accepted by this Court.

13. Briefly, Mr. Chundawat has raised the following contentions before this Court: firstly, relying on the case of United India Insurance Company Ltd. v. Smt. Kamla Devi & Ors., S.B. Civil Misc. Appeal No. 6396/2011 decided by this Court on 2.12.2011, the learned Counsel has contended that this Court had clearly directed the learned Tribunals not to accept the disability certificate issued by Dhanwantari Hospital. However, in the present case, the learned Tribunal has accepted the disability certificate (Ex. 17) issued by a Medical Board consisting of three Doctors of Dhanwantari Hospital in order to conclude that the claimant is

100% disabled due to the vehicular accident. Therefore, the learned Tribunal has ignored the directions issued by this Court.

14. Secondly, no witness has been produced by the claimant to prove the disability certificate (Ex. 17).

Thirdly, although the claimant claims to be a "specialized driver" in his claim petition, but in his testimony he claims to be a "Khalasi". Thus, the nature of work performed by him is unknown.

15. Fourthly, although the claimant claims that he was earning Rs. 12,000 per month, there was nothing on record to prove the said fact. Thus, the learned Tribunal was not justified in taking his income as Rs. 4,000 per month. Moreover, the learned Tribunal has relied upon the minimum wages for the year 2011, although the accident had occurred on 15.4.2008. Therefore, it ought to have taken the Minimum Wages Act as applicable in 2008 and not in 2011.

16. Fifthly, the learned Tribunal has granted a bonanza of Rs. 24 lacs under miscellaneous heads by blindly following the judgment delivered by the Hon'ble Supreme Court in the case of Kavita Vs. Deepak and Others, . Therefore, according to the learned Counsel, the award deserves to be interfered with.

17. On the other hand, Mr. Vinay Mathur has pleaded as follows: firstly, the Insurance Company has never challenged the validity and veracity of the disability certificate issued by Dhanwantari Hospital. It had never raised the said plea before the learned Tribunal when the claim petition was initially decided by the Tribunal by its award dated 2.7.2011. It has not raised the said plea even in its cross-objection filed before this Court. Therefore, it cannot be permitted to raise a new plea for the first time before the appellate Court while challenging the present impugned award.

18. Secondly, the judgment in the case of Smt. Kamla Devi (supra), was pronounced by this Court on 2.12.2011, whereas the first award was passed by the Tribunal on 2.7.2011. Therefore, the direction issued in the said judgment of Smt. Kamla Devi (supra), was not even issued prior to the decision of the learned Tribunal in its first award.

19. Thirdly, there is no reason to doubt the veracity of the disability certificate as the same has been proved by Dr. I.B. Khan (A.W. 4). In his affidavit, he clearly stated that he was one of the members of the Medical Board which had examined the claimant. According to him, the claimant had become quadriplegic as he has totally paralyzed from below the neck. Moreover, in his cross-examination he clearly states that the claimant will require at least Rs. 6-7 lacs for his future medical treatment and attention. Further, while recording the testimony of the claimant, the learned Tribunal has clearly noted that the claimant was brought on a stretcher into the Tribunal in order to depose before the learned Tribunal. Thus, it was apparent to the Tribunal that the claimant was absolutely paralyzed due to the vehicular accident. Hence, the conclusion drawn

by the learned Tribunal that the claimant was 100% disabled was not only based on the disability certificate issue by Dhanwantari Hospital, but was also based on its own visual observation with regard to the condition of the claimant.

20. Fourthly, by judgment dated 11.9.2012, this Court had remanded the case only on issue No. 3; it had confirmed the finding of the learned Tribunal on all other issues.

21. Fifthly, while remanding the case back to the Tribunal, this Court had clearly directed the Tribunal to consider the case of Kavita (*supra*). Since the impugned award has been passed in view of the observations made in the case of Kavita (*supra*), the award cannot be faulted.

22. Sixthly, the claimant has always claimed that he is a specialized driver, or a skilled driver. Such a claim has been made by him both in his claim petition as well as in the appeal. Moreover, even in his discharge certificate (Ex. 11) of SMS Hospital, it has been mentioned that he is a specialized driver. However, a specialized driver, at times, is also referred to as a Khalasi. For, a Khalasi is responsible both for the maintenance, the cleaning of the truck, as well as for driving the truck when the main driver is unable to drive the truck due to his tiredness. According to the learned Counsel, since these trucks travel long distances over a period of days, it is not possible for a single driver to drive the truck. Hence, a skilled driver/a specialized driver/a Khalasi accompanies the principal driver through the journey. Hence, the claimant is not hedging the nature of his job. Furthermore, since the proceeding before the learned Tribunal is not an adversarial one, but is a summary proceeding, a minor contradiction with respect to nature of the job is not fatal to the claim petition.

23. Seventhly, although the learned Tribunal has referred to the Minimum Wages Act, 2011 applicable to the State of Rajasthan, the Minimum Wages Act was amended only in the year 2008 and continued to be applicable in the year 2011 when the award was passed. Hence, the learned Tribunal has relied upon the Minimum Wages Act, 2008. Therefore, the learned Counsel for the appellant Insurance Company is unjustified in claiming that the learned Tribunal has applied the minimum wages as applicable in the year 2011.

24. With regard to the appeal filed by the claimant, namely C.M.A. No. 1109/13, Mr. Vinay Mathur has further raised the following contentions: firstly, the claimant had pleaded that his income was Rs. 12,000 per month. Yet the Tribunal has concluded that his income was merely Rs. 4,000 per month. The said conclusion is based on the Minimum Wages Act as applicable in the year 2011. However, the learned Tribunal has ignored the testimony of Ram Vachan (A.W. 3), who happens to be the driver of the truck in which the claimant was the second driver. According to him, Raj Kumar was being paid Rs. 9,000 per month, and was being granted a stipend of Rs. 100 per day. Thus, the Tribunal has ignored a piece of evidence readily available on record. Since the testimony of the driver is available on record, it is immaterial if the employer has not been

produced in order to prove the income. After all, it is the quality of witness and not the quantity that matters for proving a case. Hence, the conclusion drawn by the Tribunal with regard to the claimant's income is unsustainable.

25. Secondly, Sudesh (A.W. 2), the person who attends upon Raj Kumar day in and day out, has clearly stated in his testimony that Raj Kumar is paying him Rs. 5,000 for his personal care. Yet the Tribunal has concluded that Raj Kumar was paying merely Rs. 2,000 to Sudesh as his medical attendant. Hence, this conclusion is based on an incorrect reading of the evidence.

26. Thirdly, the case of Kavita (supra), related to the year 2004. Raj Kumar's income was far more than the income involved in the case of Kavita (supra). Therefore, the compensation awarded to Raj Kumar deserves to be: enhanced by this Court.

27. Heard the learned Counsel for the parties and perused the material on record.

28. The first contention raised by the learned Counsel for the Insurance Company is unacceptable: firstly, the case of Smt. Kamla Devi (supra), was decided by this Court on 2.12.2011 whereas the first award passed by the learned Tribunal is dated 2.7.2011. Thus, even before a direction was issued by this Court for not considering the disability certificate issued by Dhanwantari Hospital, the first award was passed by the learned Tribunal by considering the disability certificate issued by Dhanwantari Hospital.

Secondly, even in the second round before the learned Tribunal, the Insurance Company has not challenged the veracity of the disability certificate (Ex. 17) issued by the said hospital.

29. Thirdly, the said disability certificate (Ex. 17) has been proven by Dr. I.B. Khan (A.W. 4) who has clearly stated that he was one of the members of the Medical Board which had examined the claimant.

30. Fourthly and most importantly, the learned Tribunal has clearly noted the demure of Raj Kumar, the claimant, when he was brought into the Court on a stretcher. Thus, it was obvious to the learned Tribunal also that Raj Kumar was paralyzed from below the neck, as mentioned in the disability certificate (Ex. 17). Hence, the conclusion drawn by the learned Tribunal that the claimant is 100% disabled is not solely based on the disability certificate (Ex. 17), but is more so based upon its own observation about the claimant. Therefore, the learned Counsel for the Insurance Company is unjustified in claiming that the conclusion drawn by the learned Tribunal is solely based on the disability certificate (Ex. 17) which is of a doubtful vintage.

31. Although it is true that Raj Kumar (A.W. 1) and Ram Vachan (A.W. 3) claim that Raj Kumar was working as a Khalasi, whereas in his claim petition, the claimant has stated that he was working as a skilled driver. However, a minor contradiction with regard to nature of work being performed by the claimant would not be fatal to the claim petition, especially under the peculiar facts of this

case. From the evidence produced before the learned Tribunal, the factum of accident stands proved, the factum of Raj Kumar's sustaining injuries stands established, the factum of his becoming a quadriplegic stands demonstrated, the factum with regard to his income has also been stated (although the said factum has been ignored by the learned Tribunal). Therefore, it is immaterial whether he was working as a Khalasi, or a skilled driver. Moreover, it is of common knowledge that Khalasies are meant not only for cleaning the truck, but also for driving the truck as a second driver especially when the truck has to undertake a long journey through the length and breadth of this country. Therefore, it is not uncommon to engage a person as a Khalasi, but to ask him to drive the truck as a second driver. Hence, the minor contradictions are immaterial to the entire case.

32. As far as the assessment of income is concerned, the contention raised by the learned Counsel for the Insurance Company is baseless. The Minimum Wages Act applicable in Rajasthan was amended in the year 2008 and was effective in 2011 also. Although the learned Tribunal has claimed that it is relying on the Minimum Wages Act as prevalent in 2011, but the fact remains that the minimum wages were not changed between 2008 and 2011. Thus, the learned Tribunal had assessed the income on the basis of the minimum wages prevalent in 2008. Therefore, the learned Counsel for the Insurance Company is not justified in claiming that the Minimum Wages Act of 2011 has been applied to an accident which had occurred in 2008.

33. The learned Counsel for the claimant is certainly justified in pleading that the learned Tribunal has totally ignored the evidence of Ram Vachan (A.W. 3) and has wrongly relied upon the Minimum Wages Act in order to assess the claimant's income. Ram Vachan (A.W. 3) in his testimony clearly informs the Tribunal that he happened to be the driver of the truck in which the claimant was the Khalasi. According to him, Raj Kumar was being paid Rs. 9,000 per month and was being granted a stipend of Rs. 100 per day. This testimony of his has not been shattered in the cross-examination. Thus, there is no reason for disbelieving this witness. Yet notwithstanding this glaring evidence, the learned Tribunal has totally ignored it. Thus, the learned Tribunal is not justified in assessing the claimant's income on the basis of the Minimum Wages Act. In fact, the income should have been assessed as Rs. 12,000 per month and not as Rs. 4,000 per month, as assessed by the learned Tribunal. Hence, the very basis for calculating the extent of loss of income is misplaced.

34. The contention raised by the learned Counsel for the Insurance Company that a bonanza has been granted under miscellaneous heads is equally unacceptable. A bare perusal of the impugned award clearly reveals that the learned Tribunal has granted Rs. 3 lacs for mental and physical pain that the claimant is likely to suffer due to his total physical incapacity. Similarly, the learned Tribunal has granted him a compensation of Rs. 3 lacs for the loss of amenities and loss of expectation of life. Likewise, it has granted him Rs. 9 lacs

for future medical expenses, taking the expenses as, Rs. 3,000 per month for a period of twenty-five years. Similarly, it has granted Rs. 1 lac for the medical expenses incurred by him. While granting the compensation under these various categories, the learned Tribunal has followed the case of Kavita (supra). Therefore, no fault can be found in the grant of compensation.

35. Moreover, it is, indeed, trite to state that the Tribunal has to be sensitive to the condition of the claimant. It has to be alive to not only his physical and mental condition, but also to his socio-economic condition. While dealing with a case of compensation, the learned Tribunal is not dealing only with a legal dispute, but most importantly, is dealing with a human problem. It is not only the problem of the injured, it is more so a problem for the family. In the present case, a twenty-nine years old young man has become paralyzed from the neck below; the claimant can neither walk, nor sit. He can neither turn, nor move. In fact, for the rest of his life he will be confined to bed. He is totally dependent, for every single activity of his life, upon others--be they the family members, or the medical attendant. Needless to say, it is a pitiable condition to which a young man has been reduced to. According to Dr. I.B. Khan (A.W. 4), the claimant would require at least 4-6 lacs rupees for his future medical needs and medical attendance. According to Sudesh (A.W. 2), the medical attendant who looks after the claimant, he is being paid Rs. 5,000 per month. Thus, the award cannot be dubbed as "a bonanza". Considering the fact that the claimant has been reduced to a "vegetable state", considering the fact that he has to survive a long life which may be ahead of him, considering the fact that he will never earn, he can never marry, can never enjoy the small things of life, considering the fact that life itself has become an unbearable burden, considering the fact that he shall be tormented mentally by his pathetic condition, the grant of compensation under non-pecuniary heads is just and reasonable. After all, even the grant of such compensation would not transform the claimant into a healthy and a normal human being. He would continue to be confined to bed, and to exist in a limbo between life and death.

36. The learned Counsel for the claimant is also justified in pleading that considering the testimony of Sudesh (A.W. 2), the learned Tribunal was not justified in granting Rs. 2,000 for medical attendant. Sudesh (A.W. 2) had clearly stated that he is being paid Rs. 5,000 per month as medical attendant. He has further stated that it is he who looks after the physical needs of the claimant. Considering the fact that the claimant would require a physical or medical attendant for the rest of his life, considering the fact that the salary to be paid to such an attendant would only increase in future, this Court enhances the amount from Rs. 2,000 to Rs. 8,000 per month as the amount payable to the medical attendant. After all, the future prospect of increase in the salary of the medical attendant would also need to be taken into account.

37. For the reasons stated above, the impugned award dated 2.2.2013 is modified as under:

(i) The monthly income of the claimant is assessed as Rs. 12,000 instead of Rs. 4,000. Thus, the loss of income comes to Rs. $12,000 \times 12 \times 17 \times 100\%$ permanent disability = Rs. 24,48,000 instead of Rs. 8,16,000, as awarded by the learned Tribunal. As such, the, enhanced amount comes to Rs. 24,48,000/- Rs. 8,16,000 = Rs. 16,32,000.

(ii) The compensation for medical attendant is increased from Rs. 2,000 to Rs. 8,000 per month and taking expectancy of life of the claimant to be fifty-five years, and as he was considered to be thirty years old at the time of accident, the compensation for medical attendant comes to Rs. $8,000 \times 12 \times 25$ = Rs. 24,00,000 instead of Rs. 6,00,000, as awarded by the learned Tribunal. Hence, the enhanced amount comes to Rs. 24,00,000 - Rs. 6,00,000 = Rs. 18,00,000.

(iii) The rest of the award shall remain the same.

(iv) The compensation amount awarded by the learned Tribunal is Rs. 32,28,000 and after enhancing the aforesaid amount, the total compensation amount comes to Rs. 66,60,000. Thus, the enhanced amount comes to Rs. 66,60,000 - 32,28,000 = Rs. 34,32,000.

38. The enhanced amount shall be paid along with an interest @ 7.5% per annum, from the date of filing of the appeal by the claimant, i.e. 22.3.2013, till the date of payment. The Insurance Company shall deposit the enhanced amount along with interest with the Tribunal within a period of three months from the date of receipt of certified copy of this judgment. The enhanced amount of Rs. 34,32,000 along with interest shall be deposited by the Tribunal in the name of the claimant in fixed deposits with any of the nationalized bank as under:

(i) Rs. 10,00,000 (Rupees ten lacs), for a period of one year.

(ii) Rs. 10,00,000 (Rupees ten lacs), for a period of two years.

(iii) Rs. 14,32,000 (Rupees fourteen lacs and thirty two thousand) along with interest amount, for a period of three years.

With these directions, the appeal filed by the claimant (i.e. C.M.A. No. 1109/13) is, hereby, allowed; the appeal filed by the Insurance Company (i.e. C.M.A. No. 869/13) is, hereby, dismissed. The stay application also stands dismissed.