

(2025) 07 SC CK 0192

In the Supreme Court Of India

Case No : Civil Appeal No. 9459 Of 2025 (@Special Leave Petition (Civil)
No.20068 Of 2022)

Suresh Jatav

APPELLANT

Vs

Sukhendra Singh & Ors

RESPONDENT

Date of Decision : 14-07-2025

Acts Referred:

Citation : (2025) 07 SC CK 0192

Hon'ble Judges : Sudhanshu Dhulia, J;K.Vinod Chandran, J

Bench : Division Bench

Advocate : Ishita M. Puranik, Jigisha Agarwal, Aniya, Karan Gupta, Praveen
Swarup, A K Soni, Pavan Kumar Vashishth, P. Srinivasan

Final Decision : Allowed

Judgement

K. Vinod Chandran, J.

1. Leave granted.

2. The appellant was the claimant before the Tribunal who claimed 100% functional disability on account of the injuries suffered in a motor vehicle accident.

3. On facts, suffice it to notice that the appellant was travelling in an auto rickshaw on 12.08.2002 when a bus, being driven rashly and negligently, collided with the auto and the appellant had to be admitted in a hospital. The appellant was hospitalized for about six days and a surgery had to be conducted on him. An insertion was made to treat the compound fracture suffered on the fibula of his right leg. He also suffered a fracture to the ulna of the right hand which required plastering. The appellant had been regularly visiting the hospital due to his leg having not healed. The appellant claimed that he was a skilled mason and a person working with him was examined to prove that he was earning an income of Rs.200 per day. The medical treatment undergone by him and the disability was proved by examination of the record clerk of the hospital who

produced the necessary records and the doctor who treated the appellant.

4. The Tribunal, however, did not accept the income of Rs.6,000/- per month and adopted only Rs.3,000/- as monthly income. 25% disability was accepted, despite the certificate having shown 35% disability, which the Tribunal opined was only with respect to the right leg and hence, the whole-body disability can only be 25%. Though, an amount of Rs.25,000/- was claimed for medical expenses, the Tribunal granted only in accordance with the bills produced of Rs.10,000/-. The Tribunal also awarded an amount of Rs.3,000/- for special diet and Rs.5,000/- for pain and suffering. A total amount of Rs.1,62,000/- was awarded by the Tribunal.

5. On appeal to the High Court, the income was increased to Rs.3500/- and a 40% addition was made for future prospects. The High Court also awarded an amount of Rs.25,000/- for future treatment and increased the amounts for special diet to Rs.12,000/- and retained the medical expenses at Rs.10,000/- itself. As far as pain and suffering, the High Court enhanced it to Rs.30,000/- and an amount of Rs.12,000/- was granted as attendant charges for six months at the rate of Rs.2,000/- per month. Since the appellant, as per the medical records, would have been laid up for about six months, the High Court also granted an additional amount of Rs.10,000/- for transportation charges and Rs.21,000/- for loss of income.

6. Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company (2011) 13 SCC 236, found that a Coolie would get an amount of Rs.4500/- as his monthly income in the year 2004. Definitely, an incremental increase of an unskilled worker's income can be assessed at Rs.500/- per year in which context, even an unskilled worker would earn an income of Rs.10000/- in the year 2008. Hence, this Court is of the opinion that the income as claimed by the appellant, a skilled mason can be accepted. As far as disability is concerned, the doctor has assessed it at 35% and the Tribunal reduced it to 25% on mere conjectures. There should be valid reasoning to go behind the opinion of an expert, especially in the matter of assessment of disability. In the present case, the doctor who was examined before the Tribunal had specifically deposed that the appellant was unable to sit down and walk and could not lift heavy weights. He was also said to be in constant pain.

7. Considering the entire circumstances and also since we have accepted that the claimant was a skilled mason, his disability will have to be assessed at 35%. The evidence of the doctor would indicate that he could not have continued his chosen vocation.

8. On the other heads, we do not make any enhancement with respect to the future treatment, special diet and the attendant charges. However, for loss of income, since we have adopted a higher income, necessarily it has to be Rs.36,000/- for six months. The appellant suffered two fractures, one of which was a compound fracture, treatment of which required surgical intervention. The

medical expenses can hence be increased to Rs.20,000/-. For pain and suffering, considering the continued partial disability it can be increased to Rs.50,000/-. On the above reasoning, the following amounts are awarded: -

Sr. No.

Heads of Claim

Amount

1.

Compensation for permanent disability.

$\text{Rs.}6,000 \times 12 \times 140\% \times 16 \times 35\%$

Rs.5,64,480/-

2.

Future treatment.

Rs.25,000/-

3.

Special diet for six months.

Rs.12,000/-

4.

Loss of income for six months.

$\text{Rs.}6,000 \times 6$

Rs.36,000/-

5.

Medical expenses

Rs.20,000/-

6.

Pain and suffering.

Rs.50,000/-

7.

Attendant expenses.

$\text{Rs.}2,000 \times 6$

Rs.12,000/-

Total amount

Rs.7,19,480/-

9. The above-mentioned amounts shall be paid, after deducting the amount which has already been paid with interest as directed by the Tribunal, running from the date of filing the claim petition, within a period of two months.

10. The appellant shall provide his account details to which the money shall be deposited online by the insurance company, within the above stipulated period.

11. The appeal stands allowed in the above terms.

12. Pending applications, if any, shall stand disposed of.