

S. Mohammed Hakkim
v.
National Insurance Co. Ltd. & Ors.

(Civil Appeal No(s). 9897-9898 of 2025)

29 July 2025

[Sudhanshu Dhulia* and Aravind Kumar, JJ.]

Issue for Consideration

Issue arose as regards the correctness of the order passed by the High Court reducing the compensation awarded to the appellant-engineering student in a motor accident, resulting in amputation of his leg and 100% functional disability.

Headnotes[†]

Motor accident – Compensation claim – Reduction by High Court – Challenge to – Appellant-20 year old engineering student was riding a motorcycle, car ahead of him applied the brakes suddenly, the appellant’s motorcycle dashed into the car, the appellant fell down on the road and bus coming from behind ran over the appellant, resulting in amputation of his leg and 100% functional disability – Tribunal calculated compensation as Rs.91,62,066/-, however, reduced 20% on account of contributory negligence on the part of the appellant and awarded Rs.73,29,653/- – High Court reduced the compensation awarded to Rs.58,53,447/-, fixing liability of car driver, bus driver and the appellant as 40%, 30% and 30% respectively – Correctness:

Held: Concurrent finding that the appellant was definitely negligent in not maintaining a sufficient distance from the vehicle moving ahead and driving the motorcycle without a valid license is correct – However, the root cause of the accident is the sudden brakes applied by the car driver – Explanation given by the car driver for suddenly stopping his car in the middle of a highway not a reasonable explanation – On a highway, high speed of vehicles is expected and if a driver intends to stop his vehicle, he has a responsibility to give a warning or signal to other vehicles moving behind on the road – Nothing on record to suggest that the car

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driver had taken any such precaution – Thus, the appellant liable for contributory negligence but only to the extent of 20% whereas the car driver and bus driver liable for negligence to the extent of 50% and 30% respectively – In the interest of justice, the notional income of the appellant taken as Rs.20,000/-; multiplier as 18, and future prospects at 40%, thus, the loss of income would be Rs.60,48,000/- – Attendant charges of Rs 18 lacs as fixed by the tribunal, and Rs. 5 lacs for the future medical expenses as granted by the High Court justified – For loss of marital prospects, amount increased to Rs.5 lacs – For all other heads, the concurrent findings upheld – Since, the appellant liable for the contributory negligence to the extent of 20%, compensation of Rs.91,39,253/- payable to the appellant along with the interest @ 7.5% pa from the date of filing of the claim petition. [Paras 6-12]

Case Law Cited

Navjot Singh v. Harpreet Singh, 2020 SCC OnLine SC 1562; *Sarla Verma v. DTC* [2009] 5 SCR 1098 : (2009) 6 SCC 121; *National Insurance Co. Ltd. v. Pranay Sethi* [2017] 13 SCR 100 : (2017) 16 SCC 680 – referred to.

List of Acts

Road Regulation Rules 1989.

List of Keywords

Compensation; Engineering student; Amputation of leg in a motor accident; Contributory negligence; Fixing liability of car driver, bus driver; Driving motorcycle without valid license; Sudden brakes applied by car driver; Highway; High speed vehicle; Functional disability; Notional income; Multiplier; Future prospects; Loss of income; Attendant charges; Future medical expenses; Loss of marital prospects.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No(s). 9897-9898 of 2025

From the Judgment and Order dated 11.11.2022 of the High Court of Judicature at Madras in CMA No. 2932 of 2021 in CROBJ No. 103 of 2021

Supreme Court Reports**Appearances for Parties**

Advs. for the Appellant:

Ms. Haripriya Padmanabhan, Gokulakrishnan, Sr. Advs., Raghunatha Sethupathy B, Manoj Kumar.a, Vishal Sinha.

Advs. for the Respondents:

Amit Kumar Singh, Ms. K Enatoli Sema, Ms. Chubalemla Chang, Prang Newmai, Mrs. Shantha Devi Raman, Garvesh Kabra, Ms. Tanisha Gopal.

Judgment / Order of the Supreme Court**Judgment**

Sudhanshu Dhulia, J.

1. Leave granted.
2. The appellant is before this Court challenging the impugned order dated 11.11.2022, whereby the Madras High Court reduced the compensation awarded to the appellant in a motor accident case from Rs. 73,29,653/-to Rs.58,53,447/-.
3. The brief facts of the case are as follows:
 - (a) On 07.01.2017, when the appellant was riding on a motorcycle along with his friend on the pillion, respondent no.2 suddenly applied the brakes of his car, which was ahead of the appellant's motorcycle, and the appellant dashed his motorcycle into the rear side of the car and fell on the right side of the road. The bus coming from behind drove over the appellant, which finally led to the accident resulting in the amputation of appellant's left leg during treatment. The car and the bus were insured by respondent no.3 and respondent no.1, respectively.
 - (b) The appellant filed a claim petition before the Motor Accident Claims Tribunal (hereinafter referred to as 'Tribunal') seeking compensation of Rs. 1,16,00,000/- in which Tribunal calculated a compensation of Rs.91,62,066/-. However, since it was held that there was 20% contributory negligence on the part of the appellant, Rs.73,29,653/- were made payable to the appellant by respondent no.1 (insurer of bus). The car insurer was exonerated from all liabilities.

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- (c) Aggrieved by the order of Tribunal, both the respondent no.1 (insurer of bus) and the appellant approached the High Court. Vide impugned order, the High Court partly allowed the appeal filed by respondent no.1 by reducing the attendant's charges from Rs.18 lacs to Rs.5 lacs and by fixing liability of car driver, bus driver and the appellant as 40%, 30% and 30% respectively. The cross-objection filed by appellant was also partly allowed by granting him Rs. 5 lacs under the head of future medical expenses. Consequently, the High Court reduced the payable compensation from Rs. 73,29,653/- to Rs. 58,53,447/- along with interest. Now, the appellant is before us.
4. We have heard both sides and perused the material on record.
5. First on the question of contributory negligence of the appellant and negligence on the part of the drivers of the other two vehicles involved in the accident. The Tribunal, as well as the High Court, have affirmed that the accident occurred due to the sudden stoppage of the car. However, it was the view of the Tribunal that if the bus had not been involved in the accident, the appellant would have suffered normal injuries, and it was mainly the negligence of the bus driver that led to the amputation of the appellant's leg. The Tribunal also relied on Rule 23¹ of the Road Regulation Rules 1989 and put contributory negligence of 20% on the appellant for not maintaining a sufficient distance from the car. The Tribunal had exonerated the car driver and determined the negligence of the appellant and the bus driver in the ratio of 20:80. In appeal, the High Court has rightly held that since the genesis of the accident was the sudden braking of the car, the car driver should also be made liable. The High Court held the car driver and bus driver liable for negligence to the extent of 40% and 30% respectively; while the appellant was made liable for 30% contributory negligence.
6. The car insurer has taken the stand that the appellant had hit the moving car from behind and thus, car driver is not liable. On the other hand, the car driver has admitted in his evidence that he had suddenly applied the brakes as his wife was pregnant and she had

¹ **Distance from vehicles in front:** The Driver of a Motor vehicle moving behind another vehicle shall keep at a sufficient distance from that other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop.

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a vomiting sensation. In our view, the concurrent finding that the appellant was definitely negligent in not maintaining a sufficient distance from the vehicle moving ahead and driving the motorcycle without a valid license is correct. But at the same time, it cannot be ignored that the root cause of the accident is the sudden brakes applied by the car driver. The explanation given by the car driver for suddenly stopping his car in the middle of a highway is not a reasonable explanation from any angle. On a highway, high speed of vehicles is expected and if a driver intends to stop his vehicle, he has a responsibility to give a warning or signal to other vehicles moving behind on the road. In the present case, there is nothing on record to suggest that the car driver had taken any such precaution. Both Tribunal as well as the High Court have noted that the bus driver was also negligent. After considering all these aspects, we are of the view that the appellant is liable for contributory negligence but only to the extent of 20% whereas the car driver and bus driver are liable for negligence to the extent of 50% and 30% respectively.

7. Now coming to the quantum of compensation. Admittedly, the age of the appellant at the time of the accident was 20 years, and he was studying in the 3rd year of Engineering College, Coimbatore. It is also not disputed that the appellant had lost his left leg due to the accident and thus, suffers from a 100% functional disability. While determining the quantum of compensation, the Tribunal had taken Rs. 15,000/- as the appellant's monthly notional income and the same was affirmed by the High Court. However, the learned counsel of the appellant would contend that the appellant's notional income ought to have been taken as Rs.25,000/- per month.
8. In the present case, at the time of the accident, the appellant was a 3rd year engineering student who could have had a bright future. While dealing with a case of an accident in which an engineering student had lost one leg, this Court in **Navjot Singh v. Harpreet Singh, 2020 SCC OnLine SC 1562** had noted that:

“12. Admittedly, the appellant was 21 years of age at the time of the accident and he was pursuing a Degree course in Food Technology from Sant Longowal Institute of Engineering and Technology. Though the Tribunal did not believe the claim made by the appellant that he was earning Rs. 10,000/- per month even as a student by taking

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tuitions, and though the High Court also did not go by the said claim, the High Court arrived at the notional income of the appellant at Rs. 5,000/- per month, on the ground that the minimum wages admissible to an unskilled worker was Rs. 5,000/- per month.

13. *But we do not think that the notional income of a student undergoing a Degree course in Engineering from a premier institute should be taken to be equivalent to the minimum wages admissible to an unskilled worker. Students recruited through campus interviews are atleast offered a sum of Rs. 20,000/- per month. Even if we do not go on the said basis, the High Court could have fixed the notional income atleast at Rs. 10,000/- per month.*

14. *Therefore, in the facts and circumstances of the case, and by exercising our power under Article 142 of the Constitution of India, we take the notional monthly income of the appellant as Rs. 10,000/- per month.”*

9. In the above case, this Court was dealing with a case of an accident that occurred in the year 2013. Although considering the facts of that case, this Court had taken the income of the claimant therein as Rs. 10,000/- per month, it was noted that students, like the appellant in the present case, would be at least earning the minimum of Rs. 20,000/- per month. Thus, in our opinion, it would be in the interest of justice if the notional income of the appellant were taken as Rs. 20,000/-. According to the guidelines in **Sarla Verma v. DTC, (2009) 6 SCC 121** as upheld in **National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680**, the multiplier would be taken as 18, and future prospects would be 40%. Therefore, the loss of income would be as follows:

Monthly Notional Income	Rs. 20,000/-
Monthly Notional Income along with 40% future prospects	Rs.20,000 + 40% of Rs.20,000 = Rs. 28,000/-
Annual Income	Rs. 28,000 x 12 = Rs. 3,36,000/-
Multiplier	18
Total Loss of Income	Rs. 3,36,000 x 18 = Rs. 60, 48,000/-

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10. The High Court has rightly granted Rs.5,00,000/- for the future medical expenses but erred in reducing the attendant charges from Rs. 18 lacs to Rs. 5 lacs. In the present case, by taking charges of an attendant as Rs.6,000/- per month for 25 years, the Tribunal calculated the attendant charges as Rs. 18 lacs. While reducing it to Rs.5 lacs, the High Court has not given any cogent reasons and merely noted that fixing Rs.18 lacs as attendant charges is exorbitant and unreasonable. We are unable to understand how the attendant charges of Rs.18 lacs fixed by the Tribunal are unreasonable. The appellant has lost his entire left leg, which was amputated from waist downwards, which means that he would require assistance throughout his life to perform the basic daily routine. Thus, we hold that the attendant charges as fixed by the Tribunal were justified.
11. There is one more aspect which has attracted our attention. Under the head of loss of marital prospects, Tribunal had granted Rs. 2.5 lacs to the appellant and the same has been affirmed by the High Court. However, in our view, it is not sufficient, and in the interest of justice, it shall be increased to Rs. 5 lacs. As far as the High Court's decision to grant Rs. 5 lacs for the future medical expenses is concerned, we do not think it requires any interference. For all other heads, we agree with the concurrent findings and thus, the determination of the compensation would be as follows:

S.No.	Heading	Amount
1.	Loss of Income	Rs. 60,48,000/-
2.	Attendant Charges	Rs. 18,00,000/-
3.	Pain & Sufferings	Rs. 2,00,000/-
4.	Loss of Marital Prospects	Rs. 5,00,000/-
5.	Discomfort	Rs. 1,00,000/-
6.	Extra Nourishment	Rs.50,000/-
7.	Medical Bills	Rs. 22,03,066/-
8.	Transportation	Rs. 20,000/-
9.	Damage to Clothing	Rs. 3000/-
10.	Future Medical Expenses	Rs. 5,00,000/-
	Total Compensation	Rs. 1,14,24,066/-

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12. As stated above, the appellant is liable for the contributory negligence to the extent of 20% and thus, compensation payable to the appellant is Rs. 91,39,253/- (Rs.1,14,24,066 – 20% i.e. Rs.22,84,813) along with the interest at the rate of 7.5% per annum from the date of filing of the claim petition. Since both the offending vehicles (car as well as the bus) were insured at the time of the accident, the liability for the negligence of the car driver and bus driver shall be borne by them i.e., respondent no.3 to the extent of 50% and respondent no.1 to the extent of 30%, respectively. The amount of compensation shall be paid to the appellant within four weeks from the date of this order.
13. We dispose of these appeals in the above terms.
14. Pending application(s), if any, stand(s) disposed of.

Result of the case: Appeals disposed of.

†Headnotes prepared by: Nidhi Jain