

**HIGH COURT OF TRIPURA****AGARTALA****MAC APPEAL NO. 101 OF 2024****Sri Sadhan Das**

S/o Late Umesh Ch. Das of
Thakurpara, Melaghar,
P.S. Melaghar, District-Sepahijala, Tripura.

....Claimant-Appellant.

Versus

1.(a) Smt. Namita Rani Das Lodh,
W/o Late Motilal Lodh.

1.(b) Sri Pranab Lodh,
S/o Late Motilal Lodh.

1.(c) Sri Rajat Lodh,
S/o Late Motilal Lodh.

All are residents of North Charilam,
P.S. Bishalgarh, District-Sepahijala,
(Owner of TRL-3670, TATA Truck).

2. The Divisional Manager,
New India Assurance Company Ltd.
4 Mantribari Road, Agartala,
P.S. West Agartala, District-West Tripura,
(Insurer of TRL-3670, TATA Truck).

....Respondents.

BEFORE

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

For the Appellant(s) : Mr. Kishore Kumar Pal, Advocate.
For the Respondent(s) : Mr. Gitangshu Sekhar Das, Advocate.
Mr. Kusal Deb, Advocate.
Date of hearing : 13.03.2026
Date of delivery of
Judgment & Order : **16.05.2026**
Whether fit for reporting :

YES	NO
	✓

JUDGMENT & ORDER

The appellant, Sri Sadhan Das has challenged the award passed by the learned Motor Accident Claims Tribunal No.4, West Tripura, Agartala on 17.11.2022 in TS (MAC) 50 of 2014, on the ground of inadequacy of award.

2. On 15.11.2013, the appellant [here-in-after referred to as the petitioner] met with a road traffic accident at Netaji Chowmohani on Bishramganj-Sabroom road due to dashing of a truck bearing Registration No.TRL-3670 from behind in a rash and negligent manner. He sustained multiple injuries on his person and was immediately sent to the Melaghar Hospital by the local people gathered there wherefrom on the same date, being referred, he was taken to G.B.P Hospital, Agartala. From G.B.P. Hospital also he was referred to SSKM Hospital, Kolkata and on the same day, he was taken to Kolkata as a stretcher case and due to paucity of bed in SSKM Hospital, he was admitted in Fortis Hospital, Kolkata. In Fortis Hospital, he received treatment as indoor patient from 15.11.2013 to 22.11.2013 in the first spell where his amputation of right leg above knee level was done due to crush injury and according to the discharge summary, in respect of his left leg, ankle and foot, there was *'degloving wound at lateral aspect extending to plantar aspect, lateral malleolus fracture with bone loss seen. Thorough debridement and washing with pulse lavage.'*

3. On his return to Tripura, he was again admitted in TMC & Dr.BRAM Teaching Hospital from 23.11.2013 to 30.11.2023 in the first spell and again from 14.01.2014 to 28.01.2014 in the second spell, where his screen graft was done. He was bed ridden almost for six months.

4. The petitioner during trial examined himself as PW-1, one Doctor of State Disability Board, Agartala as PW-2 and also proved certain documents of his treatment, etc. in the evidence. The respondent, Namita Rani Das Lodh also examined herself as OPW-1 and proved some documents.

5. Finally, the learned Tribunal awarded total compensation of Rs.15,29,985/-. Being aggrieved thereby, the appeal is filed.

6. Learned counsel, Mr. K.K. Pal for the claimant argues that by profession the petitioner was Sports Officer under the Government of Tripura and due to amputation of the leg his promotional prospect was hampered and without any promotion he went on retirement. Learned counsel further submits that inadequate amount was awarded by the learned Tribunal regarding cost of treatment, cost of future treatment, loss of future earnings and also on the accounts of non-pecuniary damages, like compensation for pain and sufferings, loss of amenities of life and loss of expectation of life.

7. Learned counsel also submits that erroneously learned Tribunal discarded certain vouchers in respect of purchase of medicines, and moreover, cost of air tickets and local transportation were also not properly paid. Learned counsel, therefore, urges for re-visiting of the quantum of award taking into consideration all the vouchers placed in the record.

8. Learned counsel relies on a decision of Hon'ble Supreme Court in the case of ***Dinesh Singh vs. Bajaj Allianz General Insurance Company Ltd., 2014 Legal Eagle 337***, wherein at the time of accident the age of the claimant was unmarried and was 24-year-old. He was an Engineer and was working in private company but because of amputation of his left leg above the knee, he suffered more than 80% permanent disability and his future became very bleak. He had to resign from his job as Engineer and took up a desk job in a private company which he might lose due to recession in the economy. Considering all these aspects, Hon'ble Supreme Court observed that the reasoning of the High Court that the appellant had not suffered any financial loss because of permanent disability having regard to the fact that subsequently he took up employment in the Industrial Development Bank of India as Grade-B Officer, cannot be sustained. It was also observed that once the permanent disability is fixed, taking into consideration its impact on the employment/profession of the claimant, the compensation had to be awarded. In the said case, the disability was fixed at 60% of permanent

nature which impacted his employment and future prospects and accordingly loss of future income was assessed applying multiplier 17 taking into account 60% of his previous salary. Further, it was observed by the Apex Court that said claimant was operated twice and at that time he was able to move with artificial limb, but still he had to take treatment as was evident from the evidence of the Medical Officer and considering the fact that loss of limb causes lot of pain to any living being, the Hon'ble Apex Court in the said case awarded total compensation of Rs.33,10,160/- under the following heads:

1. Pain and Agony Rs.1,20,000/-
2. Medical expenditure, including conveyance, attendant fee etc.(During the period of treatment)-Rs.3,10,000/-
3. Loss of income during hospitalization/treatment-Rs.3,08,160/-.
4. Loss of future income-Rs.15,72,000/-
5. Loss of happiness and loss of amenities-Rs.3.50,000/-.
6. Loss of marriage prospects- Rs.1,00,000/-.
7. Future medical expenses-Rs.5,50,000/-.

9. Learned counsel also relies on another decision of Hon'ble Supreme Court in the case of **Ankur Kapoor vs. Oriental Insurance Company Ltd., 2017 Legal Eagle (SC) 1005**. In the said case, the injured was a "Dec Cadet Trainee" of Merchant Navy in the Binnyship Management Ltd. and was getting 50 US dollars per month as salary along with free boarding and lodging. The claimant was about 22-year-old bachelor. It was also his claim that due to grievous injuries, he suffered permanent disability to the extent of 50% in his right arm. It was his claim that he would become 3rd Officer after 18 months and would get monthly salary of Rs.1500 US dollars and then would become 'Chief Officer' within three years and 'Captain' of the ship after about 8 years. But, as a result of said injury, he even lost his job from that company and his future career was ruined thereby. In that context, Hon'ble Supreme Court observed that he lost his future earnings since he might not be able to do this job as before and could not join Merchant Navy. Moreover, it would be very difficult for him to get alternate job easily, particularly, in view of 50% permanent disability of his right arm. Rs. 10,00,000/- was therefore,

awarded on account of his cost of treatment, hospitalization, medicines etc., loss of earnings during the course of treatment and loss of future earnings on account of permanent disability. Further Rs.3,00,000/- was awarded for future medical expenses and considering the fact that he might not have the bright future as he had suffered such injury at his young age. Further, Rs.3,00,000/- was awarded towards pain, agony and trauma and Rs.3,00,000/- loss of amenities of life including marriage prospect and Rs.3,00,000/- towards the expectation of life.

10. Learned counsel, Mr. G.K.Das for the insurance company, however, contends that adequate amount was awarded by the learned Tribunal towards the claimant and therefore, no interference is required in this appeal. Learned counsel also submits that many doubtful vouchers regarding purchase of medicines were submitted by the petitioner to receive higher amount of compensation which were not taken into account by the learned Tribunal. He also refers two paragraphs of the impugned award wherein it is noted by the learned Tribunal that some cash memos exhibited as Ext.10(LIX), Ext.10(LX), Ext.10(LVI) and Ext.10(LVII) amounting to Rs.23,910, Rs.19,500/-, Rs.8,554/- and Rs.1,829/- respectively did not bear any date of issue and also indicated that huge quantity of similar kind of medicines were purchased on a single day which was impractical. In Ext.10(LIX) and 10(LX), it was found that 1800 tablets of PAN-D and 1500 tablets of Zaptra-12.5 mg were purchased on the same day and there was no supportive prescription from which it can be ascertained on what basis such huge quantity of medicines were purchased at a time. Learned counsel, therefore, prays for dismissal of the appeal.

11. Court has considered the submissions of both sides and has also gone through the evidences led by the parties and the findings of learned Tribunal. It appears that learned Tribunal has missed to give further award to the petitioner on certain aspects, and therefore, some amount of compensation is required to be enhanced further.

12. Though learned counsel for the petitioner claims for compensation under the count of loss of future income, but it appears that the petitioner was a government employee and he did not sustain any loss

in his income inasmuch as there is no evidence that he did not receive his salary either for the period of his treatment or thereafter on any occasion. After his retirement also he is duly receiving his pension. Therefore, there was practically no loss of income. Despite the same, learned Tribunal has calculated Rs.2000/- per month as future loss of income observing that due to such accident he might have lost his working ability which prevented him from getting promotion to the higher grade. Learned Tribunal in this regard taking into account the age of the petitioner to be 56 years 7 months 23 days, as on the date of accident, has applied multiplier 9 and awarded total Rs.2,16,000/- for loss of future income relying on a decision of Hon'ble Supreme Court in case of **Raj Kumar vs. Ajoy Kumar, 2011 1 SCC 343**. Therefore, when such amount is already awarded, no further amount is required to be awarded on that count.

13. It appears from the exhibited documents that during the period of treatment, the petitioner had to take commuted leave for 241 days and casual leave for 4 days, in total 245 days leave. No earned leave was consumed by him for such treatment. However, despite the same, the Tribunal has also awarded Rs.10,000/- for loss of earning during the period of treatment. So it appears to this Court that adequate amount was awarded to the petitioner on this count too. But, regarding the cost of treatment, the compensation as awarded does not appear to be adequate. The petitioner proved one voucher under Exbt.10(LXiii) regarding purchase of one artificial limb 'T/F Prosthesis' which is a custom made artificial limb designed for individual with above knee amputations replacing the knee to restore the mobility, for Rs. 1,26,100/-. Therefore, he is entitled to get cost of said artificial limb i.e. **Rs. 1,26,100/-**.

14. Though learned counsel, Mr. Paul submits that the petitioner would be required at least another such artificial limb again as the same is required to be replaced after certain period but no evidence in this regard has been led by the petitioner.

15. It also appears that during his first phase for his treatment at Fortis Hospital, Kolkata, the petitioner went there with two attendants and stayed there for 8 days and again he visited Fortis Hospital, Kolkata for the second occasion with two attendants on 18.05.2014 and returned to

Agartala on 31.05.2014 by air i.e. he stayed there for 14 days but learned Tribunal did not award any cost for his return journey from Kolkata to Agartala during his second phase of treatment. The Tribunal also awarded only Rs.20,000/- as lump sum for the cost of attendants for his whole period of treatment including his treatment twice at TMC & Dr. BRAM Hospital, Hapania, Agartala though he was admitted therein for 23 days.

16. Though the petitioner did not submit all the vouchers of airfare, however, as Rs.7680/- say around Rs.8000/- was incurred by him for his journey from Agartala to Kolkata during his second phase of treatment. Therefore, similar amount of **Rs.8,000/-** is awarded for his return journey from Kolkata after second phase of treatment.

17. At Kolkata, two attendants were with him for 22 days and at least they had to expend Rs.2000/- per day for their lodging and fooding and therefore, a further sum of Rs. 2000X22=Rs.44,000/- as cost of attendants at Kolkata. Further Rs.1000/- per day for 23 days during his admission in TMC & Dr. BRAM hospital, Hapania i.e. Rs. 23,000/- is awarded as cost of attendants for his hospitalization at Agartala. Thus, total cost of attendants comes to Rs. 67,000/- whereas only Rs.20,000/- is awarded by learned Tribunal for this purpose. Thus, the petitioner will further get **Rs.47,000/-** for cost of attendants. For his journey to Airports both at Agartala and Kolkata for 8 occasions during his two phases of treatment and also for local transportation at Agartala from Melaghar on 4 occasions, he is entitled to get at least Rs.20,000/- but Ld. Tribunal has awarded only Rs.10,000/- on that count. Therefore, further **Rs.10,000/-** is awarded as cost of conveyance expenses.

18. He has already lost one of his legs. Therefore, it is obvious that for the rest of life he will not be able to pursue his daily livelihood by himself without assistance of others and at least one attendant will be required for taking his care for the rest of his life. Considering thus, a lump sum amount of **Rs.1,00,000/-** is further awarded for the said purpose. Learned Tribunal has awarded altogether Rs.5,00,000/- for damages for pain and sufferings, loss of amenities of life and also for loss of expectation of life. Said amount appears to be adequate.

19. In case of **Dinesh Singh** (supra), Hon'ble Supreme Court granted Rs.1,20,000/- for pain and agony and Rs.3,50,000/- for loss of amenities i.e. in total of Rs.4,70,000/- apart from Rs.1,00,000/- as loss of marriage prospect where the victim was 24 years old unmarried person. No separate award was given on loss of expectation of life in said case. Here, in the case in hand, the victim is aged about around 57 years and is a married person. Therefore, considering all these factors, further enhancement on these counts is not required.

20. Thus, in view of above discussions, a sum of **Rs. 1,26,100/- + Rs.8,000/- + Rs.47,000/- +Rs.10,000/-+ Rs. 1,00,000/- = Rs.2,91,100/- rounded off to Rs.2,92,000/-** is awarded as enhanced compensation which the petitioner is entitled to get over the amount which was awarded by learned Tribunal below.

21. The respondent no.2, New India Assurance Co. Ltd. is therefore directed to make further payment of said enhanced compensation of **Rs.2,92,000/-** (Rupees two lakh ninety two thousand only) to the petitioner within two months from the date of receipt of a copy of this judgment along with interest @ 7% per annum thereupon from the date of filing of the claim petition till payment is made.

22. The instant appeal, is accordingly, disposed of. Interim application(s), if any, shall also stand disposed.

23. Return the record of learned Tribunal along with a copy of this judgment.

24. Furnish a copy of this judgment free of cost to the parties

JUDGE