

Rahul
v.
National Insurance Company Ltd. and Another

(Civil Appeal No. 8614 of 2024)

09 August 2024

[Sudhanshu Dhulia and R. Mahadevan,* JJ.]

Issue for Consideration

High Court, if justified in reducing the percentage of disability suffered by the pillion rider who met with an accident from 25% as fixed by the tribunal, to 20% while determining the compensation payable to him.

Headnotes[†]

Motor Vehicles Act, 1988 – Motor accident – Compensation – Reduction of the percentage of disability suffered in a motor accident by the claimant-pillion rider on a motorcycle from 25% as fixed by the tribunal to 20% by the High Court and re-assessed the compensation – Correctness:

Held: Pillion rider underwent a surgery in which, plates and screws were implanted in his hands – As per disability certificate issued by the doctor, the pillion rider suffered 50% permanent disablement and the said doctor was also examined as prosecution witness – Considering the oral and documentary evidence, the tribunal took the disability of the pillion rider only at 25% and determined the compensation payable to him – Without assigning plausible reason, the High Court re-assessed the compensation by reducing the disability suffered by the pillion rider to 20% – Reduction of compensation was not required, when there was no basis in support thereof – Thus, the judgment passed by the High Court set aside and that of the tribunal fixing the disability of the pillion rider at 25% restored. [Paras 10, 11]

List of Keywords

Reducing the percentage of disability suffered; Compensation; Motor accident; Disability certificate; Permanent disablement; Reduction of compensation.

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Digital Supreme Court Reports**Case Arising From**

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8614 of 2024
From the Judgment and Order dated 13.11.2018 of the High Court of Karnataka Circuit Bench at Dharwad in MFA No. 103118 of 2014

Appearances for Parties

Manjunath Meled, Mrs. Vijayalaxmi Meled, Ganesh Kumar R., Advs. for the Appellant.

Manu Luv Shahalia, Ms. Manjeet Chawla, Abid Ali, Manek Sharma, Advs. for the Respondents.

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

R. Mahadevan, J.

1. Delay condoned.
2. Leave granted.
3. In the present case, the appellant challenges the final judgment dated 13.11.2018 passed by the High Court of Karnataka, Dharwad Bench, (hereinafter shortly referred to as “the High Court”), thereby partly allowing MFA No. 103118/2014 (MV) filed by the Respondent No.1 (hereinafter referred to as “the insurance company”).
4. Originally, the appellant filed a claim petition in MAC No.1587 of 2013 before the Senior Civil Judge & MACT at Raibag (hereinafter shortly referred to as “the Tribunal”), seeking a compensation of Rs. 20,00,000/- for the injuries sustained by him in a motor accident that had occurred on 27.01.2013, while he was travelling as a pillion rider in the motor cycle bearing registration No. KA-23/EC-6369 insured with the insurance company. Based on the oral and documentary evidence, the Tribunal awarded a sum of Rs. 5,38,872/- along with interest at 6% p.a. from the date of petition till deposit, as compensation payable to the appellant, after taking into account the disability sustained by him at 25%. Aggrieved by the same, the insurance company filed an appeal in MFA No. 103118 of 2014 (MV) before the High Court.
5. After hearing both sides, the High Court re-assessed the compensation by reducing it to Rs. 4,74,072/- by taking into consideration, disability

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only at 20% and allowed the appeal in part, by the final judgment dated 13.11.2018, which is under challenge before us.

6. The learned counsel for the appellant, drawing the attention of this court to Exs.P56 to 60, medical records pertaining to the appellant, submitted that the appellant sustained three injuries viz., fracture of right radius, fracture of left radius and fracture of styloid process of ulna, for which, he had undergone surgery and plates and screws were implanted in his both hands. The doctor N.Y. Joshi gave Ex.P57, disability certificate to the effect that the appellant suffered 50% disability, as a whole. Based on the same, the Tribunal determined the compensation under the head 'Loss of future income' by taking into account the disability at 25%. However, the High Court re-determined the compensation by reducing the disability suffered by the appellant to 20%, by observing that the doctor who issued the disability certificate had not been examined before the Tribunal, which is erroneous. It is also submitted that the appellant, being an agriculturist, is unable to do agricultural operations, due to the disability suffered by him. Therefore, the learned counsel sought our interference in the judgment passed by the High Court and thereby enhance the compensation payable to the appellant.
7. On the other hand, the learned counsel for the insurance company submitted that the High Court has awarded a just and fair compensation to the appellant, considering the facts and circumstances of the case and hence, prayed for dismissal of this appeal.
8. We have heard the learned counsel for the parties and perused the record.
9. The only issue that arises for our consideration is, whether the High Court is right in reducing the percentage of disability suffered by the appellant from 25% as fixed by the Tribunal, to 20% while determining the compensation payable to him.
10. The factum of accident and the involvement of the motorcycle insured with the insurance company, are not disputed. From a perusal of the records, viz., Exs. P56 to P60 - medical records of the appellant, more particularly, Ex.P56 wound certificate, it is evident that the appellant sustained the following injuries in the accident:
 - (i) Displaced fracture upper 1/3rd of the shaft of right radius and ulnar shafts and bone of the right forearm.

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- (ii) Fracture of ulnar stilooid and evidence of angulated fracture of distal end of left radius.

Further, for the above injuries, the appellant underwent a surgery, in which, plates and screws were implanted in his hands. As per Ex.P57 disability certificate issued by the doctor, N.Y. Joshi, the appellant suffered 50% permanent disablement and the said doctor was also examined as PW2. Considering all these oral and documentary evidence, the Tribunal has taken the disability of the appellant only at 25% and determined the compensation payable to him. Without assigning plausible reason, the High Court re-assessed the compensation by reducing the disability suffered by the appellant to 20%. We are of the view that the reduction of compensation was not required, particularly, when there is no basis in support thereof. Therefore, the judgment passed by the High Court is liable to be interfered with.

11. Accordingly, the impugned judgment dated 13.11.2018 passed by the High Court in MFA No.103118 of 2014 (MV) is set aside and the judgment dated 28.06.2014 passed by the Tribunal in MAC No.1587 of 2013 fixing the disability of the appellant at 25% is restored. The insurance company is directed to deposit the entire compensation along with interest as determined by the Tribunal, after adjusting the amounts already deposited, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the same.
12. This Civil Appeal is allowed.

Result of the case: Appeal allowed.

[†]Headnotes prepared by: Nidhi Jain