



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. OF 2025
(@Special Leave Petition (C) No.16748 of 2024)

SUNIL KUMAR KHUSHWAHA

APPELLANT(S)

VERSUS

KATRAGADDA SATYANARAYANA & ANR.

RESPONDENT(S)

JUDGEMENT

K. VINOD CHANDRAN, J.

1. Leave granted.
2. Two pedestrians were struck by a truck which was driven rashly and negligently, leading to one of them, the appellant/claimant herein, suffering grievous injuries leading to amputation of his right leg from knee. The injured was first taken to the local hospital, then shifted to the specialized hospital and later to Delhi from Ranchi for better treatment where the amputation was carried out. The injured was a fruit seller who had already been filing Income Tax Returns, Exhibit-5 which indicated his income to

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the tune of Rs.1,56,996/-. The same was adopted by the Tribunal, however no amounts were granted for loss of income due to the permanent disability suffered. The Tribunal granted an amount of Rs.7,09,273/-, the major portion of which was towards medical bills coming to Rs.5,00,949/-. The aggregate was with respect to income during treatment for one and half months, towards conveyance (air and rail) and the pain and suffering which were respectively at Rs.19,624/-, Rs.13,700/- and Rs.1,75,000/-.

3. The High Court relied on ***Raj Kumar v. Ajay Kumar and Anr.***¹ which emphasized the need to assess the functional disability in granting compensation based on the physical disability certificate. In the present case, a doctor was examined who produced Exhibit4/1, a disability certificate issued on the examination of the injured by a Medical Board. The certificate assessed the injured to have 50% permanent disability due to amputation of his right leg.

4. Mr.Karan Deep Singh, learned counsel for the appellant/injured submitted that since the appellant was a

¹ (2011) 1 SCC 343

fruit seller, he could no longer carry out such sales and hence there is a 100% functional disability in so far as the chosen vocation. Mr. Ambhoj Kumar Sinha, learned counsel for the respondent-Insurance Company sought to uphold the order of the High Court.

5. We are not satisfied that a functional disability of 100% can be assessed only because he cannot carry on the vocation which he was carrying on earlier. It is not as if the appellant was vending fruit on his foot, especially when it is seen that he was filing an Income Tax Return. It is also evident from the deposition of CW-2 that the injured was having a shop in Bazar Samiti. Definitely, the disability would affect his income, and he would probably have to engage an employee in his shop. In *Raj Kumar* (supra), a self-employed person engaged in a business, who had to amputate his left leg, pursuant to a motor vehicle accident, was assessed with a functional disability of 60% by the Tribunal, which was found to be proper. Hence, in the present case, functional disability can be assessed at 60%.

6. In addition, because the injured had to move from the local hospital to the specialized hospital and then to the

higher medical center at Delhi, the conveyance charges can be fixed at Rs.50,000/-. For pain and suffering, considering amputation of his left leg, Rs.2 lakhs can be awarded. The High Court has found a reasonable period of bed rest at 6 months and for special diet and attendant charges there shall be an amount awarded of Rs. 15,000/- per month. So far as the income during treatment it must be preserved as awarded by the Tribunal. The total compensation would stand modified as herein: -

Sr. No.	Heads of Claim	Amount
1.	Loss of income. Rs.1,56,996 x 140% x 18 x 60%	Rs.23,73,780/-
2.	Medical expenses.	Rs.5,00,949/-
3.	Conveyance charges.	Rs.50,000/-
4.	Pain and suffering.	Rs.2,00,000/-
5.	Income loss for 1& ½ months	Rs. 19,624/-
6.	Special diet and attendant charges for six months. Rs.15,000 x 6	Rs.90,000/-
	Total amount	Rs.32,34,353/-

7. The said amount shall be paid, deducting whatever amount has been paid as of now, with interest as directed by

the Tribunal, running from the date of filing of the claim petition, within a period of two months.

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

9. The Appeal stands allowed with the above modification.

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

..... J.
(SUDHANSU DHULIA)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
MAY 07, 2025.