

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO..... OF 2025
(Arising out of SLP (C) No.22423 of 2024)

JAYANANDAN

...APPELLANT(S)

Versus

VARKEY & ORS.

...RESPONDENT(S)

O R D E R

Leave Granted.

2. This appeal is directed against the judgment and order dated 19th June, 2024 passed in MACA No.93/2019 by the High Court of Kerala at Ernakulam, which, in turn, was directed against Award dated 21st July, 2017 in O.P.(MV) No.1009/2007 of the Motor Accidents Claims Tribunal, Thrissur.

3. On 15th February, 2005, the claimant-appellant, who was a diamond cutter by profession, was travelling Eastbound through Kunnamkullam-Wadakkanchery when his motorcycle bearing registration No.KL-08-J-8556 collided with an auto rikshaw bearing No.KL-08-C-6658, due to the alleged rashness and negligence of the auto rikshaw driver.

He suffered grievous injuries and a case, FIR No.51/2005 under Section 279, 337 and 338 Indian Penal Code, 1860 was registered at P.S. Erumaetty, Thrissur. The claimant-appellant suffered a complete loss of vision in one eye.

4. The claimant-appellant filed a claim petition before the Learned Motor Accidents Claims Tribunal, Thrissur, seeking compensation to the tune of Rs.14,58,000/- . Vide Award dated 21st July 2017, taking the percentage of disability at 49%, total compensation awarded was Rs.8,70,000/- with 8% interest.

5. An appeal was preferred before the High Court, being dissatisfied with the amount so awarded. On the question of disability, the High Court observed that the computation of the same at 49% is unjustified since eyesight is directly relatable to being able to continue in his vocation of a diamond cutter. Hence, the same was recomputed at 65%. Compensation as on date of the impugned judgment can be summarised as follows :

Sr.No.	Head of claim	Amount awarded by Tribunal	Amount awarded by High Court
1	Loss of earning	60,000	60,000
2	Medical and Miscellaneous expenses	34,000	34,000
3	Personal attendants	5,000	5,000
4	Transportation expenses	6,000	6,000
5	Extra nourishment	2,500	2,500
6	Damage to clothing etc.	1,000	1,000
7	Pain and suffering	40,000	50,000
8	Compensation for permanent or continuing disability (Compensation for loss of earning in future)	6,61,500	8,19,000
9	Compensation for disfigurement	30,000	30,000
10	Shortened expectancy of life	-	-
11	Loss/reduction in earning capacity	-	-
12	Loss of amenities and conveniences etc.	30,000	50,000
13	Total	8,70,000	10,57,500

6. Further aggrieved by the compensation granted by the High Court, the claimant-appellant is before us. A perusal of the record, as also consideration of the argument advanced, reveals the following points of grievance : (a) percentage of disability; and (b) compensation under the head 'pain and suffering'.

7. We are inclined to agree with these points. The ascertainment of permanent disability, more specifically its effect on actual earning capacity has been discussed in Rajkumar Vs. Ajay Kumar (2011) 1 SCC 343. Reference has to be made to paras 13 and 19 of the said judgment. Keeping the same in view, let us proceed forward. Diamond cutting, as even the uninitiated can understand, is a task of immense skill which involves a great degree of precision and exactitude. The main process of cleaving and sawing clearly can be completed only when a person is able to see clearly, especially given the size of these precious stones. Seeing only with one eye, unquestionably makes it greatly difficult to effectively carry out these processes. 65% as functional disability, in our view, is yet again insufficient. Given the nature of the profession and the indispensability of the ability to see in carrying out the job required, we are of view that the facts and circumstances of the case warrant that disability of the claimant-appellant be taken as 100%.

8. On the aspect of pain and suffering, this Court recently in Civil Appeal No.12993 of 2024 titled K.S. Muralidhar v. R. Subbulakshmi delineated the concept. Pain and suffering is not only on account of physical pain but also suffering on account of what has been lost as a result of the accident - desire of economic betterment, social betterment, etc. Once a person is unable to partake in his profession of choice, for no fault of his all these desires are unceremoniously ground to a halt. Rs.50,000/- for a 39-year-old is a case of gross undervaluing the suffering of such a person. Having regard to the above factors, the compensation under this head is enhanced to Rs.1,50,000/-.

9. In conclusion, the compensation payable to the claimant-appellant is as under :

Sr.No.	Heads	As per law
1	Loss of earning	Rs.5,000 x 12 = Rs.60,000/-
2	Medical and misc. expenses	34,000/-
3	Disability (functional)	100%
4	Multiplier-age (39 years)	15
5	Loss of future prospects	40%

6	Loss of future earning capacity due to disability	$\text{Rs.}(5000+2000) \times 12 \times 15 \times 100\% = \text{Rs.}12,60,000/-$
7	Pain and suffering	Rs.1,50,000/-
8	Transport expenses	Rs.6,000
9	Diet, food, nourishment, attendant charge	Rs.7,500
10	Damage to clothing, etc.	Rs.1,000
11	Compensation for disfigurement	Rs.30,000
12	Loss of amenities and enjoyment of life	Rs.50,000
13	Total	Rs.15,98,000/-

10. The rate of interest, granted at 8% remains unchanged, payable from the claim petition. The appeal is allowed in the above terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KAROL)

.....J.
(MANMOHAN)

17th December, 2024;
New Delhi.

ITEM NO.37

COURT NO.17

SECTION XI-A

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).22423/2024

[Arising out of impugned final judgment and order dated 19-06-2024 in MACA No. 93/2019 passed by the High Court of Kerala at Ernakulam]

JAYANANDAN

PETITIONER(S)

VERSUS

VARKEY & ORS.

RESPONDENT(S)

(FOR ADMISSION)

Date : 17-12-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KAROL

HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) Mr. Tom Joseph, AOR

Mr. Patta Arun Kumar, Adv.

Mr. Kumar Gaurav, Adv.

For Respondent(s) Mr. S L Gupta, Adv.

Mr. Sanjeev Kumar Aggarwal, Adv.

Mr. Asutosh Sharma, Adv.

Mr. Rajesh Ranjan Prasad, Adv.

Mr. Mohit Kumar Gupta, Adv.

Mrs. Gunjan Sharma, Adv.

Mr. Sanjeev Kumar, AOR

Upon hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order, which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(D. NAVEEN)

COURT MASTER (SH)

(MATHEW ABRAHAM)

ASSISTANT REGISTRAR