

SUPREME COURT OF INDIA

Arun Kumar Jha

Vs.

Ranvir Singh

C.A.No.10880/2018

(Kurian Joseph,J., A.M.Khanwilkar and Dr.D.Y.Chandrachud,JJ.,)

01.11.2018

JUDGMENT

Kurian Joseph,J.,

SLP(C)No. 32552 of 2017

1. Leave granted.
2. Heard the learned counsel for the appellant and the learned counsel for the Insurance Company. There is no appearance for respondent No.1/owner.
3. This is a case where the appellant was denied the benefit of functional disability. In view of the judgment of this Court in *K. Janardhan v. United India Insurance Company Limited & Another*, reported in (2008) 8 SCC 518, the law is well settled that being a driver, in the nature of injury resulting in amputation of right leg below one third the thigh, there cannot be any dispute that there is 100% functional disability. The Commissioner, Workmen Compensation has granted compensation only to the NARI tune of Rs.3,87,187/- with penalty.
4. Learned counsel appearing for Respondent No.2/Insurance Company has vehemently contended that the benefit of the amendment introduced in the year 2009 cannot be extended to the appellant since the date of incident is prior to the amendment.
5. We are afraid that this contention cannot be appreciated since the position is covered against the respondents by a decision of this Court in *Kalema Tumba v. State of Maharashtra and Another*, reported in¹. Though the learned counsel for the appellant has pitched the claims to around Rs.20 Lacs including the penalty component and other aspects, having regard to the entire facts and circumstances of the case, we are of the view that this is a case where a further compensation of a lump sum amount of Rs.10 Lacs will be just, fair and proper. Ordered accordingly.

6. The respondent No.2/Insurance Company is directed to pay this amount of Rs.10 Lacs to the appellant, within a period of three months from today. In case, the said amount is not paid within three months from today, the appellant will be entitled to interest @ 12% per annum from the date of the accident.

7. The appeal is, accordingly, disposed of.

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

9. There shall be no orders as to costs.

Judgment Referred.

¹(1999) 8 SCC 0257