

## Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343

Motor Vehicles

Motor Vehicles Act, 1988

Ss. 166, 163-A and Sch. II - Permanent disability - Compensation - Award of - Assessment of loss of future earnings on account of permanent disability - Detailed principles for, laid down - Functional disability as operative criterion distinguished from physical disability - Disability certificate - Mode of assessment based upon - Types of disability, distinguished - Held, in disability certificate extent of disability of a limb (or part of the body) cannot be assumed to be extent of disability of whole body - Tribunal should not mechanically apply percentage of permanent physical disability as percentage of economic loss or loss of earning capacity, but must assess functional disability - Directions given to Tribunals in respect of procedure/steps to be followed in such cases, (2011) 1 SCC 343-A

Motor Vehicles

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Ss. 166, 163-A and Sch. II - Permanent disability - Compensation - Injured claimant, cheese vendor, sustaining fracture of both bones of left leg and fracture of left radius - Tribunal assuming 45% disability as shown in disability certificate as economic disability - In appeal, High Court rejected increase in compensation on ground that disability certificate was not reliable - Sustainability - Held, High Court ought not to have rejected disability certificate - Tribunal overlooked fact that disability certificate referred to 45% disability to left lower limb and not to functional disability of the body - Permanent functional disability of body assessed as 25%, loss of future earning capacity as 20% - In cases of injured claimant with a disability, no need to deduct one-third out of income towards personal and living expenses, (2011) 1 SCC 343-B

Motor Vehicles

Motor Vehicles Act, 1988

Ss. 166, 163-A and Sch. II - Permanent disability - Validity of disability certificate, (2011) 1 SCC 343-C

Motor Vehicles

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Ss. 166, 163-A and Sch. II - Permanent disability - Held, in cases of injured claimant with a disability, no need to deduct one-third out of income towards personal and living expenses, (2011) 1 SCC 343-D

Motor Vehicles

Motor Vehicles Act, 1988

Ss. 166, 163-A and Sch. II - Accident claims - Grant of compensation in - Basic law/Principles on which based on, restated - Duty to assess damages objectively and exclude from consideration any speculation or fancy, emphasised - Heads under which compensation awarded in personal injury cases, enumerated - Manner of assessment in cases of routine personal injury and serious injury, distinguished, (2011) 1 SCC 343-E

Motor Vehicles

Motor Vehicles Act, 1988

Ss. 166, 163-A and Sch. II - Compensation - Determination - Disability arising out of non-fatal accidents - Held, if quantum of loss of future earning claimed, falls under Sch. II, compensation to be determined on principles laid down in Note (5) of Sch. II, (2011) 1 SCC 343-F

Motor Vehicles

Motor Vehicles Act, 1988

Ss. 163-A, 166, 168 and 169 - Permanent disability - Assessment/Evaluation of extent of - Medical evidence - Necessity and importance of understanding of by Tribunal for assessing physical and functional disability, emphasised - Expert evidence - Reliance upon - Factors to be considered, (2011) 1 SCC 343-G

Motor Vehicles

Motor Vehicles Act, 1988

Ss. 166, 163-A and Sch. II - Compensation - Medical evidence - Difficulties faced by injured claimants in securing presence of surgeons and treating doctors for giving evidence - Suggested measures to facilitate/ensure availability of expert evidence - Held, efforts should be made to record evidence of treating doctors on commission, after ascertaining their convenient timings - Evidence of doctors attending Tribunal may be recorded without delay - Doctors may be given specific time for attending the Tribunal - Oral evidence may be dispensed with where certificates are not contested by respondents, (2011) 1 SCC 343-H