

**Union of India (Uoi) Vs. Ad-hoc Claims Commissioner and ors.**

**Union of India (Uoi) Vs. Ad-hoc Claims Commissioner and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/863907](http://sooperkanoon.com/863907)

**Court :** Kolkata

**Decided On :** Feb-25-1977

**Reported in :** AIR1977Cal393,(1977)1CompLJ456(Cal),81CWN649

**Judge :** Salil Kumar Datta and ;Ganendra Narayan Ray, JJ.

**Acts :** Railway Accidents (Compensation) Rules, 1950 - Rules 2, 6, 6(2), 6(3) and 6(4); ;Railway Accidents (Compensation) (Amendment) Rules, 1974; ;Railways Act, 1890 - Sections 82A, 82F(2) and 86; ;[Constitution of India](#) - Article 227

**Appeal No. :** Civil Rule Nos. 421, 693-694, 1053-56, 1059-60, 1305-9 and 1363-64 of 1976

**Appellant :** Union of India (Uoi)

**Respondent :** Ad-hoc Claims Commissioner and ors.

**Advocate for Def. :** Bikash Chandra Sen and ;B. Dutta, Advs., ;Jyotirmoyee Nag, Adv. (in C.R. Nos. 1307 and 693 of 1976), ;Paresh Nath Bhattacharya, ;Amal Chandra Roy, ;Dipankar Das Gupta, ;S.P. Sahay and ;H.D. Ghosh, Adv

**Advocate for Pet/Ap. :** Noni Coomer Chakraborti, ;R.N. Das and ;P.K. Ghosh, Advs.

**Judgement :**

**Salil Kumar Datta, J.**

1. A major train accident occurred on January 29, 1975 at Ultadanga Road Station by collision between two passenger trains. The accident was attended with loss of human life and grievous injury to passengers as also loss of property. The Railway Administration appointed an Ad-hoc Claims Commissioner (hereinafter referred as Claims Commissioner) for determination of claims for compensation made by the passengers for personal injury as also for loss of property on account of the accident. The Claims Commissioner held sittings when evidence was adduced by the victims in support of their respective cases in respect of the compensation payable by the Railway for injury to person and loss of property caused by the accident. The Claims Commissioner determined the compensation payable by the Railway Administration to the passengers before him on account of personal injury suffered by them as also for loss of goods. The Railway Administration was dissatisfied with the determination of such compensation which according to the Railway was not authorised by the provisions of the Indian Railways Act, 1890 and the Rules made thereunder. Accordingly the Union of India moved this Court by applications under Article 227 of the Constitution against the several orders for compensation and the Rules before us were issued on those applications for appropriate orders and directions. The Rules involving common questions of law and similar questions of facts have been heard before us together and will be governed by this judgment.

2. The liability of railway administration in respect of accidents to trains carrying passengers is provided in Sections 82A to 82J of the Indian Railways Act, 1890, Section 82-A provides in Sub-section (1) that the Railway Administration shall be liable to pay compensation for death and for personal injury and loss of accompanying goods owned by the passenger sustained as a result of such accident. Sub-section (2) provides that the liability of the Railway administration shall in no case exceed rupees fifty thousand in respect of any one person. Section 82-B provides for appointment of a Claims Commissioner for local area. The applications for compensation have been provided in Section 82-C including claims for interim relief. Section 82-D provided for procedure and powers of the Claims Commissioner who shall have the powers of the Civil Court for enforcing attendance of witnesses and production of documents and material objects and also power to appoint persons possessing special knowledge to assist him in

holding the inquiry. Section 82-E provides for interim compensation as may be deemed reasonable by the Claims Commissioner. The Claims Commissioner under Sub-section (1) to Section 82-F is to determine the liability of the railways to pay compensation under Section 82-A and the amount and person to whom such compensation would be payable. Subsection (2) provides for appeal to the High Court by the persons aggrieved against the decision of the Claims Commissioner but High Court shall not be authorised to grant compensation in excess of limit specified in Section 82-A.

3. Section 82-G lays down the procedure for recovering and payment of compensation. Section 82-H provides that the right of any person to claim compensation under Section 82-A shall not affect his right to compensation under any other law for the time being in force but no person shall be entitled to claim compensation more than once in respect of the same accident. Section 82-H provides for interim relief by railway administration while Section 82-I is a bar to legal proceedings against any person for anything done in good faith under the foregoing sections. Section 82-J provides for power to make rules by the Central Government to carry out the objects of Sections 82-A to 82-H inclusive.

4. The Central Government in pursuance thereof framed Rules called Railway Accidents (Compensation) Rules, 1950. We are concerned in these causes with Part III thereof which provides for rates for compensation in Rules 6 and 7 and the Schedule thereof. The said Rules prior to subsequent amendment mentioned hereinafter were as follows:--

'Rule 6. (1) The amount of compensation payable in respect of death or for injuries causing partial disablement or total disablement shall be at the rates set out in the schedule:

Provided that where more than one injury is caused by the same accident compensation shall be payable in respect of each injury but so that the aggregate amount of compensation does not exceed the amount which would have been payable if a total disablement had resulted from such injuries:

Provided further that where compensation has been paid for any injury which is less than the amount which would have been payable as compensation if the injured person had died and that person subsequently dies as a result of injury, a further compensation equal to the difference between the amount payable and that already paid shall become payable.

(2) In case of partial disablement arising out of an injury not specified in Part II of the Schedule such percentage of compensation payable in the case of a total disablement as is proportionate to the loss of earning capacity permanently caused by the injury shall be payable.

(3) The amount of compensation payable in respect of injuries causing temporary disablement total or partial or of injuries resulting in pain and suffering without causing any disablement, shall be such as the Claims Commissioner may, in all the circumstances of the case, determine to be reasonable:

Provided that such compensation shall in no case exceed  $\frac{3}{5}$  of the amount prescribed for total disablement in Part I of the Schedule.

Rule 7. Compensation for loss of goods and animals: Compensation for loss, destruction or deterioration of goods or animals shall be paid to such extent as the Commissioner in the circumstances deems reasonable, provided that such compensation together with any compensation payable for personal injury shall not, in respect of any one person, exceed the limit specified in Sub-section (2) of Section 82-A.'

5. In the schedule there are two parts, Part I provided for compensation for death or total disablement and such compensation was linked with monthly income of the injured person. Part II provided for partial disablement and loss of limb or member or complete loss of use thereof at specified percentage of the amount of compensation payable for total disablement ranging from 70% for loss of right arm above at the elbow to 5% for loss of a finger other than index finger.

6. By the Railway Accidents (Compensation) Amendment Rules, 1974 which is to be deemed to have come into force on the 14th day of December, 1973, amongst

others old Rules 6 and 7 and the Schedule thereunder were substituted by new Rules 6 and 7 and new Schedule. They are: --

'6. Amount of compensation:-- (1) The amount of compensation payable in respect of death or injuries shall be as specified in the Schedule.

(2) The amount of compensation payable for an injury not specified in Part II of the Schedule but which in the opinion of the Claims Commissioner, is such as to deprive a person of all capacity to do any work, shall be rupees fifty thousand.

(3) The amount of compensation payable in respect of any injury other than an injury specified in the schedule or referred to in Sub-rule (2) resulting in pain and suffering shall be such as the Claims Commissioner may, in all the circumstances of the case, determine to be reasonable. Provided that such compensation shall in no case exceed rupees ten thousand.

(4) Where more than one injury is caused by the same accident, compensation shall be payable in respect of each injury;

Provided that where compensation has been paid for injury which is less than the amount which would have been payable as compensation if the injured person had died and the person subsequently dies as a result of the injury, a further compensation equal to the difference between the amount payable for death and that already paid shall become payable.

(5) Compensation for loss, destruction or deterioration of goods or animals shall be paid to such extent as the Commissioner may, in all the circumstances of the case, determine to be reasonable,' The new Schedule consists of three parts, Part I is for death, the amount of compensation being Rs. 50,000. Part II is practically for loss of vital limbs, members or organ or severe facial disfigurement the amount of compensation being Rs. 50,000. Part III is for loss of limbs or members, or organs as specified in seriatim thereof with compensation for specific amount against loss of such limb or member, instead of a specific percentage of the amount of compensation payable for total disablement as in the schedule of the previous rules.

7. It may further be mentioned that Sub-clause (e) of Clause (2) was omitted under the new rules. The Sub-clause (e) was as follows:--

'2.....(e) 'Partial disablement' and 'total disablement' have the meaning respectively assigned to them in the Workmen's Compensation Act, 1923 (VII of 1923).'

8. The explanatory memorandum to the Amendment Rules, 1974 states that the amendments are intended to bring the original Rules in line with the provisions of new Section 82-A of the principal Act. This new section increases the liability of the railway administration in respect of accidents to trains carrying passengers for the benefit of victims.

9. The Claims Commissioner in determining the compensation in the cases before us has proceeded on his finding that the claimants were bona fide passengers in one of the passenger trains involved in the accident, in considering the cases of the victims the Claims Commissioner found in individual cases that permanent partial disability in respect of the injuries sustained by the victim was a percentage of his capacity to do his work which is interpreted vocational or occupational work. Accordingly under Rule 6 (2) such percentage of Rs. 50,000 is the amount which is the compensation thus determined the said opposite party is entitled to get from the Railways.

10. We may at once say that the learned Claims Commissioner was entirely wrong in determining compensation as being payable under and on basis of Rule 6 (2) in case other than death and complete incapacity to do any work. This sub-rule applies when the amount of injury is not specified in Part II of the Schedule but at the same time deprives a person of all capacity to do any work and 'work' obviously means vocational or occupational work. This sub-clause applies when the injury is not specified in Part II of the Schedule but at the same time the injury deprives a person of all capacity to do any work. This sub-rule has in our opinion, no application where there is permanent partial disablement caused by the injury of the accident, as such injury does not deprive a person of all capacity to do any work.

11. The Claims Commissioner however has determined the compensation on an alternative basis under Sub-rules (3) and (4) of Rule 6. The contention of the Railways that Rs. 10,000 is payable for the sum total of the pain and suffering of all injuries under that sub-rule was not accepted by the Claims Commissioner. He referred to Sub-rule (4), which according to him would be not there nor necessary if the sum total of injuries was to be Rs. 10,000 and there was no reason to confine the said Sub-clause (4) to injuries mentioned in the schedule. The Claims Commissioner accordingly determined the compensation taking into consideration the pain and suffering caused by each injury ensuring at the same time that compensation of each injury does not exceed Rs. 10,000 as provided in Rule 6 (3) subject to the maximum of Rs. 50,000.

12. The conclusion on the interpretation of Sub-rule (3) of Rule .6 has been really the only substantial challenge before us. It has been contended by Mr. Das appearing for the Union of India that Sub-rule (3) contemplates pain and suffering for all injuries together not mentioned in Part III of the schedule the maximum compensation being Rs. 10,000 as provided therein. The basis of calculation of compensation on basis of partial or total disablement as contained in Part II of the original schedule had been removed from the schedule of the amended rules and the words are no longer there by omission of original Sub-rule (e) of Rule 2 of the original Rules. Instead by the amendment rules in Part III of the schedule specific amount of compensation has been provided for loss of a limb or member. When injury does not relate to loss of limb or member as mentioned in the schedule, the only basis of calculation is in Sub-rule (3) of Rule 6. This rule states, it is submitted that for the pain and suffering resulting from all injuries of the accident the compensation is Rs. 10,000. This compensation is for the sum total for the pain and suffering and the cumulative effect thereof undergone by the victim for all injuries to which he may be subject on account of the accident, and it is not possible to divide or demarcate the pain and suffering for separata injuries so sustained as pain and suffering is one integrated feeling. Further the sub-rule expressly mentions that compensation shall be such as the Claims Commissioner may, in all circumstances of the case, determine to be reasonable provided that such compensation shall never exceed Re. 10,000. These provisions, it is further submitted, clearly indicate that the compensation will never be in excess of Rs.

10,000 in respect of the pain and suffering from all injuries not included in Parts II and III of the schedule. It was further submitted that Sub-rule (4) has no application to injuries under Sub-rule (3) and in fact all the sub-rules at Rule 6 are independent. The words 'any injury' in Sub-rule (3) should be construed to mean all injuries not included in the schedule suffered by the victim for which a total sum of Ra 10,000 will be available for compensation. Accordingly Mr. Das submitted that the determination of compensation separately for each non-schedule injury as also the pain and suffering therefrom is an erroneous decision not warranted by law and as such beyond the jurisdiction of the Claims Commissioner to order. Accordingly such orders should be set aside.

13. The contention that the deletion of the basis of determination of compensation in lines similar to that of the Workmen's Compensation Act as in the original rules does not stand scrutiny. What the amended rules have introduced is a scale of compensation for the loss of a limb or member, assuming the total deprivation of all capacity for work at Rs. 50,000 for a victim instead of linking it with the income which the victim might be earning at the material time. The scale again provides for fixed amount for loss of limb, member or organ according to the importance of such limb, member or organ with reference to human activity in connection with man's vocational work. There is really no departure from the basis of calculation as in the Workmen's Compensation Act except that instead of the total permanent disability being linked with the victim's income, it is now assumed at Rs. 50,000 and specified amounts have been prescribed practically calculated on the same percentage basis though in greater details in respect of the loss of such limb or member.

14. For a non-schedule injury, which results in pain and suffering, under the said Sub-rule (3) of Rule 6 the compensation will be such as the Claims Commissioner may, in all circumstances of the case determine reasonable subject to the condition that such compensation in no case shall exceed Rs. 10,000. The discretion undoubtedly will be judicial one but has to be exercised with reference to all circumstances including temporary or permanent disability with reference to the vocational work of the victim resulting in loss of income or earning capacity either temporarily or permanently as also the pain and suffering thereby caused to

such victim. While the temporary disablement caused by an injury may have reference to loss of actual income, the permanent disablement of any limb or member or loss of its use from injury will be the percentage of loss of earning capacity calculated on the basis of Rupees 50,000 being the amount of loss for 100% disability. It cannot therefore be said that the principles of payment as provided in the Workmen's Compensation Act have been given up, as otherwise, there will be no guideline for determining reasonable compensation for injury not included in the schedule which results in pain and suffering. We may at this stage point out a lacuna in the amendment rules. In the original schedule, the complete and permanent loss of use of a limb or member was equated with the loss of that limb or member, as in the Workmen's Compensation Act in force which is omitted in the amended rules. This is an unfortunate omission which undoubtedly will cause serious hardship in many cases. For instance the compensation provided say for complete and permanent use of by both hands according to Sub-rule (3) of Rule 6 will be a maximum of Rs. 10,000 for each hand in all Rs. 20,000 assuming till now that in the said sub-clause the maximum provided is Rupees 10,000 for each injury, while according to Part III of the schedule of the original rules it would be Rs. 30,000 for loss of each hand subject however to the maximum of Rs. 50,000. This inequitable omission should be remedied and loss of a limb or member should be equated to loss of use of that limb or member.

15. According to Mr. Das the maximum compensation of Rs. 10,000 for pain and suffering resulting from all non-schedule injuries is based on sound reason as the pain and suffering for each injury are not divisible and must obviously be one integrated whole, whether the injuries are more than one or not as their cumulative effect. This contention, overlooks that the compensation is not payable for merely for pain or suffering but for personal injury only which results in pain and suffering. It may be that in determining compensation, the Claims Commissioner will have to take into consideration all circumstances including pain and suffering from respective injury, but unless there is a personal injury no compensation is payable under Section 82-A of the Railways Act and the Railway Accidents (Compensation) Rules, 1950 as amended. We are not concerned for mere pain and suffering undergone by the victim on account of the accident without any

personal injury though such compensation for such pain and suffering may be available under the general law. Further, different injuries may cause different type of pain and suffering and such pain and suffering may separately and individually be felt and suffered even apart from the cumulative effect of pain and suffering from all injuries together. We are accordingly unable to accept the contention so strongly urged by Mr. Das as practically the foundation of his contention.

16. Mr. Das's next contention is that the word 'any' before injury in Sub-rule (3) of Rule 6 should be read as 'all' so that for all injuries suffered by the victim the compensation will be as may be determined by the Claims Commissioner as reasonable not exceeding Rs. 10,000. This contention is supported according to him, by the further provision that the Commissioner may determine the amount of compensation in all the circumstances of the case as reasonable. There is no dispute that in appropriate case, the courts have interpreted the word 'any' as 'all' but where the provisions are clear and free from ambiguity it is not permissible to read in statute what is not there. In this clause 'any injury' is being referred in the same clause as 'other than an injury specified in the schedule or referred to in Sub-rule, (2)'. This clear provision militates against the contention that 'any' should be read as 'all'. Further, the condition is that in determining the reasonable compensation the Claims Commissioner is to have regard to all circumstances of the case. This means that all circumstances in respect of each injury are to be taken into account and not that all circumstances on all injuries together are to be taken into account. Such interpretation as suggested will be in violation of the plain reading of the section. Further if there is a loss of use of a limb or member or more by the injuries of the accident, this interpretation of maximum compensation of Rs. 10,000 will lead to further inequity and hardship. That the interpretation suggested by Mr. Das is also not borne out by Sub-rule (4) which provides that compensation shall be payable for each injury. Mr. Das's contention that all Sub-rules are independent and this sub-rule has no application to Sub-rule (3) is not acceptable. This Sub-rule (4) is placed immediately after Sub-rule (3) and there is no prohibition providing for its non-application to Sub-rule (3) nor does the working of the sub-rule indicate its non-application to Sub-rule (3). It also cannot be urged that in Sub-rule (4) the injuries therein mentioned are confined to schedule injuries in absence of any such provision.

17. For all these reasons we are unable to accept the contentions made on behalf of the Union of India limiting compensation under Sub-rule (3) of Rule 6 to all injuries together as may be suffered by the victims of the accident. We hold on an interpretation of the compensation rules that the compensation not exceeding Rs. 10,000 under Sub-rule (3) of Rule 6 relates to each injury resulting in pain and suffering which a victim of the accident sustains on account thereof, subject to the maximum overall statutory limit of Rs. 50,000 for all injuries so suffered. Further in determining the compensation, the Claims Commissioner will take into account all circumstances including the loss of income or earning capacity of the victim as also the pain and suffering endured by him on account thereof as may be deemed reasonable.

18. Mr. Das has also contended that in all cases there was no direction by the Claims Commissioner (or compulsory medical examination of the persons injured by an accident as provided in Section 86. Thereby the several determinations of compensation which were based only on medical reports were contrary to law. On a perusal of Section 86 it appears to us that the Section is not mandatory and is merely directory. The provision that the authority may order that a victim may be examined by qualified medical practitioner is not essential condition for determining compensation and absence of such examination will not render the decision nugatory. We also do not find from the records of the cases that any application was made for any appointment in due time and at least no such appointment was prayed for till after the trial commenced. The prayer for such appointment was accordingly rightly rejected.

19. A preliminary objection has also to be considered. It is said that an appeal has been provided against the determination of the Claims Commissioner under Section 82-F (2) of the Act and accordingly the application under Section 227 is not maintainable. Without entering into the controversy that the right of appeal conferred on a 'person' is available to the Union of India, the orders of the Claims Commissioner were impugned on the ground that the compensation was determined in manner not authorised or warranted by the relevant law and accordingly such determination was without jurisdiction. In view of the challenge to determination of compensation as being without jurisdiction we think that the

applications under Article 227 are maintainable in law. We have further held in C. R. No. 954 of 1972, State of West Bengal v. Jyotsna Bhowmik dated February 8, 1977 : (reported in) : AIR1977 Cal158 that the amendment made by the Constitution (42nd Amendment) Act, 1976 to Article 227 does not affect pending proceedings.

20. On the basis of the conclusion we have arrived at in regard to the interpretation of the relevant sections and the rules, we shall consider the individual cases.

21. In Civil Revision No. 1305 of 1976 the Claims Commissioner has determined Rs. 10,000 each for the pain and suffering caused by two major injuries -- fracture in right wrist and injury on the left knee joint under Sub-rules (3) and (4) of Rule 6 and Rs. 200 for loss of goods in all Rs. 20,200. The Claims Commissioner found the said compensation reasonable and acting under Article 227 we do not find any scope or reason for interference as the decision suffers from no legal infirmity in exercise of jurisdiction. The Rule is accordingly discharged. There will be no order as to costs. We however set aside the compensation determined under Rule 6 (2) as the said sub-rule is not applicable to the case.

22. In Civil Revision No. 1306 of 1976, the Claims Commissioner has determined for pain and suffering for each injury suffered to the total sum of Rs. 20,000, Rs. 8,000 on account of two fractures of the bridge of the nose and left ankle and Rs. 4,000 in respect of multiple injuries on the face and Rs. 200 was awarded for loss of goods in all Rs. 20,200. For the reasons already indicated we decline to interfere with the impugned order. The Rule is accordingly discharged. There will be no order as to costs. We however set aside the determination made by the Claims Commissioner under Rule 6 (2) as the said Rule is not applicable.

23. In Civil Revision No. 1307 of 1976 the Claims Commissioner has found that the petitioner has been deprived of all capacity for work (word 'work' being rightly interpreted as occupational work) and the compensation was determined as Rs. 50,000 under Rule 6 (2). In view of the above finding we decline to interfere with the above impugned order. The Rule is accordingly discharged. There will be no order for costs. We may add here that the determination of the compensation was

also made on the alternative basis under Sub-rules (3) and (4) and we also do not feel necessary to interfere with such determination as well.

24. In C. R. 1308 of 1976 the Claims Commissioner has determined compensation for pain and suffering caused by the fractures of six ribs and the rate of Rs. 4,166 for each fracture, in all for Rupees 25,000 under Sub-rules (3) and (4) of Rule 6 and Rs. 200 for goods lost. For the reasons stated earlier we decline to interfere with the determination of the Claims Commissioner and the Rule is discharged. There will be no order as to costs. We however set aside the determination made by the Commissioner under Rule 6 (2) on the alternative basis which we have already indicated has no application.

25. In C. R. 1309 of 1976 the Claims Commissioner has determined as reasonable compensation for the pain and suffering endured by the petitioner on account of three major injuries at the rate of Rs. 10,000 for each injury. Two major injuries are one fracture of right forearm and another of both bones of the left leg and also severe injury on chest causing severe pain which was continuing even on the date of trial. For reasons already indicated, we decline to interfere with the order and discharge the Rule. There will be no order as to costs. We however set aside determination made by the Commissioner on the alternative basis under Rule 6 (2) which has no application.

26. In C. R. 693 of 1976 the Claims Commissioner found that the petitioner was incapable to do any work by reason of the compound fracture of the left leg on the knee joint and also ankle and the union has resulted in a mal-union with consequent loss of normal capacity to stand up or walk whereby the petitioner has become completely crippled. It was further found that due to his physical and mental condition the petitioner was incapable to do any work and accordingly compensation was determined at Rs. 50,000. We find no jurisdictional error or infirmity in the decision in determining the compensation under Rule 6 (2) of the Rules. The Rule is accordingly discharged. We also sustained the determination made on the alternative basis under Rule 6 (3) and (4) in respect of several injuries as indicated therein in the circumstances of the case. There will be no order as to costs.

27. In C. R. 694 of 1976 there was amputation of the left leg below knee with stump exceeding 3 1/2' but below 5' and by reason of the internal injury of spine, chest and right leg as also the leg injury, the petitioner, according to the Commissioner has been deprived of all her capacity to do any work. The compensation was accordingly determined at Rs. 50,000 under Rule 6 (2). We do not find any jurisdictional error or infirmity in the aforesaid order. The Rule is accordingly discharged. There will be no order as to costs.

28. In C. R. 1363 of 1976 the Commissioner found that under Rule 6 (2), the petitioner was entitled to 40% of his earning capacity on Rs. 50,000 and on that basis he has awarded Rs. 20,000. We do not find that this Rule is applicable and we do not sustain the compensation founded on the above Rule. The Commissioner however has found alternatively that the petitioner is entitled to compensation under Rule 6 (3) and (4) for three major injuries, viz., (1) fracture of right pelvis, (2) Osteo arthritis of the lumber spine and (3) Osteo arthritis of left knee with pain and suffering caused on account of the above injuries. The Commissioner has awarded Rs. 10,000 for injury No. 1 and Rs. 5,000 each for injuries Nos. 2 and 3; in all Rs. 20,000. Further, a sum of Rs. 31 has been awarded for loss of articles. We do not find any jurisdictional infirmity in the above order of determination under Rule 6 (3) and (4). The Rule is accordingly discharged. There will be no order as to costs.

29. In C. R. 1364 of 1976 the Commissioner has determined compensation under Rule 6 (2) which we have already indicated has no application. The Commissioner has determined compensation on the alternative basis under Rule 6 (3) and (4) for fracture of (1) right clavicle and (2) of right ankle besides hurt and multiple injuries. He has awarded Rs. 10,000 each for the pain and suffering caused thereby. We do not find any jurisdictional infirmity in respect of the said determination. The Rule is accordingly discharged. There will be no order as to costs.

30. In respect of C. R. 1053 of 1976 the Commissioner has awarded Rs. 25,000 less paid Rs. 1000 under Section 82-HH. The Commissioner found that there were two double fractures in the left leg for which he awarded Rs. 10,000 each and for the lumbo-sacral spinal injury he awarded Rs. 5,000, in all taking into account

Rupees 1,000 paid already Rs. 24,000. We do not find any jurisdictional infirmity in respect of this determination made under Rule 6 (3) and (4). We however set aside the determination made under Rule 6 (2) as the said Rule has no application. The Rule is discharged. There will be no order as to costs.

31. In C. R. 1054 of 1976 the Commissioner has awarded Rs. 10,000 for the pain and sufferings caused by the major injuries for (1) contusion of lower 1/3 rd of right thigh and knee joint he has determined compensation at Rs. 10,000 and together for (2) abrasion over right elbow and (3) tenderness of left upper part of tibia with abrasion he has awarded Rs. 10,000. We do not find any jurisdictional infirmity in the determination made under Rule 6 (3) and (4). We however set aside the determination made under Rule 6 (2) in the alternative which has no application. The Rule is discharged. There will be no order as to costs.

32. In C. R. 1055 of 1976 the Commissioner has found that the petitioner on account of injuries has been completely disabled from doing any work and he has awarded Rs. 50,000 under Rule 6 (2). He has also awarded on the alternative basis under Rule 6 (3) and (4) in all a sum of Rs. 50,000 for each of several injuries. The petitioner was paid Rs. 1000. Accordingly the amount payable has been determined at Rs 49,000. We find no jurisdictional infirmity in the order and accordingly discharge the Rule. There will be no order as to costs.

33. In C. R. 1056 of 1976 the Commissioner has found six injuries which are fracture of six ribs and he has determined the compensation for the injuries at the rate of Rs. 2,850 and the pain and suffering therefrom also Rs. 2,850 in all Rs. 20,000 under Rule 6 (3) and 6 (4). We do not find any jurisdictional infirmity in such determination. The Rule is accordingly discharged. There will be no order as to costs. We however set aside the determination made under Rule 6 (2) which according to us has no application.

34. In C. R. 1059 of 1976 there were fracture of cervical 4th vertebra in respect of which under Rule 6 (3) compensation of Rs. 10,000 was determined. There are other multiple injuries, abrasion on upper surface of right foot, tenderness of both sides of neck and contusion of neck, multiple pain and suffering and for all these multiple injuries and the pain and suffering therefrom the Commissioner has

awarded Rs. 10,000. A sum of Rupees 20,000 has been determined in respect thereof with Rs. 200 for loss of goods, in all Rs. 20,200. We do not find any jurisdictional infirmity in the above determination. The Rule is accordingly discharged. There will be no order as to costs.

35. In C. R. 1060 of 1976 the Commissioner has determined the pain and suffering caused by the injury on right finger (which has been deformed) at Rupees 10,000 and he has also determined the compensation for the injury to chest and ribs at Rs. 8,000 in all Rs. 18,000 under Rule 6 (3) and (4). We do not find any jurisdictional infirmity in the above order and accordingly discharge the Rule. There will be no order as to costs.

36. In C. R. 421 of 1976 the Commissioner has determined the compensation at the rate of Rs. 10,000 each for (1) multiple abrasions over the left thigh, (2) abrasions on the shinbone and (3) for abrasion on the forehead and eyebrow leading to deterioration of eye sight, in all Rs. 30,000 together with Rs. 100 for loss of goods. The compensation in respect of injuries has been determined under Rule 6 (3) and (4). We do not find any jurisdictional infirmity in respect of the said order. The Rule is accordingly discharged. There will be no order as to costs.

37. Mr. Das has prayed for stay of operation of the order. We are not inclined to grant any stay in respect of persons involving total disablement There will be no stay in respect of the Civil Rules Nos. 1307 of 1976, 693 of 1976. 694 of 1976, 1055 of 1976. We however grant stay of operation of the order in respect of the other cases for a period of four weeks.

**G.N. Ray, J.**

38. I agree.