



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2851-2005(O&M)
Reserved on: 20.12.2024
Pronounced on:14.02.2025

Gagandeep @ Monti

. . . . Appellant

Vs.

Sukhbir Singh and others

. . . . Respondents

CORAM: HON’BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Ashwani Arora, Advocate for the appellant.

Mr. Om Pal Sharma, Advocate
For respondent No.3/National Insurance Company Ltd.

SANJAY VASHISTH, J.

1. This case is a *locus classicus* wherein the injured-victim has been deprived of just compensation for more than two decades (a total of more than 24 years), awarding of which is the primary objective of the Motor Vehicles Act, 1988. Unfortunately, responsibility for such a delay cannot be fixed on anyone except our system, which requires introspection and self- assesment, to equip itself for making an early decision, especially in the cases which involves painful or sensitive subject matter.



2. Appellant-Gagandeep @ Monti (hereinafter referred to as 'claimant') was 16 years old on the worst day of his life i.e. on 18.06.2000, when he was hit by the driver of an offending truck bearing HR-37-A-0921, namely, Sukhbir Singh (respondent No.1), who was driving in a grossly rash and negligent manner. Respondent No.2-Subhash Kumar was the owner of the vehicle and respondent No.3 is the Insurance Company with which the said truck was insured. Though not much needs to be discussed but starting with summarized facts may help in advancing justice by taking a compassionate view while awarding the adequate and just amount of compensation, thus, the same are discussed hereinafter in brief.

3. On 18.06.2000, claimant- Gagandeep @ Monti was going from Chandigarh to Dadu Majra on a cycle that was being paddled by one Ajay and when they reached in front of CTU Workshop, a truck bearing Registration No.HR-37-A-0921 (hereinafter referred to as 'offending vehicle') came at a fast speed from the opposite direction and while coming from the wrong side, struck against the cycle. As a result, both the cycle riders fell and the claimant sustained serious injuries, whereafter he was removed to the hospital. Respondents No. 1 and 2 neither appeared before this Court at the time of hearing of the appeal; nor represented themselves before the Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'learned Tribunal')

4. In the written statement filed by the Insurance Company, material averments raised through the claim petition were denied, and it was pleaded that the driver of the offending vehicle did not have a valid Driving License at



the time of accident. Thus, an attempt was made to escape from its liability to compensate the claimant.

5. After the pleadings of the parties, learned tribunal framed following issues:

"1. Whether the claimant sustained fracture and other multiple injuries in a motor vehicular accident which took place due to the rash and negligent driving of respondent No.1 while he was driving truck No. HR-37-A-0921. If so, its effect? OPP

2.If issue No.1 is proved to what amount of compensation, the claimant is entitled and from whom of the respondents? OPP

3. Whether respondent No.1 was not having valid driving license. If so, its effect? OPR.

4. Relief."

6. In order to prove his case, the claimant examined total five witnesses, which are as follows:-

(i) PW1 - Gagandeep @ Monti (claimant himself), who proved facts narrated in the pleadings and produced the original medical bills as Ex. P1 to Ex. P7 and also stated about the amount spent by him during the treatment. He also deposed that his left foot was crushed and amputated and that he is unable to pass his urine. Further stated that he was unmarried at the time of the accident and was a student. Also stated that after the accident, he was unable to lead normal life and had to discontinue his studies. The discharge cards Ex. P8 to P-12 were also produced.

(ii) PW2 - Dr. A.K. Manda, Department of Neurology, PGI, Chandigarh, appeared and stated that the injured had suffered multiple long bone



fractures alongwith injury to his intestine, anal canal and injury to his urinary bladder. It was also stated that despite undergoing one operation, injured is further required to undergo 2/3 operations.

(iii) PW3- Dr. Som Shekhar, Surgery Department, PGI, Chandigarh, appeared and stated from his record that the injured had suffered a fracture in his left clavicle, fractured pelvis, ruptured bladder, laceration of the rectum, and crush injury in left leg. He remained admitted in the Surgery department (General Surgery) from 18.06.2000 to 29.06.2000 and was operated upon by three specialists i.e. General Surgery, Orthopedic and Neurology. Further stated that left leg of the injured was amputated below the knee and also opined that the injured may be required to pass stool through the colostomy for life.

(iv) PW4 - Dr. Vikas Gupta, General Surgery, PGI, Chandigarh, produced the summoned record apart stating about admission in hospital. He has stated about the fracture of pelvis and rupture of Urethra with perineal and rectal injury with crush injury left foot for which injured had to undergo Lapatomy with the sigmoid loop colostomy with suprapubic cystectomy with rectal packing with left lower limb below knee amputation. Also stated the need for a second surgery.

(v) PW5-Dr. Sanjay, PGI, Chandigarh, appeared and corroborated the statements of other doctors and also confirmed that the injured would require another surgery.



7. The statements of complainant-witnesses were recorded by learned Tribunal from 21.11.2001 to 24.09.2003 and the other documentary evidences i.e. follow-up cards-Ex. 13, Ex. P14 and Ex. P15; Discharge summary-Ex.P-16; Disability Certificate-Ex.P17; Medical Bills of Rs.28,869 (Ex.P18) and Copy of FIR-Ex. P-19 were also produced by the claimant. The Insurance Company tendered the Insurance Policy as Ex. R1.

8. Under issue No.1, learned Tribunal held in specific that the accident took place due to rash and negligent driving of respondent No.1, and said finding has attained finality, as there is no further appeal by any of the respondents. Therefore, only issue before this Court in present appeal is about the grant of adequate and just compensation. Learned Tribunal considered the complete medical evidence by taking the age of the claimant as 17 years and normal life expectancy of a person as 65 years. By considering the medical bills, it awarded Rs. 52,000/- (round figure) on account of medical expenses.

9. On the basis of the statements of the doctors and the disability certificate, total permanent disability of the claimant towards whole body was considered as 86% and a consolidated amount of Rs. 4,50,000/- was awarded on account of permanent disability, loss of enjoyment, and future prospects.

10. For future treatment, compensation of an amount of Rs. 85,000/- was assessed including the medicines, operations, and special diet etc. For pain and suffering, an amount of Rs.75,000/-, and by applying guesswork on account of loss of expectation of life, attendant's help, expenses to be incurred



on account of transportation to the hospital and other places, a lump sum amount of Rs. 1 lac. was awarded to the claimant.

11. Thus, learned Tribunal concluded that the injured is entitled to receive total compensation of Rs.7,62,000/- alongwith interest @ 9% per annum from the date of filing of the petition till its realization vide its award dated 03.09.2004.

This is how after being dissatisfied with the findings recorded by learned Tribunal, the claimant filed present appeal before this Court which was admitted on 30.08.2005 and since then, no decision has been taken by this Court on one pretext or the other. In between, the matter was referred to the Lok Adalat also but despite making best of the efforts, compromise could not be arrived probably because the Insurance Company might not have agreed upon the amount proposed by the claimant. Another fact born out from the file is that at one point in time, the record was burnt and then the file was reconstructed.

12. It is during the pendency of the appeal that on moving of an application by claimant i.e. CM-25496-CII of 2018 for directing the medical Superintendent of PGI, Chandigarh to reassess the permanent disability of the claimant and to issue the disability certificate afresh, vide order dated 10.11.2022, Medical Superintendent of PGI Chandigarh was directed to get the claimant examined by the Competent Medical Board for reassessment of his permanent disability, as per the prescribed procedure and to get the certificate issued in respect thereof. The application was adjourned to await



compliance report. The compliance report was awaited on several occasions and it appears that on receipt of it, copy of disability report as submitted by the Board of Directors of PGIMER, Chandigarh was taken on record and the application moved by the claimant for leading additional evidence was allowed. Vide order dated 18.01.2024, the Motor Accident Claims Tribunal was directed to prepare a report within four months.

13. In the application for additional evidence, direction was given to learned Tribunal to afford 'two effective' opportunities to the claimant as well as to the Insurance Company for the purpose of leading additional evidence. Thereafter, appeal was adjourned *sine die* on 18.01.2024.

14. After recording the medical evidence of the concerned doctors, who appeared before Tribunal as PW6 to PW9, learned Tribunal submitted its report to this Court vide letter No. Ahl/D&SJ, Chd 8 Dated 16.04.2024. The aforesaid report alongwith additional evidence in the shape of statement of PW-6 Dr. Amrendra Pathak, Consultant, Urologist, Sir Ganga Ram Hospital, New Delhi; Statement of PW7- Dr. Divya Dahia, Member of Medical Disability Board, Department of General Surgery, PGI, Chandigarh; PW-8 Shri Sanjay Kumar, Senior Technician, Deep Artificial Limb Centre and PW-9, Dr. Shiva Kumar, Senior Resident, Department of Urology, PGI, Chandigarh, are taken on record. Tendered documents in evidence by claimant i.e. medical bills Ex. P31 to Ex. P161 are also taken on record.



15. Now for the purpose of deciding the adequate and just compensation amount, counsel for the claimant referred to the statements of the doctors, which are there on record as additional evidence.

16. Learned counsel for the appellant submits that learned Tribunal has awarded a very meager amount of compensation and the same requires to be enhanced many times, after examining the now led medical evidence before the Tribunal as additional evidence.

Learned counsel for the appellant relies upon the following judgments of the Hon'ble Supreme Court as well as of this Court:

(i) Kajal Vs. Jagdish Chand and others, 2020(2) RCR(Civil) 27; LawFinder Doc ID #1679623;

(ii) G. Ravindranath Vs. E. Srinivas and another, 2013(3) RCR(Civil) 934; LawFinder Doc ID #470316;

(iii) Sri. Benson George Vs. Reliance General Insurance Ct. Ltd. and anr., 2022(13) SCC 142; LawFinder Doc ID #1950054;

(iv) G. Vivek Vs. National Insurance Co. Ltd. and another, 2023 ACJ 585; LawFinder Doc ID #2091424;

(v) Baby Sakshi Greola Vs. Manzoor Ahmad Simon and another, 2025(1) RCR (civil) 238,, LawFinder Doc ID #2672826; and

(vi) Reliance General Insurance Company Ltd. Vs. Priyanka Das and others, passed in FAO-3608-2017, 2024:NCPHHC:161297; LawFinder Doc ID #2670936.



17. On the other hand, learned counsel appearing on behalf of respondent No.3 - Insurance Company submits that even after considering the additional evidence led before the Tribunal, no enhancement in the amount of compensation already awarded by the Tribunal is called for, rather the evidence now led would not lead to any logical conclusion as to what would be the just amount of compensation for the claimant.

18. However, Insurance Company is not in a situation to say much about the fact findings already recorded by learned Tribunal, and also the facts now brought on record by the witnesses at the time of leading of additional evidence in the shape of statements of PW6 to PW9.

19. I have gone through the available record and considered the findings recorded by learned Tribunal and also the new facts which infact happened subsequent to the decision of the Tribunal in the last about 20 years and therefore is of the view that the compensation is required to be enhanced many times and for same the reasons are recorded hereafter.

20. Dr. Amrendra Pathak-PW6, who examined the injured with regard to the urethral and intestinal injury, made a fresh statement regarding urethral intestinal injury suffered by the injured. He stated that even in the year 2022, injured was examined by him while he was working in PGI as a Resident Doctor and stated that due to the surgery, a very large urethra rectal fistula has developed, thereby connecting the stool passage with the urinal passage. He also stated the need for a multidisciplinary approach for closure of fistula in which the chances of success are less than 50%. Dr. Amrendra Pathak



further stated that presently i.e. in the year 2024, the patient is under Colostomy through which he is passing stool through another passage. The other documentary evidences Ex. P20 to Ex. P26 were proved by the said doctor. In cross-examination, it emerged that the injured would face difficulty in physical movement because he has to either carry two bags or use diapers.

21. Another witness Dr. Divya Dahia, in her statement as PW7 proved the Disability Certificate Ex. 27, and stated that the locomotor disability of the claimant was assessed as 60% in relation to left lower limb due to left below-knee amputation. However, the Doctor clarified that the disability of the injured cannot be assessed with regard to the urology and GI/rectal problem and the disability stated by her is only about the orthopedics/locomotor disability.

Sh. Sanjay Kumar, Senior Technician, Deep Artificial Limb Centre appeared as PW8 and proved that he is a diploma holder in prosthetics and working with Deep Artificial Limb Centre for the last 14 -15 years. He also stated that after examining the injured in regard to the amputation, a quotation amounting to Rs.10,55,000/- inclusive GST was issued for left below knee prosthesis, which at present has escalated to the price of Rs.15,00,000/- approximately. Further, it requires expenditure qua its care and wear and tear costing around Rs.40,000-50,000/- per year. The life of such prosthesis was also stated as 5-6 years. The documents Ex. P28 and Ex. P29 were also taken on record.



22. Dr. Shiva Kumar, Senior Resident, Department of Urology, PGI, Chandigarh appeared as PW-9 and stated about the treatment given in the year 2002 including the regular follow-up treatment in OPD. He also stated that the patient underwent urethral reconstruction procedure in shape of transpubic urethroplasty and also developed features suggestive of urinary obstruction. On evaluation, patient/ injured was found to have a urethral stricture and bladder calculus i.e. bladder stone, for which he underwent an endoscopic procedure in the year 2013 which was optical internal urethrotomy and laser cystolithotripsy through which the bladder calculus was fragmented and removed. Again on, 13.06.2014, injured underwent bowel surgery and follow-up continued till the year 2016. This doctor also proved that patient/injured had developed urinary tract infections requiring antibiotic therapies intermittently and also stated about patient undergoing successive multiple surgeries, and chances of recovery going down with every surgery. He also stated that the patient will require multiple surgeries for surgical correction in future which would require considerable expenditure. Further, the injured would require recurring expenditure on urine bag, foley's catheter/diapers in case of urine leaks and in the absence of that, sanitizer and gloves, etc. that would require frequent replacements fortnightly. The doctor also made it clear that overall normal life and other normal activities of the patient like sexual activities etc. would definitely get affected due to erectile dysfunction associated with pelvic fracture urethral injury. Broadly, this witness has proved the patient's condition right from 2002 to 2022, in the form of the additional evidence now led before the Tribunal.



23. For deciding the just amount of compensation that the claimant is entitled to, especially in the light of the legislative intent of the legislature while enacting the Motor Vehicles Act, 1988, this Court shall be guided by various pronouncements laid down by Hon' ble the Supreme Court of India.

In the year 2003, Hon'ble Apex Court in '*State of Haryana and another Vs. Jasbir Kaur and others*, 2003 AIR Supreme Court 3696; Law Finder Doc ID #64043, **held that statutory provisions clearly indicate that the compensation must be just and it cannot be bonanza; not a source of profit, but the same should not be a pittance.** Reminding the Courts and Tribunals of their noble duties, it observed that measures of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar and special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just compensation" which is the pivotal consideration. The observations made by Hon' ble Apex Court in the aforesaid judgment in Paragraph No. 7 are reproduced hereinbelow:-

"7. It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense "damages" which in turn appears to it to be "just and reasonable". It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that compensation must be "just" and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The Courts and Tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be "just" compensation is a vexed question. There can be no golden



rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of “just” compensation which is the pivotal consideration. Though by use of the expression “which appears to it to be just” a wide discretion is vested on the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression “just” denotes equitability, fairness and reasonableness and non-arbitrary. If it is not so it cannot be just[see Helen C. Rebello v. Maharashtra State Road Transport Corporation (AIR 1998 Supreme Court 3191): 1988(4) RCR (Civil) 177(SC)]. ”

In *Yadava Kumar V. The Divisional Manager, National Insurance Co. Ltd. and another*, 2010 AIR Supreme Court 3741, Law Finder Doc ID #215092, Hon’ble Apex Court observed as under :

*“18. It goes without saying that in matters of determination of compensation both the Tribunal and the Court are statutorily charged with a responsibility of fixing a ‘just compensation’. It is obviously true that determination of a just compensation cannot be equated to a bonanza. At the same time the concept of ‘just compensation’ obviously suggests application of fair and equitable principles and a reasonable approach on the part of the Tribunals and Courts. This reasonableness on the part of the Tribunal and Court must be on a large peripheral field. Both the Courts and Tribunals in the matter of this exercise should be guided by principles of good conscience so that the ultimate result become just and equitable (see **Mrs. Helen C. Rebello and others v. Maharashtra State Road Transport Corpn. and another**, 1998 (4) RCR (Civil) 177).*

*19. This Court also held that in the determination of the quantum of compensation, the Court must be liberal and not niggardly in as much as in free country law must value life and limb on a generous scale (see **Hardeo Kaur and others v. Rajasthan State Transport Corporation and another**, (1992) 2 SCC 567).*

20. The High Court and the Tribunal must realize that there is distinction between compensation and damage. The expression compensation may



include a claim for damage but compensation is more comprehensive. Normally damages are given for an injury which is suffered, whereas compensation stands on a slightly higher footing. It is given for the atonement of injury caused and the intention behind grant of compensation is to put back the injured party as far as possible in the same position, as if the injury has not taken place, by way of grant of pecuniary relief. Thus, in the matter of computation of compensation, the approach will be slightly more broad based than what is done in the matter of assessment of damages. At the same time it is true that there cannot be any rigid or mathematical precision in the matter of determination of compensation.”

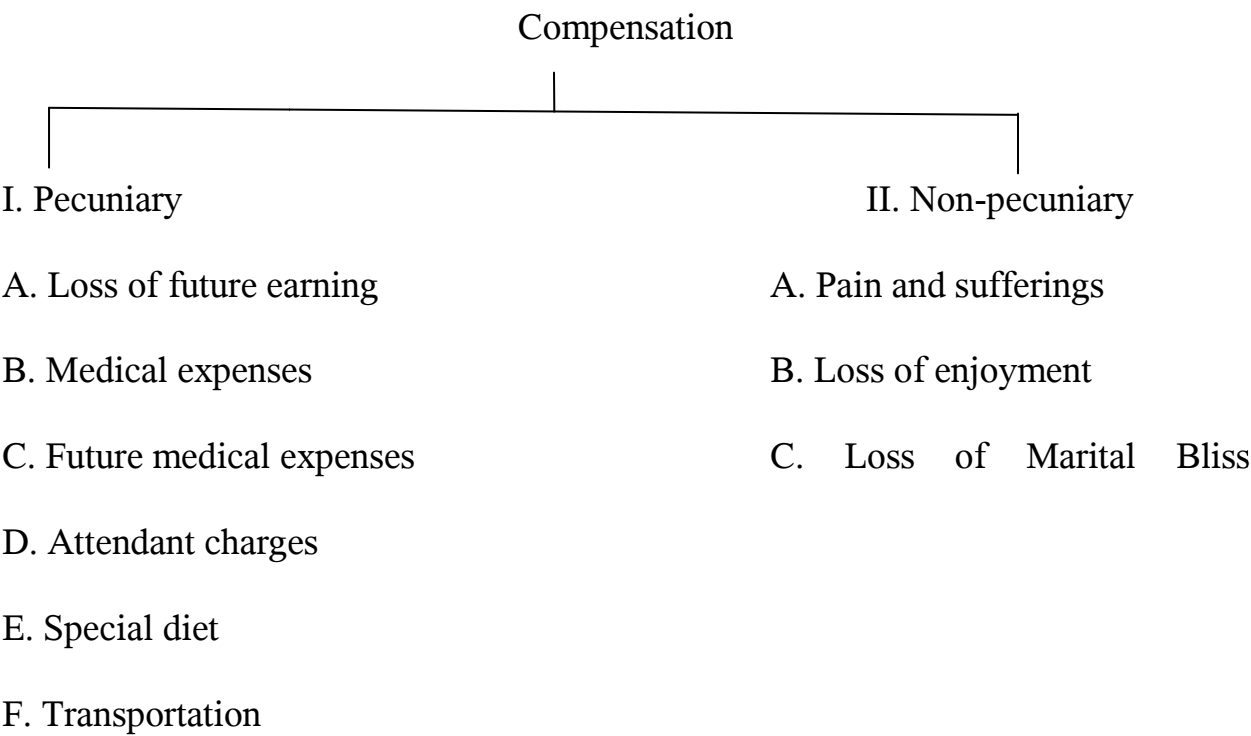
In **‘Meena Devi Vs. Nunu Chand Mahto @ Nemchand Mahto and others, 2023(1)SCC 204**, the Hon’ble Supreme Court held that the Tribunal and the High Court have vast powers for awarding of compensation amount more than the amount claimed in the claim petition. The aforesaid view was reiterated in case of **Chandramani Nanda Vs. Sarat Chandra Swain and another’, 2024(4) R.C.R (Civil) 614, Law Finder Doc ID #2655597**. The relevant paragraph No. 20 of the judgment says as under:

“20. An argument is raised by learned counsel for the insurance company that the appellant has initially claimed a sum of Rs.30,00,000/- and since the same having been awarded to him by the High Court, no further enhancement is possible. We cannot accept this argument and it is duly rejected. It is a settled proposition of law, that the amount of compensation claimed is not a bar for the Tribunal and the High Court to award more than what is claimed, provided it is found to be just and reasonable. It is the duty of the Court to assess fair compensation. Rough calculation made by the claimant is not a bar or the upper limit. Reference in this regard can be made to the judgment of this Court in the case of Meena Devi vs. Nunu Chand Mahto.”



Thus, in view of the parameters laid down by Hon’ ble the Apex Court in the catena of judgments, this Court shall now proceed to determine the just amount of compensation that the claimant/appellant is entitled.

24. In a recent judgment rendered by Hon’ble Apex Court in Abhimanyu Partap Singh v. Namita Sekhon, 2022(3) R.C.R (Civil) 557: Law Finder Doc ID #2008349, the Apex Court observed that the compensation in a case of motor vehicular accident can be assessed under two heads.



This Court will now deal with all the aspects in order.

I. Pecuniary

A. Loss of future earning:

A.(i) Determination of monthly salary of injured:

In order to compute the amount of compensation payable to the claimant, the first aspect to be determined is the monthly salary of the injured. Considering the aspect that the injured was a student and being a literate young boy, would have started earning at the age of 21 years, his notional monthly income is hereby assessed at **Rs.3,000/- per month.**



Accordingly decided.

A.(ii). Future Prospects:

Hon'ble Supreme Court in the judgment titled as **Pranay Sethi's case** (**complete**) observed that the future prospects to the tune of 40% need to be granted if the deceased is less than 40 years old. The relevant Para 61 (iii) of the said judgment, is reproduced here below:

“61. In view of the aforesaid analysis, we proceed to record our conclusions:-

*x-----x-----x-----x-----x-----x-----x-----x-----
--x-----x-----x-----x*

(iii) In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.”

Therefore, in view of the law laid down by Hon'ble Apex Court, this Court is of the view that since, the injured would have started earning tentatively at the age of 21 years, enhancement by way of future prospects of 40% needs to be added to the salary of the injured. Thus, after addition of future prospects, the monthly salary of the deceased would be Rs.4,200/- (Rs.3,000/- + Rs.1,200/-).

Accordingly decided.

A.(iii). Annual Salary of Injured:

Now, by multiplying the monthly salary of the Injured – Gagandeep @ Monti i.e. Rs, 4,200/- with 12 months i.e. one year period, the total entitlement of compensation of appellants (claimants) would be of Rs. 50,400/- per annum.



Accordingly decided.

A.(iv). Multiplier:

As the age of the injured at the time of accident was 17 years, the multiplier of 18 is applicable.

Accordingly decided.

This way, the total loss of future earning, by applying the multiplier of 18, would be of Rs. 09,07,200/-.

Accordingly decided.

Further, although disability as stated by the doctor “*maybe 86 % permanent disability*” but hold and proved facts on record clearly speak out that claimant has suffered injuries to the internal organs and urinary bladder/urethra are almost damaged and injury suffered in the intestine led to the amputation of left leg. Therefore, for the purpose of calculating the amount of compensation payable to the claimant/appellant, the disability would be taken as 100% physical disability. Thus, no deduction on that account needs to be made.

B. Medical Expenses (including hospitalization charges):

Following the principles as observed in *G. Ravindranath's case (supra)*, this Court has also reassessed the amount of compensation on account of expenses incurred in treatment, hospitalization charges and transportation.

Therefore, on account of expenses incurred in treatment and Hospitalization, compensation amount of Rs. 2,20,000/- is awarded.

Accordingly decided.

**C. Future medical expenses:**

The certificate dated 13.05.2022 issued by Sir Ganga Ram hospital has been produced on record and has been proved as Ex. P26 by PW-6 - Dr. Amrainder. Further, it has already come on record that patient is suffering from urethra rectal pestula, and requires frequent hospitalization and has also undergone major surgical procedure including closure colostomy. The tentative cost of investigation and surgery is suggested therein as Rs. 15,00,000/- approximately. Since, no cross-examination has been conducted on the said witness, therefore, the same is taken to be correct as Rs.15,00,000/- (Rupees Fifteen lacs only)

Moreover, cost of an artificial limb is projected to be Rs.15,00,000/- at present and annual cost of repairing of artificial limb is Rs.50,000/-. Presently the appellant is aged around 40 years and considering average life expectancy to be 65 years, a total amount of Rs.12,50,000/- [50,000 x 25(65-40 years)] will be required for repairing of the artificial limb. Therefore, a total amount of Rs.27,50,000/- (Rs.15,00,000+12,50,000) is hereby awarded to the claimant/appellant on account of artificial limb and its repair.

Further, an amount of Rs. 3,00,000/- is awarded considering the future escalation in the prices.

Thus, a total amount of Rs. 45,50,000 /- (Rupees forty five lacs and fifty thousand only) (Rs. 15,00,000 + Rs. 15,00,000 + Rs. 12,50,000 + Rs. 3,00,000) is hereby awarded on account of future medical expenses.

Accordingly decided.

D. Attendant charges:



In *Kajal's case (supra)*, injured was a female child aged about 12 years and date of the accident was 18.10.2007 and it was observed by the Hon'ble Apex Court that to determine the attendant charges, Multiplier system should be applied. Relevant paragraphs No. 22 and 25 of the aforesaid judgment are as under:

"22. The attendant charges have been awarded by the High Court at the rate of Rs.2,500 per month for 44 years, which works out to Rs.13,20,000. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various facts are taken into consideration. When compensation is paid in lump sum, this court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges, etc. This system was recognized by this Court in Gobald Motor Service Ltd. v. R.M.K. Veluswami, 1958-65 ACJ 179 (SC). The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method has been recognized as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of 'just compensation' within the meaning of the Act.

23. xxx

24. xxx

25. Having held so, we are clearly of the view that the basic amount taken for determining attendant charges is very much on the lower side. We must remember that this little girl is severely suffering from incontinence meaning that she does not have control over her bodily functions like passing urine and faeces. As she grows older, she will not be able to handle her periods. She requires an attendant virtually 24 hours a day. She requires an attendant who though may not be medically trained but must be capable of handling a child who is bedridden. She would require an attendant who would ensure that she does not suffer from bed sores. The claimant has placed before us a notification of the State of Haryana of the year 2010, wherein the wages for skilled labourer is Rs.4,846 per month. We, therefore, assess the cost of one attendant at Rs.5,000 and she will require two attendants which works out to Rs.10,000/- per month, which comes to Rs.1,20,000/- per annum, and using the multiplier of 18 it works out to



Rs.21,60,000 for attendant charges for her entire life. This take care of all the pecuniary damages.”

In the present case also, there is ample medical evidence available that after suffering from the disability and amputation of the lower limb, the patient/injured has faced huge difficulty in the last 24 years since the time of suffering injuries due to accident in question. Also, there is ample evidence that in the case, victim-child was of the age of 17 years and date of accident was 18.06.2000 and already there is the statement of doctor that the injured cannot function normally on his own in daily routine as it was already stated that the injured has to otherwise carry two bags which require to be emptied many times a day. Therefore, undoubtedly, claimant is entitled for getting compensation on account of the need of two attendants a day for 24 hours and requiring them to pay at the rate of on going minimum wages for skilled worker as Rs.10,000/- each per month and for the same the maximum multiplier of 18 is required to be applied.

Thus, the compensation on account of Attendant Charges comes out to be Rs.20,000/- x 12 x 18 = Rs.43,20,000/- (Rupees forty three lacs and twenty thousand only).

Accordingly decided.

E. Special diet

Considering the damages suffered by the claimant to his parts of body, undoubtedly, such an injury would require a special diet throughout life and therefore, same is awarded at the rate of Rs. 2,000/- per month for rest of his life. Considering that the present age of the claimant/appellant is 40 years



and average life expectancy to be 65 years, the claimant/appellant is held entitled to Rs. 6,00,000/-(Rupees six lacs only) (Rs. 2,000 X 12 X 25).

Accordingly decided.

F. Transportation

Considering the damages suffered by the claimant/appellant and the requirement for special transportation arrangements, an amount of Rs. 1,50,000/- (Rupees one lac and fifty thousand only) is hereby awarded to the appellant/claimant on account of Transportation.

Accordingly decided.

II. Non-Pecuniary

A. Pain and sufferings:

In **Baby Sakshi's case (supra)**, where the injured was a female child aged 7 years and had suffered grievous injuries, learned Tribunal awarded Rs.50,000/- towards pain and suffering, but the same was enhanced by the Hon'ble High Court to Rs. 12,00,000/-. When the matter reached to the Hon'ble Apex Court, the same was enhanced to Rs. 15,00,000/-.

Thus, in the present case also, by applying the same parameters, a compensation amount of Rs. 15,00,000/- (Rupees Fifteen lacs only) is hereby awarded to the claimant/appellant.

Accordingly decided.

B. Loss of enjoyment

In paragraph No. 6 of the evidence of PW3, it has been proved that appellant has sustained 75 % mental moderate retardation and has no



control over the passage of his urine. Considering the injuries suffered by the claimant/appellant and his inability to lead a normal life, an amount of Rs. 5,00,000/-(Rupees five lacs only) is hereby awarded to the claimant/appellant on account of Loss of enjoyment.

Accordingly decided.

C. Loss of amenities and marital bliss

In *G. Ravindranath's case (supra)*, Hon'ble Apex Court while granting compensation to the claimant considered the fact that due to the injuries in the pelvic region, injured has become impotent leading to loss of marital bliss and that he shall be required to undergo multiple surgeries in future. The relevant paragraphs No. 24, 25 and 26 of the aforesaid judgment says as under:

"24. From the testimony of three witnesses, it is established that as a result of accident the appellant had suffered grievous injuries in the pelvic region and he has become impotent. It is also established that he has already undergone multiple surgeries and will have to take treatment in institutes like NIMS for at least 10 years.

25. Unfortunately, the Motor Accidents Claims Tribunal, Raichur did not give due weightage to the evidence produced by the appellant and awarded meager compensation and that too by overlooking the documentary evidence produced by appellant regarding the expenses incurred by him at Bhandari Hospital, Raichur and NIMS at Hyderabad. The High Court also failed to properly analyse and evaluate the evidence produced by the appellant and did not adequately enhance the compensation determined by the Tribunal.

26. In our view, the appellant is entitled to Rs.2,20,000/- for the expenses incurred on the treatment including hospitalization charges, mess and lodging charges, transportation etc. For future medical expenses including hospitalization, medicines, attendant charges etc., the appellant is entitled to Rs.6,00,000/-. For pain, suffering and trauma, the appellant is entitled to a sum of Rs.3,00,000/-. For loss of amenities and prospects of marriage, the appellant is entitled to Rs.4,00,000/-. For the loss of expectation of life and loss of future earnings, the appellant is entitled to a sum of Rs.5,00,000/-."

In the case at hand also, there is ample evidence including the statement of Dr. Shiva Kumar, Senior Resident, Department of Urology - PW9, who stated that the overall normal life and other normal activities like sexual activity etc. of the injured would definitely get affected due to the injuries. Thus, on this account also, the injured is entitled to receive compensation as there is ample loss of amenities and marital prospects.

Therefore, injured is held to be entitled to a compensation of Rs.4,00,000/- (Rupees four lacs only) on account of Loss of Amenities and loss of marital bliss.

Accordingly decided.

16. For the sake of convenience, a comparative chart detailing the amount of compensation awarded by learned Tribunal and this Court is presented below:

Sr. No.	HEADS	Compensation awarded by the Ld. Tribunal	Compensation awarded by the High Court
I.	Pecuniary		
A	Loss of future earning	Rs.4,50,000/-	Rs,9,07,200/-
A(i)	Monthly Income		Rs.3,000/- Per month
A(ii)	Future Prospects		Rs.1,200/- (40%)
A(iii)	Annual Income		Rs.50,400/-

A(iv)	Multiplier		18
B	Medical Expenses	Rs.52,000/-	Rs. 2,20,000/-
C	Future Medical Expenses	Rs.85,000/-	Rs.45,50,000/-
D	Attendant Charges	Rs.1,00,000/-	Rs.43,20,000/-
E	Special Diet		Rs.6,00,000/-
F	Transportation		Rs.1,50,000/-
II.	Non-Pecuniary		
A	Pain and Suffering	Rs. 75,000/-	Rs.15,00,000/-
B	Loss of Enjoyment		Rs.5,00,000/-
C	Loss of Amenities and Marital Bliss		Rs.4,00,000/-
	Total Compensation	Rs.7,62,000/-	Rs.1,31,47,200/-

25. Counsel for the appellant further submits that the rate of interest awarded by the Ld. Tribunal i.e. at 9% per annum from the date of filing of the claim petition till its payment, and same should be enhanced to 12% by this Court. However, learned counsel appearing on behalf of respondent No.3 - Insurance Co., submits that the rate of interest should not be more than 7.5% per annum, because this Court has been following the principle of 7.5% per annum as rate of interest in all MACT cases.



Thus, by taking into consideration the totality of circumstances, the rate of interest is hereby modified as 7.5% per annum, for the time period, as already mentioned in the award.

Accordingly, keeping in mind the aims and objects of the beneficial legislation i.e. to provide adequate relief to the injured /victim or the dependant family members, total compensation amount to which appellant/claimant is held entitled is **Rs.1,31,47,200/-(Rupees One crore thirty-one lacs forty seven thousand and two hundred only)**.

This amount shall be paid to the claimant within a period of three months from the date of this order, with interest @ 7.5 % per annum from the date of filing of the claim petition till actual realization of the amount of compensation.

It is further clarified that in case compensation amount due to be paid as on date is not paid within aforementioned stipulated period, same shall be payable to the claimant along with applicable rate of interest @9 %p.a.

And, in case any further delay is caused beyond six months from today, compensation amount payable as on date would be paid to the claimants along with applicable rate of interest @12%p.a from the date of filing claim application till its realization.

26. In addition to all, it is ordered that in case, any execution application is filed by the claimant before learned Tribunal, it would ensure that the amount awarded for the purpose of helping hand (attendant charges) and artificial limb, is adequately utilized for the well being of the claimant. Apart recording satisfaction



qua the execution of the order, learned Tribunal shall also record its satisfaction on the aforementioned aspect also.

27. Needless to mention that out of the total payable compensation amount, already paid amount (if any) in compliance to the impugned award, would be adjusted.

Therefore, by modifying the award, present appeal is **allowed** with the terms indicated here-above.

Disposed of.

February 14, 2025
rashmi

(SANJAY VASHISTH)
JUDGE

<i>1. Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>2. Whether reportable?</i>	<i>Yes/No</i>