

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

FAO No. 228 of 2014

Reserved on: 24.08.2026

Date of decision: 23.09.2026

**Date of uploading on website:
23.09.2026**

Muni Lal

.....Appellant

Versus

MD, HRTC & Ors.

.....Respondents

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge.

¹ *Whether approved for reporting?*

For the appellant:

Mr. H.S. Rangra, Advocate.

For the respondents:

Mr. Raman Jamalta, Advocate,
for respondents No. 1 & 2.

None for respondent No. 3.

Mr. Hamender Singh Chandel,
Advocate, for respondent No. 4.

Sushil Kukreja, Judge.

The instant appeal has been maintained by the appellant, who was the petitioner before the learned Motor Accidents Claims Tribunal-II, Mandi, District Mandi (camp at Karsog), H.P., (hereinafter referred to as “the learned Tribunal”) under Section 173 of the Motor Vehicles Act, 1988 (for short ‘the Act’), against impugned award, dated 11.04.2013, passed by the learned Tribunal below, whereby

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

Claim Petition No. 72 of 2007, filed by the petitioner, under Section 166 of the Act, was allowed and he was held entitled for compensation in the sum of Rs. 35,000/- alongwith interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the entire award amount, to be paid by respondents No. 1 to 4 jointly and severally. The parties shall be referred to as they were before the learned Tribunal below.

2. The brief facts of the case are that on 01.04.2007, the petitioner boarded HRTC Bus bearing registration No. HP-07-5461 from Churag to Kahanu and at about 7:55-8:00 P.M., when the aforesaid bus reached at place Kanda Nalla, it met with an accident. According to the petitioner, the accident had occurred due to rash and negligent driving of respondent No. 4, Tej Ram, who was mechanic and at the time of accident, he was driving the bus, as respondent No. 3, Gopal Singh, driver of the bus had consumed liquor and was sitting at Bonnet by the side of the driver. In the aforesaid accident, the petitioner sustained multiple injuries on his person and initially he was treated at

Civil Hospital, Karsog, from where, he was referred to IGMC Shimla, where he remained admitted w.e.f. 02.04.2007 to 06.04.2007 and was under treatment as an outdoor patient. At the time of accident, the petitioner was earning Rs. 15,000/- per month from all sources. The petitioner was 28 years of age at the time of accident and was hale and hearty. However, on account of accident, he suffered financial loss of income from agriculture and orchards. As per the petitioner, he had also spent Rs. 1,00,000/- on his treatment and some more amount would be spent on his treatment, as he is still under treatment. Hence, the petitioner filed the claim petition under Section 166 of MV Act seeking compensation to the tune of Rs. 10,00,000/-.

3. Respondents No. 1 & 2, in their reply stated that the bus in question met with an accident due to sheer negligence and disobedience of respondents No. 3 & 4 and respondent No. 4 was not authorized to drive the vehicle involved in the accident. It has been admitted that at the time of accident, respondent No. 4 was driving the bus in question

and its driver, i.e. respondent No. 3, was under the influence of liquor. It has been stated that if the Tribunal comes to the conclusion that the accident took place due to negligence of respondents No. 3 & 4, then the petitioner is entitled for compensation from respondents No. 3 & 4. It has also been stated that an amount of Rs. 5,000/- has been paid as interim relief to the petitioner and Rs. 15,971/- as medical expenses.

4. Respondent No. 3, in his reply stated that he was not driving the bus in question at the time of accident nor he was on duty, therefore, the petition against him is not maintainable.

5. Respondent No. 4, in his reply stated that the petition against him is not maintainable. On merits, the factum of accident was admitted, but it has been denied that accident has occurred due to his rash and negligent driving, as he was not driving the bus in question at the time of accident. It has been stated that he was mechanic at Shimla and for some time was deputed at Karsog for checking the vehicles. It has been further stated that if Tribunal comes to

the conclusion that the petitioner is entitled for compensation, then, respondents No. 1 & 2 are liable to pay the same.

6. On 11.11.2010 & 09.11.2012, the learned Tribunal below had framed the following issues for consideration and adjudication:

- “1. Whether respondent No. 3 was driving the bus bearing registration No. HP-07-5461 on 01.04.2007 in a rash and negligent manner, as alleged? OPP***
- 1-A. Whether respondent No.3 driver of the vehicle No. HP-07-5461 on 01.04.2007 allowed Tej Ram respondent No. 4 to drive the said vehicle, who drove the same in rash and negligent manner, as alleged? OPP***
- 2. Whether the petitioner has suffered injuries in the motor vehicle accident involving bus bearing No. HP-07-5461 being driven by respondent No. 3 due to rashness and negligence of respondent No. 3, as alleged? OPP***
- 3. Whether the petitioners have suffered damages to the extent of Rs. 10,00,000/-, as alleged? OPP***
- 4. Whether the amount of Rs. 5,000/- has been paid as interim relief and Rs. 15,791/- has been paid as medical expenses to the petitioner by the respondents, if so its effect? OPR***
- 5. Whether the bus was being driven to mechanic who was not authorized by respondent No. 2, if so its effect? OPR-1***
- 6. Whether the petition is not maintainable against the respondent No. 3, as alleged? OPR***
- 6-A. Whether the petition is not maintainable against the respondent No. 4? OPR***
- 7. Relief”***

7. After the parties led evidence and after hearing the learned counsel for the parties, the petition was allowed and the petitioner was held entitled for compensation in the sum of Rs. 35,000/- alongwith interest at the rate of 7.5% per annum from the date of filing of the petition till realization of the entire award amount, to be paid by respondents No. 1 to 4 jointly and severally.

8. Feeling aggrieved and dissatisfied, the appellant preferred the instant appeal against the impugned award dated 11.04.2013.

9. I have heard the learned Counsel for the appellant, learned counsel for the respondents and carefully examined the entire record.

10. The learned counsel for the appellant contended that the learned Tribunal below has not properly appreciated the fact that the petitioner had sustained 20% permanent disability of lower limb, which reduced the ability of performing physical work as well a climbing upward and downward. He further contended that the learned Tribunal below has not granted any compensation to the petitioner on

account of pain and suffering, mental and physical agony, medical treatment and financial loss, as such the award passed by the learned Tribunal is liable to be enhanced.

11. On the other hand, the learned counsel appearing on behalf of the respective respondents supported the impugned award and prayed for dismissal of the instant appeal.

12. The perusal of the record reveals that petitioner-Muni Lal sustained injuries in the motor vehicle accident due to rash and negligent driving of respondent No. 4, Tej Ram, who was driving the offending bus bearing registration No. HP-07-5461, as such, the petitioner is entitled for compensation from the respondents.

13. Now the question which arises for consideration before this Court is as to what amount of compensation the petitioner is entitled for. The law with respect to the grant of compensation in injury cases is well-settled. The injured is entitled to pecuniary as well as non-pecuniary damages. Pecuniary damages also known as special damages are generally designed to make good the pecuniary loss which is

capable of being calculated in terms of money whereas non-pecuniary damages are incapable of being assessed by arithmetical calculations. The pecuniary or special damages, generally include the expenses incurred by the claimants on his treatment, special diet, conveyance, cost of nursing/attending, loss of income, loss of earning capacity and other material loss, which may require any special treatment or aid to the insured for the rest of his life. The general damages or the non-pecuniary loss include the compensation for mental or physical shock, pain and sufferings, loss of amenities of life, loss of marriage prospects etc.

14. In *R.D. Hattangadi v. Pest Control (India) Pvt. Ltd., (1995) 1 SCC 551*, a road accident resulted in 100% disability due to paraplegia below waist to a lawyer. The Supreme Court observed that no amount of compensation can restore the physical frame of the appellant. That is why it has been said by Courts that whenever any amount is determined as the compensation payable for any injury suffered during an accident, the object is to compensate such injury "so far as

money can compensate" because it is impossible to equate the money with the human sufferings or personal deprivations. Money cannot renew a broken and shattered physical frame. In its very nature whenever a Tribunal or a Court is required to fix the amount of compensation in cases of accident, it involves some guess work, some hypothetical consideration, some amount of sympathy linked with the nature of the disability caused. But all the aforesaid elements have to be viewed with objective standards. When compensation is to be awarded for pain and suffering and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. Para-9 of the said judgment is reproduced as under:-

"9. Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far non-pecuniary damages are concerned, they may include (i)

damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.

10. It cannot be disputed that because of the accident the appellant who was an active practising lawyer has become paraplegic on account of the injuries sustained by him. It is really difficult in this background to assess the exact amount of compensation for the pain and agony suffered by the appellant and for having become a lifelong handicapped. No amount of compensation can restore the physical frame of the appellant. That is why it has been said by courts that whenever any amount is determined as the compensation payable for any injury suffered during an accident, the object is to compensate such injury "so far as money can compensate" because it is impossible to equate the money with the human sufferings or personal deprivations. Money cannot renew a broken and shattered physical frame."

15. In *Arvind Kumar Mishra vs. New India Assurance Co.*

Ltd., (2010) 10 SCC 254, the road accident resulted in 100% permanent disability to a final year engineering student. The Supreme Court held the functional disability to be 70% to compute the loss of earning capacity according to the multiplier method. The Supreme Court further held that the whole idea of compensation is to put the claimant in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the

hands of the wrongdoer and the court must take care to give him full and fair compensation for what he had suffered.

Para-10 of the judgment reads as under:-

"10. In some cases for personal injury, the claim could be in respect of life time's earnings lost because, though he will live, he cannot earn his living. In others, the claim may be made for partial loss of earnings. Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum. The conventional basis of assessing compensation in personal injury cases- and that is now recognized mode as to the proper measure of compensation is taking an appropriate multiplier of an appropriate multiplicand."

16. In **Raj Kumar vs. Ajay Kumar, (2011) 1 SCC 343**, the Supreme Court laid down the following principles for computation of compensation in injury cases:-

"General principles relating to compensation in injury cases

5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C. K. Subramonia Iyer v. T. Kunhikuttan

Nair - AIR 1970 SC 376, R. D. Hattangadi v. Pest Control (India) Ltd. - 1995 (1) SCC 551 and Baker v. Willoughby - 1970 AC 467).

6. The heads under which compensation is awarded in personal injury cases are the following:-

Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

7. Assessment of pecuniary damages under item (i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses - item (iii)- depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages - items (iv), (v) and (vi) -involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/ deprivation/ disability suffered by the claimant and the effect thereof on the future life of the claimant. Decision of this Court and High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability - item (ii)(a). We are

concerned with that assessment in this case.

 19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

17. The case of the petitioner is that due to the accident, he had suffered huge loss so far as his income from agriculture and orchard is concerned. As per the petitioner, his income from all sources was Rs. 15,000/- per month. However, there is no documentary evidence in this respect. In his evidence by way of affidavit, the petitioner deposed that due to the accident, the yield of his apple

orchard had adversely been effected for want of proper watch and guard and he had suffered financial loss to the tune of Rs. 2,00,000/-. His statement is corroborated by PW-3 Govind Ram, who in his evidence by way of affidavit, deposed that the petitioner used to maintain his orchard and after the accident, the income of the petitioner from the orchard adversely got effected. Therefore, in the absence of any cogent and satisfactory evidence on record, the notional income of the petitioner from agriculture and orchard is assessed at Rs. 3,000/- per month. As per the petitioner, he has sustained 20% permanent disability in the accident and in this respect, he has placed on record disability certificate, Ext. PW-4/A. PW-4, Dr. R.K. Gupta, has duly proved the aforesaid certificate.

18. It has been held in ***National Insurance Company Ltd vs. Pranay Sethi and ors, (2017) 16 SCC 680***, that while determining the income, in case the deceased was self-employed or on a fixed salary and below the age of 40 years, an addition of 40% of the established income to the income of the deceased towards future prospects should be made.

Paras 59.3 and 59.4 of the said judgment read as follows:-

“59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

59.4 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.”

19. In the instant case, as per the disability certificate Ext. PW-4/A issued in the year, 2009, age of the petitioner was 30 years, as such, at the time of accident, i.e. on 01.04.2007, he was 28 years of age. Therefore, in view of the law laid down by the Apex Court in Pranay Sethi's case (supra), an addition of 40% of the notional monthly income of the petitioner has to be made towards future prospects as he was aged below 40 years. Accordingly, after fixing the notional monthly income of the petitioner from his orchard at Rs. 3,000/- and by adding 40% of the monthly income

towards future prospects, the amount comes to Rs. 4,200/- per month ($3,000+1,200/- = 4,200$) and his annual income comes to Rs. 50,400/-.

20. The petitioner has suffered disability to the extent of 20%. Therefore, keeping in view the disability suffered by the petitioner, by taking the permanent disability to be 20%, the loss of income due to the disability comes to Rs. 10,080/- per annum. As at the time of accident, he was 28 years of age, therefore, in view of the decision of the Hon'ble Apex Court in ***Sarla Verma and others vs. Delhi Transport Corporation and another***,(2009) 6 SCC 121, by applying the multiplier of '17', as per the settled law, the compensation under the head future loss of income is fixed at Rs. 1,71,360/-.

21. The learned Tribunal below has awarded total compensation in the sum of Rs. 35,000/- under the heads pain and suffering, medical expenses, attendant charges and transportation charges, which in the opinion of this Court is quite inadequate. Since the petitioner has sustained grievous injuries in the accident and remained hospitalized w.e.f.

02.04.2013 to 06.04.2013, therefore, he is entitled to Rs. 20,000/- under the head 'pain and sufferings'. The petitioner has placed on record medical bills, Mark A-1 to A-60, total amount of which comes to Rs. 20,475/-. No evidence has been led by the respondents to prove that they have paid Rs. 5,000/- as interim relief and Rs. 15,791/- as medical expenses to the petitioner. Hence, the petitioner is entitled to Rs. 20,475/- under the head 'medical expenses'. According to the petitioner, he had also spent amount on attendants, as such, the petitioner is entitled for Rs. 5,000/- under the head 'attendant charges'. It has come in the evidence of PW-3, Govind Ram that after the accident, he had taken the petitioner in his vehicle to IGMCI, Shimla, on 25.07.2007, 20.08.2007 and 05.09.2007 and charged Rs. 2,000/- per round from him against the said dates. The petitioner has also placed on record copies of bus tickets, total amount of which comes to Rs. 2,000/-. Thus, he is entitled to Rs. 8,000/- (Rs. 6,000/- + Rs. 2,000/-) under the head 'transportation charges'. The learned Tribunal below had not awarded any amount under the head "loss of amenities of life". The head 'loss of amenities of life' must take into account all aspects of a normal life that have been

lost due to the injury caused and disability suffered by the petitioner. As per *R. D. Hattangadi's case (supra)*, this includes a variety of matters such as the inability to walk, run or sit etc. In the present case, keeping in mind these factors as well as the age of the petitioner, since the petitioner suffered grievous injury on his person, as his right leg was crushed in the accident and has affected the amenities of life of the petitioner, hence it would be proper to award a sum of Rs. 20,000/- under the head 'loss of amenities of life'.

22. Thus, the petitioner is entitled to the compensation as under:-

“(a) Loss of future earnings = Rs. 1,71,360/-

(b) Loss of amenities of life = Rs. 20,000/-

(c) Medical expenses = Rs. 20,475/-

(d) Transportation charges = Rs. 8,000/-

(e) Attendant charges = Rs. 5,000/-

(f) Pain and sufferings = Rs. 20,000/-

Total = Rs. 2,44,835/-”

23. Consequently, in view of detailed discussion made here-in-above and the law laid down by the Hon'ble Apex

Court, the present appeal is allowed and the impugned award dated 11.04.2013, passed by the learned Tribunal below, is modified to the extent that the petitioner is entitled to compensation to the tune of Rs. 2,44,835/-. The remaining part and terms of the impugned award, including the interest component, shall remain the same.

The appeal stands disposed of in the above terms, so also the pending application(s), if any.

(Sushil Kukreja)
Judge

23rd September, 2026
(raman)