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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 20.12.2022
Pronounced on: 19.01.2023

+ **MAC.APP. 12/2014**

SH RAJ KUMAR @RAJU

..... Appellant

Through: Mr. Vinod Mahla, Advocate.

versus

SH SURAJ MAL & ORS

..... Respondents

Through: Mr. Pankaj Gupta, Advocate
for Ms. Suman Bagga, for
respondent No.3.

CORAM:

HON'BLE MR. JUSTICE GAURANG KANTH

J U D G M E N T

GAURANG KANTH, J

1. This appeal has been filed by the Appellant to modify the compensation awarded *vide* the judgment dated 02.02.2013 (hereinafter referred to as the "**Impugned Award**"), by the MACT in Suit No. 239/11 titled as *Sh. Raj Kumar @ Raju v. Sh. Suraj Mal & Ors.* whereby the Appellant was awarded an amount of Rs.56,94,592/- (Rupees Fifty-Six Lakhs Ninety-Four Thousand Five Hundred and Ninety-Two only) as compensation with interest @7.5% per annum, from the date of filing the petition, i.e. 11.03.2011, till notice under Order XXI Rule 1 CPC is given by Respondent No.3/Insurance Company in favor of the Appellant

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and against the respondents on account of their liability being joint and several.

2. The facts germane to the present appeal as noted by the learned Claims Tribunal are as follows:

“The case of the petitioner is that on 09/10/11 at about 2.45 p.m while the petitioner was alongwith his brother were present near Shri Ram Dharam Kanta, Rohtak Road, Delhi, in the meantime, the offending vehicle, a vehicle bearing No. HR-63B-1175(TATA-407) which was being driven by its driver/ respondent No.1 in rash and negligent manner hit the petitioner. Resultantly, the petitioner sustained grievous injuries. In total, the petitioner have claimed Rs. 1,20,00,000/- as compensation on account of the injuries sustained by minor injured in the accident.”

3. It is the case of the Appellant that he was admitted to Jeewan Hospital and later on to other hospitals in New Delhi, where necessary treatment was given to him for about seven months i.e., 09.01.2011 to 01.08.2011. It is further his case that he is still undergoing treatment and the doctors have declared that he has suffered 100% permanent disability. It is pertinent to mention that on account of the accident, and as per the disability certificate (Ex. PW2/1) issued by DDU Hospital, the Appellant has suffered Post Traumatic Fracture D-11-12 Paraplegia Bladder & Bowel inrovement permanent disability of 100% in relation to both lower limbs.
4. Subsequently, the Appellant preferred an application under Sections 166 and 140 of the Motor Vehicles Act, 1988

(hereinafter referred to as the “Act”) praying for compensation of Rs.1,20,00,000/- (One Crore Twenty Lacks only) on various counts before the Motor Accidents Claims Tribunal, Delhi. It is pertinent to note that at the time of the accident, the Appellant claimed that he was 33 years of age and was running a business in the name of M/s Taniya Plastic at Khasra No.99/22, Swaran Park Extn., Mundka, New Delhi-110041.

5. Written Statement on behalf of Respondent Nos.1 and 2 was not filed despite opportunities. However, Respondent No.3 filed its written statement denying all the allegations of the Appellant, but it was admitted that the offending vehicle was insured with Respondent No.3 as on the date and time of the accident.
6. In support of the claim petition, the Appellant has examined four witnesses. The Appellant examined himself as PW1, Dr. Tarun Solanki as PW-2 who has proved the disability of the Appellant, Sh. Rajkumar Gupta as PW-3, and Sh. Deva Nanand as PW-4 who had brought the record from Maharaja Agrasen Hospital as well as Inderprastha Apollo Hospital. The respondents did not examine any witnesses in their defence.
7. Learned Claims Tribunal decided the issues in favor of the Appellant by holding that he is entitled to get the total compensation from Respondent No.3/Insurance Company jointly and severally with other respondents. The heads in which the learned Claims Tribunal awarded compensation are as follows:

S.No.	Head	Compensation awarded
Pecuniary Damages		
1.	Loss of Earning Capacity (279164/- +30% (inflation) x16	Rs. 44,66,592/-
2.	Medical expenses	Rs. 6,78,000/-
3.	Special diet expenses upto the date of Award (Rs. 25,000/-) Conveyance charges upto the date of Award	Rs. 50,000/-
4.	Future conveyance charges	Rs. 50,000/-
5.	Future Special diet expenses	Rs. 50,000/-
Non- Pecuniary Damages		
6.	Pain, suffering damages (General damages)	Rs. 1,50,000/-
7.	Loss of Amenities	Rs. 1,50,000/-
8.	Disfigurement and loss of enjoyment	Rs. 1,00,000/-
Total Compensation		Rs. 56,94,592/-

8. Aggrieved by the order of the learned Claims Tribunal, the Appellant herein filed an appeal under Section 173 of the Act, against the order of the learned Claims Tribunal before this Court praying for suitably modifying the Impugned Award, passed by the learned Claims Tribunal in Suit No. 239/11.

SUBMISSIONS OF THE APPELLANT

9. Mr. Vinod Mahla, learned counsel for the Appellant vehemently initiated his arguments by submitting that the Appellant at the time of the accident was merely 33 years of age. The compensation awarded under various heads by the learned Claims Tribunal is very scarce as compared to the losses suffered by the Appellant.
10. He submitted that prior to the accident, the Appellant was carrying a business in the name and style of M/s Taniya Plastic. He further submitted that he was running and carrying on his business with all his hard work and was making every possible effort to increase his income.
11. It is his contention that owing to the accident he suffered a post traumatic fracture D-11-12 paraplegia bladder and bowel movement permanent disability of 100% in relation to both his lower limbs. The disability certificate issued by DDU Hospital, Delhi is exhibited as Ex.PW2/1. He submitted that the Appellant has lost control over his bowel and bladder and he will have to remain on wheelchair throughout his lifetime. The Appellant is not even able to sit and has to keep lying down, as a result, he has developed bedsores all over his back which are incurable.
12. Mr. Mahla, learned counsel for the Appellant argued that the Appellant needs an attendant round the clock even for answering the nature's call. The Appellant requires two permanent attendants in two shifts of 12 hours each by his side for the rest of

his miserable life due to the unfortunate accident. The Appellant has to lie down throughout and at the most he can sit on wheel chair. He further submitted that the Appellant has to consume medicines for passing urine and stool throughout his lifetime and Sposti, jelly, CIC pipe, betadine, cotton etc. are required for passing stool and urine and the cost of buying these medicines comes to approximately Rs. 3,000/-. This aspect has not been considered by the learned Claims Tribunal and no amount has been awarded with respect to it. With regard to that, he referred to the judgment of this Hon'ble Court in the case of ***Suraj Verma v. Sangeeta Chhabra*** reported as **2012 SCC OnLine Del 3974**, wherein it was held that considering the nature of injuries, the claimant requires service of an attendant and the claimant therein was awarded attendant charges from the date of accident, considering the attendant to be semi-skilled worker.

13.He submitted that the Appellant herein is also entitled to more than a sum of Rs. 40 lakhs (Forty Lakhs Only) besides interest since the date of accident till now (as per actual computation of wages of semi-skilled worker as issued by Delhi Government from time to time for different years).

14.Further, he submitted that the compensation of Rs. 44,66,592/- awarded towards loss of income is also very scarce. The learned Claims Tribunal awarded only 30% as inflation/future prospects of his income. The learned counsel for the Appellant relied on the judgment of the Hon'ble Supreme Court of India in ***National Insurance Co. Ltd v. Pranay Sethi*** reported as **(2017) 16 SCC**

680 and submitted that an addition of 50% to the actual salary of the deceased shall be awarded towards future prospects where the deceased had a permanent job and was below 40 years of age and accordingly the Appellant is also entitled to future prospects in view of the *Pranay Sethi (supra)*.

15. With regard to medical bills, it is the contention of the learned counsel for the Appellant that the Appellant has been awarded a compensation of Rs. 6,78,000/- towards medical bills. *Howbeit*, the learned Claims Tribunal has failed to award any future medical expenditure as the Appellant is still under treatment even after filing of the present appeal. He further submitted that various other medical bills amounting to Rs. 2,50,000/- has been incurred by the Appellant and bills for the same has been filed on record. The Appellant has to remain under treatment throughout his lifetime as the bedsores are incurable and the life of the Appellant has become worse as a dead man. The Appellant has already been operated twice for treatment of bedsores, however, the bedsores are still subsisting and the Appellant has no other option but to remain lying on bed.

16. Learned counsel for the Appellant also pressed upon modifying the compensation awarded under various heads towards Special diet and Conveyance expenses upto the date of Award. It is his claim that the Appellant has actually spent a sum of about Rs. 2,00,000/- on his Special diet upto the date of Award. With regard to Conveyance expenses, it is his submission that the Appellant was never in a position to travel by two wheeler or a public

transport and as such the expenses incurred on hiring taxis was much more than the compensation awarded under the relevant head. Further, he also submitted that the learned Claims Tribunal has also erred in awarding lower compensation towards Future conveyance and Special diet expenses.

17. It is his contention that the learned Claims Tribunal erred in awarding compensation towards Pain and suffering, loss of amenities and Disfigurement and loss of enjoyment on the lower side. The sum awarded towards the above-mentioned non-pecuniary heads were also not in accordance with the injuries suffered by the Appellant.

SUBMISSIONS OF RESPONDENT NO.3/INSURANCE COMPANY

18. *Per Contra*, Mr. Pankaj Gupta, learned counsel for Respondent No.3/Insurance Company submitted that the compensation awarded by the learned Claims Tribunal was on the higher side.

19. It is his submission that on 09.10.2011, the Appellant/Injured who was aged about 33 years suffered a permanent disability of 100% in relation to both his lower limbs. At the time of the accident, Appellant was stated to be working in private service and as per the last ITR filed by the Appellant, in the year 2010, he was earning a sum of Rs. 2,15,240/- per annum.

20. He further emphasized that the Appellant/ Injured has suffered 100% disability qua his both lower limbs and not qua the whole body. *Ergo*, the learned Claims Tribunal ought to have taken the functional disability qua the whole body as 70% at the maximum.

21. Learned counsel for Respondent No.3 submitted that since the Appellant was below the age of 40 years at the time of accident, the future prospects can be enhanced from 30% to 40% as per the judgment of the Hon'ble Supreme Court in *Pranay Sethi (supra)*.
22. Mr. Gupta, further while referring to the judgment of the Hon'ble Supreme Court in *Raj Kumar v. Ajay Kumar* reported as (2011) 1 SCC 343 contended that where the functional disability is taken as 100% by the learned Claims Tribunal while calculating loss of dependency, the compensation under the non-pecuniary heads should be nominal. Relevant portion of the said judgment is reproduced hereinbelow:

“15. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.”

Lastly, he submitted that the learned Claims Tribunal has already awarded adequate compensation rather on the higher side towards non-pecuniary damages.

LEGAL ANALYSIS

23. This Court had heard the arguments advanced by the learned counsels for both the parties and perused the documents on record and Judgments relied upon by the parties.

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24. The Hon'ble Supreme Court in the matter of **Raj Kumar (supra)** laid down the heads under which compensation is to be awarded for personal injuries:

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

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, 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.”

25. The ratio of the above-noted judgment is that if the victim of an accident suffers permanent or temporary disability, then efforts
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should always be made to award adequate compensation not only for physical injury and treatment, but also for pain, suffering and trauma caused due to the accident, loss of earning and the victim's inability to lead normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.

26. In light of the above, this Court shall now first consider the issue with regard to the income of the Appellant. The income of the Appellant during the year 2009-2010 was Rs. 2,15,240/-. Further, it is seen that the income tax paid by the Appellant during that same year was Rs. 500/-. The income of the Appellant after the deduction of tax comes to Rs. 2,14,740/- and the monthly income of the Appellant would be Rs.17,895/-. Now, for calculating loss of income, it is seen that the Appellant was admitted to various hospitals for about seven months. Hence, loss of income incurred by the Appellant for the period of seven months is Rs. 17,895/- X 7 = **Rs.1,25,265/-** (One Lakh Twenty-Five Thousand Two Hundred and Sixty-Five Only).

27. Further, the Appellant as per the disability certificate, Ex. PW2/1 issued by DDU Hospital, has suffered Post Traumatic Fracture D-11-12 Paraplegia Bladder & Bowel involvement permanent disability of 100% in relation to both his lower limbs.

28. Further, Dr. Tarun Solanki/PW2 in his deposition has stated that the Appellant has suffered 100% permanent disability in relation to both his lower limbs and there are no chances of improvement

in the condition of the Appellant. Further, he also deposed that with 100% disability in relation to both his lower limbs, the Appellant would not be able to move and will remain on wheel chair or bed throughout his life. He would not even be able to support himself even on the crutches. Furthermore, he also deposed that there is no motion below the waist part of the Appellant and the stability below waist is nil. The Appellant has even lost bladder and bowel control and has become dependent on others for passing stool and urine.

29. In this Backdrop, this Court would take the liberty of reiterating para 7 of the decision in ***Pappu Deo Yadav v. Naresh Kumar and Others*** reported as **2020 SCC OnLine SC 752**.

“7. Two questions arise for consideration : one, whether in cases of permanent disablement incurred as a result of a motor accident, the claimant can seek, apart from compensation for future loss of income, amounts for future prospects too; and two, the extent of disability. On the first question, the High Court no doubt, is technically correct in holding that Pranay Sethi involved assessment of compensation in a case where the victim died. However, it went wrong in saying that later, the three-judge bench decision in Jagdish was not binding, but rather that the subsequent decision in Anant to the extent that it did not award compensation for future prospects, was binding. This court is of the opinion that there was no justification for the High Court to have read the previous rulings of this court, to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading of Pranay Sethi is illogical, because it denies altogether the possibility of the living victim progressing further in life in accident cases - and admits such possibility of future prospects, in case of the victim's death.”

[Emphasis supplied]

30. In view of ***Pranay Sethi (supra)***, future prospects of 40% should be granted to a person who is self-employed (businessman) and is below the age of 40 years. The Appellant being at the age of 33 years will be granted 40% of future prospects. Hence, the Appellant's monthly income, inclusive of future prospects, is re-assessed as **Rs.25,053/-** per month (i.e., Rs. 17,895 + 40% of 17,895/-).

31. In connection with the issue of ascertainment of disability of the Appellant, it is deemed profitable to refer to the decision in ***Raj Kumar (supra)***, wherein it was observed as under:—

“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. Decisions of this Court and the 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.

Assessment of future loss of earnings due to permanent disability

8. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain

for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accident injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ("the Disabilities Act", for short). But if any of the disabilities enumerated in Section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

9. The percentage of permanent disability is expressed by the doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body. If there is 60% permanent disability of the right hand and 80% permanent disability of left leg, it does not mean that the extent of permanent disability with reference to the whole body is 140% (that is 80% plus 60%). If different parts of the body have suffered different percentages of disabilities, the sum total thereof expressed in terms of the permanent disability with reference to the whole body cannot obviously exceed 100%.

10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically

apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.

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13. *Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.*

14. *For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning*

capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of "loss of future earnings", if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity."

32. Further even though the Appellant has been certified to be 100% disable with respect to its lower limbs only. However, in view of the disability certificate, Ex. PW2/1 and the deposition of PW2, it is clear that the Appellant is not in a position to do anything on his own, not even pass stool or urine. Further, the Appellant would also remain on wheel chair or bed throughout his life. This will drastically effect and impact the Appellant's capacity to work for his business or do any other work apart from this. Consequently, the assessment of compensation on the head of loss of earning capacity is fixed at 100%.
33. The Appellant's age was 33 years and 10 months at the time of the accident as per the Appellant's election card. The Multiplier laid down in ***Sarla Verma and Ors. v. Delhi Transport Corporation and Ors.*** reported as (2009) 6 SCC 121 would be 16.

34. Further, the loss of future income must be calculated in terms of the Judgment of the Hon'ble Supreme Court in ***Raj Kumar (supra)***, wherein the Hon'ble Supreme Court specifically held that where the claimant suffers a Permanent Disability as a result of injuries, the assessment of compensation for loss of future earnings would depend upon the impact and effect of the Permanent Disability on his earning capacity. The effect of the Permanent Disability on the earning capacity of the injured must be considered; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings suffered by the claimant. Hence, the compensation to be awarded is calculated as follows:

- I. Minimum income of the Appellant p.a after adding future prospects = Rs. 25, 053/- X 12 = Rs. 3,00,636 p.a
- II. Loss of future income at the level of his disability (100%) = 100% of 3,00,636= Rs.3,00,636/-
- III. Multiplier applicable (33 years) = 16
- IV. Loss of future earnings = Rs. 3,00,636/- X 16= **Rs.48,10,176** /- (Rupees Forty-Eight Lakhs Ten Thousand One Hundred and Seventy-Six Only).

35. With respect to the issue of medical expenses, it is the contention of the learned counsel for the Appellant that an amount of **Rs. 6,78,000/-** (Rupees Six Lakhs Seventy-Eight

Thousand Only) has been awarded to the Appellant by the learned Claims Tribunal. He argued that the Appellant has also spent a hefty amount of Rs. 2,50,000/- towards other medical bills. However, the Appellant has not filed any receipt to suggest the same.

36.Further, the learned counsel for the Appellant argued that the medical bills of the Appellant have been recurring which includes medicines worth Rs.4000/- p.m for passing urine and stool for his survival and the Appellant has to consume those medicines for the rest of his life. This Court is of the opinion that the injury caused due to the accident has reduced the Appellant's enjoyment of life and the full pursuit of all activities he engaged in prior to the accident. In light of the aforesaid, the Appellant is held entitled to an additional cumulative amount of **Rs.3,00,000/-** (Rupees Three Lakh Only) towards future medical expenses.

37.With regard to the expenses granted under the Special diet and Conveyance expenses, the learned Claims Tribunal awarded a compensation of Rs. 50,000/-. Further, with regard to the future Special diet and future Conveyance expenses, the Appellant was awarded an amount of **Rs. 50,000/-** each. Learned counsel for the Appellant pressed upon modifying the compensation granted under the above-mentioned heads. However, this Court is of the opinion that the compensation awarded by the learned Claims Tribunal under the above-mentioned heads is justifiable and there is no need for any modification for the same.

38. Learned counsel for the Appellant with regard to Attendant charges submitted that the learned Claims Tribunal in spite of knowledge that the Appellant is suffering from 100% permanent disability in relation to both his lower limbs, did not award any compensation towards it. While relying on the judgment of this Hon'ble Court in *Suraj Verma (supra)*, he argued that the Appellant is entitled to more than Rs. 40 Lakhs (Rupees Forty Lakhs) besides interest since the date of accident till now (as per actual computation of wages of semi-skilled worker as issued by Delhi Government from time to time for different years). It is seen that the Appellant has not placed on record any evidence that he has kept 2 attendants by his side. However, considering the nature of injuries and the permanent disability suffered by the Appellant, a sum of **Rs. 2,00,000/-** (Rupees Two Lakhs Only) is awarded towards attendant charges to the Appellant.

39. It is further argued by the learned counsel for the Appellant that the learned Claims Tribunal awarded a lower compensation towards Pain and suffering, loss of amenities and Disfigurement and loss of enjoyment. However, this court is of the opinion that an appropriate compensation with regard to the above-mentioned heads has been awarded by the learned Claims Tribunal. Hence, no modification in this respect is required.

40. Keeping in view the facts and circumstances of the case, the appeal is partly allowed and the judgment of the learned Claims Tribunal is modified. The compensation granted to the Appellant under the various heads are as follows:

S.No.	Head	Compensation awarded
Pecuniary Damages		
1.	Actual Income	Rs.17,895/- p.m
2.	Medical expenses	Rs. 6,78,000 /-
3.	Loss of future prospects	40% 40% of Rs. 17,895/- = Rs. 7,158/- Rs. 25,053 p.m
4.	Loss of Income: Loss of earnings during the period of treatment + Loss of future earning capacity and future prospects of income	Rs.1,25,265/-+ Rs.48,10,176/- =Rs.49,35,441/-
5.	Special diet expenses and Conveyance expenses	Rs. 50,000/-
6.	Future medical expenses	Rs. 3,00,000/-
7.	Attendant expenses	Rs. 2,00,000/-
8.	Future conveyance expenses	Rs.50,000/-
9.	Future special diet expenses	Rs.50,000/-
Non- Pecuniary Damages		
10.	Pain, suffering damages (General damages)	Rs. 1,50,000/-
11.	Loss of Amenities	Rs. 1,50,000/-
12.	Disfigurement and loss of enjoyment	Rs.1,00,000/-
Total Compensation		Rs. 66,33,441/-

41.In view of the same, the compensation is increased from Rs.56,94,592 to Rs.66,33,441/-

42.Respondent No.3 is directed to deposit the enhanced compensation amount with 7.5% interest p.a with the Registrar General of this Court with in a period of 4 weeks from the date of the filing present Appeal till the date of deposit. On such deposit, the Registry is directed to release the enhanced compensation amount to the Appellant within 2 weeks. Statutory deposit, if any deposited by the Appellant may be released to the Appellant.

43.In view of the above mentioned facts & circumstances, the present Appeal is allowed. No order as to cost.

JANUARY 19, 2023
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GAURANG KANTH, J.