



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

FAO-3835-2013 (O&M)

Date of Reserve:29.10.2025

Date of Pronouncement :-11.11.2025

Gopal

.....Appellant

Vs.

Balkesh & Ors.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Aditya Jain, Advocate, for the appellant.

Mr. Rajesh Lamba, Advocate, for respondent No. 1.

Ms. Mallika Dhillon, Advocate for Mr. S.S. Sidhu, Advocate
for respondent No. 3.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 16.05.2013 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Gurugram (for short, 'the Tribunal') for enhancement of compensation, granted to the claimant/appellant, whereby the appellant/claimant was awarded a sum of Rs.5,88,200/- along with interest @ 7.5 % per annum, on account of injuries suffered by the appellant in a motor vehicular accident, which occurred on 24.06.2012.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

3. The learned counsel for the claimant-appellant contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. He further submits that nothing has been granted for prosthetic limb and its further maintenance. Moreover, amount granted for pain and suffering, attendant charges,



transportation charges, special diet, loss of amenities etc. is on the lower side. Therefore, he prays that the present appeal be allowed and compensation be enhanced as per latest law.

4. Per contra, learned counsel for the respondents, however, vehemently argues that the award has rightly been passed and the amount of compensation, as assessed by the learned Tribunal has rightly been granted. Therefore, they pray for dismissal of the appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

SETTLED LAW ON COMPENSATION

6. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

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 Supreme Court 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.

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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.

20. The assessment of loss of future earnings is explained below with reference to the following



Illustration 'A' : *The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

- a) Annual income before the accident : Rs. 36,000/-.
- b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5400/-.
- c) Multiplier applicable with reference to age : 17
- d) Loss of future earnings : (5400×17) : Rs. 91,800/-

Illustration 'B' : *The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :*

- a) Annual income prior to the accident : Rs. 36,000/- .
- b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.
- c) Multiplier applicable with reference to age : 17
- d) Loss of future earnings : (27000×17) : Rs. 4,59,000/-

Illustration 'C' : *The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected.*



The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :

a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-

b) Loss of future earning per annum (70% of the expected annual income) : Rs. 42000/-

c) Multiplier applicable (25 years) : 18

d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-

[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

7. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-



“ Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”

8. Hon’ble Supreme Court in the case of **Erudhaya Priya Vs. State Express Tran. Corpn. Ltd.** 2020 ACJ 2159, has held as under:-

“ 7. There are three aspects which are required to be examined by us:

(a) the application of multiplier of '17' instead of '18';

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come



to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

- (i) Pain, suffering and trauma resulting from the accident;*
- (ii) Loss of income including future income;*
- (iii) The inability of the victim to lead a normal life together with its amenities;*
- (iv) Medical expenses including those that the victim may be required to undertake in future; and*
- (v) Loss of expectation of life."*

[emphasis supplied]

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well



established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

"Nature of injury:

- (i) compound fracture shaft left humerus*
- (ii) fracture both bones left forearm*
- (iii) compound fracture both bones right forearm*
- (iv) fracture 3rd, 4th & 5th metacarpals right hand*
- (v) subtrochanteric fracture right femur*
- (vi) fracture shaft femur*
- (vii) fracture both bones left leg*

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.



We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish’s case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:-

<i>Heads</i>	<i>Awarded</i>
<i>Loss of earning power (Rs.14,648 x 12 x 31.1/100</i>	<i>Rs. 9,81,978/-</i>
<i>Future prospects (50 per cent addition)</i>	<i>Rs.4,90,989/-</i>
<i>Medical expenses including transport charges, nourishment, etc.</i>	<i>Rs.18,46,864/-</i>
<i>Loss of matrimonial prospects</i>	<i>Rs.5,00,000/-</i>
<i>Loss of comfort, loss of amenities and mental agony</i>	<i>Rs.1,50,000/-</i>
<i>Pain and suffering</i>	<i>Rs.2,00,000/-</i>
<i>Total</i>	<i>Rs.41,69,831/-</i>



The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

9. The perusal of the Award reveals that the claimant was stated to be 26 years of age and was employed by M/S Delhi Gujarat Fleet Carrier Private Ltd., Rewari, earning ₹12,000 per month. It is duly evident from the award that PW-7-S.K. Malik, Head, M/S Delhi Gujarat Fleet Carrier Private Ltd has proved the salary of claimant as Rs.7200/- P.M vide Ex.P-56 (salary slip). A perusal of Ex.P-56 (salary slip) shows that the basic pay of the claimant was Rs.6500/- P.M besides deductions such as HRA, CCA and Conveyance Allowance. The claimant was getting Rs.7658/- P.M as carry home salary. The Tribunal has erred in law in calculating the salary of the claimant as Rs.7200/- P.M by only adding CCA to the basic salary while calculating the income. However, it is a settled preposition of law that allowances and perquisites must be added to the basic salary for determining the actual salary of the claimant, and future prospects must be applied thereafter.

10. Moreover, the Hon'ble Supreme Court in its recent decision in ***Meenakshi v. Oriental Insurance Company, 2024 INSC 583*** has further reinforced this position. The relevant extracts of the same is reproduced as under:-

10. Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor. The Accident Claims Tribunal was justified in factoring these components into the salary of the deceased, before applying 50% rise by future prospects due to future prospects, while calculating the total compensation payable to the appellant.

11. Clearly, the High Court erred in accepting the appeal filed by the respondent No. 1- Insurance Company and reducing the compensation payable to the appellant from a sum of



Rs. 1,04,01,000/- (Rupees One crore four lakh one thousand only) awarded by the ₹Accident Claims Tribunal to 49,57,035/-(Rupees Forty nine lakh fifty seven thousand and thirty five only).

12. We, therefore, hold that the High Court has erred while omitting to add the components of house rent allowance, flexible benefit plan and Company contribution to provident fund to the basic salary of the deceased while applying the principle of rise in income by future prospects.”

11. Consequently, in view of the salary slip Ex.P-56 and judgment of Hon’ble Apex Court in ***Meenakshi Vs. Oriental Insurance Company’s case (supra)***, the monthly salary of claimant is assessed as ***Rs.9000/-***.

12. Upon further perusal of the award, it is evident that no addition was made towards future prospects in the assessed income of the injured. In view of the settled position of law laid down by the Hon’ble Supreme Court regarding computation of compensation, ***an addition of 40% towards future prospects*** ought to be made to the established income of the injured.

11. Further perusal of the award shows that the claimant/appellant suffered 80% permanent disability with respect to amputation of his right thigh above the knee and other allied problems, as depicted from the Disability Certificate (Exhibit P7), which is proved by Dr. Subhash Sandhu while appearing as PW3-SMO General Hospital, Gurugram. A perusal of the disability certificate along with testimony of PW8 Ms. Ekta Panchal, official of Endolite Prosthetic and Orthotic Center, New Delhi, it becomes manifestly clear that the right thigh above the knee of the appellant was amputated due to which he has to depend upon prosthetic for his entire life. Further, she has also proved quotation Ex P58 regarding the purchase of artificial limb and its maintenance. The learned Tribunal has erred in not considering the said quotation and not awarding any amount for the artificial limb. Reference at this stage can be made to judgment of Hon’ble the Supreme Court of India in a case of ***G Vivek***



Vs National Insurance Co. Ltd. & Anr., 2023 ACJ 585. The operative part of the judgment reads as under:-

“7. While accepting the appeal preferred by the Insurance Company in part, thereby reducing the compensation amount of Rs.56,00,000/-, the only reason discernible from the Order passed by the High Court reads as follows:- "As the claimant sustained disability to the extent of 97% due to amputation of his right leg and other complications, learned Tribunal has applied the multiplier of '15' to calculate the loss of income. Taking the notional income of the claimant at Rs.10,000/- per month and adding 50% towards his future prospects, learned Tribunal has awarded Rs.27,00,000/-, towards loss of future income. Learned Tribunal has further awarded Rs.16,82,497/- towards medical expenses, transport and attendant charges, Rs.3,00,000/- towards pain and suffering, Rs.2,00,000/- towards future medical expenses and Rs.2,00,000/- towards loss of engagement and marriage prospects. Law is well settled that pecuniary loss suffered by the claimant is to be assessed on the basis of actual expenses incurred. Therefore, the claimant having filed bills and vouchers to show that he had incurred medical expenses of Rs.10,15,949/-, learned Tribunal was not justified in awarding Rs.16,82,497/- towards medical expenses, transport and attendant fees. Moreover there is no basis for assessing the cost of new prosthesis at Rs.5,00,000/- nor there is any basis for calculating medical future expenses at Rs.2,00,000/-. Though non pecuniary loss can be assessed on notional basis, the same must have a co-relation to the actual cost which an injured may incur in future for treatment of his injuries sustained in the accident. In other words, non-pecuniary loss towards future medical treatment, loss of income towards attendant expenses etc. must have a nexus with the actual rate for incurring such expenses and not on mere assumption. The award of compensation must be just and fair irrespective of the claims made and the same should not be a bonanza for the claimant."



8. *The aggrieved Appellant is before us.*
9. *We have heard learned counsel appearing for the parties and gone through the record.*
10. *It may be seen that the High Court has not employed any reasoning, logic or evidence to reduce the cost of a new prosthesis from Rs.5,00,000/- to Rs.2,00,000/-. The High Court is also silent regarding its maintenance cost.*
11. *In our view, the Tribunal was justified in awarding a sum of Rs.20,00,000/- towards cost of new prosthesis at the rate of Rs.5,00,000/- to be changed four times in five years. In other words, the Tribunal awarded this cost component only for 20 years despite the fact that Appellant was hardly of the age of 15-16 years old at the time when the Award was passed.*
12. *There is no rationale for the High Court to reduce the cost of the prosthesis from Rs.20,00,000/- to Rs.5,00,000/-.*
13. ***Having held so, the Appellant is indeed entitled to Rs.26,00,000/- towards cost and maintenance of prosthesis and that being so, the compensation amount stands increased from Rs.5,00,000/- (as awarded by the High Court) to Rs.26,00,000/- and excluding a sum of Rs.5,00,000/- awarded by the High Court towards cost of prosthesis, totaling to Rs.71,00,000/-.***
14. *In addition to the above, we hold the Appellant entitled to a sum of Rs.1,00,000/- towards transport expenses and attendant fees for dressing. In this manner, the compensation amount is increased to Rs.72,00,000/- (Rs.71,00,000/-+ Rs.1,00,000/-)*
15. *The appeal is, consequently, allowed in the above terms.*
16. *The Respondent - Insurance Company is directed to release the enhanced compensation of Rs.12,00,000/- along with interest at the rate of Rs.7.5% per annum, to be calculated from the date of application, that is 13.10.2011 till the date of actual payment made to the Appellant. Needless to say, any amount already paid or deposited shall be adjusted while depositing the final compensation awarded by this court which shall be made within a period of six weeks from today”*



13. Keeping in view the aforesaid judgment and considering the young age of the claimant (26 years), he is held entitled for compensation under the head of future expenses on account of purchase and maintenance of prosthetics to the tune of **Rs.15 lacs.**

14. Further perusal of the record shows that the appellant/claimant suffered grievous injury on his body making his life miserable. Furthermore, Rajesh appearing as PW2 has testified that he has been working as an attendant to the claimant on monthly salary of Rs.6000/-. The learned Tribunal has erred in giving meager amount for the same as it is evident that the claimant had to depend on others for his daily activities and have to employ an attendant to assist him for his physical movements. This Court has dealt with similar issue in case titled as ***Ajay Kumar vs. Jasbir Singh and others, passed in FAO No 1356-2007, decided on 18.02.2025.*** The relevant portion of the same is reproduced as under:-

“ATTENDANT CHARGES

36. *So far as attendant charges is concerned, the Hon’ble Apex Court in **Kajal Vs. Jagdish Chand and others, 2020(2)R.C.R.(Civil) 27,** held that where 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. xxxxx

24. xxxxx

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

37. *In view of the above as per the Disability Certificate, which is 100% and which requires full-time attendant, therefore, it would be appropriate to decide the attendant charges accordingly. 100%*

disability would require day and night attendants, meaning thereby two



attendants would be required. Further 100% disability of the appellant-claimant would require trained attendant i.e. who should have knowledge of nursing and experience as well. Further the minimum amount which an attendant would demand is Rs.10,000/-. Since two attendants are required for 100% disability, it would be appropriate to take the minimum amount of Rs.10,000/- each of two attendants i.e. amounting to Rs.20,000/- for two attendants.

38. *In the instant case, there is substantial medical evidence establishing that the injured appellant-claimant has suffered from a 100% disability of the lower limb, as per Ex. P-4. Over the past 20 years since the accident on 31.05.2005, the injured has faced significant challenges in leading a normal life. Furthermore, medical testimony confirms that the injured person is unable to carry out daily activities independently.*

39. *Applying the principles laid down in **Kajal's case (supra)** it is evident that the appellant-claimant requires continuous assistance from two attendants for 24 hours a day. In **Kajal's case (supra)**, the Hon'ble Supreme Court emphasized that the multiplier system must be followed to determine attendant charges, taking into account factors such as longevity, inflation, interest rates, and the uncertainties of life. The Court also highlighted that an individual with severe disabilities requires dedicated attendants, even if they are not medically trained, to ensure proper care and prevent further complications such as bedsores.*

15. In view of the above judgment and considering age and disability suffered by the appellant/claimant, the appellant is entitled to lumpsum amount for attendant charges to the tune of **Rs.2,00,000/-**.



16. A perusal of the record shows that the learned Tribunal has granted the compensation on the lower side to the claimant under the head of Pain and Suffering, which is required to be enhanced, in view of the recent judgment of Hon'ble Apex Court in a case of '*K.S. Muralidhar vs. R. Subbulakshmi & Anr., 2024 INSC 886*', wherein the Hon'ble Supreme Court elaborated upon the intangible but devastating consequences of pain and suffering. The Apex Court highlighted that while these losses are non-pecuniary and incapable of precise calculation, judicial recognition must be given to the emotional, physical, and psychological trauma endured by the injured party. The relevant portion of the same is reproduced as under:-

"15. Keeping in view the above-referred judgment, the injuries suffered, the 'pain and suffering' caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, award Rs.15,00,000/- under the head 'pain and suffering', fully conscious of the fact that the prayer of the claimant-appellant for enhancement of compensation was 22 (2022) 7 SCC 738 15| SLP (C) NO. 18337 OF 2021 by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded."

17. Therefore, in view of the above judgment and the facts and circumstances of the present case and lifelong nature of disability suffered by the claimant/appellant, this Court, in the interest of justice, deems it appropriate to grant a compensation of **Rs.1,00,000/-** under the head of 'Pain and Suffering'.

18. A perusal of the record shows that the learned Tribunal has awarded the compensation on the lower side to the claimant under the heads of transportation



charges, special diet, loss of amenities of life and loss of marriage prospects, which is required to be enhanced. Therefore, the award requires indulgence of this Court.

CONCLUSION

19. In view of the above referred judgments, the present appeal is **allowed** and award dated 24.06.2012 passed by the Motor Accident Claims Tribunal, Gurugram is modified. Accordingly, as per the settled principles of law as laid down by Hon’ble Supreme Court as mentioned above, the appellant-claimant is held entitled to the compensation amount as calculated below:

<i>Sr. No.</i>	<i>HEAD</i>	<i>COMPENSATION AMOUNT</i>
1.	Monthly Income	Rs.9000 per month
2.	Loss of Future Prospect (40%)	Rs.3600/- (9000X40%)
3.	Annual Income	Rs.151200/- (12600x12)
4.	Loss of earning on account of 80% disability	Rs. 120960/- (151200x80%)
5.	Multiplier	17
6.	Loss of Future Earnings per annum	Rs.20,56,320/- (120960X17)
7.	Medical Expenses	Rs.2,80,000/-
8.	Cost of artificial limb and its maintenance	Rs.15,00,000/-
9.	Pain and suffering	Rs.1,00,000/-
10.	Attendant Charges	Rs.2,00,000/-
11.	Transport Charges	Rs.50,000/-
12.	Loss of amenities of life and loss of marriage prospects	Rs.2,00,000/-
13.	Special Diet	Rs.50,000/-
	Total compensation awarded:-	Rs.44,36,320/-
	Amount awarded by Tribunal	Rs.5,88,200/-
	Enhanced amount of compensation	Rs.38,48,120/- (44,36,320-5,88,200)

20. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and

**R.Valli and Others VS. Tamil Nandu State Transport Corporation** (2022) 5

Supreme Court Cases 107, the amount so calculated shall carry an interest @9% per annum from the date of filing of the claim petition, till the date of realization.

21. Respondent No.1-owner of the offending vehicle is directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the same to the appellant-claimant in his bank account. The appellant-claimant is directed to furnish his bank account details to the Tribunal.

22. Pending application (s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

11.11.2025

Gaurav Arora

Whether speaking/non-speaking : Yes
Whether reportable : Yes