



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 22.05.2025

+ **MAC.APP. 414/2023**

PRASHANT MALIK

.....Appellant

versus

**UNIVERSAL SOMPU GENERAL INSURANCE
COMPANY LIMITED & ANR.**

.....Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Naveen Kumar Chaudhary & Mr. Yash
Tewatia, Advs.

For the Respondents : Mr. Rajat Khatri, Adv.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeal is filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter '**MV Act**') seeking enhancement of compensation awarded by the learned Motor Accident Claims Tribunal *vide* award dated 24.05.2023 (hereafter '**the impugned award**'), passed in MACT No. 421/2018.

2. The brief facts are that on 09.08.2017 at about 11:45 p.m., the appellant along with his friends were travelling in a car bearing No. HR – 51 – BB – 0715 being driven by Respondent No. 2 allegedly in a



rash and negligent manner. Thereafter, Respondent No. 2 lost control and as a result of which the vehicle fell in a ditch measuring 8 – 10 feet deep.

3. Due to the accident, the appellant sustained grievous injuries on his left leg as well as injuries on his head, chest and other body parts. All the other passengers in the vehicle also sustained grievous injuries.

4. This incident led to the registration of FIR No. 353/2017 dated 10.08.2019, at Police Station Hosoke, Bangalore District, for offences under Sections 279/337 of the Indian Penal Code, 1860 ('IPC'). After the completion of investigation, the police charge sheeted Respondent No. 2 for the offences under Sections 279/338 of the IPC.

5. The learned Tribunal, after examining the pleadings, evidence, and documents on record, assessed the compensation at ₹1,20,83,680/- and awarded an interest at the rate of 7.5% per annum to the appellant. The details thereof are as under:

S.no.	Heads of Compensation	Amount
1.	Medical Expenses and Treatment	₹8,84,000/-
2.	Loss of Future Earning	₹90,60,000/-
3.	Loss of Income during Treatment	₹2,39,680/-
4.	Loss of Amenities	₹1,00,000/-
5.	Any other loss which may require any special treatment or aid to the injured for	₹2,00,000/-



	the rest of his life	
6.	Pain and Suffering	₹1,00,000/-
7.	Mental and Physical Shock	₹1,00,000/-
8.	Conveyance and Special Diet	₹50,000/- and ₹50,000/-
9.	Attendant Charges	₹10,00,000/-
10.	Disfiguration	₹1,00,000/-
11.	Loss of Marriage Prospects	₹2,00,000/-
	TOTAL	₹1,20,83,680/-

6. Aggrieved by the quantum of compensation awarded, the appellant has preferred the present appeal.

7. The learned counsel for the appellant submitted that the learned Tribunal failed to award any compensation towards future medical expenses.

8. He submitted that the learned Tribunal erred in not applying the multiplier system while awarding compensation under the head of attendant charges.

9. He submitted that the learned Tribunal erred while awarding a meagre amount of ₹50,000/- each under the heads of conveyance charges and special diet.



10. He further submitted that the learned Tribunal failed to consider that the appellant had sustained 100% functional disability, due to which he is unable to walk and even perform his daily routine work. He consequently submitted that the learned Tribunal erred while awarding a meagre sum of ₹1,00,000/- each under the head of pain and suffering as well as mental and physical shock and ought to have awarded a higher amount.

11. He submitted that interest awarded at the rate of 7.5% per annum is on the lower side and that the same should be enhanced to 14% per annum.

12. The appellant also challenged the award of ₹1,00,000/- for loss of amenities, ₹1,00,000/- for disfiguration and ₹2,00,000/- for the loss of marriage prospects, arguing that these amounts are inadequate given the severity of his disability.

13. *Per contra*, the learned counsel for respondent – Insurance Company contended that the learned Tribunal passed the impugned award after due appreciation of evidence and that the same warrants no interference by this Court. He consequently submitted that the present appeal be dismissed.

Analysis

14. The short question for consideration before this Court is whether the compensation as awarded by the learned Tribunal is adequate or whether the same ought to be enhanced.

15. It is well-settled that the amount of compensation awarded under the MV Act should be just and, to the extent possible, should



fully and adequately restore the claimant to a position as existed prior to the accident. The object being to make good the loss suffered as a result of the accident in a fair, reasonable and equitable manner.

16. By its very nature, when a tribunal or court is tasked with determining the amount of compensation in accident cases, it inevitably involves a degree of estimation, hypothetical assessments, and a measure of compassion related to the severity of the disability sustained. However, all these factors must be evaluated with objective standards.

17. Upon careful consideration of the rival submissions and a perusal of the impugned award, this Court finds merit in the appeal to a limited extent.

Future Medical Expenses

18. The learned counsel for appellant contended that the appellant had suffered 100% functional disability and keeping in view the said fact, the learned Tribunal ought to have awarded some compensation towards future medical expenses.

19. The Hon'ble Apex Court in the case of ***Kajal v. Jagdish Chand : (2020) 4 SCC 413***, while dealing with the issue of future medical prospects of a person whose functional disability was assessed at 90%, awarded a sum of ₹5,00,000/- under the said head. The relevant portion of the judgment is reproduced hereunder:

“Future Medical Treatment

29. The claimant has been awarded only Rs.2,00,000/ under this head. This amount is a pittance. Keeping in view the nature of her injuries and the fact that she is bedridden this



child is bound to suffer from a lot of medical problems. True it is that there is no evidence in this regard but there can hardly be such evidence. She may require special mattress which will have to be changed frequently. In future as this girl grows, she may face many other medical issues because of the injuries suffered in the accident. Keeping in view her young age and assuming she would live another 50-60 years, it would not be unjust to award her Rs.5,00,000/- for future medical expenses.”

20. In the present case the appellant had sustained injuries on his left leg as well as injuries on his head, chest and other body parts.

21. PW – 3, Dr. Vinal Sharma during the trial had proved Ex. PW3/A, Disability Certificate assessing permanent disability of the appellant at 90% and further deposed that the appellant suffered from Post Traumatic Paraplegia, a form of paralysis affecting all or parts of torso, legs and pelvic organs.

22. PW – 5, Dr. Dinesh Suman had deposed that the appellant suffered from neurogenic bladder which resulted in bowel problems.

23. The learned Tribunal from a perusal of the aforesaid testimonies noted that the appellant had suffered grievous injuries all over his body and would be required to visit the hospital regularly for his medical checkups and treatment of the doctors at various hospitals in and outside of Delhi.

24. It would be reasonable to assume that large amount of money will be spent on medical treatment for which no evidence can be produced.

25. Therefore, in light of the observations made by the Hon’ble Apex Court in ***Kajal v. Jagdish Chand (supra)***, lumpsum amount of



₹5,00,000/- is awarded to the appellant towards future medical expenses. The impugned award is modified to such extent.

Attendant Charges

26. The learned counsel for the appellant submitted that the learned Tribunal while awarding compensation under the head of attendant charges ought to have applied the multiplier system.

27. He relies on a judgment passed by a Co – ordinate bench of this Court in ***Jyoti Singh v. Nand Kishore and Ors. : MAC. AAP. 870/2021***, wherein it was held that for computing compensation under the heads of attendant charges or any other head which is recurring in nature, the multiplier system as laid down in ***Sarla Verma v. Delhi Transport Corporation : (2009) 6 SCC 121*** ought to be applied.

28. This Court in ***Sumer v. National Insurance Co. Ltd. : 2023 SCC OnLine Del 5533***, where the claimant had suffered 50% physical disability, enhanced the compensation under the head of attendant charges. The relevant portion of the said judgment is reproduced below:

“33. The appellant challenges the Impugned Award in-so-far as it awards compensation of only Rs. 10,000/- to the appellant towards attendant charges.

34. The learned counsel for the appellant submits that looking into the nature of the injury suffered by the appellant, the appellant would require an attendant. He submits that the family members of the appellant are looking after the appellant, however, that cannot be a reason for denying the compensation to the appellant towards the attendant charges.

35. On the other hand, the learned counsel for the respondent no. 1 submits that, in fact, the appellant had not claimed any amount towards the attendant charges in the Claim Petition, nor had the same been proved. The



appellant has also been granted Rs. 75,000/- for pain, suffering and trauma, and Rs. 50,000/- towards amenities. He submits that, therefore, there is no justification for enhancing the compensation payable towards the attendant charges.

36. I have considered the submissions made by the learned counsels for the parties.

37. Keeping in view the nature of injuries suffered by the appellant, it cannot be said that the appellant would require a permanent attendant. At the same time, he would certainly require some help on a regular basis, especially because of the amnesia suffered by him, as also because of hemiplegia suffered in his left upper and lower limb. The compensation awarded to the appellant of only Rs. 10,000/- towards attendant charges, therefore, appears to be highly inadequate. Though, the appellant may be taking the services of his own family members, who may be performing the same gratuitously, compensation should still be awarded in favour of the appellant for the contribution made by the family members. Accordingly, the compensation on account of the attendant charges is enhanced to Rs. 2 lakhs.”

(emphasis supplied)

29. In *National Insurance Co. Ltd. v. Pawan Kumar* : 2023 SCC OnLine Del 4964], it was observed as under:

“15. The learned counsel for the appellant further submits that the learned Tribunal has erred in granting a sum of Rs. 5,00,000/- to the respondent no. 1 towards attendant charges, though there was no proof of the same placed on record by the respondent no. 1 before the learned Tribunal. He further submits that, in any case, interest could not have been awarded under the said head, as interest cannot be awarded for compensation payable for the future. In support, he places reliance on the judgment of the Supreme Court in *R.D. Hattangadi v. Pest Control (India) Pvt. Ltd.*, (1995) 1 SCC 551; and of this Court in *IFFCO Tokio General Ins. Co. Ltd. v. Raja*, 2014 SCC OnLine Del 4375.



16. I am again unable to find any merit in the submission made by the learned counsel for the appellant. The learned Tribunal, while awarding a sum of Rs. 5,00,000/- towards attendant charges in favour of the respondent no. 1, has observed as under:—

“ATTENDANT CHARGES

32. The contention of counsel for petitioner is that the petitioner has permanent disabled in the accident and he had incurred expenditure on attendant charges. **Petitioner during the course of his deposition has failed to substantiate the amount spent by him on attendant charges. Although the petitioner has not proved by cogent evidence as to who was hired by him as attendant, period of hiring attendant and the amount paid to attendant. However as per disability certificate the petitioner has suffered 95% permanent physical impairment in relation to his left upper limb and right lower limb.** PW2 Dr. Adarsh Kumar who was member of disability board has deposed that the petitioner can not squat and he will have difficulty in discharging his routine activities like using of washroom. **Thus looking at the nature of disability and deposition of PW2 notice can be taken of the fact that the petitioner will require assistance of attendant for his daily routine work. Moreover, the petitioner has to be compensated for the gratuitous services rendered by his family members.** Reliance is placed on United India Insurance Company Ltd. v Rama Swamy, MAC App, No. 328/11. **In view of the aforesaid, in my view, a sum of Rs. Five Lacs would be just and proper towards attendant charges and the same is awarded accordingly.”**

17. The learned Tribunal has rightly held that taking into account the injury suffered by the respondent no. 1, he would require the assistance of an attendant for his daily routine work. This may be in the form of hired help or even in the form of gratuitous services rendered by his family members. Either way, the respondent no. 1 has to be compensated for the same.

18. In Abhimanyu Partap Singh (Supra), the Supreme Court, in fact, determined the compensation payable for attendant charges on the basis of the minimum wages notified and by applying the multiplier method. Judged by



that standard, the Award of only Rs. 5,00,000/- towards attendant charges to the respondent no. 1 can by no stretch be said to be unreasonable or unwarranted.”

19. As far as the award of interest on the said amount is concerned, as noted hereinabove, the accident had taken place on 14.10.2011. The Award was passed by the learned Tribunal on 01.04.2016, that is, almost after four and a half years thereafter. The respondent no. 1 would have required assistance all along, during this period. In my view, Rs. 5,00,000/- can be attributed to the pendente lite period alone. Therefore, the said amount is not for the future but for the past, and would, therefore, bear interest liability as well.

(emphasis supplied)

30. In the present case, the appellant had not produced any evidence before the learned Trial Court regarding attendant charges.

31. However, considering the depositions made by PW – 3 and PW – 5 stating that the appellant suffered from Post Traumatic Paraplegia as well as a neurogenic bladder, the learned Tribunal rightly noted that he would require assistance of one attendant for a considerable time and awarded a lumpsum amount of ₹10,00,000/- towards attendant charges.

32. Hence, in light of the observations made in ***Sumer v. National Insurance Co. Ltd.*** (*supra*), and ***National Insurance Co. Ltd. v. Pawan Kumar*** (*supra*) and keeping in view the specific facts and circumstances of the present case, this Court is of the opinion that the compensation awarded by the learned Tribunal under the head of attendant charges is reasonable. The impugned award is affirmed to that extent.



Special Diet and Conveyance Charges

33. The learned counsel for the appellant contended that the learned Tribunal awarded a lesser sum of ₹50,000/- each towards the heads of special diet and conveyance charges. He contended that the appellant would be required to maintain a protein rich diet as well as visit the hospital on a regular basis. Hence, the learned Tribunal ought to have awarded a higher amount.

34. In the present case the learned Tribunal noted that the appellant had not placed on record any bills regarding special diet and conveyance charges and hence awarded a lumpsum amount of ₹50,000/- each under the said heads.

35. The Hon'ble Apex Court in the case of ***Mohd. Shabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation*** : 2022 SCC OnLine SC 1701, had awarded a combined compensation of ₹25,000/- towards the heads of special diet and conveyance charges.

36. Thus, in light of the observations made in the aforesaid judgment and the fact that the appellant will be in a need to have a protein rich diet as well as require regular visits to the hospital, and in the absence of any bills for special diet and conveyance charges being placed before the learned Tribunal, this Court finds that the amount of ₹50,000/- each awarded by the learned Tribunal towards special diet and conveyance charges is fair and reasonable. The award to that extent is affirmed.



Compensation for Pain and Suffering as well as Mental and Physical Shock

37. It was argued on behalf of the appellant that the sum awarded towards pain and suffering, and mental and physical shock does not adequately reflect the intensity of the physical pain, multiple surgeries and the emotional trauma endured by the appellant.

38. At this juncture, it is apposite to refer to the judgment in the case of ***R.D. Hattangadi vs Pest control (India) Pvt. Ltd. & Ors : (1995) 1 SCC 551***, where the Hon'ble Apex Court has expounded on the compensation under pecuniary and non- pecuniary heads that can be awarded in cases of personal injury. The relevant portion of the judgment is reproduced hereunder:

*“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... 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.”*

(emphasis supplied)

39. In the opinion of this Court, the learned Tribunal erred while awarding a separate compensation towards mental and physical shock.



Although compensation is awarded under the heading of ‘Pain and suffering’, the same encompasses the purpose of compensation for mental and physical shock as well.

40. Insofar as the quantum for pain and suffering is concerned, the Hon’ble Apex Court in **V. Mekala v. M. Malathi : (2014) 11 SCC 178** while dealing with the similar circumstances awarded a sum of ₹2,00,000/- under the said head. The relevant paras of the judgement in **V. Mekala v. M. Malathi** (*supra*) are reproduced as under:

“21. The compensation under the head pain and suffering and mental agony was awarded by the High Court after recording concurrent findings with the award passed by the Tribunal. However, the courts below have not recorded the nature of the permanent disablement sustained by the appellant, while awarding Rs 1,00,000 under this head which is too meagre an amount and is contrary to the judgment of R.D. Hattangadi [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250] and Govind Yadav [Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683 : (2012) 3 SCC (Civ) 1082 : (2012) 1 SCC (Cri) 82 : (2012) 1 SCC (L&S) 422] cases. The relevant paragraphs of Govind Yadav case [Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683 : (2012) 3 SCC (Civ) 1082 : (2012) 1 SCC (Cri) 82 : (2012) 1 SCC (L&S) 422] read as under: (SCC p. 695, paras 25-26)

“25. The compensation awarded by the Tribunal for pain, suffering and trauma caused due to the amputation of leg was meagre. It is not in dispute that the appellant had remained in the hospital for a period of over three months. It is not possible for the tribunals and the courts to make a precise assessment of the pain and trauma suffered by a person whose limb is amputated as a result of accident. Even if the victim of accident gets artificial limb, he will suffer from different kinds of handicaps and social stigma throughout his life. Therefore, in all such cases, the tribunals and the courts should make a broad guess for the purpose of fixing the amount of compensation.



26. Admittedly, at the time of accident, the appellant was a young man of 24 years. For the remaining life, he will suffer the trauma of not being able to do his normal work. Therefore, we feel that ends of justice will be met by awarding him a sum of Rs 1,50,000 in lieu of pain, suffering and trauma caused due to the amputation of leg.” Therefore, under this head the amount awarded should be enhanced to Rs 2,00,000 as the doctor PW 2 has opined that at the time of walking with support of crutches, the appellant claimant will be suffering pain permanently. Therefore, under this head it has to be enhanced from Rs 1,00,000 to Rs 2,00,000.”

(emphasis supplied)

41. In the present case, the appellant had suffered 100% functional disability, and had been admitted to three different hospitals for his medical treatment. The disability is stated to be permanent. He has suffered from Post Traumatic Paraplegia as well as a neurogenic bladder.

42. In view of the foregoing, this Court is of the considered opinion that the compensation of ₹1,00,000/- awarded by the learned Tribunal under the head of pain and suffering is on the lower side. Keeping in view the condition of the appellant an amount of ₹2,00,000/- is awarded. Accordingly, the impugned award is modified to this extent.

Loss of Amenities

43. It is the contention of the appellant that the learned Tribunal has awarded a lesser amount towards loss of amenities.

44. This Court in **Nandan Mukherjee v. Mohd. Rafiq : 2024 SCC OnLine Del 9012** while granting compensation to a claimant whose leg was amputated in a motor accident, granted a sum of ₹2,00,000/- for loss of amenities. In the present case, compensation for ₹1,00,000/-



has been awarded towards loss of amenities by the learned Tribunal. The relevant paragraphs in ***Nandan Mukherjee v. Mohd. Rafiq*** (*supra*) are reproduced hereunder:

“Special Diet and Conveyance Charges:—

35. In view of the nature of injury and period of treatment of about 6 months, the sum of Rs. 18,000/- granted for compensation towards Special Diet and Conveyance charges, the amount is enhanced to Rs. 30,000/-, considering the nature of injury suffered.

Non-Pecuniary Heads:—

38. The Learned Tribunal has granted a total amount of Rs. 3,00,000/- i.e. Rs. 1,00,000/- each towards Pain and suffering, Loss of amenities of life & Loss of expectation of Life.

39. However, considering that the right leg of the injured was amputated, in light of Mhd. Sabeer @ Shabir Hussain (Supra), the same is re-calculated as under:—

a) Pain and Suffering = Rs. 2,00,000

b) Loss of Amenities of life = Rs. 2,00,000

c) Loss of Expectation of Life = Rs. 1,00,000/- (no change)”

(emphasis supplied)

45. Looking at the nature of the injuries suffered by the appellant, he would have difficulty in leading his life, hence the learned Tribunal erred in awarding a meagre sum under the head of loss of amenities. In view of the observation of this Court in ***Nandan Mukherjee v. Mohd. Rafiq*** (*supra*) an amount of ₹2,00,000/- is awarded. The impugned award is modified to that extent.

Disfiguration



46. Another grievance of the appellant is the grant of lesser compensation under the head of disfiguration. The Hon'ble Apex Court in the case of ***Mohd. Shabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation*** (*supra*) awarded an amount of ₹2,00,000/- under the said head, taking into consideration that the appellant therein had suffered 60% functional disability due to his amputation.

47. Injuries suffered by the appellant have already been discussed above. The appellant suffered from permanent disability of 90%.

48. Therefore, in the view of the aforesaid judgment, the learned Tribunal erred in awarding a sum of ₹1,00,000/- compensation under the head of disfiguration. It cannot be overlooked that the appellant herein suffered 100% functional disability hence, the amount of ₹2,00,000/- as claimed by the appellant under the said head is reasonable and the impugned award is modified to this extent.

Miscellaneous Heads

49. The appellant has also made a general assertion that no compensation has been awarded under certain ancillary heads—such as litigation cost and purchase of a new wheelchair. In the opinion of this Court, the findings of the learned Tribunal are consistent with the legal position and evidentiary material on record. In the absence of any specific pleadings, supporting evidence, or quantified claim under these categories, this Court does not find any justifiable ground to interfere with the compensation already awarded under the miscellaneous heads.



Rate of Interest

50. The appellant is aggrieved by the rate of interest of 7.5% per annum being awarded. The same appears to be on the lower side.

51. It is pertinent to note that this Court in the case of ***United India Insurance Company Ltd v. Smt. Mithlesh Kumari and Ors : MAC. APP. 161/2025*** had noted that the award of interest is a matter of judicial discretion, and that the same found its genesis in the forbearance of the claimants who are kept out of the money that they are entitled to at the time of filing of the claim petition. It was consequently noted that the award of @9% interest is a reasonable assessment.

52. While there is no set standard for the grant of rate of interest in every case, in the opinion of this Court, the rate of interest as awarded by the learned Tribunal is on the lower end and therefore, interest at the rate of 9% per annum is awarded to the appellant.

Conclusion

53. Keeping in view the facts and circumstances of the case, the appeal is partly allowed. The matter is remanded back to the learned Tribunal for the limited purpose of re-determining the compensation by taking into consideration (i) award a sum of ₹5,00,000/- as compensation towards future medical expenses (ii) award a sum of ₹2,00,000/- as compensation towards pain and suffering (iii) award a sum of ₹2,00,000/- as compensation towards loss of amenities, (iv) award a sum of ₹2,00,000/- as compensation towards disfigurement, (v) enhance the rate of interest and finally compute the compensation



of the appellant afresh.

54. The findings of the Tribunal on all other issues are affirmed and shall remain undisturbed.

55. The learned Tribunal shall undertake this re-computation expeditiously, preferably within a period of four weeks from the date of the first listing of the Claim Petition before the learned Tribunal on remand.

56. The parties shall appear before the learned Tribunal on 30.05.2025.

57. The compensation amount so determined, on remand, shall be released in favour of the appellant in accordance with the schedule of disbursal which will be stipulated by the learned Tribunal.

58. The present appeal is partly allowed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 22, 2025