IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

FAO (MV) No. 339 of 2015 a/w
FAO (MV) No. 163 of 2015
Reserved on : 26.10.2026
Decided on : 31.10.2026
Uploaded on : 31.10.2026

(1) **FAO (MV) No. 339 of 2015**

Himachal Road Transport Corporation Ltd. & Anr.
.....Appellants

Versus

Yudhvir Singh & Anr. .....Respondents

(2) **FAO (MV) No. 163 of 2015**

Himachal Road Transport Corporation Ltd. & Anr.
.....Appellants

Versus

Sadhu Ram & Ors. .....Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.
Whether approved for reporting?[1]

(1) FAO No. 339 of 2015

For the appellants: **Mr. Raman Jamalta, Advocate.**

For the respondents: **Mr. Anil Kapoor, Advocate, vice Mr. Nimish Gupta, Advocate, for respondent No. 1.**

[1] Whether the reporters of Local Papers may be allowed to see the judgment? Yes.

	Ms. Rajni Gandhi, Advocate, vice Mr. Rajiv Rai, Advocate, for respondent No. 2.
(2) FAO No. 163 of 2015:	
For the appellants:	**Mr. Raman Jamalta, Advocate.**
For the respondents:	**Mr. Parveen Chauhan, Advocate, for respondent No. 1.** **Ms. Rajni Gandhi, Advocate, vice Mr. Rajiv Rai, Advocate, for respondent No. 2.** **Mr. Anil Kapoor, Advocate, vice Mr. Nimish Gupta, Advocate, for respondent No. 3.** **Mr. H.S. Rawat, Additional A.G., for respondent No. 4.**

Virender Singh, Judge

Both the above titled appeals are being decided by this common judgment, since the same are arising out of the same accident, which, had taken place on 02.11.2010, at place Galu More, Near Bus-stand Banikhet, Tehsil Dalhousie, District Chamba, H.P., (hereinafter referred to as 'the accident in question') involving vehicle/bus bearing No. HP48A-7514 (hereinafter referred to as 'the offending vehicle'), owned by respondents No. 1 and 2 and being driven by respondent No. 3.

2. **FAO No. 339/2015** has been filed by the appellants, under Section 173 of Motor Vehicles Act (hereinafter referred to as 'the M.V. Act'), against the award dated 30.06.2014, passed by the learned Motor Accident Claims Tribunal, Chamba, H.P. (hereinafter referred to as 'the learned Tribunal') in MAC Petition No. 87/2013 (463/2013), titled as "Yudhvir Singh Verus Himachal Road Transport Corporation Ltd. & Ors.".

3. By way of award dated 30.06.2014, the learned Tribunal has allowed the claim petition, by awarding a sum of Rs. 9,83,631/-, as compensation, along with interest @ 7.5% per annum, from the date of filing of the petition, till the realization of the whole amount, by fastening the liability to pay the amount of compensation upon the present appellants.

4. **FAO No. 163/2015** has been filed by the appellants, under Section 173 of M.V. Act, against the award dated 17.01.2015, passed by the learned Tribunal in MAC Petition No. 50/2013 (423/2013), titled as "Sadhu Ram Verus Himachal Road Transport Corporation Ltd. & Ors.".

5. By way of award dated 17.01.2015, the learned Tribunal has allowed the claim petition, by awarding a sum of Rs. 7,90,000/-, as compensation, along with interest @ 9% per annum, from the date of filing of the petition, till the realization of the whole amount, by fastening the liability to pay the amount of compensation upon the present appellants.

6. For the sake of convenience, the parties to the present *lis* are, hereinafter, referred to, in the same manner, as were, referred to, by the learned Tribunal.

7. Necessary facts, for the just adjudication of the above titled appeals, are being borrowed from FAO (MVA) No. 339 of 2015, titled as "Himachal Road Transport Corporation Ltd. & Anr. Vs. Yudhvir Singh & Anr.", which has been filed against the award dated 30.06.2014, passed in MAC Petition No. 87/2013 (463/2013), by treating the said case as the lead case.

FAO No. 339/2015:

8. Brief facts, leading to filing of the present appeal, before this Court, as borne out from the record, may be summed up, as under:-

8.1 Petitioner Yudhvir Singh has filed the petition under Section 166 of M.V. Act, against the respondents, seeking compensation on account of the injuries/disability, sustained/suffered by him in the accident, in question.

8.2 According to the petitioner, at the time of accident, he was 45 years of age and working in Police Department. He has pleaded his income as Rs. 39,000/- per month. According to him, the accident in question had taken place, due to rash and negligent driving of respondent No. 3.

8.3 According to him, on the fateful day, he was riding his motorcycle bearing No. HP48A-4558 in a very safe manner, however, when he reached near Galu Mor, then the offending vehicle, being driven by respondent No. 3, in rash and negligent manner, came from Chamba side and hit the petitioner and his motorcycle, thereby causing serious injuries to the petitioner. After the accident, he was taken to Civil Hospital Dalhousie, from where, he was referred to RPMCH Tanda, however, he was taken to Raavi Multi Specialty Hospital Pathankot, Tehsil and District Pathankot, Punjab, on 02.11.2010. He was discharged

from there on 25.11.2010, after multiple surgeries. Thereafter, he was regularly attending the hospital for follow up treatment and again admitted on 14.03.2011 and operated upon for bone grafting of shaft of femur on 15.03.2011 and he was discharged on 22.03.2011. Thereafter, he was again admitted on 01.09.2011 and operated on 02.09.2011 for distal locking and bone grafting of fracture site. He was discharged on 08.09.2011 and was advised complete bed-rest for two months.

8.4 According to the petitioner, the accident, in question, had taken place due to rash and negligent driving of the offending vehicle. Information regarding the accident, was given to Police Station Dalhousie, where FIR No. 112/2010, dated 02.11.2010 was registered.

8.5 Highlighting his bright past and bleak future, the petitioner has sought the amount of compensation.

9. When put to notice, the claim petition has been contested by the respondents. Respondent No. 1 and 2, filed their joint reply, by taking preliminary objections that the claim petition is not maintainable; the petitioner is estopped from filing the petition by his own act and

conduct; the petition is bad for non-joinder of necessary parties as the owner, driver and Insurance Company of the motorcycle No. HP48A-4558, have not been impleaded as necessary parties; petitioner has no cause of action to file the present petition.

9.1 On merits, the contents of claim petition have mainly been denied for want to knowledge. However, the registration of the FIR has been admitted by pleading that the same has been lodged on the basis of twisted and distorted facts, at the instance of Constable Sanjeev Kumar, who was not present on the spot. The accident, in question, has been attributed to the rash and negligent driving of the petitioner himself, while riding the motorcycle No. HP48A-4558.

9.2 Driver of the offending vehicle i.e. respondent No. 3, has filed his separate reply, by taking the similar preliminary objections, which have been taken by respondents No. 1 and 2. According to him, the accident, in question, had taken place due to the negligence of the petitioner himself. According to him, the petitioner was driving motorcycle No. HP48A-4558 and he was with the

convoy of the then MLA Smt. Renu Chadha and his attention was towards her and while driving the said motorcycle in a rash and negligent manner and when reached near the bus, he got confused and struck against the bus.

9.3 Thus, the respondents have prayed for dismissal of the claim petition.

10. From the pleadings of the parties, the following issues were framed, by the learned Tribunal, vide order dated 04.01.2014:-

1. *Whether the petitioner received injuries on 02.11.2010 at about 12:50 pm, at place Gallu Mor near Banikhet bus-stand, due to driving of vehicle No. HP48A-7514 by respondent No. 3 in a rash and negligent manner, as alleged? OPP*

2. *If issue No. 1 is proved in affirmative, whether the petitioner is entitled to compensation, if so, to what amount and from whom? OPP*

3. *Whether the petition is not maintainable in the present form? OPRs*

4. *Whether the petition is bad for non joinder of necessary parties, as alleged? OPRs*

5. *Whether the accident had taken place due to the rash and negligent driving of motorcycle No. HP48-4558 by the petitioner himself. If so, the effect thereto? OPRs.*

6. *Relief.*

11. Thereafter, the parties to the *lis* were directed to adduce evidence and after hearing learned counsel for the parties, the claim petition was allowed, as referred to above.

12. Feeling aggrieved from the said award, the FAO No. 339 of 2015 has been filed by the appellants-HRTC, before this Court, mainly on the ground that the learned Tribunal has wrongly concluded that the accident, in question, had taken place due to rash and negligent driving of the offending vehicle, whereas petitioner-Yudhvir Singh, himself was negligent in riding the motorcycle and he himself struck against the parked offending vehicle.

13. Highlighting the fact that after the investigation, cancellation report has been submitted by concluding that there was no negligence on the part of the driver of the offending vehicle and that the person, who has allegedly lodged the FIR, was not present at the spot and the FIR has been lodged to favour the petitioners, who were also working in the Police Department, according to the appellants, the learned Tribunal has wrongly disbelieved the statement of RW-1, who was the eye witness. On the

basis of above facts, Mr. Raman Jamalta, Advocate, appearing for the appellants has prayed that the present appeal may kindly be allowed and the claim petition filed by petitioner-Yudhvir Singh, may kindly be dismissed.

14. Per contra, Mr. Anil Kapoor, Advocate, vice Mr. Nimish Gupta, Advocate, appearing for the petitioner, has supported the award and prayed that the appeal sans merit and the same may kindly be dismissed. However, the amount may kindly be enhanced, so that the same could fall within the definition of "just compensation".

15. Ms. Rajni Gandhi, Advocate, vice Mr. Rajiv Rai, Advocate, for the driver of the offending vehicle has supported the stand as taken by Mr. Raman Jamalta, Advocate, appearing for the appellants.

16. In order to decide the appeal preferred by the appellants, it would be just and appropriate to discuss the evidence, so adduced by the parties to the lis, before the learned Tribunal.

17. After framing of the issues, petitioner-Yudhvir Singh filed his affidavit Ext. PW1/A, which is based upon the stand, as taken in the claim petition. He has also

placed on record the documents. In the cross-examination, this witness has admitted that on 02.11.2010, he was on his duty and when he struck against the offending bus, he was on duty at that time. He was posted as ASI, at the relevant time. He also admitted that he is having the facility to get the medical expenses reimbursed. He has admitted that the documents produced by him, have already been submitted for medical reimbursement. He has also deposed that he suffered permanent disability to the extent of 20%. Rest, he has denied all the suggestions, which were put to him by the learned counsel for the respondents.

18. PW-2 Dr. Vipin, Civil Hospital Dalhousie, proved the MLC Ext. PW2/A. This witness has admitted that the patient was admitted to higher institution, for further management.

19. PW-3 Jaswinder Singh, has been examined to prove that his services were hired by the petitioner to look after him, when the petitioner was admitted in Raavi Hospital at Pathankot. This witness has allegedly looked

after the petitioner for about two years. Petitioner used to pay Rs. 4,500/- per month to him as salary.

20. PW-4 Shashi Kumar, has been examined as an eye witness. According to him, on 02.11.2010, he was present at Galu Mor, at about 12:15-12:30 PM, near Banikhet Bus-stand. Petitioner was riding the motorcycle bearing No. HP48-4558. He was driving the same in a safe manner and was moving towards Chamba side. However, the offending vehicle came there being driven in rash and negligent manner by its driver and hit the motorcycle of the petitioner, who had suffered injuries. In the cross-examination, this witness has admitted that he is driver by profession and plying his vehicle as taxi. He has admitted that being taxi operator, he is in touch with police. Rest, he has denied all the suggestions.

21. PW-5 C. Naresh Kumar proved the copy of FIR Ext. PW5/A. He has admitted that the cancellation report has been submitted, in this case, in the Court of learned JMFC, Dalhousie.

22. PW-6 HHC Ajay Kumar, proved the copy of bill Mark 66 (Ext. PW6/A), by virtue of which, a sum of Rs.

6,358/- were reimbursed to the petitioner. He has also proved the leave order as Ext. PW6/B. He has also deposed that the medical reimbursement is based upon the Government rates and no deduction is being made if the medical bills are issued by government hospitals. Lastly, he has admitted that no medical reimbursement bill pertaining to the petitioner is pending with the Department.

23. PW-7 Constable Ajay Kumar, has proved the medical reimbursement form Ext. PW7/A, by virtue of which, petitioner has claimed a sum of Rs. 1,56,445/-, however, a sum of Rs. 1,21,482/- were reimbursed to him. Similarly, as per Ext. PW7/B, a sum of Rs. 76,072/- was claimed and reimbursement of Rs. 55,076/- was made. Subsequently, a sum of Rs. 22,140/- was recovered from the petitioner vide letter Ext. PW7/C. According to this witness, the petitioner has also submitted the medical bill for a sum of Rs. 50,136/-, whereas the Department reimbursed only Rs. 35,036/-. The deduction over the medical reimbursement is stated to have been done on account of Government rates.

24. PW-8 Manoj Kumar, Clerk from Raavi Hospital Pathankot, proved the document Ext. PW8/A, which was issued by the Raavi Hospital. This document was issued by Dr. Jitender Malhotra.

25. Apart from this, the petitioner has produced the original salary slip Ext. P-H and disability certificate Ext. P-J.

26. To rebut this evidence, the respondents have examined the driver of the offending vehicle, as RW-1, who has deposed as per the stand taken in his reply.

27. Apart from his affidavit, he has produced the copy of order dated 06.09.2013, passed by learned JMFC Chamba.

28. This is the entire evidence, adduced by the parties, before the learned Tribunal.

29. Proceedings under the M.V. Act are summary in nature, where the liability of the tortfeasor is to be fixed, on the touchstone of preponderance of probabilities. In this case, the FIR has been proved as Ext. PW5/A. The FIR has been lodged by one Constable Sanjeev Kumar, who has categorically stated in the FIR that the accident, in

question, had taken place due to the rash and negligent driving of the driver of the offending vehicle. Said Sanjeev Kumar, has not been examined by the petitioner, however, the petitioner has examined one Shashi Kumar as PW-4, who has categorically leveled the allegation of rash and negligent driving against respondent No. 3. Despite lengthy cross-examination, nothing material could be elicited from him. Merely, because PW-4 is a taxi driver by profession and has admitted that being a taxi driver, they develop acquaintance with the police, does not mean that his evidence is not liable to be taken into consideration. For all intent and purposes, this witness falls within the definition of independent witness.

30. The mere fact that the police has filed the cancellation report, is too short to discard the evidence of PW-4. Petitioner himself has accepted the cancellation report, by making a statement before the Court of learned JMFC Dalhousie, but, considering the fact that registration of FIR is not a sine qua non for seeking the amount of compensation, under the M.V. Act. The tortuous liability of respondent No. 3, has been proved from the evidence of

PW-4. The evidence of RW-1 is too short to discard the version of PW-4.

31. The FIR, in this case, was registered on 02.11.2010 and the cancellation report was accepted on 06.09.2013, and in the interregnum period, no complaint has been made by respondent No. 3, to the higher authorities, with regard to the false registration of FIR, against him. The respondents have not examined the investigating officer to probablize the fact as to what were the circumstances, which led to filing of the cancellation report, in the present case.

32. Moreover, the registration of the FIR is a step towards putting the criminal machinery into motion, where the prosecution is duty bound to prove the guilt of the accused, beyond any shadow of doubt, by leading the evidence in such a manner. There is a large difference between standard of evidence, which is required for convicting a person in criminal case, whereas, tortuous liability of respondent No. 3 can be fixed on the touchstone of preponderance of probabilities. If the evidence of PW-4 is seen on the touchstone of the preponderance of

probabilities, then it can be said that the petitioner has successfully proved that the accident, in question, had taken place, due to the rash and negligent driving of the driver of the offending vehicle i.e. respondent No. 3.

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33. In this case, the quantum of compensation has also been assailed by the counsel appearing for the HRTC and on behalf of the petitioner, it has also been argued that the amount of compensation may kindly be enhanced, so that the same could fall within the definition of 'just compensation'.

34. The Hon'ble Apex Court in ***Oriental Insurance Company Limited*** vs. ***Mohd. Nasir and another, (2009) 2 SCC (Cri.) 987*** has held that the provisions of M.V. Act are beneficial piece of legislation and the endeavour of the Court/Tribunal should be to provide "just compensation". The relevant paras 23 and 24 of the judgment are reproduced as under:-

> *"23. Both, the 1923 Act and 1988 Act are beneficent legislation insofar as they provide for payment of compensation to the workmen employed by the employers and/or by use of motor vehicle by the owner thereof and/or the insurer to the petitioners suffering permanent disability. The amount of*

compensation is to be determined in terms of the provisions of the respective Acts. Whereas in terms of the 1923 Act, the Commissioner who is a quasi judicial authority, is bound to apply the principles and the factors laid down in the Act for the purpose of determining the compensation, Section 168 of the 1988 Act enjoins the Tribunal to make an award determining the amount of compensation which appears to be just.

24. Both the Acts aim at providing for expeditious relief to the victims of accident. In these cases, the accidents took place by reason of use of motor vehicles. Both the statutes are beneficial ones for the workmen as also the third parties. The benefits thereof are available only to the persons specified under the Act besides under the Contract of Insurance. The statutes, therefore, deserve liberal construction. The legislative intent contained therein is required to be interpreted with a view to give effect thereto." *(self emphasis supplied)*

35. This view has again been reiterated by Hon'ble Apex Court in **Govind Yadav versus The New India Assurance Co. Ltd.**, reported in **2012 ACJ 28 (SC)**. Relevant paragraphs 12 to 15 of the judgment are reproduced as under:

12. In Reshma Kumari v. Madan Mohan (2009) 13 SCC 422, this Court reiterated that the compensation awarded under the Act should be just and also identified the factors which should be kept in mind while determining the amount of compensation. The relevant portions of the judgment are extracted below:

> *"The compensation which is required to be determined must be just. While the petitioners are required to be compensated for the loss of their dependency, the same should not be considered to be a windfall. Unjust enrichment should be discouraged. This Court cannot also lose sight of the fact that in given cases,*

as for example death of the only son to a mother, she can never be compensated in monetary terms. The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another (sic situation) the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guess work may be inevitable. That may be so.

In the Indian context several other factors should be taken into consideration including education of the dependants and the nature of job. In the wake of changed societal conditions and global scenario, future prospects may have to be taken into consideration not only having regard to the status of the employee, his educational qualification; his past performance but also other relevant factors, namely, the higher salaries and perks which are being offered by the private companies these days. In fact while determining the m ultiplicand this Court in O riental Insurance Co. Ltd. v. Jas huben held that even dearness allowance and perks with regard thereto from which the family would have derived monthly benefit, must be taken into consideration.

One of the incidental issues which has also to be taken into consideration is inflation. Is the practice of taking inflation into consideration wholly incorrect? Unfortunately, unlike other developed countries in India there has been no scientific study. It is expected that with the rising inflation the rate of interest would go up. In India it does not happen. It, therefore, may be a relevant factor which may be taken into consideration for determining the actual ground reality. No hard-and-fast rule, however, can be laid down therefor."

(emphasis supplied)

13. In Arvind Kumar Mishra v. New India Assurance Company Limited (2010) 10 SCC 254, the Court considered the plea for enhancement of compensation made by the appellant, who was a student of final year of engineering and had suffered 70% disablement in a motor accident. After noticing factual matrix of the case, the Court observed:

> *"We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. The whole idea is to put the petitioner in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered."*
>
> *(emphasis supplied)*

14. In Raj Kumar v. Ajay Kumar (2011) 1 SCC 343, the Court considered some of the precedents and held:

> *"The provision of the Motor Vehicles Act, 1988 ("the 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 petitioner 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 the 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.*

> *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 petitioner, 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."*
>
> *(emphasis supplied)*

15. In our view, the principles laid down in Arvind Kumar Mishra v. New India Assurance Company Ltd. (supra) and Raj Kumar v. Ajay Kumar (supra) must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of accident, who are disabled either permanently or temporarily. If the victim of the accident suffers permanent disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss of earning and his inability to lead a normal life and enjoy amenities, which he would

have enjoyed but for the disability caused due to the accident.

36. It would also be profitable to reproduce relevant paragraphs 29 to 34 of the judgment passed by the Hon'ble Supreme Court in the case titled as, **Sidram versus Divisional Manager, United India Insurance Company Limited & anr.,** reported in **(2023) 3 Supreme Court Cases 439**, as under:

29. The process of determining the compensation by the court is essentially a very difficult task and can never be an exact science. Perfect compensation is hardly possible, more so in claims of injury and disability. As rightly pointed out in H. West & Son Ltd. v. Shephard, 1958-65 ACJ 504 (HL, England):
"…money cannot renew a physical frame that has been battered."

30. The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions. [Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683.]

31. It is now a well settled position of law that even in cases of permanent disablement incurred as a result of a motor-accident, the petitioner can seek, apart from compensation for future loss of income, amounts for future prospects as well. We have come across many orders of different tribunals and unfortunately affirmed by different High Courts, taking the view that the petitioner is not entitled to compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. That is not a correct position of law. There is no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading 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.

(Self emphasis supplied)

32. This Court has emphasised time and again that "just compensation" should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives.

33. In Santosh Devi v. National Insurance Company Limited and Others, (2012) 6 SCC 421, this Court held that:

> *"14. We find it extremely difficult to fathom any rationale for the observation made in paragraph 24 of the judgment in Sarla Verma case [Sarla Verma v. DTC, (2009) 6 SCC 121] that where the deceased was self-employed or was on a fixed salary without provision for annual increment, etc., the Courts will usually take only the actual income at the time of death and a departure from this rule should be made only in rare and exceptional cases involving special circumstances. In our view, it will be nave to say that the wages or total emoluments/income of a person who is self-employed or who is employed on a fixed salary without provision for annual increment, etc., would remain the same throughout his life.*
>
> *15. The rise in the cost of living affects everyone across the board. It does not make any distinction between rich and poor.*
>
> *As a matter of fact, the effect of rise in prices which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put in extra efforts to generate additional income necessary for sustaining their families.*

16. The salaries of those employed under the Central and State Governments and their agencies/ instrumentalities have been revised from time to time to provide a cushion against the rising prices and provisions have been made for providing security to the families of the deceased employees. The salaries of those employed in private sectors have also increased manifold. Till about two decades ago, nobody could have imagined that salary of Class IV employee of the Government would be in five figures and total emoluments of those in higher echelons of service will cross the figure of rupees one lakh.

17. Although the wages/income of those employed in unorganised sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the government employees and those employed in private sectors, but it cannot be denied that there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. We can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour. In this context, it may be useful to give an example of a tailor who earns his livelihood by stitching cloths. If the cost of living increases and the prices of essentials go up, it is but natural for him to increase the cost of his labour. So will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc.

18. Therefore, we do not think that while making the observations in the last three lines of para 24 of Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121] judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation."

34. In Jagdish v. Mohan and Others, (2018) 4 SCC 571, the victim, a carpenter, suffered permanent disablement, and his claim for compensation

including for loss of future prospects was considered by a three-Judge Bench which included, incidentally, the judges who had decided National Insurance Company (supra). This Court held that:

"13. In the judgment of the Constitution Bench in Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680], this Court has held that the benefit of future prospects should not be confined only to those who have a permanent job and would extend to self-employed individuals. In the case of a self-employed person, an addition of 40% of the established income should be made where the age of the victim at the time of the accident was below 40 years. Hence, in the present case, the appellant would be entitled to an enhancement of Rs. 2400 towards loss of future prospects.

14. In making the computation in the present case, the court must be mindful of the fact that the appellant has suffered a serious disability in which he has suffered a loss of the use of both his hands. For a person engaged in manual activities, it requires no stretch of imagination to understand that a loss of hands is a complete deprivation of the ability to earn. Nothing —at least in the facts of this case—can restore lost hands. But the measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of the individual to an assertion of enforceable rights as intrinsic to human dignity.

15. The Tribunal has noted that the appellant is unable to even eat or to attend to a visit to the toilet without the assistance of an attendant. In this background, it would be a denial of justice to compute the disability at 90%. The disability is indeed total.

Having regard to the age of the appellant, the Tribunal applied a multiplier of 18. In the

> *circumstances, the compensation payable to the appellant on account of the loss of income, including future prospects, would be Rs 18,14,400. In addition to this amount, the appellant should be granted an amount of Rs 2 lakhs on account of pain, suffering and loss of amenities. The amount awarded by the Tribunal towards medical expenses (Rs 98,908); for extra nourishment (Rs 25,000) and for attendant's expenses (Rs 1 lakh) is maintained. The Tribunal has declined to award any amount towards future treatment. The appellant should be allowed an amount of Rs 3 lakhs towards future medical expenses. The appellant is thus awarded a total sum of Rs 25,38,308 by way of compensation. The appellant would be entitled to interest at the rate of 9% p.a. on the compensation from the date of the filing of the claim petition. The liability to pay compensation has been fastened by the Tribunal and by the High Court on the insurer, owner and driver jointly and severally which is affirmed. The amount shall be deposited before the Tribunal within a period of 6 weeks from today and shall be paid over to the appellant upon proper identification."*

37. The Hon'ble Supreme Court in ***Sushila & Others*** *versus* ***Sudhakar & Another, 2026 Live Law (SC) 343***, has held that the cardinal principle of awarding compensation in the cases of motor accidents is to provide 'just compensation' to the victim and/or the distressed dependents of the deceased. Relevant paragraphs 19 and 20 of the judgment, are reproduced, as under:-

> *"19. In our considered opinion, although the High Court had enhanced the compensation, it was on the lower side. The cardinal principle of awarding compensation in the cases of motor accidents is to provide a "just compensation" to the victim and/or the distressed dependents of the deceased. The term "just" implies that the compensation must be fair,*

> *reasonable, and equitable as per the applicable legal standards. The compensation should not be too meagre, nor should it be excessive. The sole foundation of providing monetary compensation is to make efforts to put the dependents of the deceased at the same financial position that they were in, had the accident not occurred. [See also: Reshma Kumari and others vs. Madan Mohan and another, reported in (2013) 9 SCC 65; National Insurance Co. Ltd. vs. Indira Srivastava & Ors, reported in (2008) 2 SCC 763; and Divisional Controller, KSRTC vs. Mahadeva Shetty and another, reported in (2003) 7 SCC 197]*
>
> *20) Thus, in the light of the settled principle that the Motor Vehicles Act, 1988 (hereinafter referred to as "M.V. Act") is a beneficial legislation and the compensation should be just and equitable, let us deal with the issues for determination in the present appeal."*

38. Being guided by the above decisions of the Hon'ble Supreme Court, now, this Court would proceed further to determine, as to whether, the amount of compensation awarded by the learned Tribunal to the petitioner falls within the definition of 'just compensation' or not?

39. The learned Tribunal has granted the compensation under the various heads i.e. Medical charges; Compensation for loss of leaves; Attendant charges; Pain, suffering and trauma; Loss of amenities and prospectus of promotion in service; and Loss of expectation

of life, whereas, according to the decision of Hon'ble Supreme Court in **Govind Yadav's** case (supra), the same should have been awarded under the following heads.

40. The entitlement of the petitioner for compensation under various heads is adjudicated as under:

NON PECUNIARY DAMAGES

Pain and Sufferings:

41. The learned Tribunal has awarded a sum of Rs. 2,00,000/-, under this head, which includes, loss of amenities and prospect of promotion in service, whereas the loss of future prospect and loss of amenities, is to be determined separately.

42. The accident, in question, had taken place on 02.11.2010. Thereafter, the petitioner was taken to Civil Hospital Dalhousie, from where, he was referred to Dr. R.P.G.M.C. Tanda, but according to him, he was taken to Raavi Multi Specialty Hospital, Pathankot, where, he remained admit till 25.11.2010. The record from Raavi Hospital Pathankot, has been proved as Ext. PW8/A. This document is a certificate issued by the Raavi Multi Specialty Hospital, Pathankot. As per the certificate,

petitioner Yudhvir Singh was hospitalized in Raavi Hospital on 02.11.2010. He was operated for closed reduction + reconstruction nailing right femur and CR + Cannulated screws fixation right proximal tibia. He was discharged on 25.11.2010. Thereafter, he attended the hospital as OPD patient. He was again operated on 15.03.2011 and was discharged on 22.03.2011. Thereafter, the petitioner was again admitted on 01.09.2011 and operated on 02.09.2011 for distal locking and bone grafting of fracture site and the patient was discharged on 08.09.2011. Thus, from the certificate, period of hospitalization comes to 40 days, i.e. 02.11.2010 to 25.11.2010 (24 days) + 15.03.2011 to 22.03.2011 (8 days) + 01.09.2011 to 08.09.2011 (8 days).

43. The period of hospitalization for a young man of about 45 years, who at the relevant time was member of a disciplinary force, must have painful and traumatic, for which, he is entitled for a sum of Rs. 2,000 x 40 = Rs.80,000/-.

Loss of Enjoyment of Life:

44. The petitioner has placed on record the disability certificate Ext. P-J, according to which, the Board

found 20% disability, permanent in nature. The period of hospitalization has been held to be 40 days and as per certificate Ext. PW8/A, patient was recommended to be fit to resume his duty, from 01.10.2012. Meaning thereby, the period of hospitalization and convalescence, thus comes to 23 months. Although, the disability has been held to be 20%, but, in the absence of any evidence to prove that on account of 20% disability, the promotional avenues of the petitioner have been diminished, the said disability is liable to be considered under the head of 'Loss of enjoyment of life', as the petitioner has been forced to live along with 20% disability for rest of his life. The said disability cannot be considered under the head 'Loss of earning capacity', as the same would amount to double enrichment, which is prohibited under the law.

45. Considering the period of hospitalization (40 days), total period of convalescence, which has been proved as 23 months and the fact that the petitioner has been forced to live rest of his life along with 20% disability, which admittedly would hamper his ability to perform his daily pursuits, this Court is of the view that ends of justice

would meet if Rs. 6,00,000/-, is granted under the head 'Loss of enjoyment of life'.

Shorten Expectancy of Life:

46. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/ suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

PECUNIARY DAMAGES

Loss of Earning and Earning Capacity:

47. By examining PW-6, petitioner placed on record, office order issued by S.P. Dharamshala, regarding the leave obtained by the petitioner, on account of the injuries/disability suffered by him. The petitioner has consumed 300 days earned leave, on account of the injuries/disability suffered by him, for which, he is held entitled for the amount of compensation.

48. So far as the medical leave, half pay leave, as mentioned in this document are concerned, the petitioner is not liable for any compensation for those kind of leaves.

49. The monthly salary of petitioner at the relevant time has been proved as Rs. 23,826/-. Meaning thereby,

on account of loss of his earned leave, on account of the accident, in question, he is held entitled for a sum of Rs. 23,826/- x 10 = Rs. 2,38,260/-.

50. Although there is disability of 20%, but there is no evidence on record that on account of disability, the promotional avenues of the petitioner have diminished. Moreover, the said disability has been taken into consideration under the head 'Loss of enjoyment of life'.

Medical Expenses

51. Admittedly, the petitioner, at the relevant time, was serving in Police Department and he was entitled for medical reimbursement, of the amount spent on account of his treatment. Since, the petitioner was forced to take treatment in a private hospital, as such, the medical reimbursement bills submitted were although encashed, but with certain deductions. Since, the amount has been spent by the petitioner, as such, he is entitled for the difference of the amount between the claim submitted and the amount reimbursed.

52. PW-6 has deposed that the bill, which was submitted for reimbursement for a sum of Rs. 7,698/- by

the petitioner, Department has paid Rs. 6,358/-. Meaning thereby, the difference is of Rs. 1,340/-.

53. As per PW-7, the bill Ext. PW7/A was submitted for Rs. 1,56,445/-, whereas, Department has reimbursed only Rs. 1,21,482/-. Meaning thereby the difference is of Rs. 34,963/-. Similarly, when the petitioner submitted bill Ext. PW7/B, for medical reimbursement for a sum of Rs. 76,072/-, but the Department has reimbursed only Rs. 55,076/-. Meaning thereby, the difference is of Rs. 20,996/-.

54. Similarly, by way of bill Ext. PW7/D, petitioner has submitted bill of Rs. 50,136/-, but amount of Rs. 35,036/- was only reimbursed. As such, the difference is of Rs. 15,100/-. The petitioner is entitled for the said amount, total of which comes to Rs. 1,340/- + Rs. 34,963/- + Rs. 20,996/- + Rs. 15,100/- = Rs. 72,399/-.

Transportation Charges

55. After the accident, the petitioner was firstly taken to Civil Hospital Dalhousie, from where, he was taken to Raavi Hospital Pathankot, and in order to attend the hospital on various occasions, as well as, for follow

ups, he might have spent at least Rs. 50,000/-, on transportation charges. As such, he is entitled for Rs. 50,000/-, under this head.

Special Diet and Attendant Charges

56. The period of hospitalization has been held to be 38 days and period of convalescence is held to be 23 months, and during that period, he might have taken the services of an attendant and special diet. By examining PW-3, the petitioner has probablized that during the period of hospitalization and convalescence, he has hired the services of PW-3 Jaswinder Singh, by paying a sum of Rs. 4,500/- per month.

57. Considering the extent of disability, the petitioner is held entitled for reimbursement of the amount paid to PW-3, at the rate of Rs. 4,500/- per month, for 23 months, which comes to Rs. 4,500/- x 23 = Rs. 1,03,500/-. Similarly, he is held entitled for a sum of Rs. 100/- per day, for a period of 23 months, which comes to Rs. 69,000/-. As such, this Court is of the view that petitioner is held entitled to a sum of Rs. 1,03,500/- + Rs. 69,000/- =

Rs. 1,72,500/-, under the head 'Special Diet and Attendant Charges'.

58. Considering all these facts, the petitioner is held entitled to a sum of Rs. Rs. 80,000 + Rs. 6,00,000/- + Rs. 2,38,260/- + Rs. 72,399/- + Rs. 50,000/- + Rs. 1,72,500/- = Rs. 12,13,159/-.

59. The learned Tribunal has awarded the rate of interest to the petitioner at the rate of 7.5% per annum, which has rightly been awarded by the learned Tribunal.

60. In view of the above discussion, the appeal is dismissed. The award passed by the learned Tribunal is modified and the amount of compensation is enhanced from Rs. 9,83,631/- to Rs. 12,13,159/-, along with interest at the rate of 7.5% per annum from the date of filing the petition, till its realization.

FAO No. 163 of 2015:

61. The present FAO No. 163 of 2015, has been filed by the appellants-HRTC, against the award dated 17.01.2015, passed by the learned Tribunal, in M.A.C. Petition No. 50/2013 (423/2013), titled as "Sadhu Ram Vs. Himachal Road Transport Corporation & Ors.".

62. Petitioner-Sadhu Ram has filed the above titled claim petition seeking the amount of compensation, on account of the injuries/disability, suffered/sustained by him in the accident, in question, which had taken place due to rash and negligent driving of the offending vehicle, being driven by respondent No. 3.

63. After framing of the issues, petitioner-Sadhu Ram appeared in the witness box as PW-1 and filed the affidavit Ext. PW1/A, which is based upon the averments, as made in the claim petition. This witness was working in Homeguard, however, he could not annex any record. According to him, they use to get salary on daily wages basis.

64. PW-2 Dr. Prashant Rana, proved the disability certificate Ext. PW2/A, according to which, the Board found 50% disability on the person of Sadhu Ram. He has admitted that after the surgery, Sadhu Ram would be in a position to walk and the disability would decrease.

65. PW-3 HC Bhagwan Chand, proved the copy of FIR, in which, cancellation report was submitted.

66. PW-4 Sushil Sharma, Sr. Assistant from the Office of Commandant Homeguard, Chamba, deposed that petitioner was posted as Homeguard volunteer and he was on duty from 12.09.2010 to 09.12.2010, for night patrolling. On the date of accident, he was on duty. Department use to pay Rs. 150/- per day, which has been increased to Rs. 170/- to Homeguard volunteers.

67. On 01.10.2011, the said amount has been increased to Rs. 200/-. He has proved the copy of order dated 20.09.2010, Ext. PW4/A.

68. So far as the documentary evidence is concerned, petitioner has proved the copy of parivar register Ext. PW2/A, disability certificate Ext. PW2/A, FIR Ext. PW3/A, office order Ext. PW4/A, notification Ext. PW4/B, notification dated 19.10.2011 Ext. PW4/C, copy of the award passed by the learned Tribunal in MAC Petition No. 87/2013, titled as "Yudhvir Singh Vs HRTC & Anr." Ext. P-A and copy of jamabandi Ext. P-B.

69. The learned Tribunal has granted the compensation under the various heads i.e. Medical charges; Compensation for loss of past wages; Loss of

future income; Attendant charges; Compensation for pain, suffering and trauma; Loss of expectation of life, amenities and discomfort. In view of the above evidence, now this Court would proceed further, whether the amount of compensation awarded to the petitioner falls within the definition of 'just compensation', as the amount is required to be determined in view of the mandate of **Govind Yadav's case** and **Sidram's case** (supra).

70. The entitlement of the petitioner for compensation under various heads is adjudicated as under:

NON PECUNIARY DAMAGES

Pain and Sufferings:

71. As per the deposition of the petitioner, he was referred to Dr. RPGMC Tanda from 28.11.2011 to 27.01.2012. Although, he has not examined any Doctor from RPGMC Tanda and no documentary evidence has been led on record, however, from the document Mark A, it has been proved that period of hospitalization is almost two months.

72. The period of hospitalization must have been painful and traumatic for the petitioner, for which, he is entitled for a sum of Rs. 2,000 x 60 = Rs. 1,20,000/-.

Loss of Enjoyment of Life:

73. The period of hospitalization is considered as 60 days and keeping in view the disability, he might have taken two more months for convalescence. During that period, he could not have enjoyed the life of a normal human being. The petitioner has proved the disability, which according to the Doctor PW-2, is 50% permanent in nature. The said disability is required to be considered under the head 'Loss of earning capacity', and the same is not required to be considered here, under this head, as considering the said disability would amount to double enrichment, which is not permissible under the law.

74. Considering the above facts, the interest of justice would meet, if the sum of Rs. 6,00,000/- is awarded to the petitioner, under this head.

Shorten Expectancy of Life:

75. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/

suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

PECUNIARY DAMAGES

Loss of Earning and Earning Capacity:

76. The petitioner has been proved to be Homeguard volunteer and as per the statement of PW-4, he was not on the regular roll of Civil Defence Department, but, from the documents, so produced by PW-4, it can be said that the monthly earnings of the petitioner, would not be less than Rs. 6,000/-.

77. Considering the period of hospitalization, as well as, period of convalescence, the petitioner could not have contributed anything for about four months, for which, he is entitled for a sum of Rs. 6,000/- x 4 = Rs. 24,000/-.

78. Monthly earnings of Sh. Sadhu Ram, have been held to be Rs. 6,000/- per month and his age has been mentioned in Mark H, as 57 years. In view of the decision of the Constitution Bench of Hon'ble Supreme Court in **National Insurance Company Ltd. Versus Pranay Sethi**

& Others, (2017) 16 Supreme Court Cases 680, 10% amount is required to be added in the monthly income of Sh. Sadhu Ram, on account of his future prospects. The relevant para 59.4 of the judgment, has been reproduced, as under:-

> *"59.4 In case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component."*

79. Thus, his income for the purpose of determining the loss of earning capacity comes to Rs. 6,600/- per month. The percentage of disability is 50% and keeping in view the age, the said disability can be said to be functional disability. Meaning thereby, the monthly loss of earning capacity comes to Rs. 3,300/- per month. His age has been proved to be 57 years. As such, the appropriate multiplier would be '9'. Thus, the total amount of compensation under the head 'Loss of earning capacity' comes to Rs. 3,300/- x 12 x 9 = Rs. 3,56,400/-.

Medical Expenses

80. The learned Tribunal has awarded as sum of Rs. 50,000/-, which seems to be on the lower side, as the petitioner has suffered 50% disability and his period of hospitalization has been held to be two months and thereafter, he might have taken at least two months for convalescence. As such, ends of justice would meet, if a sum of Rs. 1,00,000/- is awarded under the head 'Medical charges'. Ordered accordingly.

Transportation Charges

81. Admittedly, the accident in question had taken place at Chamba and he was brought to RPGMC Tanda, District Kangra and thereafter, he might have attended the hospital for follow up. As such, he is held entitled for a sum of Rs. 50,000/-.

Special Diet and Attendant Charges

82. The period of hospitalization and convalescence has been held to be four month. During that period, the petitioner might have taken the special diet and required the services of attendant, for which, he is entitled for a

sum of Rs. 200/- x 120 = 24,000/-, under the head 'Special Diet and Attendant Charges'.

83. Considering all these facts, the petitioner is held entitled to a sum of Rs. Rs. 1,20,000 + Rs. 6,00,000/- + Rs. 24,000/- + Rs. 3,56,400/- + Rs. 1,00,000/- + Rs. 50,000/- + Rs. 24,000/- = Rs. 12,74,400/-.

84. The learned Tribunal has awarded the rate of interest at the rate of 9% per annum, which, to the considered opinion of this Court, is liable to be reduced while keeping in view the prevalent rates of interest in the nationalized banks. Consequently, the same is reduced to 7.5% per annum.

85. In view of the above discussion, the appeal is dismissed. The award passed by the learned Tribunal is modified and the amount of compensation is enhanced from Rs. 7,90,000/- to Rs. 12,74,400/-, along with interest at the rate of 7.5% per annum from the date of filing the petition, till its realization.

86. Keeping in view the facts and circumstances, there shall be no order so as to costs.

87. Memo of costs be prepared accordingly.

88. Pending application(s), if any, are also disposed of.

89. Record be sent back.

90. Copy of the judgment, be placed on record, in the connected appeal.

(Virender Singh)
Judge

31st October, 2026
(Pramod Kumar)