



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1726-2012 (O&M)

ORIENTAL INSURANCE COMPANY LIMITED

..Appellant

Versus

MANJINDER SINGH AND ORS.

..Respondents

Reserved on: 23.03.2026

Pronounced on: 08.05.2026

Uploaded on : 11.05.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ashwani Talwar, Sr. Advocate
with Ms. Pratiksha Sharma, Advocate
for the appellant-Insurance Company.

Ms. Jasdeep Kaur, Advocate
for Mr. V.S. Saini, Advocate
for respondent No.1.

Mr. Ashish Gupta, Advocate
for Mr. Kapil Aggarwal, Advocate
for respondents No.2 and 3.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant-Insurance company against the award dated 05.12.2011 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal'), wherein the claim petition filed by the claimants was allowed and appellant-Insurance company was made liable to pay the compensation.

**BRIEF FACTS OF THE CASE**

2. Brief facts of the case are that on 15.02.2009, at about 8pm, claimant was sitting in a Skoda Car bearing registration No. PB-11-AK-47, which was driven by Harminder Singh and they were going from Fatehgarh Sahib to SAS Nagar, Mohali. When the said Skoda car reached in front of Chuni Bus Stand, then a truck bearing registration No. PB-65-E-6755 driven by respondent No.1 without giving any indicator moved the truck to backward, as a result of which, it struck with the Skoda car in which the claimant was sitting and due to the said impact, the claimant sustained multiple injuries on his body which caused permanent disability. He was taken to IVY hospital for treatment and remained admitted there. The accident took place due to rash and negligent driving of respondent No. 1, who without giving any indicator reversed his truck on the main road. A criminal case was registered against him. It is alleged that after the accident, he was initially admitted in IVY Hospital, Sector 71, Mohali and thereafter, he was taken to solver Oaks Hospital, Phase IX, Sector 63, Mohali, where he was operated on 17.02.2009 by Dr. prof. V K Kak. On 14.03.2009, he was got discharged from the said hospital. Thereafter, he is under treatment in the Sang hospital, Ropar till date and has not recovered. He had spent more than Rs. 10,00,000/- on the treatment. Due to the said accident, he has suffered multiple fracture i.e. of CV5 and CV6 with cervical cord, as a result of which he has suffered permanent disability. He is not able to do any work. He has become a burden on others. He is claiming compensation to the tune of Rs. 60,00,000/- on various heads which includes compensation for medical treatment, pain and suffering, future loss of earnings, loss of enjoyment of life etc.



3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing their separate written replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

“(1) Whether claimant sustained injuries in an accident, which took place on 15.02.2009 in the area of District Fatehgarh Sahib due to rash and negligent driving of Truck No. PB- 65-6755 by its driver-respondent No.1, owned by respondent No.2 and insured by respondent No. 3? OPP.

(2) Whether the claimant is entitled to any compensation as compensation, if so how much and from whom? OPP.

(3) Whether respondent NO.1 was not holding a valid licence at the time of accident, if so, its effect? OPR3.

(4) Relief.”

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant–Insurance Company contends as under:-

(i) that the learned Tribunal has erred in holding that accident occurred due to sole negligence of the driver of offending vehicle.



(ii) that infact the accident was a result of contributory negligence of both the drivers.

(iii) that compensation awarded by learned Tribunal is on the higher side. Therefore, he prays that the present appeal be allowed.

8. Per contra learned counsel for claimant/respondent No.1 contends that issue of rash and negligence has rightly been decided by learned Tribunal. He furthermore contends that compensation awarded by the learned Tribunal is on lower side and deserves to be enhanced. He furthermore contends that respondent No.1 has filed separate appeal bearing **FAO-1817-2012, titled as “Manjinder Singh Vs. Bhag Singh and others,** seeking enhancement. Therefore, he prays that the present appeal be dismissed.

9. I have heard learned counsel for the parties and perused the whole case file with their able assistance.

10. A perusal of the record reveals that the learned Tribunal has rightly held that the accident occurred solely due to the rash and negligent act of respondent No.2-driver of the offending truck. The testimony of the claimant and eyewitness Harminster Singh consistently established that the truck was suddenly reversed on the main road without any indication and struck the Skoda car. Their version remained unrebutted in material particulars during cross-examination.

11. Though the appellant-Insurance Company pleaded that the truck was stationary on the *kacha* portion and that the car driver was under the influence of liquor, no such suggestion was put to the claimant or the



eyewitness during cross-examination. Consequently, the said defence remained unproved and liable to be discarded.

12. It is further significant that neither any specific plea of contributory negligence was raised by the appellant-Insurance Company nor any issue to that effect was framed by the learned Tribunal. In absence of pleadings, issue and evidence, the plea of contributory negligence cannot be permitted to be raised at the appellate stage. In *M. Nithya & Ors. vs. SBI General Insurance Co. Ltd., arising out of SLP (Civil) No. 833-834 of 2023*, the Hon'ble Supreme Court held that where no issue regarding contributory negligence had been framed by the Tribunal, the High Court ought not to entertain such plea to reduce compensation. The said principle squarely applies to the present case.

13. Therefore, the finding recorded by the learned Tribunal on negligence being based on proper appreciation of evidence warrants no interference.

14. Adverting now to the contention of learned counsel for the appellant-Insurance Company that compensation awarded is on higher side, the same is bereft of merit.

15. A perusal of award further reveals that the learned Tribunal has rightly assessed the monthly income of the injured-respondent No.1 by placing on reliance on Income Tax Return, therefore, no interference is warranted on this count.

16. A further perusal of the award reveals that no amount has been granted under the head of future prospects, considering the age of injured as 36 years at the time of accident, 40% towards future prospects has to be

awarded as per the settled law.



17. A perusal of the award further reveals that injured-respondent No.1 has been rendered 100% permanent disabled as depicted from disability certificate (Ex.P-6). To prove the disability certificate, Dr. Navtej Pal Singh was examined as PW-3, who categorically deposed that the injured has suffered traumatic fracture C5C6 with quadriplegia. Furthermore, PW-3 has stated that the disability of claimant is assessed as permanent 100% disability.

18. A perusal of award further reveals that the learned Tribunal after taking into account the nature of job carried by respondent No.1/claimant has rightly assessed his functional disability as 100%, which is in consonance with judgment of Hon'ble Supreme Court in **Rahul Ganpatrao Sable v. National Insurance Co. Ltd. 2023(9) scale 970**. Keeping in view the settled law and facts and circumstances of the present case, no inference is warranted qua said findings.

Pain and suffering

19. So far as compensation towards pain and suffering is concerned, the Hon'ble Apex Court in ***K.S Muralidhar v. R. Subbulakshmi and another, 2024INSC 886*** held as under: -

"12. It is to be noted that both the Tribunal and the High Court have taken the disability suffered by the claimant-appellant to be at 100%. We find no ground to take a different view.

13. While acknowledging that 'pain and suffering', as a concept escapes definition, we may only refer to certain authorities, scholarly as also judicial wherein attempts have been made to set down the contours thereof.



13.1 The entry recording the term 'pain and suffering' in P. Ramanatha Iyer's *Advanced Law Lexicon*[9] reads as under:-

'Pain and suffering. The term 'Pain and suffering' mean physical discomfort and distress and include mental and emotional trauma for which damages can be recovered in an accident claim.

This expression has become almost a term of art, used without making fine distinction between pain and suffering. Pain and suffering which a person undergoes cannot be measured in terms of money by any mathematical calculation. Hence the Court awards a sum which is in the nature of a conventional award [Mediana, The (1900) AC 113,116]"

13.2 Eric Cassell[10], an American Physician and Bioethicist, defines 'pain' not only as a sensation but also 'as experience embedded in beliefs about causes and diseases and their consequences', and 'suffering' as 'the state of severe distress associated with events that threaten the intactness of person'.

13.3 In a recent article[11] published in the journal of the International Association for the Study of Pain, it has been recorded that there is no consensus on what exactly the concept of pain-related suffering includes, and it is often not precisely operationalised in empirical studies. The authors in their systematic review analysed 111 articles across a variety of disciplines such as bioethics, medical ethics, psycho-oncology, anaesthesiology, philosophy, sociology etc., we may refer to few of them:

13.3.1 **Eugene v. Boisaubin**, who is currently a Professor at the University of Texas, at Houston, in a 1989 article defined it as "Suffering is experienced by individual and arises from threats to the integrity of the individual as a complex social and psychological entity. "



13.3.2 Andrew Edgar, who is currently a Reader Emeritus in Philosophy at Cardiff University at UK has defined, in a 2007 article suffering as an "experience of life never getting better, revealing in the sufferer only vulnerability, futility, and impotence. "

13.3.3 Arthur W. Frank[13], Professor Emeritus, Department of Sociology, University of Calgary in his well-known article "Can We Research Suffering?", published in 2001, observed that "at the core of suffering is the sense that something is irreparably wrong with our lives, and wrong is the negation of what could have been right. Suffering resists definition because it is the reality of what is not. "

13.3.4 Daryl Pullman[14] who currently serves as University research Professor, Bioethics at the Memorial University of Newfoundland, Canada in his 2002 article defined suffering as the "product of [physical], psychological, economic, or other factors that frustrate an individual in the pursuit of significant life projects. "

13.4 The Judicial Studies Board, now known as the Judicial College in the United Kingdom, produced guidelines in 1992 to produce greater consistency of awards and make the judicial scale of values more easily accessible. They have been deduced from a study of past cases, examining the range of awards therein. The latest edition of these guidelines was published in 2021(15). They record the difficulty of computing 'pain and suffering' as under :-

*[(15) See: **Hassam and Anr. v. Rabot and Anr. (2024) UKSC11]***

"It is widely accepted that making of an award of general damages for pain and suffering is a somewhat artificial task. It involves the Judge seeking to convert the pain and suffering of a given claimant into a monetary award



which he or she considers to be reasonable by way of compensation. That is a difficult task and one which has historically led to judges making widely varying awards of damages in respect of relatively comparable injuries a result which not only offends the principle of equality before law but results in unnecessary appeals and the incurring of additional cost, apart altogether from the burden that such appeals place on the Court's own scarce resources."

13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been highlighted in **Heil v. Rankin [2001] QB 272**, as referred to in **Attorney General of St. Helena v. AB & Ors. Privy Council Appeal No. 0034 of 2018** as under:-

*"23. This principle of 'full compensation' applies to pecuniary and non-pecuniary damage alike. But, as Dickson J indicated in the passage cited from his judgment in **Andrews v. Grand & Toy Alberta Ltd, 83 DLR (3d) 452, 475-476**, this statement immediately raises a problem in a situation where what is in issue is what the appropriate level of 'full compensation' for non-pecuniary injury is when the compensation has to be expressed in pecuniary terms. There is no simple formula for converting the pain and suffering, the loss of function, the loss of amenity and disability which an injured person has sustained, into monetary terms. Any process of conversion must be essentially artificial. Lord Pearce expressed it well in **H West & Son Ltd v. Shephard [1964] AC 326, 364** when he said:*

'The court has to perform the difficult and artificial task of converting into monetary damages the physical injury and deprivation and pain and to give judgment for what it considers to be a reasonable sum. It does not look beyond the judgment to the spending of the damages.'



24. *The last part of this statement is undoubtedly right. The injured person may not even be in a position to enjoy the damages he receives because of the injury which he has sustained. Lord Clyde recognised this in Wells v. Wells [1999] 1 AC 345, 394H when he said: 'One clear principle is that what the successful plaintiff will in the event actually do with the award is irrelevant. '*

13.6 *In the context of the United States, the most important piece of legal literature regarding 'pain and suffering' is an article titled Valuing Life and Limb in Tort: Scheduling Pain and Suffering, published in the year 1989. Relevant extracts thereof read as under :*

'Pain and suffering and other intangible or non-economic losses are even more problematic. Physical pain and attendant suffering have for centuries being recognised as legitimate elements of damages, and 'modern' tort law has seen a marked expansion of the rights to recover for forms of mental anguish. Some Courts have even permitted recovery for emotional trauma unaccompanied by physical injury, including derivative losses stemming from injuries to family members. The precise elements of compensable non-economic loss vary by jurisdiction. Pain and suffering may be used as a catch-all category for the jury's consideration of all non-pecuniary losses in a case of a nonfatal injury, subsuming other qualitative categories such as mental anguish and humiliation. More commonly, though, other non-economic elements - such as 'loss of enjoyment of life' are accorded independent standing...'

Another important observation is that:

"Whatever the categories of non-economic damages allowed in a given jurisdiction, the law provides no objective benchmarks valuing them. As one commentator notes, 'Courts have usually been content to say that pain



and suffering damages should amount to 'fair compensation', or a 'reasonable amount', 'without any definite guide'.

" 13.7 Consideration of the above, underlines that while each discipline has its own conception of the meaning of pain/suffering, within its confines, the commonality that emerges is that a person's understanding of oneself is shaken or compromised at its very root at the hands of consistent suffering. In the present facts, it is unquestionable that the sense of something being irreparably wrong in life, as spoken by Frank (supra); vulnerability and futility, as spoken by Edgar, is present and such a feeling will be present for the remainder of his natural life.

14. In respect of 'pain and suffering' in cases where disability suffered is at 100%, we may notice a few decisions of this Court:-

*14.1 In **R.D Hattangadi v. Pest Control (India) (P) Ltd. (1995) 1 SCC 551**. It was observed :*

"17. The claim under Sl. No. 16 for 'pain and suffering' and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs.3,00,000 each under the two heads. The High Court has allowed Rs.1,00,000 against the claims of Rs.6,00,000. When compensation is to be awarded for 'pain and suffering' and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and



as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs.1,50,000 in respect of claim for 'pain and suffering' and Rs.1,50,000 in respect of loss of amenities of life. We direct payment of Rs.3,00,000 (Rupees three lakhs only) against the claim of Rs.6,00,000 under the heads "'pain and suffering'" and "Loss of amenities of life".

(Emphasis Supplied)

*14.2 This Judgment was recently referred to by this Court in **Sidram v. United India Insurance Company Ltd. (2023) 3 SCC 439** reference was also made to **Karnataka SRTC v. Mahadeva Shetty (2003) 7 SCC 197** (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed :*

"18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned. "

*14.3 In **Kajal v. Jagdish Chand (2020) 4 SCC 413** considering the facts of the case, i.e., 100% disability, child being bedridden for life, her mental age being that of a nine-month-old for life - a vegetative existence, held that "even after taking a conservative view of the matter an amount payable for the 'pain and suffering' of this child should be at least Rs.15,00,000/-."*

*14.4 In **Ayush v. Reliance General Insurance (2022) 7 SCC 738** relying on Kajal (supra) the amount awarded in*



'pain and suffering' was enhanced to Rs.10,00,000. The child who had suffered the accident was five years old and the Court noted in paragraph 2 that:

"As per the discharge certificate, the appellant is not able to move both his legs and had complete sensory loss in the legs, urinary incontinence, bowel constipation and bed sores. The appellant was aged about 5 years as on the date of the accident, hence has lost his childhood and is dependent on others for his routine work."

14.5 In Lalan (supra) cited by the claimant-appellant, the Tribunal awarded Rs.30,000/- which was enhanced to Rs.40,000/- by the High Court. Considering the fact that the appellant therein has suffered extensive brain injury awarded compensation under 'pain and suffering' to the tune of Rs.3,00,000/-.

*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.*

20. Further, the Hon'ble Supreme Court in the case of ***Baby Sakshi Greola v. Manzoor Ahmad Simon and another, 2025(1) RCR (Civil) 238***, where the injured was a female child aged 7 years and had suffered grievous injuries, learned Tribunal awarded Rs.50,000/-towards pain and suffering,

but the same was enhanced by the Hon'ble High Court to Rs. 12,00,000/-.



When the matter reached to the Hon'ble Apex Court, the same was enhanced to Rs. 15,00,000/-.

21. In view of the settled law by Hon'ble Apex Court, since in the present case as well, the functional disability is 100% by applying the same parameters a compensation of **12 lakhs** is hereby awarded to the respondent No.1-claimant towards pain and sufferings.

Attendant Charges

22. So far as attendant charges is concerned, the Hon'ble Apex Court in ***Kajal v. Jagdish Chand and others, 2020(2)RCR (Civil) 2*** has held 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 ACJ179 (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.*



23. In view of the above referred to judgment passed by the Apex Court in **Kajal's case (Supra)** as well as the Disability Certificate, for 100% disability, it would be appropriate to grant lumpsum amount of **Rs.5,00,000/-** under the head of attendant charges.

Transportation

24. Considering the injuries suffered by the respondent No.1-claimant and the requirement for special transportation arrangements, an amount of **1 lakh** is hereby awarded to the respondent No.1-claimant on account of the transportation.

25. Further perusal of award reveals that no amount has been awarded by learned Tribunal under the heads of loss of estate, special diet, loss of amenities of life and medical expenses for future treatment, therefore, the compensation is re-worked as under:-

RELIEF

26. In view of the above, the present appeal is **dismissed** and award dated 05.12.2011 is modified. Accordingly, as per the settled principles of law as laid down by Hon'ble Supreme Court as mentioned above, the respondent No.1-claimant is held entitled to the enhanced amount of compensation as calculated below:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
<i>1</i>	<i>Income</i>	<i>Rs.21,565/-</i>
<i>2</i>	<i>Loss of future prospects (40%)</i>	<i>Rs.8,626/- (40% of Rs.21565/-)</i>
<i>3</i>	<i>Annual Income</i>	<i>Rs.3,62,292/- (Rs.30,191/- X 12)</i>
<i>4</i>	<i>Loss of future earning on account of 100% disability</i>	<i>Rs.3,62,292/- (Rs.3,62,292/- X 100%)</i>
<i>5</i>	<i>Multiplier of 15</i>	<i>Rs.54,34,380/- (Rs.3,62,292 /-X 15)</i>
<i>6</i>	<i>Medical Expenses</i>	<i>Rs.12,50,000/-</i>



7	<i>Pain and suffering</i>	<i>Rs.12,00,000/-</i>
8	<i>Attendant Charges</i>	<i>Rs.5,00,000/-</i>
9	<i>Transportation Charges</i>	<i>Rs.50,000/-</i>
10	<i>Loss of amenities of life</i>	<i>Rs.1,00,000/-</i>
11	<i>Special Diet</i>	<i>Rs.2,00,000/-</i>
12	<i>Medical expenses for future treatment</i>	<i>Rs.1,00,000/-</i>
13	Total compensation awarded:-	Rs.88,34,380/-
14	Deduction:- <i>Amount awarded by Tribunal</i>	Rs.51,91,533 /-
15	Enhanced amount of compensation	Rs.36,42,847/- (88,34,380- 51,91,533)

27. 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 Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the enhanced amount so calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

28. Appellant-Insurance Company 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 enhanced amount of compensation along with interest to the respondent No.1-claimant.

29. Pending miscellaneous applications, if any, are also disposed of.

May 08th, 2026

Ayub/Sahil

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No\