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

FAO-2862-2012 (O&M)

PARVEEN KUMAR ......Appellant

Vs.

DEEPAK SHARMA AND ORS. ......Respondents

**Reserved on: 16.03.2026
Pronounced on: 21.04.2026
Uploaded on:- 27.04.2026**

***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. Sanjeev Kodan, Advocate
for the appellant.

Mr. Rajesh Punj, Advocate
Mr. Sahaj Punj, Advocate
Mr. Vijaya, Advocate
for respondent Nos.1 and 2.

Mr. D.K. Dogra, Advocate
for respondent No.3-Insurance Company.

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SUDEEPTI SHARMA J.

1. The present appeal has been filed by the claimant who, owing to a motor vehicular accident, has been rendered nearly 80% permanently disabled and has consequently lost his means of livelihood. Having suffered such grave physical and financial hardship, he had approached the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as “the Tribunal”), seeking compensation for the injuries sustained by him. However, the learned Tribunal dismissed his claim petition vide Award dated 07.03.2012, compelling him to seek redress before this Court.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that on 31.01.2010, he, with his wife Monika was going from Ambala Cantt Mullana on his motorcycle bearing registration No. HR-01W-4847. One Sanjeev Kumar, with his wife Poonam was also following the petitioner on his motorcycle. At about 6.30 PM, when they crossed a Poultry Farm, near Kalpi crossing, the car in question driven by the respondent No.1 rashly, negligently and at a very high speed came from the side of Yamuna Nagar. The respondent No.1 tried to over the said car. take a However, truck going ahead on seeing of from the traffic coming opposite direction, he could not control the car in question and lost its balance due to the high speed. In that process, the respondent No.1 came on the wrong side of the road and truck against the motorcycle of the petitioner. Resultantly, the petitioner and his wife Monika fell down on the road. The petitioner suffered serious and multiple injuries. His wife Monika also suffered injuries. With the help of some passers by, the said Sanjeev Kumar stopped the car driver. The car driver disclosed his name as Deepak Sharma son of Shri Jawahar Lal Sharma, Sanjeev Kumar and his wife noted down the number of the car in question and took the petitioner and his wife to M.M.College & Hospital, Mullana. Since injuries on the leg of the petitioner were serious, he was referred to PGI, Chandigarh. Therein his leg was amputated. His wife remained admitted to MM College & Hospital, Mullana. The petitioner remained admitted to GI, Chandigarh till 9.3.2010. Thereafter, he was attending OPD, when ever he was called. He had already spent more than Rs. 5 lacs on his treatment and was expecting to incur more expenses on further treatment. Due to the accident in question and injuries in question, he has become permanently disabled and confined to bed. He cannot do his routine work and is unable to look after his business. His shop is lying

closed till the date of filing of the petition. He has suffered great financial loss. He has not recovered from his injuries. He cannot move without an attendant. The accident has caused great mental pain and agony to him. An FIR No.19 dated 12.2.2010, was registered against the respondent No.1 under Sections 279/337/338 IPC at PS Mullana, although the police had received information regarding the accident in question on 31.1.2010 itself. During the said period, police visited the Hospital number of occasions but did not meet the petitioner as he was not in a position to make the statement. Ultimately, the said Sanjeev Kumar was asked to make the statement and upon his statement. FIR was registered on 12.2.2010. Further more, owner and driver of the car in question were pressing upon the relatives of the petitioner to enter into an out of court settlement. However, on seeing the condition of the petitioner, they withdrew their offer. At the time of the accident in question, the petitioner was aged 30 years. He was self employed, earning Rs. 10,000/- to 12,000/- per month.

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

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

> *1. Whether the accident in question causing injuries to claimant Parveen Kumar took place due to rash and negligent driving of car No.CH-01Z-1557 by respondent No.1 as alleged? OPP*
>
> *2. If issue No.1 is proved, to what amount of compensation the claimant is entitled to and from whom? OPP*
>
> *3. Whether the claim petition is not maintainable in view of the preliminary objections raised by the respondents no.1 & 2 in their written statement? OPR-2 & 3*

4. Whether the Insurance Company is not liable to pay any compensation in view of the preliminary objections raised in the written statement and whether there has been a breach of terms and conditions of the policy of insurance? OPR-3

5. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition of the appellant. Hence the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

6. Learned counsel for the appellant–claimant contends that the impugned award is legally unsustainable, as the learned Tribunal has erroneously dismissed the claim petition on the ground that negligence of respondent No.1 was not proved. He further submits that undue weight has been given to 13 days delay in lodging the FIR. He further contends that in FIR, the number of offending vehicle was categorically found mentioned. Moreover, he contends that the claimant had suffered 80% permanent disability. Therefore, he prays that the present appeal be allowed and compensation be awarded as per settled law.

7. Per contra, learned counsel for the Insurance Company contends that the learned Tribunal after appreciating the fact, has rightly dismissed the claim petition of the claimant-appellant. Therefore, he prays that the present appeal be dismissed.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

"ISSUE NO.1

15. In order to prove this issue, the petitioner has examined PW-1 Sanjeev Kumar, with his deposition Ex.PW1/A. In such deposition, he has reiterated the contents of the petition, qua the manner of the accident in question and lodging of the FIR No.19 dated 12.2.2010 at PS Mullana, against the respondent no.1. He has also tried to explain the delay in lodging the FIR. In his cross-examination, he has deposed that the petitioner is his friend and they both are residing in village Mullana; that on the date of the alleged accident, they both had started from Ambala Cantt separately but met incidentally and started moving towards Mullana; that during those days, it was winter season and sun sets earlier as compared to summer timings; that he had accompanied the petitioner to M.M.College and Hospital, Mullana and the petitioner remained admitted therein for a long time, where after, he was referred to PGI Chandigarh; that he is business man and after the accident in question, he joined his business as per routine; that police had visited the Hospital but due to his condition, the statement of the petitioner was not recorded; that he narrated the whole story to the police but he does not know as to whey the police was adamant to get the statement of the petitioner.

16. The petitioner Parveen Kumar has entered the witness box as PW2, with his deposition Ex.PW2/A. In his such deposition, he has also reiterated the contents of the petition, qua the manner of the accident in question. In his cross-examination, he has inter-alia deposed that Ambala Cantt-Jagadhri Road is a State Highway and heavy traffic moves on the said road all times; that the time of the alleged accident was 6.30 PM and it was winter season; that at that time also usual traffic was plying on the road; that his statement was recorded by the police on 12.2.2010; and that he was not permitted to *make the statement by the doctors as he was unfit to make the statement as advised by the doctors.*

17. The petitioner has also produced PW3 Dr. Sant Ram Gupta. He has deposed that as per record, the petitioner was admitted to emergency of M.M. Medical College and Hospital, Mullana on 31.1.2010 with a history of road side accident. In his cross- examination, he has deposed that the petitioner was neither entertained nor treated by the said witness.

18. In documentary evidence, the petitioner has produced copy of the FIR Ex.P1 dated 12.2.2010 lodged at the instance of PW1 Sanjeev Kumar. The said document also re-iterates the manner of the accident as given in the petition. The petitioner has also produced the admission file Ex.P2 showing his date of arrival in the M.M. Medical College & Hospital, Mullana on 31.1.2010 at about 7.45 PM. The petitioner also produced his treatment record Ex.P4. The documents contained in the said exhibit demonstrate the admission of the petitioner in PGIMER Chandigarh.

19. As against the said evidence, the respondents have produced document Ex.R2 showing that the petitioner was taken to M.M. Medical College & Hospital, Mullana by his brother Amit Malik. They have also produced the MLR EX.R3 of the petitioner showing that Shri Vinod Kumar son of Brij Lal Malik (brother of the petitioner) had taken the petitioner to the said Hospital. They have also produced the statement Ex.R5 of PW1 Sanjeev Kumar, recorded by the police on 12.2.2010.

20. Having summed up the evidence of the parties on issue no.1, I may state that the occurrence in question is alleged to have taken place on 31.1.2010 at about 6.30 PM. The petitioner says that when he was going on his motorcycle and crossed Poultry Farm situated near Kalpi crossing, the car in question driven by the respondent *no.1 rashly and negligently hit his motorcycle. Evidence of PW1 Sanjeev Kumar is also to that effect. The petitioner also says that immediately after the accident, he was shifted to M.M. Medical College & Hospital, Mullana, where after he was shifted to PGIMER Chandigarh. The petitioner has appended the document Ex.P2 showing that he was admitted to M.M. Medical College & Hospital, Mullana on 31.1.2010 at about 7.45 PM. As against the said document, the respondents have produced the ruqa Ex.R2. The said document shows that intimation that the petitioner had suffered injuries in a road side accident at Kalpi was given to the police on 31.1.2010. Both the said documents do not contain the description or registration number of the vehicle causing the accident in question. Although the intimation of the alleged accident had been received by the police telephonically on 31.1.2010 itself, no FIR regarding the alleged accident was registered. The document Ex.P1 shows that one out of the petitioner and his wife, was fit to make the statement on 31.1.2010 itself. Wife of the petitioner was discharged from M.M. Medical College & Hospital, Mullana on 4.2.2010. She was accompanying the petitioner at the time of the alleged accident. However, she did not get her statement recorded even after her discharge from the said Hospital. It was only on 12.2.2010 that PW1 Sanjeev Kumar came up with the stand taken in the petition. Hence, lodging and registration of FIR is delayed by at least 11 days.*

21. I may also state that the respondent no.1 and 2 have not entered the witness box to depose their case. Despite that, this Tribunal has to peruse the evidence on record, to reach a right conclusion.

22. I may also state that in the FIR Ex.P1 and statements of PW1 Sanjeev Kumar, as well as PW2 Parveen Kumar, it has been set forth that the accident in question was *caused due to the rash and negligent driving of the respondent no.1 while driving the car in question. A perusal of the treatment record Ex.P4 produced by the petitioner, at its page no.6, shows that the petitioner was admitted to PGI MER Chandigarh with a history of road side accident on 31.1.2010 at about 7.00 PM at Mullana Road, Ambala, when the petitioner was driving his bike and was hit by an Indica car, where after, he was taken to M.M. Medical College & Hospital, Mullana and was then referred to PGI MER Chandigarh. Similar is the position mentioned by the concerned doctor at page No.25 of the document Ex.P4. As against the said document, the insurance policy Ex.R1 shows that the car in question is a Maruti 800 car. It being so, car in question cannot be determined as an offending vehicle of the accident in question. The deposition of PW1 Sanjeev Kumar and PW2 Parveen Kumar, therefore, is not probable and rather is falsified by the said documents. Delay in lodging the FIR, in the said factual back drop, is material and fatal to the case set up by the petitioner. The reports cited by the learned counsel for the petitioner, with utmost respects to the law declared therein, are different on facts. Therefore, issue no.1 is decided against the petitioner and in favour of the respondents."*

Analysis of the Record

10. A perusal of the impugned award reveals that the learned Tribunal has dismissed the claim petition primarily on the premise that the claimant failed to establish the involvement of the offending vehicle in the accident in question. This Court finds such a conclusion to be legally unsustainable and contrary to the material available on record.

11. From the evidence adduced, it stands established that the accident occurred on 31.01.2010 at about 6:30 PM. The record further demonstrates that

the claimant was admitted shortly thereafter, at about 7:45 PM, in Maharishi Markandeshwar Medical College & Hospital, Mullana, with a clear history of a roadside accident. The medical ruqa (Ex. R2) also corroborates the factum of the accident on the very same day, thereby lending contemporaneous support to the version of the claimant.

12. The testimony of PW-1 Sanjeev Kumar, eye-witness, assumes considerable significance. He has consistently deposed with regard to the manner of the accident and has unequivocally attributed the occurrence to the rash and negligent driving of the offending vehicle. Despite being subjected to detailed cross-examination, nothing material could be elicited to discredit his testimony. His evidence, therefore, inspires confidence and cannot be discarded lightly.

13. Similarly, PW-2, the claimant himself, has reiterated the manner of the accident in clear and cogent terms, attributing negligence to the driver of the offending vehicle. His testimony is in consonance with the version put forth in the claim petition as well as the statement of PW-1.

14. Further corroboration is forthcoming from PW-3 Dr. Sant Ram Gupta, who, in his capacity as In-charge, Emergency, deposed on the basis of hospital record that the claimant was admitted on 31.01.2010 with a history of a road side accident. The medical record (Ex. P2), duly proved, reflects that the claimant was examined by attending doctors and treated accordingly. This medical evidence substantiates the occurrence of the accident and the injuries suffered therein.

15. At this stage, it is apposite to reiterate the settled position of law that proceedings under the Motor Vehicles Act are summary in nature and the standard of proof required is that of preponderance of probabilities and not proof beyond reasonable doubt. The Tribunal, therefore, was required to assess the

evidence in a pragmatic and holistic manner, rather than adopting a hyper-technical approach.

16. The Tribunal appears to have been unduly influenced by the delay of 13 days in lodging the FIR. However, the record clearly indicates that the information regarding the accident had reached the police on the very day of occurrence. The delay in formal registration of the FIR stands satisfactorily explained by the fact that the claimant was under medical treatment and was not in a fit condition to make a statement. It is well settled that delay in lodging the FIR, by itself, cannot be treated as fatal in motor accident claim cases, particularly when satisfactorily explained. In ***Ravi v. Badrinarayan, (2011) 4 SCC 693***, the Hon'ble Supreme Court has categorically held that such delay should not weigh with the Tribunal to deny just compensation, as these proceedings are not strictly governed by the rigours of criminal jurisprudence.

17. Equally significant is the fact that the respondent-driver chose not to step into the witness box to rebut the allegations or to present an alternative version of events. In such circumstances, an adverse inference is liable to be drawn against the said respondent.

18. The reasoning adopted by the Tribunal in disbelieving the claimant's case on the ground of variance in the description of the vehicle is also misplaced. Minor discrepancies in records, particularly when recorded in emergency situations, cannot override consistent ocular testimony and contemporaneous documentary evidence pointing towards the occurrence of the accident.

19. This Court is constrained to observe that the learned Tribunal has failed to appreciate the evidence in its correct perspective and has overlooked the benevolent object of the legislation. The Motor Vehicles Act is a beneficial piece of legislation intended to provide expeditious relief to victims of road accidents.

The approach of the Tribunal, in the present case, defeats the very purpose of the enactment.

20. It is indeed a matter of concern that the accident occurred in the year 2010 and, owing to an erroneous approach adopted by the Tribunal, the claimant has been deprived of just compensation for over a decade. The present case exemplifies how a claim petition ought not to be adjudicated.

21. Be that as it may, in view of the foregoing discussion and the settled legal position, this Court is of the considered opinion that the claimant has successfully established, on the touchstone of preponderance of probabilities, that the accident in question occurred due to the rash and negligent driving of the offending vehicle by the respondent-driver.

22. Consequently, the findings recorded by the learned Tribunal on Issue No.1 are hereby set aside. The claimant is held entitled to compensation in accordance with law.

SETTLED LAW ON COMPENSATION

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

> ***General principles relating to compensation in injury cases***
> *5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability*

to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).

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

Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

xxx xxx xxx xxx

19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

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

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

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

Illustration 'B' *: The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :*
a) Annual income prior to the accident : Rs. 36,000/- .
b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.
c) Multiplier applicable with reference to age : 17
d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-

Illustration 'C' *: The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :*

a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-
b) Loss of future earning per annum (70% of the expected annual income) : Rs. 42000/-
c) Multiplier applicable (25 years) : 18
d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-
[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

24. Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** **[(2017) 16 SCC 680]** has clarified the

law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

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

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

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

> *" 7. There are three aspects which are required to be examined by us:*
>
> ***(a) the application of multiplier of '17' instead of '18';***
>
> *The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.*
>
> *The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.*
>
> ***(b) Loss of earning capacity of the appellant with permanent disability of 31.1%***
>
> *In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep*

Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

> *"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:*
>
> *(i) Pain, suffering and trauma resulting from the accident;*
> *(ii) Loss of income including future income;*
> *(iii) The inability of the victim to lead a normal life together with its amenities;*
> *(iv) Medical expenses including those that the victim may be required to undertake in future; and*
> *(v) Loss of expectation of life."*
>
> *[emphasis supplied]*

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

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

> *"**Nature of injury**:*
>
> *(i) compound fracture shaft left humerus*
> *(ii) fracture both bones left forearm*
> *(iii) compound fracture both bones right forearm*
> *(iv) fracture 3rd, 4th & 5th metacarpals right hand*
> *(v) subtrochanteric fracture right femur*
> *(vi) fracture shaft femur*
> *(vii) fracture both bones left leg*
>
> *We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.*
>
> *We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of*

the appellant, would be 50% of the actual salary in the present case.

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

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

CONCLUSION

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

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

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

26. So far as the determination of compensation is concerned, the same is required to be assessed in the light of the settled principles governing award of "just compensation" under the Motor Vehicles Act.

27. From the record, it transpires that the claimant was about 31 years of age at the time of the accident, as reflected in the disability certificate (Ex. P4). A perusal of the said certificate reveals that he has suffered 80% permanent

disability on account of amputation of the right lower limb above the knee, coupled with fracture of the shaft of femur and stiffness of the right hip joint. The said disability certificate stands duly proved on record through the testimony of PW-5, Dr. Vikash Paul. The medical evidence, thus, conclusively establishes that the claimant has suffered severe and permanent physical impairment, including amputation of his leg.

28. It is the specific case of the claimant that prior to the accident, he was a healthy individual engaged in running a kiryana (grocery) shop, earning approximately ₹12,000 per month. It has further been asserted that, on account of the injuries sustained, he has been rendered incapable of carrying on his business or performing even routine activities, and that his shop has remained closed ever since the accident, resulting in substantial financial loss. On this basis, learned counsel for the claimant has contended that, notwithstanding the assessed physical disability of 80%, the functional disability ought to be taken as 100%, having regard to the nature of his avocation.

29. This Court finds considerable merit in the aforesaid submission. It cannot be overlooked that the claimant, due to the unfortunate accident, has suffered not only grave physical disability but also a complete loss of his earning capacity. The nature of his occupation, being self-employment in a grocery business, necessarily involved substantial physical activity, mobility, and sustained effort. In such circumstances, the amputation of a leg and the associated complications effectively render him incapable of pursuing his vocation.

30. At this juncture, it is apposite to reiterate that the Motor Vehicles Act is a beneficial legislation intended to provide fair, adequate, and just compensation to victims of road accidents. The concept of “just compensation”

has been authoritatively explained by the Hon'ble Supreme Court in ***State of Haryana and another v. Jabir Kaur and others, AIR 2003 SC 3696***, wherein it was held that compensation must strike a balance—it should neither be a windfall nor a pittance, but must be fair, reasonable, and commensurate with the loss suffered. The determination, though not susceptible to precise mathematical calculation, must be based on a judicious and rational assessment of the facts and circumstances of each case.

31. Applying the aforesaid principles to the present case, this Court is of the considered view that although the claimant has been certified to have suffered 80% permanent physical disability, the impact of such disability on his earning capacity is far more severe. Having regard to the nature of injuries and the avocation of the claimant, he is, for all practical purposes, rendered wholly incapable of earning his livelihood as before. Consequently, his **functional disability is assessed at 100%** for the purpose of computation of compensation.

32. So far as the monthly income of the claimant is concerned, this Court, having regard to the prevailing economic conditions at the relevant time and the surrounding evidence on record, deems it appropriate, in the interest of justice, to assess his notional income at ***₹12,000/-*** per month.

33. Learned counsel for the appellant–claimant has further contended that, on account of the injuries sustained in the accident, the claimant's leg stands amputated and he is necessarily required to use an artificial limb. It is submitted that the claimant has placed on record Bill No. 75730 dated 12.10.2011 (Ex. P5), evidencing payment of ₹1,45,000/- towards procurement of a prosthetic limb. It is further urged that such prosthetic aid is not a one-time requirement, but entails periodic replacement and regular maintenance throughout the claimant's lifetime.

34. Per contra, learned counsel for the respondent No.3–Insurance Company has argued that the said bill has not been proved in accordance with law and that there is no specific medical testimony on record to the effect that the claimant would require a prosthetic limb in future.

35. Having considered the rival submissions and perused the record, this Court finds substance in the contention advanced on behalf of the claimant. The nature of injuries, particularly amputation of a lower limb, stands conclusively established from the medical evidence on record. In such circumstances, the requirement of an artificial limb is not merely incidental but inevitable. The absence of a specific medical opinion regarding future replacement cannot be viewed in isolation so as to deny a just claim, especially when the need for prosthetic assistance flows naturally and directly from the nature of disability suffered.

36. This Court can also take judicial notice of the fact that prosthetic limbs require periodic replacement and maintenance due to wear and tear, as well as physiological changes in the body. Typically, such replacement may be necessitated every few years, thereby imposing a recurring financial burden on the injured.

37. The Hon'ble Supreme Court, in ***Kumari Laxmisree v. Managing Director, KSRTC Depot, Bengaluru, 2025 (2) TAC 475***, while considering a similar situation, has recognized the necessity of awarding adequate compensation towards not only the initial cost but also the future maintenance and replacement of prosthetic limbs, and has accordingly granted substantial compensation under that head.

38. More recently, the Hon'ble Apex Court, in ***Prahlad Sahai v. Haryana Roadways, 2026 INSC 396***, has delivered a highly erudite judgment

addressing the jurisprudential basis for the computation and award of compensation under the head of "prosthetic limb" in motor accident cases.

39. The relevant extract of the same is reproduced as under:-

> *"18. For the compensation of prosthetic limb(s), no amount has been awarded by the Tribunal or the High Court. It is undisputed among all parties that the appellant is entitled to be compensated towards the cost of purchase of prosthetic limb(s) and its maintenance. The only question is, what should be the compensation which is payable.*
>
> *19. Under Section 168 of the Motor Vehicles Act, 1988, the mandate is to determine a 'just compensation'. Pasayat J., speaking for this Court in* ***State of Haryana and Another v. Jasbir Kaur and Others, (2003) 7 SCC 484*** *held as under:-*
>
>> ***"7. It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense "damages" which in turn appears to it to be "just and reasonable". It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim****. Statutory provisions clearly indicate that the compensation must be "just" and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just.* ***What would be "just" compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending***

peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of "just" compensation which is the pivotal consideration. Though by use of the expression "which appears to it to be just" a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression "just" denotes equitability, fairness and reasonableness, and non-arbitrary*. If it is not so it cannot be just. (See* ***Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90****]."*

(Emphasis supplied)

20. As rightly held in ***Jasbir Kaur (supra)*** *compensation for loss of limbs can hardly be weighed in golden scales and one cannot expect a mathematical exactitude in arriving at a just and reasonable recompense.*

21. This Court in ***Hardeo Kaur v. Rajasthan State Transport Corpn., (1992) 2 SCC 5676*** *regarding assumed life span of a claimant held as under:-*

"6. This Court in Jyotsna Dey v. State of Assam, 1987 ACJ 172 has observed that the span of life should be taken to be 70 years in view of the high rise in life expectancy. It is specially so in the case of Army officers who are disciplined to live an active and energetic life. The courts below were not justified in taking the normal span of life to be 60 years and that of an Army officer 56 years."

(Emphasis supplied)

22. Further, this Court in ***Md. Shabir (supra)*** *dealing with compensation for purchase and maintenance of prosthetic limb held as under: -*

"23. As per the current compensation given for the prosthetic limb and its maintenance, it would last the

***Appellant for only 15 years, even if we were to assume that the limb would not need to be replaced after a few years. The Appellant was only 37 years at the time of the accident, and it would be reasonable to assume that he would live till he is 70 years old if not more. We are of the opinion that** the Appellant must be compensated so that he is able to purchase three prosthetic limbs in his lifetime and is able to maintain the same at least till he has reached 70 years of age. For the Prosthetic limbs alone, the Appellant is to be awarded compensation of Rs. 7,80,000 and for maintenance of the same he is to be awarded an additional Rs. 5,00,000/-."*

(Emphasis supplied)

23. What is crucial to note is, this Court fixed the assumed life span of claimant as seventy years and also awarded maintenance cost. This Court also held that average life of a prosthetic limb would be a few years.

24. Our research led us to a web hosted PowerPoint presentation titled "Prosthetic Claims - restitutio in integrum?" by Mr. Steve Love, KC. We have found the presentation, especially the case law referred to therein which we have examined, very useful for the adjudication of the present case.

<u>Are Courts Bound By The Governmental Rates Under The Notification? :-</u>

*25. In **David Pinnington (supra)**, recognizing the entitlement of the disabled individual to opt for a prosthetic limb from a Private Centre and recognizing the legitimacy of computing that amount as a reasonable compensation, it was held: -*

"49. Again it seems to me to be very much a matter for the judge to assess. There was not the evidence, as there just might have been in Woodrup, to entitle the judge to indulge in the kind of speculation that Mr. Cotter urged

on us. ***This was a case in which, bearing in mind what he is entitled to do under the 1948 Act, the judge was entitled to find that it was reasonable for Mr. Pinnington to acquire this range of devices and renew them once every five years. He would be acting reasonably in acquiring them from a private centre which would provide him properly for his needs in what is very much a very personal affair....."***

(Emphasis supplied)

26. In similar vein, Lloyd Jones J. ***A (suing by her litigation friend Mrs H) v. Powys Local Health Board, [2007] EWHC 2996 (QB)*** *held that if the treatment claimed by the claimant is reasonable, it is no answer for the defendant to point to cheaper options. This principle was extended to assessment of damages in respect of aids and equipment, as is clear from the following extracts from* ***Powys (supra)****.*

> *"94. The basis of assessment is the test of reasonableness as stated in* ***Rialis v. Mitchell, (Court of Appeal, 6 July 1984)*** *and* ***Sowden v. Lodge [2004] EWCA Civ 1370, [2005] 1 All ER 581, [2005] 1 WLR 2129****. The* ***Claimant is entitled to damages to meet her reasonable requirements and reasonable needs arising from her injuries. In deciding what is reasonable it is necessary to consider first whether the provision chosen and claimed is reasonable and not whether, objectively, it is reasonable or whether other provision would be reasonable. Accordingly, if the treatment claimed by the Claimant is reasonable it is no answer for the Defendant to point to cheaper treatment which is also reasonable. Rialis and Sowden were concerned with the appropriate care regime. However, the principles stated in those cases apply equally to the assessment of damages in respect of aids and equipment. In determining what is required to meet the Claimant's reasonable needs it is necessary to***

> ***make findings as to the nature and extent of the Claimant's needs and then to consider whether what is proposed by the Claimant is reasonable having regard to those needs***. *(**Massey v. Tameside and Glossop Acute Services NHS Trust [2007] EWHC 317 (QB)**, Teare J at para 59; **Taylor v. Chesworth and MIB [2007] EWHC 1001 (QB)** Ramsay J at para 84."*
>
> *(Emphasis supplied)*

27. Hence, ***we have no hesitation*** *in rejecting the rates prescribed in the Government Notification relied upon by the Insurance Company which, in any event, are abysmally low.*

28. P. Ramanatha Aiyar in his "Advanced Law Lexicon" (3rd Edition 2005) defines restitutio in integrum as follows:-

> *"To restore parties to their original position restitution to the original condition".*

Extending the principle of restitutio in integrum to cases of provision for prosthetic limbs after holding that claimants are entitled to their own choice of procuring a prosthetic limb without relying on the National Health Service, and recognizing the right of periodic replacement, it was held in ***Kerry Donnelly v. Fas Products Ltd 2004 S.CLR 678*** *UK, as under: -*

> *"41. .....She is not obliged to use the National Health Service in order to acquire a prosthesis: Law Reform (Personal Injuries) Act 1948, section 2(4). While I cannot be certain that the pursuer will in fact choose to replace her prosthesis every year, I consider that she is entitled to be put into such a position that she is able to do so.* ***A prosthesis is a poor substitute for lost fingers but it is the only substitute that is available. The principle of restitutio in integrum applies. If it is necessary for the pursuer to succeed in recovering the whole life cost of replacement that I find that she probably will replace the prosthesis each year by***

__private purchase__ (assuming that she is placed in such a financial position as to allow her to do so), then I make that finding......"

(Emphasis supplied)

The only caveat is that the claim should be reasonable. What is also significant to note is the entitlement of the claimant to replacement cost has been recognized.

*29. Nearer home, in the case of **Chandra Mogera (supra)**, Sanjay Karol J. speaking for this Court said: -*

*"10. The appellant, on account of the amputation above knee would require a prosthetic limb. It is a fact that a prosthetic limb, which is an aid for mobility, is not permanent in nature. **It generally has a limited span of usability and usually requires replacement once every 5 years in order to function effectively. The appellant was aged 29 years at the time of filing of the present appeal, and it would be reasonable to assume that he would live at least till the age of 70 years, as a conservative estimate, if not more. Therefore, he would require prosthetic replacement at an interval of every 5 years until he attains the age of 70 years.........."***

*11. **We find that in** recent cases the claim for compensation against the head of prosthetic limb has often come up for consideration before this Court. Almost in every case, no estimate for cost is provided, either as the basic cost of procurement or for periodic maintenance thereof. **It is, as such we direct that henceforth whenever a claim for grant of compensation under the head of Prosthetic Limb/Artificial Limb is filed, then the same shall be accompanied with requisite quotations from at least two or three service providers, enabling the Tribunal to make an informed assessment of the actual cost which may be incurred in the future."***

(Emphasis Supplied)

This Court in ***Chandra Mogera (supra)****, held that the life span as five years for an artificial limb and the age up to which compensation for artificial limb is to be computed as seventy years. Most importantly, this Court also laid down that henceforth whenever a claim for grant of compensation under the head of prosthetic limb/artificial limb is filed the same shall be accompanied with requisite quotations from at least two or three service providers enabling the Tribunal to make an informed assessment. We concur with the said view and reiterate the said holding.*

30. As would be clear from the discussion hereinabove, our Court has recognized a block of five years as the reasonable replacement period for a prosthetic limb, and we have followed the same.

31. The appellant was thirty-two years in 2007. Applying an assumed life span of seventy years as the maximum for which as a standard formula compensation for prosthetic limb is awarded and calculating the life of one prosthetic limb as five years, the appellant will need seven prosthetic limbs. Insofar as the price is concerned, the appellant has claimed the 2007 price for the first block with interest @ 9 per cent. Though he has claimed for eight limbs the correct proportion to award would be seven limbs, since the amputation happened on 17.07.2009.

32. We are inclined to award, like in ***Md. Shabir (supra)****, a consolidated amount towards the price. We are inclined to grant Rs. 3,00,000/- per limb on a standard basis for seven limbs. In view of the fact that a consolidated amount is being paid, no interest from the date of the accident is awarded. Considering that the price has been arrived at by broadly applying the case* ***Md. Shabir (supra)****, which we find reasonable,* ***we are not inclined*** *to proceed on the basis of the notification relied upon by the Insurance Company.*

33. We are also inclined to award cost of maintenance of prosthetic limb at Rs.15,000/- annually. For a block of five years, it would work out to approximately Rs. 75,000/-. We award a consolidated sum of Rs. 5,00,000/- till the assumed life span of seventy years."

40. In view of the aforesaid facts and above referred to judgment of the Hon'ble Supreme Court, the nature of permanent disability suffered by the claimant, and the settled legal position, this Court is of the considered opinion that a consolidated amount of ***₹23,00,000/-*** would be just, fair, and reasonable compensation towards the cost of procurement, maintenance, and future replacement of the artificial limb.

Pain and suffering

41. 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.*

42. 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/-.

43. 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 appellant-claimant towards pain and sufferings.

Attendant Charges

44. 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.*

45. 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 80% disability, it would be appropriate to grant lumpsum amount of **Rs.3,00,000/-** under the head of attendant charges.

Transportation

46. Considering the injuries suffered by the appellant-claimant and the requirement for special transportation arrangements, an amount of ***1 lakh*** is hereby awarded to the appellant-claimant on account of the transportation.

RELIEF

47. In view of the above, the present appeal is ***allowed*** and award dated 07.03.2012 is set aside. Accordingly, as per the settled principles of law as laid down by Hon'ble Supreme Court as mentioned above, the appellant-claimant is held entitled to the amount of compensation as calculated below:-

Sr. No.	***Heads***	***Compensation Awarded***
1	*Income*	*Rs.12,000/-*
2	*Loss of future prospects (40%)*	*Rs.4800/- (40% of Rs.12,000/-)*
3	*Annual Income*	*Rs.2,01,600/- (Rs.16800/- X 12)*
4	*Loss of future earning on account of 100% functional disability*	*Rs.2,01,600/- (Rs.2,01,600 /- X 100%)*
5	*Multiplier of 16*	*Rs.32,25,600/- (Rs.2,01,600/-X 16)*
6	*Medical Expenses*	*Rs.2,00,000/-*
7	*Pain and suffering*	*Rs.12,00,000/-*

8	*Attendant Charges*	*Rs.3,00,000/-*
9	*Transportation Charges*	*Rs.1,00,000/-*
10	*Loss of amenities of life*	*Rs.3,00,000/-*
11	*Special Diet*	*Rs.1,00,000/-*
12	*Future Medical expenses and prosthetic leg*	*Rs.23,00,000/-*
13	***Total compensation awarded:-***	***Rs.77,25,600/-***

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

49. So far as liability to pay compensation is concerned, insurance policy (Ex.R-1) reveals that the offending vehicle was duly insured with respondent No.3-Insurance Company.

50. Furthermore, a perusal of the record reveals that driving licence of respondent No.1-Deepak Sharma was valid at the time of accident.

51. Consequently, respondent No.3-Insurance Company is directed to deposit the amount of compensation along with interest at the rate of 9% within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the amount of compensation along with interest to the appellant-claimant in the account of appellant-claimant. The appellant-claimant is directed to provide his bank details to the learned Tribunal.

52. Pending applications, if any, also stand disposed of.

21.04.2026 **(SUDEEPTI SHARMA)**
Ayub/Saahil **JUDGE**

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