

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3690-2013 (O&M) &
XOBJC-71- 2022

NATIONAL INSURANCE CO. LTD.

.....Appellant

Vs.

SUKHDEV SINGH AND ORS.

.....Respondents

Reserved on: 12.02.2026

Pronounced on : 12.03.2026

Uploaded on: 18.03.2026

Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

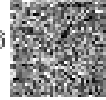
Present: Mr. Ravinder Arora, Advocate
Mr. Neeraj Khanna, Advocate
for the appellant.

Mr. B.S. Sidhu, Sr. Advocate with
Mr. H.S. Sidhu, Advocate
for the claimant/respondent No.1.

SUDEEPTI SHARMA J.

FAO-3690-2013

1. The present appeal has been preferred against award dated 08.04.2013 passed by the learned Motor Accident Claims Tribunal, Sri Muktsar Sahib (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, on the ground of quantum of compensation to be on higher side, and that appellant/insurance company was wrongly held liable to pay the compensation to claimant/respondent No.1.



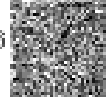
XOBJC-71-2022

2. The present cross-objection has been preferred by cross-objector/claimant (respondent No. 1 herein) against the award dated 08.04.2013 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Tribunal, for enhancement of compensation, granted to the cross-objector/claimant to the tune of Rs.8,50,000/- along with interest @ 6% per annum on account of injuries suffered by respondent No.1/cross objector.

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the claimant/cross-objector are arising out of the same award dated 08.04.2013 passed by the learned Tribunal, therefore, **FAO-3690-2013** and **XOBJC-71-2022** are decided vide this common judgment.

BRIEF FACTS OF THE CASE

4. Brief facts of the case are that on 09.06.2011, at about 7AM, the claimant alongwith his cousin Resham Singh were proceeding on motor cycle bearing registration No. PB-47D-6250 from Nanaksar to Sri Muktsar Sahib on the left side of the road. The claimant was sitting on the pillion of the motor cycle which was being driven by Resham Singh. When they reached near Petrol pump at bus stand of village Sarainaga, the offending vehicle came from the opposite side and it was being driven in a rash and negligent manner and at a high speed by respondent No.1 without blowing any horn. The offending vehicle without giving any indication struck its one side with the motor cycle while overtaking a truck. As a result of the accident, the claimant alongwith Resham Singh fell down from the motor

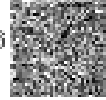


cycle on the road. The claimant had suffered injuries on his head, left arm, chest and other body parts. Motor cycle was also damaged and Resham Singh also suffered minor injuries. The claimant was taken to Civil Hospital Muktsar by some person, who was present at the spot. Claimant was referred to Bharat Hospital Bathinda and thereafter due to serious injuries, the claimant was further referred to DMC College and Hospital, Ludhiana and since then he is getting treatment from the said hospital. The police had not reduced into writing the statement of the claimant and rather entered the DDR on twisted facts by changing the whole story. The accident took place due to rash and negligent driving of the offending vehicle by respondent No.1. It has been alleged that the claimant is aged about 18½ years and was a student of 10+2. He was also extending helping hand in the agricultural pursuit to his father and earning Rs.5,000/- per month. It has been alleged that respondent No.2 is owner of the offending vehicle and the same has been insured with respondent no.3.

5. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

6. From the pleadings of the parties, the following issues were framed by the learned Tribunal :-

“1. Whether the claimant has sustained injuries in a motor vehicular accident, which took place on 09.06.2011, at about 7AM, in the area of Sarainaga, District Sri Muktsar Sahib due to rash and negligent driving of the vehicle bearing registration NO.PB-30D-9099 by respondent No.1? OP-Claimant



2. Whether claimant is entitled to compensation? If so, to what extent and claimant from whom? OP-claimant

3. Whether the petition is not maintainable? OPR

4. Whether the claimant has no locus standi to file the present petition? OPR

5. Whether the petition is bad for non-joinder and mis-joinder of parties? OPR”

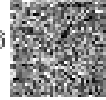
7. Thereafter, both the parties led their evidence in support of their respective pleadings.

8. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the liability to pay compensation was fastened upon the appellant-Insurance Company. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

9. Learned counsel appearing on behalf of the appellant–Insurance Company submits that the present appeal has been preferred assailing the findings recorded by the learned Tribunal both on the issue of negligence as well as on the quantum of compensation awarded on account of disability.

10. He further contends that no FIR was registered with respect to the alleged occurrence and that only a DDR entry was recorded. Referring to the contents of the said DDR, learned counsel submits that it was recorded therein that some stray cattle had suddenly come on the road and while attempting to save them, the motorcycle struck against the offending vehicle.



On the strength of the said entry, he argues that the accident cannot be attributed to the rash and negligent driving of the offending vehicle.

11. On the aforesaid premises, learned counsel prays that the present appeal be allowed and the impugned award be set aside or suitably modified.

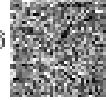
12. *Per contra*, learned counsel for the respondent No.1 contends that liability has been rightly fixed by learned Tribunal on appellant-Insurance Company. He further contends that compensation granted is on the lower side and he filed cross-objections bearing No.XOBJC-71-2022 seeking enhancement of the compensation. He therefore, prays that the present appeal be dismissed and the compensation be enhanced.

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

14. It would be apposite to reproduce the relevant portion of the award dated 08.04.2013 :-

“ISSUE NO.I

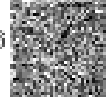
9. The claimant has put forth a case to the effect that on 09.06.2011, he was travelling on a motorcycle which was being driven by Resham Singh PW2. When he reached in the area of Sarainaga, the offending vehicle being driven by respondent No.1 in a rash and negligent manner came from the opposite side and struck with the motor cycle, as a result thereof both the occupants of the motor cycle sustained injuries. The claimant has stepped into the witness box as PW1 and has testified with regard to the



mode and manner in which the accident took place. He has also examined Resham Singh PW2, who was driving the motor cycle and is an eye-witness to the accident. Both of them have attributed act of rashness and negligence on the part of respondent No.1 in driving the offending vehicle.

10. It has been contended by the learned counsel for the respondent that the first version of the case has been unfolded in the DDR, copy whereof is Ex.P131. The DDR entry has been lodged at the instance of Resham Singh PW2 and it is emerging that some stray cattle had come on the road and while saving them, the motor cycle had struck with the offending vehicle. No rashness and negligence has been attributed to respondent No.1 in the DDR and as such, it cannot be said that the accident took place due to rash and negligent driving of offending vehicle by respondent No. 1.

11. It is no doubt true that in the instant case no FIR has been lodged and a DDR was recorded which indicates that the accident took place due to natural reason as some stray cattle had come on the road, but it cannot be termed to be a circumstance to disbelieve the version of the claimant. The lodging of report or reporting the matter to the police are at the most corroborative piece of evidence and in the event no action has been initiated by the police, it cannot be termed to be a circumstance to disbelieve the version of the claimant. In this regard, reference can be made to a decision reported as 2012(2) Recent Civil Reports page 247-Kanhaivalal Nanuram

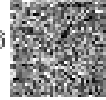


Praiapat Vs. Om Parkash Ratanlal Bakliwal and others (MP), wherein it has been laid down as following:-

"The contrary finding of the Tribunal is unsustainable since the tribunal has adopted a technical approach in the matter and has not properly appreciated the evidence on record. The tribunal has noted the oral and documentary evidence, but has committed an error in appreciating this evidence and has given undue weight age to the fact that the accident was not reported to the police. Thus, the said finding of the Tribunal is set aside."

12. Furthermore, the mere fact that the driver of the offending vehicle was not involved in a criminal case cannot be construed as a ground to conclude that he was not at fault. The tribunal has to evaluate the evidence adduced before it individually and in this regard reference can be made to the decision reported as 2001(3) Civil Court Cases Vs page 286 (P&H)- Tarwinder Singh Vs. Ishwar Chand Mittal. Besides, in the decision reported as 2011(2) Recent Civil Reports 153- Parmeshwari Vs Amir Chand and others, it has been held that the strict principles in a criminal case are not attracted in a case for compensation under the Motor Vehicle Act."

15. The findings recorded by the learned Tribunal on the issue of rashness and negligence do not warrant any interference by this Court. A careful perusal of the impugned award reveals that the Tribunal has duly appreciated both oral as well as documentary evidence available on record and has arrived at a well-reasoned

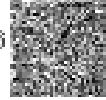


conclusion.

14. The claimant, while appearing in the witness box as PW-1, has given a clear, cogent and consistent account of the manner in which the accident occurred. In his testimony, he has specifically deposed that the accident took place due to the rash and negligent driving of the offending vehicle by respondent No.1. The said version stands duly corroborated by Resham Singh, who appeared as PW-2 and was himself driving the motorcycle at the relevant time. Being an eye-witness to the occurrence, his testimony lends substantial support to the case set up by the claimant. Nothing material has been elicited in their cross-examination so as to discredit their testimonies.

16. The principal contention raised on behalf of the appellant–Insurance Company is founded upon the DDR entry, wherein it has been mentioned that some stray cattle had come on the road and while attempting to save them, the motorcycle struck against the offending vehicle. However, the mere absence of a specific attribution of rashness or negligence to the driver of the offending vehicle in the DDR cannot, by itself, be treated as a circumstance sufficient to discard the otherwise reliable ocular testimony of the claimant and the eye-witness.

16. It is well settled that the lodging of FIR or DDR and the contents thereof constitute only a corroborative piece of evidence. The failure to register FIR or the absence of detailed allegations in

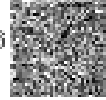


the DDR cannot, in itself, defeat a claim for compensation under the Motor Vehicles Act. Proceedings before the Motor Accident Claims Tribunal are summary in nature and the strict rules of evidence applicable to criminal trials are not required to be applied with the same rigour.

17. It is also noteworthy that the driver and owner of the offending vehicle have not disputed the occurrence of the accident. In their written statement, they attempted to shift the blame upon Resham Singh, the driver of the motorcycle. However, despite raising such a plea, neither the driver nor the owner stepped into the witness box to substantiate their defence or to rebut the testimonies of PW-1 and PW-2. Their failure to enter the witness box and to support their pleadings by leading cogent evidence assumes significance and an adverse inference is liable to be drawn against them.

18. In the face of the consistent and unshaken testimonies of the claimant and the eye-witness, and in the absence of any rebuttal evidence on behalf of the respondents, the learned Tribunal was fully justified in accepting the version put forth by the claimant.

19. Consequently, the conclusion drawn by the Tribunal that the claimant sustained injuries in the motor vehicular accident dated 09.06.2011 at about 7:00 A.M. in the area of Sarainaga, District Sri Muktsar Sahib, due to the rash and negligent driving of the offending vehicle by respondent No.1, is based on a proper appreciation of the



evidence on record and settled principles governing adjudication of motor accident claims.

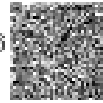
20. This Court, therefore, finds no perversity, illegality or infirmity in the findings recorded by the learned Tribunal on the issue of negligence. The same are accordingly affirmed.

SETTLED LAW ON COMPENSATION

21. 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).*

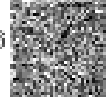
(vi) *Loss of expectation of life (shortening of normal longevity).*

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).*

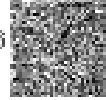
(iii) *The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference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

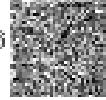
Illustration 'C' : The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career 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*)].

22. 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.

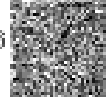
The relevant portion of the judgment is reproduced as under:-

“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.”

23. 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.

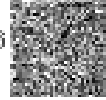
The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(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]*

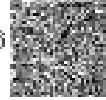
The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

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.

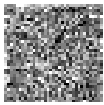
We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment 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:



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

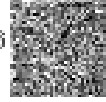
The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

XOBJC-71-2022

24. A perusal of the impugned award reveals that the learned Tribunal has erred in not calculating the loss of income, therefore, this Court deems it fit to calculate the same as per the settled law on compensation.

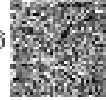
25. As per the award, the claimant/cross-objector was 18 years old at the time of the accident and was 12th standard student. The learned Tribunal erred in stating that he is not entitled to any loss of income as he was just a student at the time of accident. This Court deems it fit to assess the notional income of the claimant/cross-objector.

26. The Hon'ble Supreme Court in ***V. Mekala vs. M. Malathi and anr, 2014(11) SCC 178*** has held that in a motor vehicular accident, the



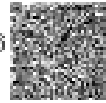
victim was a student and bones of her both legs fractured. Hon'ble the Supreme Court assessed her notional monthly income at Rs.10,000/- and awarded her 50% future prospects. She was awarded Rs.3 lacs under the head Loss of enjoyment of life and marriage prospects. She was awarded Rs. 2 lacs under the head pain and suffering and Rs. 2 lacs under the head loss of amenity and attendant charges. The relevant extract of the judgment is reproduced as under:-

“17. The fact that the appellant was a brilliant student at the time of the accident should also be taken into consideration while awarding compensation to her. Therefore, taking Rs.6,000/- as monthly notional income by the Tribunal for the purpose of awarding compensation under this head is too meager an amount. The learned counsel appearing for the respondent No.2 contended that the appellant can still finish her education and find employment and therefore, there is no necessity to enhance the amount of compensation under the head of ‘loss of income’ and ‘future prospects’. It is pertinent to reiterate here that the claimant/appellant has undergone and undergoing substantial pain and suffering due to the accident which has rendered both her legs dysfunctional. This has reduced the scope of her future prospects including her marriage substantially. Moreover, a tortfeasor is not entitled to dictate the terms of the claimants-appellants career as has been held by the Karnataka High Court in the case of [K. Narsimha Murthy v. The Manager, Oriental Insurance Company Ltd and Anr. ILR 2004 KARNATAKA 2471](#), the



relevant paragraph of which reads as under:

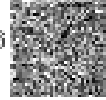
“41. Further, it needs to be emphasized that it is not the right of the tortfeasor or a person who has taken over the liability of the tortfeasor in terms of and under the Act to dictate that the injured person should do some other work, manual or otherwise, it does not matter, may be with pain and discomfort, in order to minimize his or its liability. Such insistence is untenable in law and if such is the case, it would violate basic human rights of the injured person. In this case, the appellant is reduced to such a state that he is unable to do any work, manual or otherwise, without subjecting himself to pain and suffering, agony and discomfort. In an accident, if a man is disabled for a work which he was doing before the accident, that he has no talents, skill, experience or training for anything else and he is unable to find any work, manual or clerical, such a man for all practical purposes has lost all earning capacity he possessed before and he is required to be compensated on the basis of total loss. In reaching this conclusion we may derive support from the judgments in Daniels v. Sir Robert Mc Alpine and Sons Limited and Blair v. FJC Lilley (Marine) Limited. Secondly, the physical incapacity to earn income sustained by the appellant is not temporary, but permanent and complete as per Exhibit P. 43. Thirdly, it cannot be said that since the appellant has sustained only 54% permanent physical



disability in respect of the whole body as per P.W. 3, the Court should take into account functional disability also at 54% only while assessing the loss of earning capacity. Such hypothesis does not stand to reason nor can it be accepted as valid in terms of law. An injured person is compensated for the loss which he incurs as a result of physical injury and not for physical injury itself. In other words, compensation is given only for what is lost due to accident in terms of an equivalent in money insofar as the nature of money admits for the loss sustained. In an accident, if a person loses a limb or eye or sustains an injury, the Court while computing damages for the loss of organs or physical injury, does not value a limb or eye in isolation, but only values totality of the harm which the loss has entailed the loss of amenities of life and infliction of pain and suffering: the loss of the good things of life, joys of life and the positive infliction of pain and distress.”

18. Further, it has been held in the case of [Reshma Kumari](#) (supra) that certain relevant factors should be taken into consideration while awarding compensation under the head of future prospect of income. The relevant paragraph read as under:

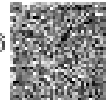
“27. The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he



might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guess work may be inevitable. That may be so.”

19. Therefore, in the light of the principles *laid down in* the aforesaid case, it would be just and proper for this Court, and keeping in mind her past results we take Rs.10,000/- as her monthly notional income for computation of just and reasonable compensation under the head of loss of income. Further, the High Court has failed to take into consideration the future prospects of income based on the principles *laid down by* this Court in catena of cases referred to supra. Therefore, the appellant is justified in seeking for re-enhancement under this head as well and we hold that the claimant- appellant is entitled to 50% increase under this head as per the principle *laid down by* this Court in the case of *Santosh Devi* (supra). The relevant paragraph reads as under:

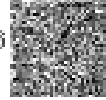
“13. In Sarla Verma's case (supra), another two Judge Bench considered various factors relevant for determining the compensation payable in cases involving motor accidents, noticed



apparent divergence in the views expressed by this Court in different cases, referred to large number of precedents including the judgments in [U.P. SRTC v. Trilok Chandra](#) (1996) 4 SCC 362, Nance v. British Columbia Electric Railway Company Ltd. 1951 AC 601, Davies v. Powell Duffryn Associated Collieries Ltd. 1942 AC 601 and made an attempt to limit the exercise of discretion by the Tribunals and the High Courts in the matter of award of compensation by laying down straightjacket formula under different headings, some of which are enumerated below:

(i) Addition to income for future prospects In Susamma Thomas this Court increased the income by nearly 100%, in Sarla Dixit the income was increased only by 50% and in Abati Bezbaruah the income was increased by a mere 7%. In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years.

Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being

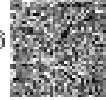


applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances.

Therefore, taking both the aspects into account, the total amount of compensation under this head is calculated as Rs.22,68,000/- [(Rs.10,000/-x 70/100 + 10,000 x 70/100 x 50/100) x 12 x 18]

20. The compensation under the head pain & suffering and mental agony was awarded by the High Court after recording concurrent finding with the award passed by the Tribunal. However, the courts below have not recorded the nature of the permanent disablement sustained by the appellant, while awarding Rs.1,00,000/- under this head which is too meager an amount and is contrary to the judgment of R.D. Hattangadi and Govind Yadav cases (supra). The relevant paragraphs of [Govind Yadav](#) case read as under:

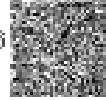
“25. The compensation awarded by the Tribunal for pain, suffering and trauma caused due to the amputation of leg was meager. It is not in dispute that the appellant had remained in the hospital for a period of over three months. It is not possible for the tribunals and the courts to make a precise assessment of the pain and trauma suffered by a person whose limb is amputated as a result of accident. Even if the victim of accident gets artificial



limb, he will suffer from different kinds of handicaps and social stigma throughout his life. Therefore, in all such cases, the tribunals and the courts should make a broad guess for the purpose of fixing the amount of compensation.

26. Admittedly, at the time of accident, the appellant was a young man of 24 years. For the remaining life, he will suffer the trauma of not being able to do his normal work. Therefore, we feel that ends of justice will be met by awarding him a sum of Rs 1,50,000 in lieu of pain, suffering and trauma caused due to the amputation of leg.” Therefore, under this head the amount awarded should be enhanced to Rs.2,00,000/- as the Doctor-PW2 has opined that at the time of walking with support of crutches, the claimant-appellant will be suffering pain permanently. Therefore, under this head it has to be enhanced from Rs.1,00,000/- to Rs.2,00,000/-.

21. The loss of amenity and attendant charges awarded by the courts below at Rs.1,00,000/- is also too meager an amount as the appellant has permanently lost her amenity of both the legs. For the purpose of walking, squatting, running and also studying throughout her life and particularly, at the advanced age, she will be requiring the attendant for giving assistance to attend the nature’s call and also at the time of sitting or moving around. Therefore, the compensation at this head is required to be enhanced from Rs.1,00,000/- to Rs.2,00,000/- based upon the



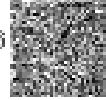
principle *laid down by* this court in *Govind Yadav* case (*supra*),
the relevant paragraph of which reads as under:

“27. The compensation awarded by the Tribunal for the loss of amenities was also meagre. It can only be a matter of imagination as to how the appellant will have to live for the rest of his life with one artificial leg. The appellant can be expected to live for at least 50 years. During this period he will not be able to live like a normal human being and will not be able to enjoy life. The prospects of his marriage have considerably reduced. Therefore, it would be just and reasonable to award him a sum of Rs 1,50,000 for the loss of amenities and enjoyment of life.”

22. The amount of compensation awarded under the head of ‘Loss of enjoyment of life and marriage prospects’ at Rs.2,00,000/- is totally inadequate since her marriage prospect has substantially reduced and on account of permanent disablement she will be deprived of enjoyment of life. Therefore, it would be just and proper to enhance the compensation from Rs.2,00,000/- to Rs.3,00,000/-. In so far as, purchase of crutches periodically, it would be just and proper to award a sum of Rs.50,000/-.”

27. In view of the principles set forth in the *V. Mekala’s (supra)* and considering facts and circumstances of the case, it is just and appropriate for this Court to fix his notional monthly income at Rs.10,000/-.

28. A further perusal of the award reveals that learned Tribunal has erred in not adding any amount towards future prospects to the income of the

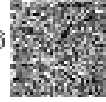


deceased. As per the settled law on compensation, **40%** is to be added as future prospects. Furthermore, as per the settled law on compensation and considering the age of the deceased as 18 years, multiplier of **18** would be applicable.

29. A further perusal of the record shows that the learned Tribunal has awarded the compensation on the lower side to the claimant/cross-objector under the heads of Pain and suffering, which is required to be enhanced.

30. It is trite that permanent disability suffered by an individual not only impairs his cognitive abilities and his physical facilities, but there are multiple non-quantifiable implications for the victim. Further, the very fact that healthy person turns into invalid being deprived of normal companionship and incapable of leading a productive life makes one suffer loss of dignity. As borne out from the record, the claimant/cross-objector has suffered grievous injuries on his person including injuries on his upper limbs, right hand and suffered permanent disability. Disability certificate (Ex.P-30) was produced, wherein, the claimant/cross-objector was held to be suffering disability of 90%. Further, he was hospitalized for over one month because of the accident in question. This fairly concludes the fact that the appellant/claimant has suffered immense amount of pain and agony due to the accident in question.

31. The Hon'ble Apex Court in the case of '**KS Muralidhar versus R Subbulakshmi and another 2024 INSC 886** highlighted the intangible but

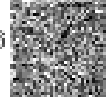


devastating consequence of pain and suffering. The relevant portion of the same is reproduce as under:-

“15. Keeping in view the above-referred judgments, 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 by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded.”

32. Therefore, in view of the above judgment and facts and circumstances of the present case, this Court deems it appropriate to grant compensation of **10 lakhs** under the heads of pain and suffering.

33. Further perusal of the record shows that the claimant/cross-objector suffered various grievous injuries on his body making his life miserable. As a result, he had to depend on others for his daily activities and likely to have employed an attendant to assist him for his physical movements. This Court has dealt with similar issue in case titled as ***Ajay Kumar vs. Jasbir Singh and others, passed in FAO No 1356-2007, decided on 18.02.2025.*** The relevant portion of the same is reproduced as under:-

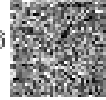


“ATTENDANT CHARGES

36. So far as attendant charges is concerned, the Hon'ble Apex Court in **Kajal Vs. Jagdish Chand and others, 2020(2)R.C.R.(Civil) 27**, held that where injured was a female child aged about 12 years and date of the accident was 18.10.2007 and it was observed by the Hon'ble Apex Court that **to determine the attendant charges, Multiplier system should be applied.** Relevant paragraphs No. 22 and 25 of the aforesaid judgment are as under:

"22. The attendant charges have been awarded by the High Court at the rate of Rs.2,500 per month for 44 years, which works out to Rs. 13,20,000. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various facts are taken into consideration. When compensation is paid in lump sum, this court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges, etc. This system was recognized by this Court in *Gobald Motor Service Ltd. v. R.M.K. Veluswami*, 1958-65 ACJ 179 (SC).

The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method has been recognized as



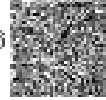
the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of just compensation' within the meaning of the Act.

23. *xxxxxx*

24. *xxxxxx*

25. *Having held so, we are clearly of the view that the basic amount taken for determining attendant charges is very much on the lower side. We must remember that this little girl is severely suffering from incontinence meaning that she does not have control over her bodily functions like passing urine and faeces. As she grows older, she will not be able to handle her periods. She requires an attendant virtually 24 hours a day. She requires an attendant who though may not be medically trained but must be capable of handling a child who is bedridden. She would require an attendant who would ensure that she does not suffer from bed sores. The claimant has placed before us a notification of the State of Haryana of the year 2010, wherein the wages for skilled labourer is Rs.4,846 per month. We, therefore, assess the cost of one attendant at Rs.5,000 and she will require two attendants which works out to Rs.10,000/- per month, which comes to Rs. 1,20,000/- per annum, and using the multiplier of 18 it works out Rs. 21,60,000 for attendant charges for her entire life. This take care of all the pecuniary damages.*

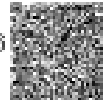
37. *In view of the above as per the Disability Certificate, which is 100% and which requires full-time attendant, therefore, it would be appropriate to decide the*



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

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

39. *Applying the principles laid down in **Kajal's case (supra)** it is evident that the appellant-claimant requires continuous assistance from two attendants for 24 hours a day. In **Kajal's case (supra)**, the Hon'ble Supreme Court emphasized that the multiplier system must be followed to*



determine attendant charges, taking into account factors such as longevity, inflation, interest rates, and the uncertainties of life. The Court also highlighted that an individual with severe disabilities requires dedicated attendants, even if they are not medically trained, to ensure proper care and prevent further complications such as bedsores.

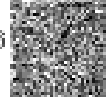
34. In view of the above judgment and considering age and disability suffered by the appellant/claimant, the appellant is entitled to attendant charges to the tune of **Rs.1,00,000/-**.

35. A further perusal of the award shows that the learned tribunal erred in not awarding any amount of compensation under the head of 'loss of marriage prospects', despite the claimant being only 18 years old at the time of the accident and having his entire life before him. The learned Tribunal failed to consider the impact of injury on his ability to marry, find a life partner, and enjoy normal matrimonial prospects. Hon'ble the Supreme Court, in its decision in **Rahul Ganpat Rao Sable versus National Insurance Company, 2023 (3) RCR (Civil) 574** squarely addresses this omission and recognizes that such non-pecuniary loss arising from permanent disability including loss of marriage prospects deserves just compensation.

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

“Loss of Marriage prospects:

20. No compensation has been awarded under the above head. Considering the nature of injuries duly approved



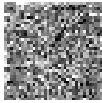
and certified, the appellant would be entitled to compensation under loss of marriage prospects. Again, relying upon the judgment of this Court in the case of Chaus Tausif Almiya (supra), we award a fixed compensation of Rs.3 lakhs under the said head. In view of the above, this Court in the interest of justice is awarding 50000 under the conventional head of 'loss of marriage prospects.'

37. Therefore, in accordance with the above referred to judgment and considering the peculiar facts and circumstances of this case, this Court deems it fit to award **Rs.4,00,000/-** under the head of loss of marriage prospects.

38. A further perusal of the award reveals that meager amount is granted by the learned Tribunal under the head of special diet and no amount was granted under the heads of transportation, loss of amenities and medical expenses for future treatment. Therefore, the award requires indulgence of this Court.

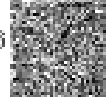
CONCLUSION

39. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objection filed by the claimant/cross-objector is **allowed**. The award dated 08.04.2013 is modified accordingly. The claimant/cross-objector is held entitled to enhanced compensation as per the calculations made here-under:-



Sr. No.	Heads	Compensation Awarded
1	Income	Rs.10,000/-
2	Loss of future prospects (40%)	Rs.4,000/- (40% of Rs.10000/-)
3	Annual Income	Rs.1,68,000/- (Rs.14000/- X 12)
4	Loss of future earning on account of 90% disability	Rs.1,51,200/- (Rs.168000/- X 90%)
5	Multiplier of 18	Rs.27,21,600/- (Rs.1,51,200/-X 18)
6	Medical Expenses	Rs.3,20,000/-
7	Pain and suffering	Rs.10,00,000/-
8	Attendant Charges	Rs.1,00,000/-
9	Transportation Charges	Rs.70,000/-
10	Loss of amenities of life + loss of marriage prospects	Rs.5,00,000/-
11	Future medical expenses	Rs.2,00,000/-
12	Special Diet	Rs.2,00,000/-
13	Total compensation awarded:-	Rs.51,11,600/-
14	Deduction:- Amount awarded by Tribunal	Rs.8,50,000/-
15	Enhanced amount of compensation	Rs.42,61,600/- (51,11,600 - 8,50,000)

40. 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.



41. 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 in the accounts of the claimant/cross-objector, as per ratio settled by the learned Tribunal, vide its award dated 08.04.2013. The claimant/cross-objector is directed to furnish his bank account details to the Tribunal.

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

12.03.2026

Saahil

**(SUDEEPTI SHARMA)
JUDGE**

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No