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

FAO-3494-2017 (O&M)

HARKOMAL PREET KAUR ......Appellant

Vs.

AMRITPAL SINGH @ BEANT AND ORS. ......Respondents

Reserved on: 28.04.2026
Pronounced on: 29.04.2026
Uploaded on:- 05.05.2026

Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Gaurav Sharma, Advocate (through v.c.)
Mr. Impinder Singh Dhaliwal, Advocate
for the appellant.

Mr. Aman Deep Singh Rai, Advocate
for respondent No.1.

None for respondent No.2.

Mr. Ranjeesh Malhotra, Advocate
for respondent No.3-Insurance Company.

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<u>SUDEEPTI SHARMA J.</u>

1. The present appeal has been preferred against the award dated 02.09.2016 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, Barnala (in short 'the Tribunal') for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.8,76,000/- along with 9 % interest on account of injuries sustained by the appellant/claimant – Harkomal Preet Kaur in a motor vehicular accident, occurred on 28.11.2014.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the appellant–claimant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and the compensation awarded to the appellant/claimant be enhanced, as per latest law.

4. *Per contra*, learned counsel for the respondents, however, vehemently argues on the lines of the award and contends that the amount of compensation as assessed by Ld. Tribunal, has rightly been granted to the appellant/claimant. Therefore, they pray for dismissal of the present appeal.

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

SETTLED LAW ON COMPENSATION

6. 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)].

7. 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."*

8. 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.

9. A perusal of the impugned award reveals that the claimant-Harkomal Preet Kaur was 16 years of age at the time of the accident and was stated to be a student of 12th standard. As reflected in the disability certificate (Ex.P17), the claimant has suffered 70% permanent disability on account of amputation of her lower limb above the knee and had got fitted artificial leg. The

said disability certificate stands duly proved on record through the testimony of PW-3, Dr. Devinder Kaur, Medical Officer, Civil Hospital, Ludhiana. The medical evidence, thus, conclusively establishes that the claimant has suffered severe and permanent physical impairment, including amputation of her leg.

10. It is the specific case of the claimant that prior to the accident, she was 16 years of age and was a school going girl. It has further been asserted that, on account of the injuries sustained, she has been rendered incapable of carrying any future job or performing even routine activities, resulting in substantial financial loss. On this basis, learned counsel for the claimant has contended that, notwithstanding the assessed physical disability of 70%, the functional disability ought to be taken as 100%, having regard to the nature of her injuries.

11. 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 her earning capacity. In such circumstances, the amputation of a leg and the associated complications effectively render her incapable of pursuing any vocation in future.

12. 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.

13. 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 70% permanent physical disability, the impact of such disability on her earning capacity is far more severe. Having regard to the nature of injuries and the young age of the claimant (minor), she is, for all practical purposes, rendered wholly incapable of earning her livelihood. Consequently, her **functional disability is assessed at 100%** for the purpose of computation of compensation.

14. So far as the monthly income of the claimant is concerned, the learned Tribunal has not assessed any income of claimant, which is contrary to judgment of Hon'ble Supreme Court.

15. Reference at this stage can be made to the judgment of Hon'ble Supreme Court in ***Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari, 2025 INSC 1070***, wherein, it has been categorically held that a minor child who dies or suffers permanent disability in a motor vehicle accident cannot be equated with a non-earning individual merely because the child was not engaged in gainful employment at the time of the accident. The Court has further clarified that, in such cases, the computation of compensation under the head "loss of income" must be undertaken by adopting at the very least the minimum wages prescribed for a skilled workman as notified for the relevant period in the State where the cause of action arises. The relevant extract from the aforesaid judgment is reproduced as under:-

> *"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of*

the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non- earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in ***Kajal v. Jagdish Chand and Ors., and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.****"*

16. Therefore, in view of the above referred to judgment, this Court deems it appropriate to assess the income of claimant/appellant as Rs.7,500/- per month in the interest of justice.

17. Further perusal of the award reveals that the learned Tribunal has not applied the multiplier method and not calculating loss of earning due to disability while assessing the compensation, which is contrary to the settled law on compensation. Consequently, multiplier of 18 would be applicable in the present case.

18. 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 she is necessarily required to use an artificial 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.

19. Upon perusal of the impugned award, 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.

20. 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.

21. 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.

22. 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 <u>private centre which would provide him properly for his needs in what is very much a very personal affair....."</u>***

(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."

23. 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 ***₹26,00,000/-*** would be just, fair, and reasonable compensation towards the cost of procurement, maintenance, and future replacement of the artificial limb.

<u>Pain and suffering</u>

24. 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.*

25. 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/-.

26. 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 ***15 lakhs*** is hereby awarded to the appellant-claimant towards pain and sufferings.

Attendant Charges

27. 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.*

28. 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 70% physical disability, it would be appropriate to grant lumpsum amount of **Rs.3,00,000/-** under the head of attendant charges.

Transportation

29. 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.

Loss of Marriage Prospects

30. A further perusal of the award shows that the learned tribunal erred in not awarding meager amount of compensation under the head of 'loss of marriage prospects', despite the claimant being only 16 years old at the time of the accident and having her entire life before her. The learned Tribunal failed to consider the impact of injury on her 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.

31. 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 afixed 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."*

32. 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.5,00,000/-** under the head of loss of marriage prospects.

33. A perusal of the award further reveals that the learned Tribunal has rightly awarded Rs.3,00,000/- towards permanent disability. This amount has rightly been granted by the learned Tribunal as a separate head from the loss of future income, therefore, this amount has rightly been awarded and no interference is warranted in this regard. Reliance at stage can be made upon the judgment of Apex Court titled as ***Kavin vs. P. Sreemani Devi, (SC) 2025 INSC 1028***. The relevant portion of the same is reproduced as under:-

"13. The Claims Tribunal further granted an amount of Rs. 3 lacs towards permanent disability suffered by the claimant. This was after taking into consideration the 100% disability *suffered by the claimant. The High Court however set aside the grant of compensation under this head by observing that as compensation towards loss of income had been granted, further amount of Rs. 3 lacs towards permanent disability was not admissible. We do not find any basis whatsoever for this approach of the High Court.* ***The grant of compensation for loss of future income is a distinct head from the one under which compensation is granted for permanent disability.*** *In the light of the fact that the claimant suffered 100% permanent disability and was living in a vegetative state, the High Court was not justified in setting aside the grant of compensation under this head. In our view,*

considering the nature of disability suffered by the claimant, he would be entitled to amount of Rs. 5 lacs under this head."

34. A further perusal of the award reveals that no amount has been awarded by the learned Tribunal under the head of special diet and loss of amenities of life, hence, the award requires indulgence of this Court.

<u>RELIEF</u>

35. In view of the above, the present appeal is ***<u>allowed</u>*** and award dated 02.09.2019 is modified. 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 enhanced amount of compensation as calculated below:-

Sr. No.	***Heads***	***Compensation Awarded***
1.	*Income*	*Rs.7,500/-*
2.	*Loss of future prospects (40%)*	*Rs.3,000/- (40% of Rs.7500/-)*
3.	*Annual Income*	*Rs.1,26,000/- (Rs.10500/- X 12)*
4.	*Loss of future earning on account of 100% functional disability*	*Rs.1,26,000/- (Rs.126000 /- X 100%)*
5.	*Multiplier of 18*	*Rs.22,68,000/- (Rs.126000/-X 18)*
6.	*Medical Expenses*	*Rs.4,06,000/-*
7.	*Pain and suffering*	*Rs.15,00,000/-*
8.	*Attendant Charges*	*Rs.3,00,000/-*
9.	*Transportation Charges*	*Rs.1,00,000/-*
10.	*Loss of amenities of life*	*Rs.1,00,000/-*
11.	*Special Diet*	*Rs.1,00,000/-*
12.	*Future Medical expenses and prosthetic leg*	*Rs.26,00,000/-*
13.	*Loss of marriage prospects*	*Rs.5,00,000/-*
14.	*Amount awarded for permanent disability*	*Rs.3,00,000*
15.	***Total compensation awarded:-***	***Rs.81,74,000/-***
16.	***Deduction:-*** *Amount awarded by Tribunal*	***Rs.8,76,000/-***
17.	***Enhanced amount of compensation***	***Rs.72,98,000/- (81,74,000 - 8,76,000)***

36. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176*** and ***R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107***, the enhanced amount shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

37. Consequently, respondent No.3-Insurance Company is directed to deposit the enhanced 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 her bank details to the learned Tribunal.

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

29.04.2026 **(SUDEEPTI SHARMA)**
Ayub/Saahil **JUDGE**

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