

2026:PHHC:022519-DB



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

LPA-2351-2017 (O&M)
Reserved on: 22.01.2026
Pronounced on: 13.02.2026
Uploaded on: 13.02.2026

Sandeep Kaur

...Appellant

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. G.S. Punia, Senior Advocate with
Ms. Harveen Kaur, Advocate for the appellant.

Mr. Rahul Rampal, Addl. A.G. Punjab.

Mr. Aman Bansal, Advocate for respondent Nos.5 and 6.

VIKAS SURI, J.

1. The present intra-court appeal, under Clause X of the Letters Patent, has been filed by the petitioner-appellant being aggrieved by the judgment passed by the learned Single Judge, whereby the writ petition has been dismissed *in limine*, by concluding that the same is not maintainable.

1.1 The two-fold prayer before the writ Court was for issuance of a mandamus directing re-investigation of case FIR No.128 dated 29.10.2013 registered at Police Station Amloh, District Fatehgarh Sahib, under Section 338 IPC, alleging that the investigation has been done

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under the influence of respondent Nos.5 and 6; and also for issuance of an appropriate direction awarding damages to the tune of Rs.1 Crore to the petitioner as she has become 100% permanently disabled owing to the wall collapse incident in which she suffered grievous injuries and vertebral fractures.

2. Learned counsel for the appellant submitted that the writ petition involved two aspects of the matter, one being the criminality of the actions/omissions leading to the incident wherein the appellant suffered 100% disablement and the other with regard to tortious liability for which the claim for compensation has been raised.

3. Briefly, the appellant is stated to have been a final year student, at the time of the incident, enrolled in B.Sc. course with Desh Bhagat University (respondent No.5) (hereinafter referred to as “the University”), which is managed by Aasra Foundations (Regd. Society under the Societies Registration Act, 1860) (respondent No.6).

3.1 On 11.10.2013, the appellant went to the bathroom in the university campus along with her friend Kamal. While her friend was inside the bathroom, she sat right outside on the chair of chowkidaar. On the fateful day, owing to a storm of dust, the wall of the bathroom collapsed and unfortunately, she was trapped beneath the debris, which resulted in fracture of her backbone.

3.2 The appellant was taken to the Civil Hospital, Mandi Gobindgarh, in the bus of the University, for first-aid. Due to her lamentable condition on the account of the bathroom wall having fallen on her, she was referred to Government Medical College & Hospital,

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Sector 32, Chandigarh and was transported there in an ambulance. It is averred that as nobody was attending to her in the manner required, she was thereafter shifted to Alchemist Hospital, Sector 21, Panchkula. It is also averred that the University Authorities promised to meet all the expenses, however, they deposited Rs.2,25,000/- only up till 18.10.2013 and thereafter, did not meet any expense, medical or otherwise.

3.3 On the statement of the appellant, case FIR No.128 dated 29.10.2013, under Section 338 IPC was registered at Police Station Amloh, District Fatehgarh Sahib. It is alleged that the police authorities did not investigate as to who was negligent regarding the repair and construction of the wall and, for extraneous consideration, only accused one Vishal Sharma, an employee of the respondent University, who was discharged vide order dated 18.04.2017 by the learned trial Court.

4. Learned senior counsel for the appellant submitted that the concerned University Authorities have not been made an accused by the prosecution and therefore, the appellant had sought re-investigation. It is further submitted that on account of the medical condition of the appellant, which has not improved much since the fateful day, she sought for a direction to be awarded damages as she has been rendered 100% disabled on account of negligence of the authorities in not performing their duties and insuring proper construction and maintenance of the University buildings. Reliance is placed upon the decision rendered by the Hon'ble Madras High Court in WP No.19260 of 2002 decided on 14.08.2008 titled as ***V. Subramaniam vs. State of Tamil Nadu and others***, reported in 2010 ACJ 1861.

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5. Upon notice of the appeal, the respondent authorities have opposed the claim of the petitioner-appellant by filing reply wherein it is submitted that the supra FIR No.128 dated 29.10.2013 was registered against Vishal Sharma, who stands discharged vide order dated 18.04.2017. The incident has not been denied though the same was referred to as unfortunate. It is further submitted that the respondent University has borne the entire expenses incurred on the treatment of the petitioner/appellant, who has approached the Writ Court after four years of the incident. It is further stated that in case the appellant has any grievance with regard to the investigation or discharge of the accused Vishal Sharma, she could have availed a legal remedy by challenging the discharge order dated 18.04.2017 and the writ petition is not maintainable, as such. It is also stated on behalf of the University Authorities that the University has, on affidavit, offered to pay an amount of Rs.5 lakh to the appellant as full and final amount towards her claim which is otherwise not maintainable and furthermore, a suitable employment has also been offered to the appellant or any eligible member of her immediate family, subject to fulfillment of the requisite qualifications and conditions for the said post. Respondent Nos.5 and 6 have reiterated that the liability to pay any compensation cannot be fastened upon them as the bathroom wall has not fallen due to any negligence on the part of the respondent University. Learned counsel for the respondent University has thus defended the order passed by the learned Single Judge dismissing the writ petition as not maintainable.

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6. Learned senior counsel for the appellant at the very outset seeks liberty to approach the appropriate authority regarding redressal of the appellant's grievance as far as the aspect of criminality behind the incident is concerned. However, he seeks to agitate his actionable claim, qua the civil liability, in the shape of claim for award of damages/compensation. There is no serious opposition to the plea to approach the appropriate authority, but the claim for damages is hotly contested. At this stage, the appellant submits that he does not press the present appeal qua the prayer in the writ petition seeking re-investigation with liberty to pursue her remedy before the authorities concerned. Ordered accordingly.

7. We have heard learned counsel for the parties at length and have perused the material placed before us, with their able assistance. We have given our anxious consideration upon the submissions made on behalf of the contesting parties.

8. The primary question which arises for consideration in the present appeal is whether, in the peculiar facts and circumstances of the present case, the writ petition claiming compensation is maintainable or not. In case, the said question is answered in affirmative, then a secondary question would for consideration with regard to the method for determining damages and as to what would be just and fair compensation.

9. It is not disputed that the appellant was a final year B.Sc. course student of the respondent University and was 23 years of age on the date of the unfortunate incident, i.e. 11.10.2013, when she suffered grievous injuries due to the wall of bathroom falling upon her, in the University campus.



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10. The Hon'ble Supreme Court of India dealt with the issue of maintainability of writ petitions claiming compensation against injury caused by the State's inaction in the decision in ***S.S. Ahluwalia vs. Union of India and others***, reported in (2001) 4 SCC 452, wherein the relevant direction, which is extracted hereinafter, was given since the claim in those writ petitions were made directly before the Supreme Court seeking compensation for the victims of riot, which took place at various locations across the country due to assassination of Smt. Indira Gandhi:

"..... Therefore, it would be appropriate for us to direct the High Courts of Delhi, Rajasthan, Orissa, Punjab and Haryana, Himachal Pradesh, Patna, Madhya Pradesh, Allahabad and Bombay in the States of Delhi, Rajasthan, Orissa, Haryana, Himachal Pradesh, Bihar, Madhya Pradesh, Uttar Pradesh, Maharashtra and Goa to deal with the matter in respect of the allegations made herein in respect of the State falling in their jurisdiction by treating the writ petition as a petition filed in that High Court. These proceedings, therefore, shall stand transferred to the respective High Courts. A copy of the petition with annexures and response of the respective State Governments shall be sent to the High Court for appropriate action."

11. Similarly, the Hon'ble Supreme Court directed the High Court of Gujarat to consider the claims of riot victims of communal clash that arose in the State of Gujarat due to Godhra incident in ***National Human Rights Commission vs. State of Gujarat and others***, reported in (2004) 8 SCC 610, with the following observations:



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"8. In our view, these all are issues which can be raised in the pending writ petitions before the High Court since the High Court would have the jurisdiction to consider each of the grievances raised. In fact, having regard to the nature of the claim it will be more appropriate, that the High Court should deal with the issues raised in the first instance."

12. A Division Bench of the Hon'ble Madras High Court in WP No.33517 of 2018 decided on 19.04.2021 titled as ***A. Saraswathy vs. The Secretary to Government, Government of Tamil Nadu and others***, reported in **2021(4) MLJ 1**, held the municipality concerned liable to pay compensation. In the said case, on the fateful night, as there was heavy rain, the petitioner's husband took cover under the shade of a toilet building in Palladam Bus Stand maintained by the Palladam Municipality. Due to heavy downpour, the roof of the toilet collapsed, crushing the petitioner's husband to death and injuring another person. It was alleged that because of the negligence on the part of the Municipality in maintaining the toilet building, the building had collapsed, taking away the life of the petitioner's husband. In the said case, it was conceded that the accident had occurred due to the fall of a shed, which was fixed on the ceiling of the toilet, resulting in the death of the petitioner's husband. However, it was pleaded that it was a natural calamity and there was no negligence on the part of the Municipality and it was not responsible for the fall of the shed as the toilet was maintained properly and the building was stable and in a sound condition. Considering the facts of the said case, it was held that the shed was part of the toilet building and therefore, the Municipality concerned alone could be held negligent for the falling of the



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shed on the petitioner's husband. It was concluded that it was the Municipality's negligence due to which the accident had occurred, resulting in the death and the Municipality was liable to pay compensation by placing reliance upon another Division Bench judgment titled as ***The Commissioner, Corporation of Chennai vs. State of Tamil Nadu, rep. by the Secretary to Government, Municipal Administration and Water Supply Department and another***, reported in 2017(2) CTC 119. In the said case, a tree planted and maintained by the corporation fell on a car, resulting in loss of life. Opposing the writ petition for payment of compensation, the corporation raised the contention that it was an 'act of God'. Rejecting the said contention, it was held that writ petition under Article 226 of the Constitution of India can be invoked for payment of compensation and it is a public law remedy which can be availed by fixing tortious liability on the State. Accordingly, the compensation awarded by the writ Court was upheld.

13. In the case at hand, undisputedly, the bathroom was situated on the University campus itself and being property of the University, it was under the control and maintenance of the University authorities. The incident of the wall of the bathroom falling upon the appellant is admitted, whereby the appellant has suffered grievous injuries that have rendered her 100% permanently disabled, in relation to her whole body, as per the disability certificate dated 30.04.2016 issued by the Civil Surgeon, Sangrur (Annexure P-5).

14. Negligence, in common parlance, means and implies failure to exercise due care, expected of a reasonably prudent person. It is a



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breach of duty or lack of proper care in doing something, ranging from inadvertence to shameful disregard of the safety of others. In most instances, it is caused by heedlessness or inadvertence, by which the negligent party is unaware of the results which may follow from his act. In short, it is want of attention and doing of something which a prudent and reasonable man would not do (*vide Black's Law Dictionary*).

15. Negligence is an independent tort and has its own strict elements. It is evident from the record in the present case that the building in question belongs to the respondent University, which is liable to maintain the institution/campus buildings so as not to endanger the life and property of the students and others present on the campus. In fact, the level of precaution that ought to have been exercised would be much higher when the institution is an educational institution. In the light of the aforesaid factual matrix, the doctrine of 'vicarious liability' would be attracted. The respondent University having failed to bring any material on record to demonstrate that it was not liable to maintain the bathroom on the University campus, the liability of the University authorities, derived from its relationship with the negligent officials, would be truly vicarious.

16. The maxim of *res ipsa loquitur* would also be applicable in the instant case. The rule constitutes an exception to the general rule that the claimant seeking damages for an injury must prove the negligence of the alleged wrongdoer. The Latin phrase literally translates to "the thing speaks for itself" and is applied in cases where the facts are such that the harm could not have been caused but for the lack of due care and caution



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on the part of the negligent party since it was in exclusive control of the situation. This principle has been well-entrenched in the Indian jurisprudence by the landmark judgement in ***Municipal Corporation of Delhi vs. Subhagwanti***, AIR 1966 SC 1750, wherein the Hon'ble Supreme Court held that the fall of the Clock Tower, which was exclusively owned and controlled by the Municipal Corporation, by itself raised an inference of negligence against the Corporation. The Apex Court made the following observation:

“...It is true that the normal rule is that it is for the plaintiff to prove negligence and not for the defendant to disprove it. But there is an exception to this rule which applies where the circumstances surrounding the thing which causes the damage are at the material time exclusively under the control or management of the defendant or his servant and the happening is such as does not occur in the ordinary course of things without negligence on the defendant's part. The principle has been clearly stated in Halsbury's Laws of England, 2nd Edn., Vol. 23, at p. 671 as follows:

“An exception to the general rule that the burden of proof of the alleged negligence is in the first instance on the plaintiff occurs wherever the facts already established are such that the proper and natural inference immediately arising from them is that the injury complained of was caused by the defendant's negligence, or where the event charged as negligence tells its own story of negligence on the part of the defendant, the story so told being clear and unambiguous. To these cases the maxim *res ipsa loquitur* applies. Where the doctrine applies, a presumption of fault is raised against the defendant, which, if he is to succeed in his defence, must be overcome by contrary evidence, the burden on the defendant being



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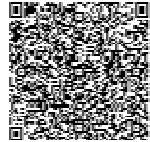
to show how the act complained of could reasonably happen without negligence on his part.”

Thus, the University authorities cannot escape their liability to compensate the appellant for the injuries suffered by her, on the University campus, on account of collapsing of the bathroom wall, which building is indisputably owned by the respondent-University.

17. Concededly, the respondent University is a creature of a statute passed by the State Legislature, namely Desh Bhagat University Act, 2012 (Punjab Act No. 15 of 2013) (hereinafter referred to as ‘the Act of 2013’). The University has been established by virtue of section 3(1) of the Act of 2013. Section 3(2) of the Act *ibid*, provides for the University to be run and managed by the Foundations in accordance with the provisions of the said statute. 'Foundations' has been defined under Section 2(j), which is reproduced hereunder:

“2(j) 'Foundations' means the Aasra Foundations registered under the Societies Registration Act, 1860 (XXI of 1860);”

The objects of the University categorically list 'dissemination of knowledge' and promoting 'academic aspirants of the rural students' as some of its noble aims under section 4 of the Act of 2013. Discharge of a public function, i.e. education, is a clear ground to bring any authority within the ambit of the definition of 'State', under Article 12 of the Constitution of India, thereby making it amenable to writ jurisdiction under Article 226. This proposition is expounded by the decision of the Hon’ble Supreme Court in ***Janet Jeyapaul v. SRM University and others***,

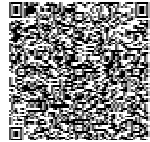


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reported in (2015) 16 SCC 530, wherein, after considering a catena of precedents, a writ petition against a deemed university was held to be maintainable for reasons enumerated in the following paragraph of the judgment:

“30. This we say for the reasons that firstly, Respondent 1 is engaged in imparting education in higher studies to students at large. Secondly, it is discharging “public function” by way of imparting education. Thirdly, it is notified as a “Deemed University” by the Central Government under Section 3 of the UGC Act. Fourthly, being a “Deemed University”, all the provisions of the UGC Act are made applicable to Respondent 1, which *inter alia* provides for effective discharge of the public function, namely, education for the benefit of the public. Fifthly, once Respondent 1 is declared as “Deemed University” whose all functions and activities are governed by the UGC Act, alike other universities then it is an “authority” within the meaning of Article 12 of the Constitution. Lastly, once it is held to be an “authority” as provided in Article 12 then as a necessary consequence, it becomes amenable to writ jurisdiction of the High Court under Article 226 of the Constitution.”

It is undisputed that the respondent-University is not only a creature of statute but is performing a significant public function, i.e. imparting education. The powers and functions of the University are provided under Section 5 of the Act of 2013, which empowers it to *inter alia* “receive grants from the University Grants Commission and other Central, State agencies” [clause (xvi)] and to deal with “immoveable or moveable property” [clause (xxiii)]. Hence, the maintenance of the campus and

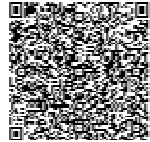


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buildings is a duty of the University authorities, which is inextricably linked and is essential to the effective discharge of its primary function of education, which is a public function. Thus, the writ Court is empowered, by virtue of Article 226 of the Constitution, to issue any order against respondent University, which it can issue against the government or a municipal body for damage caused by their negligence in discharge of public functions, including a direction to pay compensation, as has been done in numerous cases noticed hereinbefore.

18. It is trite that every student possesses a right to obtain education in a safe environment, free from physical hazards, and the same is a crucial aspect of Articles 21 and 21A of the Constitution. The corresponding duty to fulfil this right lies on the authorities charged with the function of running the institution. To further dispel any doubts regarding the duty of the educational institutions to maintain safe campuses, reference can be made to the slew of directions issued by the Hon'ble Supreme Court to all schools, including private schools, in ***Avinash Mehrotra v. Union of India and others***, reported in (2009) 6 SCC 398, wherein the Apex Court interpreted Articles 21 and 21A, so as to include the right to a 'safe' education and directed that all schools must follow fire safety norms, and their buildings must adhere to the National Building Code of India. The following observations succinctly summarise the essence of the judgment:

“35. The Constitution likewise provides meaning to the word “education” beyond its dictionary meaning. Parents should not be compelled to send their children



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to dangerous schools, nor should children suffer compulsory education in unsound buildings.

...

46. It is the fundamental right of each and every child to receive education free from fear of security and safety. The children cannot be compelled to receive education from an unsound and unsafe building.”

In the light of the aforesaid observations, this Court finds no reason why a similar right to a safe educational campus must not vest in a student going to a university, such as the appellant in the instant case. Therefore, where there is such a right vested in the appellant under Article 21 and a corresponding duty is cast upon the respondent-University to ensure structural integrity of its buildings, there is no reason why an appropriate remedy, in the form of compensation, should not be allowed by this Court when negligence in performing the said duty by an authority performing a public function has deprived a young student of unfathomable opportunities in her lifetime.

19. It may also be noticed that in the present appeal, the coordinate Bench passed the following order, on 03.10.2024:

“From the perusal of the record, it would be clear that the appellant was studying with the respondent No.5-University and has become handicapped to the extent of 100%, due to the bathroom wall falling on her, which is apparently due to poor construction. The Medico Legal Report (Annexure P-4) and the Disability Certificate issued by the Civil Surgeon, Sangrur dated 30.04.2016 (Annexure P-5) goes on to show that the disablement is 100% of the 26 years old female. The respondent-University has escaped criminal prosecution, which



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was lodged against it by way of an FIR, by getting a discharge order from the Judicial Magistrate 1st Class, Amloh dated 18.04.2017, in which a teacher Shri Vishal Sharma had been arrayed as an accused, instead of higher officials of the respondent-University.

The vicarious liability of the respondent-University and the higher officials is apparent on the face of the record and prima facie we are of the considered opinion that the learned Single Judge has failed to exercise its extra-ordinary writ jurisdiction under Articles 226/227 of the Constitution of India by not granting interim compensation atleast to the appellant.

Faced with this situation, Mr. Aman Bansal, appearing for the respondent-University prays for time to seek instructions as to whether the appellant can be compensated in any manner or not.

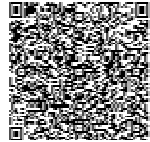
In the meantime, the Member Secretary, Punjab Legal Services Authority, Mohali shall direct the District Legal Services Authority, Sangrur also to interact with the appellant and get her medically examined and get a fresh disability certificate and if possible, there is any scheme to grant compensation, the matter be also examined.

Resultantly, we direct impleadment of Punjab Legal Services Authority, Mohali through its Member Secretary as respondent No.7. Office to make necessary correction in the memo of parties.

Adjourned to 11.12.2024.”

In response to the above directions, the University authorities (respondent Nos.5 and 6) have filed a joint affidavit, wherein the offer made to the writ petitioner has been reiterated and the same is extracted hereunder:

“2. That it is further submitted that though the entire expenses incurred on the treatment of the



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Appellant had been borne by the Respondent No. 5 which is a private university, despite that the Appellant has filed the writ petition on 25.08.2017 i.e. four years after the incident. That though the petition itself is non-maintainable, however, without prejudice to the rights of the respondent university, the respondent no. 5 had filed one affidavit dated 19.02.2025 before this Hon'ble Court and submitted that the University is willing to pay an amount of Rs 5,00,000/- to the Appellant as full and final amount towards her claim which is otherwise non-maintainable and furthermore, one suitable employment to the appellant or any eligible member of her immediate family member was also offered, subject to the fulfilment of the requisite qualifications and conditions for the said post.”

“4. That the respondent no. 5 and 6 vide affidavit dated 19.02.2025 has submitted that without prejudice to the rights of the University, it is willing to pay an amount of Rs 5,00,000/- to the Appellant as full and final amount towards her claim which is otherwise non-maintainable and furthermore, one suitable employment to the appellant or any eligible member of her immediate family member was also offered, subject to the fulfilment of the requisite qualifications and conditions for the said post. However, it is most respectfully submitted that the respondent is not liable for the falling of the wall, as alleged.”

20. Learned counsel for the appellant argued that the appellant was a student of science stream and has suffered paraplegia due to the unfortunate accident. It is further contended that the offer made by the University is farcical on the face of it and is far from being just compensation, for the misery being suffered by the appellant. It is still

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further argued that in such like cases of permanent disablement arising from accidents, the principles of computing monetary compensation ought to be one that are adopted in motor accident claims. It is, therefore, urged on behalf of the appellant that determination of compensation for permanent disability has to take into account both pecuniary losses and non-pecuniary losses. The appellant has suffered severe limitations inflicted due to injuries in the unfortunate accident and as such, the appellant is deprived of leading a dignified life, which is enshrined under Article 21 of the Constitution of India, so as to be granted compensation, payment of which is ordered accordingly.

21. In the light of the aforesaid discussion, the next question that would arise for consideration is as to what would be just and proper compensation in the present case.

22. Undisputedly, the appellant was critically injured in the unfortunate accident and has been rendered 100% permanently physically disabled in relation to her whole body as has been borne out from the disability certificate dated 13.04.2016 (Annexure P-5). The said disability certificate has not been challenged. However, learned counsel for respondent Nos.5 and 6 submitted that thereafter, another disability certificate had been issued and keeping in view the directions issued vide order dated 03.10.2024 by the coordinate Bench, the appellant was again medically examined by a Board of doctors which assessed permanent disability at 90%. The said Medical Board was of the opinion that the handicap percentage is accurate as of 22.11.2024 and the MLR shows



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about 60% compression fracture of L1 Vertebral Body. The findings of the supra Medical Board, are reproduced hereunder:

“Board Constituted by SMO I/C Civil Hospital Sangrur vide No.Medical Board/2024/10966-968 Date 21.11.2024 Board of the unanimous opinion that patient has paraplegia passing urine per catheter. Permanent disability assessed at 90%. So, certificate No.PB2410619900020523 is accurate for Handicap Percentage as of date MRI shows about 60% compression Fracture of L1 Vertebral Body.

Sd./- 22/11/2024

Dr. Karamdeep Singh Kahal
M.O. Ortho
C.H. Sangrur

Dr. Manshu Singla
M.O. ENT
C.H. Sangrur

Dr. Navdeep Arora
M.O. Skin
C.H. Sangrur”

Taking into consideration the nature of the injuries and permanent disability suffered and the fact that the appellant is incapable of independently taking care of herself or even attending to her daily needs, the functional disability would remain at 100% for the whole body.

23. There is no dispute of the factum that the appellant was a final year student of three years B.Sc. course in the respondent University. As such, she was a meritorious student having been admitted in the Science stream. The appellant was only 23 years old on the date of the incident, with a bright future and a whole life to look forward to. Being a student of science, there were many opportunities available to her to pursue after graduating from the University. The Hon’ble Supreme Court in the decision in Civil Appeal Nos.8131-32 of 2014 decided on 25.09.2014 titled as ***Ashvinbhai Jayantilal Modi vs. Ramkaran***



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Ramchandra Sharma and another, awarded Rs.25,000/- per month as income for a 19 years old deceased medical student. In ***S. Mohammed Hakkim vs. National Insurance Company Ltd. and others***, reported in (2025) 10 SCC 263, a decision in Civil Appeal No.9897 of 2025 dated 29.07.2025, their Lordships while determining the quantum of compensation to a 20 years old appellant-claimant, studying in 3rd year of engineering college, who had lost his left leg due to accident, and was suffering from 100% functional disability, held the claimant's monthly notional income to be Rs.20,000/- with addition of 40% made towards future prospects. Rs.5 lakh was awarded under the head of 'loss of marital prospects', while maintaining the compensation awarded under other heads. In another decision rendered in Civil Appeal No.3125 of 2023 decided on 24.04.2023, titled as ***Kandasami and others vs. Lindabriyal and another***, reported in 2023 ACJ 1653, wherein the deceased had completed B.Tech. course, had also done a course in Computer Applications, and was aged about 28 years when the accident had occurred, the notional income of the deceased was reckoned as Rs.25,000/- per month and 40% was awarded as future prospects.

23.1 It is notable that no deduction towards personal expenses is to be made on the amount of compensation, the present case being not of death and the claim not being made by the dependents, but by a survivor in the accident with severe injuries resulting into permanent disability, as laid down in ***Rahul Ganpatrao Sable vs. Laxman Maruti Jadhav (dead) through legal representatives and others***, reported in (2023) 13 SCC 334.

In the said case, the claimant was 19 years old, suffering 60-85%

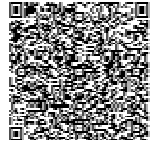


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permanent disability. Considering the disability suffered, loss of income was held to be 100% and the claimant's monthly income was taken to be Rs.25,000/- per month. It was further held that deduction towards personal expenses was unjustified since the claim was by a survivor and further having regard to nature of injuries and permanent disability suffered by the claimant, requiring 24 hours assistance, the claimant was held entitled to Rs.10,80,000/- under the head of attendant expenses. Moreover, compensation amounting to Rs.9,72,000/- was also awarded for 'future medical expenses' by applying multiplier of 18, besides additional sum of Rs.3 lakh each under the heads for 'loss of marriage prospects' and for 'pain and suffering'.

24. In the light of the aforesaid settled principles of law, for determining notional income of a student who has suffered 100% functional disability, we are of the considered view that the income of the appellant is required to be reckoned as Rs.22,500/- per month. Besides the above, future prospects @ 40% are to be awarded keeping in view the dicta in *Sidram vs. Divisional Manager, United India Insurance Company Ltd. and another*, reported in (2023) 3 SCC 439 and *National Insurance Company Ltd. vs. Pranay Sethi*, reported in (2017) 16 SCC 680.

24.1 The general principles relating to compensation in injury cases and assessment of future loss of earnings due to permanent disability, expounded by the Hon'ble Supreme Court in *Raj Kumar vs. Ajay Kumar and another*, reported in (2011) 1 SCC 343, was applied and followed in *Sidram's case* (supra). It was further held that it is not



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necessary to adduce any documentary evidence to prove notional income of victim and Court can award same even in absence of any documentary evidence. The principle of awarding notional income was approved, where the same is just in facts and circumstances of the case. The relevant portion of the judgment in ***Sidram*** (supra) reads thus:

“59. Thus, we are of the view, more particularly keeping in mind the dictum of this Court in *Kirti* [*Kirti v. Oriental Insurance Co. Ltd.*, (2021) 2 SCC 166] that it is not necessary to adduce any documentary evidence to prove the notional income of the victim and the Court can award the same even in the absence of any documentary evidence. In *Kirti* [*Kirti v. Oriental Insurance Co. Ltd.*, (2021) 2 SCC 166] it was stated that the Court should ensure while choosing the method and fixing the notional income that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.”

25. Concededly, the date of birth of the appellant is 10.01.1990 and as such, she was about 23 years of age as on 11.10.2013, i.e. when the unfortunate incident occurred. In view of the ratio in ***Sarla Verma vs. Delhi Transport Corporation Ltd.***, reported in (2009) 6 SCC 121, multiplier of 18 is to be applied. The principles for determination of just compensation contemplated under the Motor Vehicles Act, 1988 were reiterated in Civil Appeal No.735 of 2020 decided on 05.02.2020 titled as ***Kajal vs. Jagdish Chand and others***, reported in (2020) 4 SCC 413. In the said case, it was further held that the multiplier system is to be followed not only for determining the compensation on account of loss of



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income but also for determining the attendant charges, etc. The relevant portion of the said decision reads thus:

“5. The principles with regard to determination of just compensation contemplated under the Act are well settled. The injuries cause deprivation to the body which entitles the claimant to claim damages. The damages may vary according to the gravity of the injuries sustained by the claimant in an accident. On account of the injuries, the claimant may suffer consequential losses such as:

- (i) loss of earning;
- (ii) expenses on treatment which may include medical expenses, transportation, special diet, attendant charges, etc.,
- (iii) loss or diminution to the pleasures of life by loss of a particular part of the body, and
- (iv) loss of future earning capacity.

Damages can be pecuniary as well as non-pecuniary, but all have to be assessed in rupees and paise.

6. It is impossible to equate human suffering and personal deprivation with money. However, this is what the Act enjoins upon the courts to do. The court has to make a judicious attempt to award damages, so as to compensate the claimant for the loss suffered by the victim. On the one hand, the compensation should not be assessed very conservatively, but on the other hand, the compensation should also not be assessed in so liberal a fashion so as to make it a bounty to the claimant. The court while assessing the compensation should have regard to the degree of deprivation and the loss caused by such deprivation. Such compensation is what is termed as just compensation. The compensation or damages assessed for personal injuries should be substantial to compensate the injured for the deprivation suffered by the injured



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throughout his/her life. They should not be just token damages.

... ..

Attendant charges

22. The attendant charges have been awarded by the High Court @ Rs 2500 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 factors 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 recognised by this Court in *Gobald Motor Service Ltd. v. R.M.K. Veluswami* [AIR 1962 SC 1]. 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 recognised 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.”

26. In *State of Himachal Pradesh and others vs. Naval Kumar alias Rohit Kumar*, Civil Appeal No.1339 of 2017 decided on 02.02.2017, reported in (2017) 3 SCC 115, the Apex Court was considering just and reasonable compensation to the victim, a boy of 08 years who came in contact with high tension live wire and suffered injuries. Both arms of the said victim had to be amputated making him

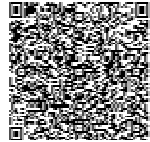


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100% disabled permanently. In the said case, compensation was determined at Rs. 90 Lakh along with 6% interest to take care of the victim's upbringing and other needs for the rest of his life.

27. The decision in Civil Appeal No.14290 of 2024 decided on 11.12.2024, titled as ***Baby Sakshi Greola vs. Manjoor Ahmad Simon and another***, reported in 2024(3) PLR 707, followed the ratio in ***Kajal's case*** (supra). It was further held therein that the claimant who was aged about 07 years when she suffered grievous injuries on account of the road accident, suffered disability to the extent of 75%, however, on a complete overview of the situation, like in the present case, for all practical purposes, the disability was treated to be 100%. The compensation of Rs.1 lakh awarded under the head of 'pain and suffering' was enhanced to Rs.15 lakh taking into consideration that the claimant will remain dependent on another person for the rest of her life and will also miss out on taking part in activities which she would have normally done, if she had not met with this unfortunate accident.

28. Keeping in view the principle of law laid down in ***Kajal's case*** and ***Baby Sakshi Greola's case*** (supra), it would be just and fair to award attendant charges, for two attendants and apply the multiplier system thereto, as well. The appellant would also be entitled for future medical expenses of Rs.5 lakh, being taken on the conservative side, keeping in view the nature of injuries and the permanent disability suffered. It is also to be borne in mind that with advancement in medical science, newer treatments and therapies shall become available in future, which of course would come at a premium and any patient suffering, like



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the appellant, would aspire to take the same. At least, the financial security to be able to afford such treatment in future, is likely to serve as some solace to the appellant.

29. Considering the amount ought to be awarded under the head 'pain and suffering', it would be gainful to refer to the law laid down in Civil Appeal No.12993 of 2024 decided on 22.11.2024, titled as ***K.S. Muralidhar vs. R. Subbulakshmi and another***, reported in 2024 SCC Online SC 3385. Their Lordships of the Apex Court on acknowledging that 'pain and suffering' as a concept escapes definition, referred to certain authorities, scholarly as also judicial, wherein attempts have been made to set down the contours thereof. Some decisions in respect of pain and suffering in cases where disability suffered is at 100% were also noticed. After profound deliberation, an amount of Rs.15 lakh was awarded under the head 'pain and suffering', with the following observation:

“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.”

30. We cannot lose sight of the fact that the appellant is a young woman who would naturally have dreams of settling in matrimony and



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having children of her own, which dreams stand adversely impacted by the unfortunate incident. It is well recognized that marriage/ companionship is an integral part of the natural life of a human being. Keeping in view the nature of the injuries suffered by the appellant and her 100% functional disability, it is near impossible for her to rear children and enjoy the simple pleasures of marital life. Keeping in view the impact of the non-pecuniary loss suffered by the appellant, we are of the considered view that the appellant is to be also granted compensation of Rs.5 lakh under the head of ‘loss of marriage prospects’, following the ratio in *Baby Sakshi Greola’s case* (supra).

31. The appellant, having been confined and restricted in her movement on account of the permanent disability suffered by her, would be required to spend extra money for transportation. Not only that, the appellant would also require special diet, keeping in view the nature of her injuries, which has limited her movement to negligible. Accordingly, an amount of Rs.1 lakh deserves to be awarded under the said head as well.

32. In summa, in our considered opinion, the just and proper compensation required to be awarded to the appellant, is tabulated hereunder:

Sr. No.	Heads	Compensation	Judgments relied upon
1.	Notional Income	Monthly-Rs.22,500/- Annually- Rs.22,500 x 12 = Rs.2,70,000/-	<i>S. Mohammed Hakkim vs. National Insurance Company Ltd. and others</i> (2025) 10 SCC 263 <i>Kandasami and others vs. Lindabriyal and another</i> 2023 ACJ 1653 <i>Rahul Ganpatrao Sable vs. Laxman Maruti Jadhav</i>



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Sr. No.	Heads	Compensation	Judgments relied upon
			(2023) 13 SCC 334
2.	Future Prospects @ 40%	Rs.2,70,000 + 1,08,000 = Rs.3,78,000/-	Sidram vs. United India Insurance Company Ltd. (2023) 3 SCC 439
3.	Income after applying multiplier of 18 (age 23 years) (DOB: 10.01.1990)	Rs.3,78,000 x 18 = Rs.68,04,000/-	Sarla Verma vs. DTC (2009) 6 SCC 121
4.	Attendant charges for 02 attendants	Rs.10,000 x 12 x 18 x 2 = Rs.43,20,000/-	Kajal vs. Jagdish Chand (2020) 4 SCC 413 Baby Sakshi Greola vs. Manjoor Ahmad Simon and another 2024 3 PLR 707
5.	Future medical expenses	Rs.5,00,000/-	Kajal vs. Jagdish Chand (supra) Baby Sakshi Greola vs. Manjoor Ahmad Simon and another (supra)
6.	Pain and suffering	Rs.15,00,000/-	K.S. Muralidhar vs. R. Subbulakshmi and another 2024 SCC Online SC 3385
7.	Loss of amenities of life and marriage	Rs.5,00,000/-	Baby Sakshi Greola vs. Manjoor Ahmad Simon and another (supra)
8.	Transportation and special diet	Rs.1,00,000/-	
9.	Total Compensation	Rs.1,37,24,000/-	

33. The liability to pay the above awarded compensation shall be upon respondent Nos. 5 and 6, jointly and severally. The said amount shall attract interest @ 7.5% per annum, from the date of filing of the writ petition till the realization of the entire amount. We are also conscious of the fact that the petitioner-appellant has prayed for grant of Rs.1 Crore as compensation but as per settled law, the principles applicable to motor accidents claims have been applied, whereby a duty is cast upon the Courts and Tribunals to grant just and reasonable compensation to the



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claimant. Hence, the total compensation awarded shall be paid to the appellant/writ petitioner within a period of three months from today.

34. Resultantly, the present appeal is allowed in the terms aforesaid.

35. Pending application(s), if any, also stand closed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

13.02.2026
sumit.k

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No