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

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**FAO-2438-2025 (O&M) &
XOBJC-69-2025**

ICICI Lombard General Insurance Company Ltd. ...Appellant

Versus

Sandeep Singh and others ....Respondents

**Reserved on:- 25.02.20266
Pronounced on:- 26.02.2026
Uploaded on:- 06.03.2026**

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

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sanjeev Goyal, Advocate
for the appellant-Insurance Company.

Mr. Sandeep Kumar Yadav, Advocate,
for respondent No.1/cross-objectors.

Mr. Parveen, Advocate,
for respondents No.2 and 3.

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SUDEEPTI SHARMA, J.

1. The aforesaid appeal filed by the appellant-Insurance Company and the Cross-Objections filed by respondent No.1/claimant against the same award dated 03.02.2025 passed by the learned Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal') are being decided by way of this common judgment. For brevity, facts have been taken from **FAO-2438-2025.**

<u>FAO-2438-2025 (O&M)</u>

2. The present appeal has been preferred by appellant-Insurance Company for setting aside the award dated 03.02.2025 passed by the learned Tribunal under Sections 166 and 140 of the Motor Vehicles Act, 1988, whereby, respondent No.1/claimant was awarded a compensation of Rs.62,89,480/- along with interest @ 6% per annum on account of injuries sustained by respondent No.1/claimant and the appellant-Insurance Company was held liable to pay the compensation.

<u>FACTS NOT IN DISPUTE</u>

3. Brief facts of the case are that on 07.04.2021, the claimant was proceeding from his residence to his agricultural fields on his motorcycle bearing registration No. HR-34K-5326. At about 9:00 PM, when he reached near PNB, the offending vehicle bearing registration No. HR-19Q-5357, being driven by respondent No.1 at a high speed and in a rash and negligent manner, came from the Mohindergarh side and, while coming onto the wrong side of the road, struck against the motorcycle of the claimant. As a result of the said impact, the claimant along with his motorcycle fell on the road and sustained multiple grievous injuries on his person. The accident was witnessed by Rajbir Singh, uncle of the claimant. In this regard, FIR No.90 dated 12.04.2021 under Sections 279, 337 and 338 of the IPC was registered at Police Station Sadar Mohindergarh.

4. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

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

1. Whether the accident in question took place on account of rash and negligent driving on the part of respondent no.1 by driving vehicle bearing registration No. HR-19Q-5357? OPP.
2. If issue No.1 is proved, to what amount of compensation and from whom the petitioner is entitled? OPP.
3. Whether respondent No.1 did not hold a valid and effective driving licence at the time of accident and whether the terms and conditions of the insurance policy stood violated? OPR
4. Relief.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded compensation to the tune of Rs.62,89,480/- along with interest at the rate of 6% per annum on account of injuries sustained by respondent No.1/claimant and the appellant-Insurance Company was held liable to pay the compensation. Hence, the Insurance Company filed the present appeal challenging the award dated 03.02.2025 passed by the learned Tribunal.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellant-Insurance Company contends that learned Tribunal has erred in holding that accident in question took

place due to rash and negligent driving of offending vehicle. Furthermore contends that there was delay of four days in lodging the FIR and the offending vehicle was falsely implicated in the FIR. Furthermore contends that income of respondent No.1/claimant is assessed on higher side. Therefore, he prays that the present appeal be allowed and the impugned award of the learned Tribunal be set aside.

8. *Per contra,* learned counsel for the respondent No.1/cross-objectors contends that the learned Tribunal has rightly held that the accident in question took place due to rash and negligent driving of offending vehicle. He further contends that the compensation awarded is on lower side and respondent No.1/claimant has filed cross-objections i.e. XOBJC-69-2025 for enhancement of compensation awarded by the learned Tribunal. Therefore, he prays that the cross-objections be allowed and the compensation awarded by the learned Tribunal be enhanced as per the latest law.

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

10. It would be apposite to reproduce the relevant extracts of the award as under:-

> *"**ISSUE NO.1:***
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> *11. The onus to prove this issue has been placed upon the claimant. In order to prove the factum of accident, involvement of the offending vehicle in the said accident and the fact that it was respondent No.1, who was driving the offending vehicle in a rash and negligent manner resulting into injury to claimant examined Rajbir Singh eye witness. He stepped in the witness*

box as PW4 and tendered his affidavit ***Ex. PW4/A****, reiterating the averments mentioned in the petition. The said witness has given a detailed account of the said accident including rash and negligent driving of respondent No.1 resulting into the injuries sustained by Sandeep Singh/injured. He further deposed that Sandeep Singh had spent an amount of about ₹40 lakh on his treatment, hospitalization, medicines, transportation, special diet and attendant etc. PW3 Ankit mother of the claimant has also supported the claim of the claimant while tendering her affidavit Ex.PW3/A.*

12. To prove the fact that respondent No.1 was driving the offending vehicle and that too in a rash and negligent manner, counsel for the claimant has also placed on record the certified copy of final report submitted by the police as envisaged under Section 173 Cr.P.C as ***Ex. P200****. Perusal of the same reveals to this Tribunal that during investigation, respondent No.1 was found on the wheels of the offending vehicle. He was arrested and on completion of investigation, charge-sheet was filed against him to stand trial for the commission of the offences punishable under Sections 279, 337 and 338 of IPC for driving the offending vehicle rashly and negligently and for causing grievous injuries to claimant Sandeep Singh. 13. However, there is nothing on record to disbelieve the same more particularly when respondent No.1 in his written statement has taken a categorical stand that no such accident had taken place with the offending vehicle and a false case was registered against respondent No.1, because in these circumstances, it was incumbent upon respondent No.1 to examine himself to refute the statement of Rajbir Singh PW4 eye witness, but neither he dared to enter into the witness box on his own nor any attempt was made in this regard by respondent no.1 for the reasons best* *known to him, which requires to draw an adverse inference that he did not adopt any such exercise intentionally and deliberately, knowing well that respondent No.1 would not be able to face the test of his cross-examination being guilty in his mind for causing this accident. Reference in this regard may also be made to the observations made by the Hon'ble Apex Court in **1999(2) Civil Court Cases (SC)1, Ishwar Bhai C Patel alias Bachu Bhai Patel Versus Harihar Behera and another** wherein it has been held that where a party does not enter in the witness box to make statement on oath in support of his pleadings, in that event an adverse inference would be drawn that what it has stated in the pleadings, is not correct. Reliance in this regard has also been placed on the case law titled as **Raju Versus Sukhwinder Rai 2006 (4) RCR (Civil) 83**, wherein it is held that when the driver of offending vehicle is not coming forward to depose before the court regarding his false implication in the case or does not come forward to deny his negligence, an adverse inference is liable to be drawn against him.*

*14. It is now settled that registration of criminal case against the driver of the offending vehicle for causing accident by rash and negligent driving is a prima-facie proof that the accident was a result of rashness and negligence on his part as settled in **Girdhari Lal Versus Radhey Shyam & Ors. 1993 (2) PLR. 109**. It is a further settled proposition of law that in motor vehicle accidents claim cases, the approach to find out who was rash and negligent in causing the accident is different from the one when a person is challaned in a criminal court on a culpable charge. The burden of proof on the petitioners is not that heavy as is required to prove a criminal charge for rash and negligent driving of the vehicle.*

15. In the present case, the fact that the police had challaned respondent No.1 for the commission of offences punishable under Sections 279, 337 and 338 of IPC, shows that the investigating agency had reached the conclusion that respondent No.1 had caused the accident by his rash and negligent driving of the offending vehicle. Respondent No.1 did not make any complaint to the concerned SHO or higher police officers regarding his false implication.

16. More so, registration of FIR Ex.P199 and submission of challan ***Ex.P200*** *by the police in the court after collecting evidence against respondent No.1, and framing of charges* ***Ex.P201*** *against the respondent no.1, prima-facie further prove involvement of the offending vehicle and causing of the accident by him while driving it in a rash and negligent manner. Reliance can be placed on the observations made by our own Hon'ble High Court in* ***Girdhari Lal (Supra)****.*

17. This Tribunal bestowed its thoughtful consideration to the issue in hand. It is well settled that in accident claim cases the burden to prove negligence of the driver of offending vehicle upon the claimant is not as strict as it is on the prosecution in criminal matters. The law with regards to compensation in accident claim cases is a beneficial piece of legislation. These cases are not to be viewed with high-powered spectacles or microscopes, but a pragmatic approach is adopted. Rather evidence in these cases is appreciated on the basis of preponderance of probabilities. Even the strict rules of Cr.p.c. and Evidence Act do not apply in these cases.

18. Hence, in view of the above discussion, it is held that the accident causing injuries to claimant Sandeep Singh had occurred due to rash and negligent driving of the offending vehicle i.e. Maruti car bearing registration HR-19Q/5357 by *respondent No.1. Accordingly, this issue is decided in favour of the claimant and against the respondents.*

***ISSUE NO.2*:**

19. The claimant Sandeep Singh has claimed compensation on account of the injuries sustained by him in the road side accident. It has been submitted that the claimant had sustained multiple serious injuries on his head and other part of his body including fractures due to which he was taken to Nandini Hospital Mohindergarh, from where he was referred to higher centre. However, he was taken to Matrika Hospital, Rewari, where he remained admitted from 08.04.2021 to 30.04.2021. The claimant is still in Coma. The claimant remained admitted under treatment in various hospitals. ₹40 lacs were spent on his treatment, transportation, medicines, special diet etc.

20. In order to prove the injuries suffered by the claimant in the said accident, he has examined ***Rakeh medical record keeper Priyush Neuro and Superspeciality Hospital, Jaipur as PW1****. He brought the summoned record pertaining to patient Sandeep Singh and has deposed that the patient was admitted in their hospital on 31.07.2021 with the history of road traffic accident and was discharged on 14.09.2021. He proved final bill Ex.P1 and medical bills/receipts Ex.P2 to Ex.P44, discharge summary Ex.P45, OPD slip Ex.P46 and treatment record Ex.P47.*

21. ***Dr. Kanwar Singh, Medical Officer, Govt. Hospital, Narnaul as PW2****. He deposed that on 16.06.2023, he was the member of the disability Board at General Hospital, Narnaul. On that day, Sandeep Singh appeared before the Board and after his examination, the board assessed his permanent disability 100% on account of C/o head injury with uncrsen with spastic quadriparesis with bladder bowel, involvement* *vide PGIMS Rohtak report NS/23/886 dated 16.05.2023. he proved the disability certificate Ex.PW2/A.*

22. Claimant further examined ***Anil Kumar, Medical record keeper, Matrika Hospital, Rewari as PW5****. He brought the summoned record pertaining to patient Sandeep Singh. He deposed that the patient was admitted in their hospital on 08.04.2021 with alleged history of road traffic accident and was discharged on 30.04.2021. He deposed that the patient was again admitted in their hospital on20.07.2021 and was discharged on 23.07.2021. he deposed that patient was further admitted in their hospital on 14.09.2021 and was discharged on 21.09.2021. He proved the discharge summaries Ex.P49 to Ex.P51 respectively, OPD slips Ex.P52 to Ex.P58, investigation reports Ex.P59 to Ex.P61, MLR Ex.P62, ruqa Ex.P63, final bills Ex.P64 to Ex.P66, medical bills/receipts Ex.P67 to Ex.P182.*

23. It is mentioned by the claimant in his petition that he is age about 24 years. He was driver by occupation. He was also doing the work of animal husbandry. He used to earn ₹30,000/- per month. To prove the said fact, the claimant has produced heavy driving licence Ex.198. The present petition has been filed by the mother of the claimant being next friend. The claimant is stated to be in Coma. Meaning thereby, the claimant is not in condition to drive the vehicle. Therefore, this Tribunal observes that the disability relates to whole body. Therefore, in the light of the nature of injury sustained by claimant Sandeep and in the light of recital with regard to nature of injury sustained by claimant Sandeep i.e. on account of C/o head injury with uncrsen with spastic quadriparesis with bladder bowel, involvement vide PGIMS Rohtak report NS/23/886 dated 16.05.2023, this Tribunal concludes that the *claimant Sandeep Singh had sustained disability which is permanent in nature and the disability relates to whole body.*

24. However, the claimant has proved on record that he had sustained disability qua whole body and it is proved on record that the claimant Sandeep Singh unable to carry on activities as a result of his permanent disability which he was earlier doing. Therefore, this Tribunal observes that he had sustained disability to the extent of 100% in the light of the document ***Ex.PW2/A****. Therefore, he will be entitled to seek compensation in view of the law laid down by the Hon'ble Supreme Court of India in case titled as* ***Arvind Kumar Mishra Vs. New India Assurance Co. Ltd. (2010) 10 SCC 254, Raj Kumar Vs. Ajay Kumar (2011) 1 SCC 343 and G Ravindranath Vs. E.Srinivas 2013 (12) SCC 455*** *under the following heads:--*

(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).

Treatment, hospitalization, and medicines, expenses*:-*

*25. It is the case of the claimant that he had spent ₹40,00,000/- on his treatment, but there is nothing on record to prove the aforesaid facts. Further, the claimant has placed on record the bills regarding the payments made by him for various other procedures, laboratory tests and medicines amounting to **₹10,11,980/-** as per bills Ex.P1, Ex.P2 to Ex.P4, Ex. P64 to Ex.P66, Ex.P67 to Ex.P182, which remained un-rebutted on the case file.*

*26. In **Smt. Parsanni Devi Versus Sube Singh & Others, 2011 (2) PLR-764**, it has been held by Hon'ble Punjab and Haryana High Court as under:-*

> *"that practice of merely marking medical bills, but not exhibiting without any evidence and looking for proof by examination of a chemist is quite a needless exercise. Tribunals must be more pragmatic in their approach while dealing with cases of motor accident victims and invoking the powers which are vested in them under Sections 168 and 169 in such a fashion that they do not shackle themselves by unrealistic procedures to meet the ends of justice. Unless the bills seem fabricated or there is something more peculiar at the trial to doubt genuineness of the bills, the Tribunal dealing with motor accident cases ought not to be looking for evidence through a chemist who had issued bills. The production of bills relating to purchase of medicines during the period of hospitalization and oral evidence given by parties about purchase of medicines ought to be taken as sufficient proof of authentication and admissibility of these documents."*

27. Hence, this Tribunal has come to the conclusion that total expenses incurred by the claimant Sandeep Singh on his *medical treatment comes out to **₹10,11,980/-** and he is entitled for the same.*

<u>Loss of Income during the period of treatment:</u>-

28. It is the case of the claimant that he was doing the driver by occupation and was also doing the work of animal husbandry and used to earn ₹30,000/- per month. He placed on record his heavy driving licence Ex.P198, which proves this court that he was driver by occupation. This fact has not been refuted by the opposite party. It has also been proved on record that the claimant has suffered 100% disability and is not in condition to drive the vehicle. He is also stated to be in Coma. Therefore, it is proved on record that he was driver by occupation, but there is nothing on record to prove that what he was earning. However, taking into consideration, his driving licence Ex.P198, this Tribunal is of the view that he was a driver by occupation. Therefore, the notional income of claimant as skilled driver is taken to as ₹18,500/- per month considering him to be self-employed. As such, the monthly income of claimant Sandeep Singh is liable to be taken as ₹18,500/-.

29. As the claimant is stated to have suffered disability on account of C/o head injury with uncrsen with spastic quadriparesis with bladder bowel, involvement vide PGIMS Rohtak report NS/23/886 dated 16.05.2023 and it has been proved on record that he was admitted in Nandini Hospital, Mohindergarh from where he was referred to higher centre. He was shifted to Matrika Hospital, Rewari. He remained admitted there from 8.04.2021 to 30.04.2021. He has visited many times to Matrika Hospital, Rewari. He also remained under treatment of various doctors in various hospitals. Meaning thereby, he suffered loss of income for the relevant period. Hence, he is *entitled to be compensated for ₹92,500/- (₹18,500 x 5) on account of loss of income during the period of treatment.*

Loss of future income:-

30. From the perusal of mark-sheet Ex.P220, the date of birth of the claimant was mentioned as 17.08.1996. The accident took place on 07.04.2021. Meaning thereby, he was about 24 years of age at the time of accident. Therefore, it transpired to this Tribunal that at the time of said accident, the age of the claimant was 24 years. There is nothing on record to rebut the authenticity of the said document. Hence, the age of the claimant is to be taken 24 years at the time of said accident.

31. The disability of the claimant has already been assessed to the extent of 100%.

*32. In view of the law laid down by Hon'ble Supreme Court of India in case titled as **National Insurance Company Vs. Pranay Sethi and others reported as 2017 (4) RCR (Civil) 1009** and considering the age of the claimant about 24 years at the time of said accident, an addition of 40% of income is to be made towards future prospects to the income of the claimant. Therefore, in view of the law laid down by Hon'ble Supreme Court of India **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and others 2009 (3) RCR Civil 77**, and considering the age of the claimant, multiplier of 18 would be applicable.*

*33. Thus lastly, taking the support from the illustrations given by the Hon'ble Supreme Court of India in case of **Raj Kumar's case supra**, calculation of compensation on account of earning capacity will be as follows:-*

(a) Monthly income before the accident = ₹18,500/-

(b) Increase towards future prospects @40% = ₹4625/-

(c) Annual income (₹18,500/- + ₹4625/- =

₹23,125/- x 12) = ₹2,77,500/-

(d) Multiplier with reference to age = 18

(e) Income after applying multiplier

(₹2,77,500/- x 18) = ₹49,95,000/-

(f) Total loss of future earnings

*(₹49,95,000/- x 100%) = **₹49,95,000***

*34. In addition to the said amount, the claimant must have taken special diet during the course of his treatment. Therefore, the claimant is hereby, held entitled to compensation in lieu of special diet amounting to **₹50,000/-**.*

*35. Further the claimant, after the accident, had shifted to Nandini Hospital, Mohindergrh, from where he was referred to higher centre. However, he was taken to Matrika Hospital, Rewari. He was further taken to various hospitals and now he is under treatment. Therefore, he is entitled for an amount of **₹20,000/-** as transportation charges.*

Non-pecuniary damages :

Damages for pain, suffering and trauma as consequence of the injuries:-

*36. The claimant remained admitted in the hospital and even thereafter remained on bed for a considerable period. In the facts of the case, considering the disablement of the claimant, nature of injuries suffered by him, the period of hospitalization etc., this Tribunal is inclined to award a sum of **₹50,000/-** to the claimant on account of pain and suffering. Loss of amenities:-*

37. In view of the facts of the present case, it has come on record that at the time of the said accident, the claimant was about 24 years of age and he is having family and the family of the claimant is fully dependent upon him, but he lost the amenities of life due to permanent disablement. Hence, this Tribunal is inclined to award a sum of ₹50,000/- under this *head.*

***Loss of expectation of life**:-*

*38. In the facts of the present case, this Tribunal is inclined to award a sum of **₹20,000/-** on account of loss of expectation of life.*

*39. In this way, the total amount of compensation payable to the claimant works out to be **₹62,89,480/- (₹10,11,980/- +92,500/-+49,95,000/- +50,000/-+20,000/-+50,000/-+50,000/- +20,000/-)**.*

*40. The offending vehicle was fully insured on the date of accident i.e. 07.04.2021 as is evident from the perusal of the copy of the Insurance Policy **Ex.R3,** according to which the offending vehicle was insured with respondent No.3 with effect from 23.10.2020 to 22.10.2021. It being so, this Tribunal is of the considered view that the claimant is entitled to receive the amount of **₹62,89,480/-** as compensation from the respondents. Though, the liability is that of respondents No.1 and 2, yet in view of the provisions of Section 149 of the Motor Vehicles Act, it shall be discharged by respondent No.3–insurance company by making payment. Accordingly, the findings on issue No.2 is returned in favour of claimant.*

***ISSUE NO.3** :*

41. Onus to prove this issue has been placed upon respondent No.3. However, respondent No.3-insurance company has failed to discharge its burden that the respondent No.1 had violated the terms and conditions of the insurance policy, because no evidence has been led by the insurance company in this regard nor during the course of arguments, the learned counsel for the insurance company has disputed this fact. Further, the respondent no.1 has also placed on record his *driving licence as Ex.R2. Perusal of the same reveals to this Tribunal that the same was valid till 05.01.2035 for driving the non-transport vehicle. As such, the respondent No.1 was having the valid and effective driving licence at the time of alleged accident. Hence, the findings on issue No.3 are returned against respondent No.3 and in favour of claimant."*

11. A perusal of the impugned award reveals that the learned Tribunal has meticulously appreciated the entire oral as well as documentary evidence available on record and has returned a well-reasoned finding that the accident in question occurred on account of the rash and negligent driving of respondent No.2, the driver of the offending vehicle.

12. It transpires from the record that PW-4 the eye-witness to the occurrence has given a cogent and consistent account of the sequence of events leading to the accident. He unequivocally attributed negligence to the driver of the offending vehicle. Though subjected to searching and lengthy cross-examination, nothing material could be elicited to discredit his testimony or to create any dent in his credibility. His deposition, therefore, inspires confidence and rightly stood accepted by the learned Tribunal.

13. As regards the contention of the appellant–Insurance Company concerning the four-day delay in lodging the FIR, the same is devoid of merit. The delay stands satisfactorily explained by PW-4 Rajbir, who categorically deposed that he remained occupied in attending to the injured and arranging medical care, which naturally took precedence over initiating criminal proceedings. His explanation remained unshaken in cross-

examination.

14. It is well settled that in motor accident claim proceedings, delay in registration of the FIR is not fatal, particularly when reasonably explained. The standard of proof being preponderance of probabilities, such delay, by itself, cannot be a ground to discard an otherwise credible and consistent version.

15. It is further borne out from the record that respondent No.2 (driver of offending vehicle) is facing criminal trial arising out of the same accident. It is well settled that registration of the FIR and the prosecution of the driver constitute a strong *prima facie* proof of negligence, particularly when read in conjunction with reliable ocular testimony and contemporaneous documentary evidence.

13. The learned Tribunal has also correctly kept in view the settled principle that proceedings before the Motor Accident Claims Tribunal are summary in nature and the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt. In the present case, the respondent No.1/claimant has successfully discharged the said burden by leading trustworthy and unrebutted evidence.

14. In view of the aforesaid discussion, this Court finds no perversity, illegality or material irregularity in the findings recorded by the learned Tribunal on the issue of rash and negligent driving. The conclusions drawn are based on proper appreciation of evidence and settled principles of law. Accordingly, the findings on the issue of negligence are affirmed.

15. So far as the contention of learned counsel for the appellant–Insurance Company that the learned Tribunal assessed the income of the respondent No.1/claimant on the higher side is concerned, the same is without substance.

16. The record reflects that respondent No.1/claimant was a professional driver and was also engaged in animal husbandry. In support of his vocation, he placed on record a valid heavy motor vehicle driving licence (Ex. P-198), which substantiates that he was duly authorized to drive transport vehicles and lends credence to his assertion regarding his occupation. Though no documentary proof of exact monthly income was produced, the absence of formal proof is not uncommon in cases involving self-employed persons or those engaged in the unorganized sector.

17. It is well settled that where documentary evidence of income is not forthcoming, the Court may take recourse to minimum wages notifications as a guiding factor; however, the same cannot be applied mechanically. In **Chandra @ Chanda @ Chandraram v. Mukesh Kumar Yadav & Ors., 2021 SCC Online SC 850**, the Hon'ble Supreme Court held that a reasonable element of estimation or guesswork, based on the nature of employment and surrounding circumstances, is permissible while determining income in motor accident cases.

18. In the present case, considering that the respondent No.1/claimant possessed a heavy driving licence and was engaged in skilled work, the assessment of monthly income at Rs.18,500/- by the learned

Tribunal cannot be said to be excessive or arbitrary. The determination is reasonable, commensurate with his vocation, and calls for no interference. The same is accordingly affirmed.

19. A perusal of the award further reveals that respondent No.1/claimant was merely 28 years old at the time of accident and suffered 100% permanent physical disability on the account of C/o head injury with unsrsen with spastic quadriparesis with bladder bowel. PW-2 Dr. Kanwar Singh, Medical Officer, Government Hospital, Narnaul, has proved disability certificate (Ex.PW2/A). A perusal of the said disability certificate reveals that respondent No.1/claimant has suffered 100% permanent disability. A perusal of the award further reveals that respondent No.1/claimant has remained hospitalized for a considerable period of time.

20. Moreover, it goes without saying that this Court is under an onerous duty to award just and reasonable compensation, after duly considering the nature of injuries suffered, their consequences, the resultant functional disability, and the corresponding loss of earning capacity.

21. A further perusal of the award shows that the amount granted under the head of 'Pain and Suffering' is on lower side. Reference at this stage can be made to the judgment passed by Hon'ble the Supreme Court in the case of ***K.S. Muralidhar v. R. Subbulakshmi and another 2024* SCC Online SC 3385**, has settled the law regarding grant of compensation under the head of "Pain and Suffering". The relevant portion of the ***K.S.Muralidhar's*** case is reproduced as under:-

> *"15. Keeping in view the above-referred judgments, the injuries suffered, the 'pain and suffering' caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, award Rs.15,00,000/- under the head 'pain and suffering', fully conscious of the fact that the prayer of the claimant-appellant for enhancement of compensation was by a sum of Rs.10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded."*

22. Therefore, in view of the above judgment and prolonged hospitalization and nature of injuries sustained by the respondent No.1/ claimant, this Court, in the interest of justice, deems it appropriate to grant a compensation of **Rs.10,00,000/-** under the head of 'Pain and Suffering'.

23. Further perusal of the record shows that the learned Tribunal has rightly awarded compensation under the heads of medical expenses. However, it is evident from the award that the compensation awarded towards attendant charges, loss of amenities, attendant charges, special diet, transportation charges, loss of expectation of life is on lower side. Furthermore, no amount was awarded towards loss of marriage prospects and future medical expenses. Therefore, award requires indulgence of this Court and compensation awarded is required to be recalculated as per settled law.

SETTLED LAW ON COMPENSATION

24. 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)].

25. 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.*"

26. 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**:*
compound fracture shaft left humerus
fracture both bones left forearm
compound fracture both bones right forearm
fracture 3rd, 4th & 5th metacarpals right hand
subtrochanteric fracture right femur
fracture shaft femur
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.

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.

RELIEF

27. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal filed by the Insurance Company is **dismissed** as being devoid of any merits, whereas, cross objections filed by respondent No.1/claimant are hereby **allowed**. The award dated 03.02.2025 is modified accordingly. The respondent No.1/claimant (cross-objectors) is entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.18,500/-
2	Loss of future prospects (40%)	Rs.7,400/- (40% of Rs.18,500/-)
3	Annual Income	Rs.3,10,800/- {(18,500 + 7,400) X 12)
4	Loss of earning due to disability (100%)	Rs.3,10,800/- (100% of Rs.3,10,800/-)
5	Multiplier	18
6	Loss of future earning per annum	Rs.55,94,400/- (Rs. 3,10,800 X 18)
7	Medical Expenses	Rs.10,11,980/-
8	Pain and Suffering	Rs.10,00,000/-
9	Transportation charges	Rs.70,000/-
10	Loss of marriage prospects	Rs.5,00,000/-
11	Future medical expenses	Rs.1,50,000/-
12	Special Diet	Rs.2,00,000/-
13	Attendant Charges	Rs.7,00,000/-
14	Loss of amenities of life	Rs.1,00,000/-
	Total Compensation	**Rs.93,26,380/-**
	DEDUCTION Compensation awarded by the Tribunal	**Rs.62,89,480/-**
	Enhanced Compensation	**Rs.30,36,900**

28. 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 respondent No.1/

claimant is granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

29. Appellant-Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The learned Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the account of respondent No.1/claimant. The respondent No.1/claimant is directed to furnish his bank account details to the Tribunal.

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

26.02.2026 **(SUDEEPTI SHARMA)**
Virender **JUDGE**

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