



2026:DHC:1020



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on : 17th January 2026
Pronounced on : 09th February 2026
Uploaded on : 10th February 2026

+ **MAC.APP. 1113/2013**

GOVIND SINGH MAUNI

.....Appellant

Through: Mr. Manish Maini, Ms. Anjali
Singh, Advocates.

versus

TEJ BHAN & ORS.

.....Respondents

Through: Mr. Tarkeshwar Nath, Mr. Anant
Dev and Mr. Harshit Singh,
Advocates for R-3.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal has been filed under Section 173 of Motor Vehicles Act, 1988 [*'MV Act'*] by the claimant, seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Rohini Courts, Delhi [*'MACT/Tribunal'*] in *MACT No.721/08/10*.
2. Appellant, who suffered 75% permanent disability, claims that the Tribunal ought to have granted compensation under "*loss of earning capacity*" by adopting a proper multiplier method on the increased

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income, and seeks enhanced compensation towards *future conveyance, attendant charges and pain and suffering.*

Incident

3. On 4th November 2008, after attending his office at *Panchkuian Road, Rohini, New Delhi* and alighting from the Metro Train at *Rohini West Metro Station*, appellant was driving his motorcycle bearing Registration No. *DL-8SR-8914* and proceeding towards his residence at *Sector 13, Rohini*. At about 07:40 P.M., when he reached the main road, a bus bearing Registration No. *DL-IPA-5192* [*“offending vehicle”*], driven by driver *Sh. Tej Bhan* [*respondent no.1 herein*], allegedly at high speed, in a rash and negligent manner, came from the front and hit the motorcycle of claimant/appellant by coming on the wrong side of the road.

4. Appellant sustained grievous injuries and ***FIR No.852/2008*** under Sections 279/338 of the Indian Penal Code 1860 [***IPC***] was registered at Police Station *Prashant Vihar, Delhi*.

Impugned Award

5. Assessing the issue relating to causation, the Tribunal concluded that the accident had taken place due to rash and negligent driving of the offending vehicle, due to which the appellant suffered grievous injuries, and that there was no contributory negligence on his part.

6. At the time of the incident, appellant was *50 years of age*, doing service as ‘*Cashier*’ in *Nainital Bank, Panchkuian Road, Service*



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Branch, New Delhi, earning a salary of Rs.25,000/-. As per the Medico-Legal Certificate (“MLC”) report, the injured/appellant sustained “compound supracondylar fracture right femur, intercondylar extension fracture to right tibia, fracture in tibia right, brachial lexus injury right, right tibial plating (MIPPO) with K Wire fixation of femoral condyle, ORIF with LCP of supracondylar fracture with ORIF with LP fracture clavicle, fracture S/C femur treated with plating, Skelton traction applied, profusely bleeding, abrasions and blunt injuries” all over body.

7. After the accident, he was shifted to *Bhagwati Hospital, Rohini* and then referred to *Jaipur Golden Hospital* for further treatment. The entire treatment record was presented by **PW-2** [*PRO at Bhagwati Hospital*], **PW-3** [*Record In-charge of Jaipur Golden Hospital*] and **PW-4** [*Report Clerk at Jaipur Golden Hospital*].

8. Salary certificate for the month of October, 2008, was placed on record by the claimant/appellant as **Exhibit PW-5/5** and certificate of leave as **Exhibit PW-6/A**. **PW-6** [*Rajesh Pandey, CTO, Nainital Bank*] deposed that claimant had taken ‘238’ medical leaves, ‘102’ privileged leaves, ‘289’ leaves without pay, ‘1’ casual leave and ‘26’ days sick leaves. In total, he had taken ‘656 leaves’ from service for medical treatment of the injuries. His revised salary for the month of October, 2008 was mentioned as Rs.25,711/- per month (*net payable salary*), as per **Exhibit PW-6/X**.

9. The disability certificate issued by the *All India Institute of Medical Sciences [AIIMS]*, **Exhibit PX**, records that he had suffered



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“75% *permanent physical impairment*” in relation to his right upper limb and right lower limb.

Compensation Awarded

10. Benchmark income was taken as *Rs.25,711/-* and *loss of income* for ‘656’ days was awarded at *Rs.5,62,213/-*. Future prospects were denied on the ground that his income was increasing on the date of accident and it was held that there was no financial loss.

11. Towards *medical expenses*, *Rs.5,05,643/-* was awarded, a lump sum amount of *Rs.1,50,000/-* towards future medical expenses; *attendant charges* of *Rs.25,000/-*; *special diet* at *Rs.20,000/-*; and *conveyance charges* at *Rs.30,000/-* were awarded.

12. As regards non-pecuniary damages, *Rs.50,000/-* was awarded towards *pain and suffering, inconvenience* and *mental shock*, *Rs.1,50,000/-* for *loss of amenities*.

13. A total of *Rs.14,82,856/-* was awarded along with interest at the rate of 9% till the date payment is made.

14. The final compensation awarded by the Tribunal is summarized as under:

S.NO	HEADS	AWARD BY MACT
1.	Loss of Income	Rs.5,62,213/-
2.	Loss of Future Prospects/Earning Capacity	Nil
3.	Medical Expenses	Rs.5,05,643/-
4.	Future Medical Expenses	Rs.1,50,000/-



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5.	Special Diet	Rs.20,000/-
6.	Conveyance	Rs.20,000/-
7.	Attendant Charges	Rs.25,000/-
8.	Pain & Suffering	Rs.50,000/-
9.	Loss of Amenities & Shortening of Life	Rs.1,50,000/-
TOTAL		Rs.14,82,856/-
INTEREST		9%

Submissions by both parties

15. *Mr. Manish Maini*, counsel for appellant, has placed the following issues in support of appeal:

- i) **First**, that the salary taken as *Rs.25,711/-*, ought to have been at *Rs.29,614/-* without deduction of Provident Fund, Insurance and Housing Loan;
- ii) **Second**, he relied upon *Desh Raj Singh Gautam v. Sunil Kumar & Ors.* 2016 DHC 4159, particularly *paragraph 4*, to contend that even if the appellant was a regular employee in public sector organisation, it would not mean that he would not have loss of income till the age of retirement and, therefore, the multiplier had to be adopted based on the age of retirement with the multiplier of '9', or otherwise from the age on the date of accident.

Mr. Maini relied on *Rajbir Singh v. National Insurance Co. Ltd. & Ors.* 2024 DHC 9034, where a multiplier of '9' was taken

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keeping in account the retirement age of 60 years. He contends that this was done by the Courts on a rationale that permanent disability results in reduced earning capacity and impacts career progression for which an injured needs to be compensated. There may also be limitations in securing employment post-retirement or in seeking alternate employment.

He further relied on a decision of the High Court of Punjab & Haryana in *National Insurance Co. Ltd. v. Rajbir Singh & Ors.* 2012 ACJ 1826, where principle enunciated in *Ball v. William Hunts and Sons Ltd.* (1912) A.C 496, was applied, holding that a workman suffers ‘*incapacity for work*’ when a physical defect, renders his labour ‘*unsaleable*’ in any reasonably accessible market, even if he continues earning the same wages. Accordingly, *loss of earning capacity* was computed by applying the appropriate multiplier based on age of the injured at the date of the accident.

Reliance was also placed on the Supreme Court’s order dated 13th October 2022 passed in *Civil Appeal No.7262-7263/2022* titled as “*Hari Om Const. v. National Insurance Company Ltd.*”, where on grounds of loss in employment, the High Court had reduced the compensation by applying multiplier of ‘9’, whereas the Tribunal had awarded a multiplier of ‘16’. Injured was 32 years of age in that case. The Supreme Court held that the High Court’s



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reasoning was wrong and his efficiency and employability in job will definitely get reduced.

iii) **Third**, that the aspect of functional disability was ignored by the Tribunal, while computing the loss of future earnings.

16. *Mr. Tarkeshwar Nath*, counsel for respondent, relied upon the Tribunal's determination in not granting *future prospects* or applying the multiplier. He submitted that issue relating to modification of income, as contended by appellant's counsel may be correct, to which he has no quarrel. However, the question of awarding *future prospects* and using a multiplier would not arise considering that appellant continued in service and there was some evidence of increase of income after the accident.

Analysis

17. Having considered the submissions, this Court is of the view that the Tribunal was amiss in not providing *future prospects* of post-retirement just because the appellant was employed as a 'Cashier' in *Nainital Bank* and his income has increased. In view of the principles laid down in the decisions cited, such reasoning is untenable.

18. The essential principle follows from the House of Lords' decision in *Ball v. William Hunts and Sons* (*supra*) which is highlighted in the following extract in *National Insurance Co. Ltd. v. Rajbir Singh & Ors* (*supra*):

"There is also an opinion of the House of lords that may be relevant to understand this concept. Ball v. William Hunts and Sons Limited, (1912) AC 496, was the case



of a workman, who was blinded in one eye. The defect was not visible and he was to have appearance as two-eyed man. He had come to such a disability status when he had sustained an employment injury in which the defective eye had to be removed with the consequences that he could not get employment though physically he was as well as before. The House of Lords held that the incapacity of work included inability to work, or in other words, there is incapacity for work when a man has physical defect which makes his working unsaleable in any market reasonably accessible to him. Applying the same logic, a person who has suffered an injury may not come by immediate loss if he is retained in the same employment and does not lose his job, but in his own saleability elsewhere as a fresh recruit to a new employer, he may come by a serious handicap. That shall come by a serious handicap. That shall be a justification enough to provide for compensation in such types of cases.

(emphasis added)

19. The Punjab and Haryana High Court in ***National Insurance Co. Ltd. v. Rajbir Singh*** (*supra*), therefore, did not accept the plea that retention in government service, despite an injury would have any bearing for denying the claimant the compensation worked out on loss of earning capacity. Relevant extract is as under:

“He was a police constable and trained to be a commando and the evidence was that after his injury, he has been put on light duty. There was a sure prospect of increase in salary for him which I would take as being the resultant loss on account of his serious injury and it requires no evidence to even make an appropriate inference that his career as a commando could have



been completely shattered. I would therefore provide for a 50 per cent increase of his salary and apply 70 per cent of the same as the resultant loss of earning capacity and apply multiplier of 17 to take the loss of earning capacity at Rs.5,99,760.”

20. This Court in ***Desh Raj Singh Gautam v. Sunil Kumar*** (*supra*) also noted as under:

“4. It is noted that the tribunal awarded lumpsum amount of ₹2 Lakh on account of loss of future income due to disability. This was not a correct approach. Admittedly, the claimant was a regular employee of MTNL. It is conceded by the counsel representing him that he would continue in service till he attains the age of 60 years and, thus, there would be no loss of income till that stage. However, the loss of income post-retirement will have to be appropriately computed. Since the retirement would occur at the age of 60 years, it had to be calculated with the multiplier of 9. Computed thus, the loss of future earnings on account of disability to the extent of 25% would come to (₹19,000 x 25/100 x 12 x 9) ₹5,13,000/-. Since the tribunal had awarded only lumpsum of ₹2 Lakh, the award deserves to be enhanced by ₹3,13,000/-. Ordered accordingly. Needless to say, it shall carry interest as levied by the tribunal.”

(emphasis added)

21. More recently in 2024, the coordinate Bench of this Court in ***Rajbir Singh v. National Insurance Company Ltd & Ors.***, 2024:DHC:9034, analysed this well and referred to previous decisions and stated as under:



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“12. However, the main question is whether he is entitled to Loss of future earning Capacity on account of Permanent Disability of 40% of right lower limb suffered by him. There is no denying that any Permanent Disability suffered by an injured, results in his reduced earning capacity or impacts his career progression, and he needs to be compensated. The pertinent aspect is whether this Court can take note of his limitation in getting a job post his retirement, as has been claimed by the Appellant. He has placed reliance on TATA AIG General Insurance Co. Ltd. vs. Dipanjan Ghosh & Ors. MAC.APP.44/2014 decided by this Court on 02.03.2016; United India Insurance Company Limited vs. Zile Singh & Ors. MAC.APPEAL No.861/2010 decided by this Court on 27.09.2017; Desh Raj Singh Gautam vs. Sunil Kumar and Ors. MAC.APP.632/2007 decided by this Court on 20.05.2016; Kale Ram vs. Ajay & Ors. MAC.APP.615/2013 decided by this Court on 18.11.2022 and Anita A. Pathak vs. Raj Bahadur & Ors. MAC. APP.466/2010 along with MAC.APP.451/2010, MAC.APP.459/2010, MAC.APP.454/2010, MAC.APP.455/2010, MAC.APP.456/2010 and MAC.APP.464/2010 decided on 15.02.2012, wherein this Court has considered that any Permanent Disability suffered by the injured may not impact his financial capacity immediately, but would definitely have an impact post his retirement and he may not be able to take up a job after post- retirement.

13. In the judgments relied upon by the Appellant, while being cognizant that the injured was in the employment and had not suffered any salary loss, but it was considered that he may suffer some impediment in getting a job in future post his retirement which is generally at the age of 60 years, 30% enhancement of the current salary was then taken to calculate the compensation.



14. In the present case, though the injured has not adduced any evidence about the age till which he would continue in service in DAV School or that his disability would prevent him from taking up any job in future, but on the basis of the legal precedents, it is held that on his retirement, which is normally at the age of 60 years, he may not be able to take up a job post retirement.

15. The income of the Appellant has been shown as Rs.17,899/- which is rounded off to Rs.18,000/- and 30% is added to his salary towards his future increase in his salary. Multiplier of 9 is taken in accordance with the retirement age of 60 Years.”

(emphasis added)

22. The Supreme Court’s decision in ***Hari Om Const. v. National Insurance Company Ltd*** (*supra*) rejecting the High Court’s reduction in applying the multiplier of ‘9’ and reverting it back to a multiplier of ‘16’ for a thirty-two-year-old injured, who had suffered multiple fractures and a permanent disability to the extent of 45% is also apposite. Relevant paragraphs are extracted as under:

“The appellant has suffered multiple fracture and dislocation of the left elbow, nailing of right tibia and femur bone. The appellant undergone several surgical procedures including reconstruction of right elbow. The Board of Doctors assessed the permanent disability to the extent of 45%. The Tribunal while taking into consideration the emoluments of the appellant as Rs.18,941/- per month applied the multiplier of 16 keeping in view the age of the appellant as 32 years. Thus, the total compensation of Rs.21,94,082/- was awarded including the expenses towards physiotherapy, 1 special diet and conveyance, loss of earnings and Rs.16,000/- towards future medical expenses,



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Rs.18,18,336/- was on account of loss of future income due to disability. The High Court in an appeal filed by the Insurance Company reduced the amount of compensation by applying the multiplier of 9 for the reason that there is no loss of employment.

We have heard learned counsel for the parties and find that the High Court has erred in law in reducing the amount of compensation. The appellant though continuous to be in service but his efficiency as a constable has been seriously compromised. Therefore, the amount of compensation awarded by the Motor Accident Claims Tribunal as Rs.21,94,082/- was just and proper keeping in view the injuries and its long-term effect on the person of the appellant.

(emphasis added)

23. This Court is of the opinion that the appellant, having suffered 75% permanently disabled in both the right upper and lower limbs and multiple fractures, as recorded in the MLC report suffered severe impairment. For ease of reference, details of impairment are extracted as under:

“the injured sustained compound supracondylar fracture right femur, intercondylar extension fracture to right tibia, fracture in tibia right, brachial plexus injury right, right tibial plating (MIPPO) with K Wire fixation of femoral condyle, ORIF with LCP of supracondylar fracture with ORIF with LP fracture clavicle, Fracture S/C femur treated with plating, Skelton traction applied, profusely bleeding, abrasions and blunt injuries all over body.”

24. The employability and marketability of the appellant stand severely prejudiced; therefore, the Tribunal was amiss in not awarding



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the *loss of future earnings*. A *Cashier's* job at *Nainital Bank* cannot guarantee him income for all times to come, and would make him vulnerable and exposed to the uncertainty of continued employment, since he had no compensation to fall back upon.

25. It is well settled that *loss of earning capacity* is a concept distinct from immediate loss of wages or continuity of employment. The Supreme Court has consistently held that the task of the Tribunal or the Court is to assess the functional impact of the injury on the earning capacity of the claimant, having regard to the nature of disability, the avocation of the injured, age, and future employability. In ***Raj Kumar v. Ajay Kumar***, (2011) 1 SCC 343, the Supreme Court clarified that medical or physical disability expressed as a percentage cannot be mechanically equated with loss of earning capacity; what must be evaluated is the extent to which the disability affects the ability of the claimant to earn a livelihood in the future. This principle has been reiterated in ***Hari Om Construction v. National Insurance Co. Ltd.*** (*supra*), wherein the Supreme Court held that mere continuation in service does not negate the existence of loss of future earning capacity.

26. The emphasis on functional disability stems from recognition that an injury may not cause immediate loss of income, but may significantly impair the injured person's competitiveness and acceptability in the open labour market. An employee who continues in service with the same employer may still face serious disadvantages if required to seek alternative employment, compete with able-bodied candidates, or secure



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post-retirement engagement. The Supreme Court has acknowledged that compensation under the Motor Vehicles Act must account for this latent and prospective economic disadvantage, and not merely for demonstrable present loss.

27. In the present case, the factual record clearly establishes such latent *loss of earning capacity*. The claimant sustained multiple fractures involving both the right upper and lower limbs, including *supracondylar femur fracture, intercondylar tibia fracture, tibial plating, clavicle fracture and brachial plexus injury*, culminating in 75% permanent disability assessed by AIIMS. The treatment records proved through **PW-2, PW-3** and **PW-4** show repeated hospitalisations, multiple operative interventions and prolonged rehabilitation from 2008 to 2011, reflecting deep functional impairment. **PW-6** has proved that the claimant was compelled to take '656' days of leave, including medical leave and leave-without-pay periods, demonstrating sustained incapacity. His duties as a *Cashier* in Nainital Bank require continuous bilateral hand-use, precision in cash-handling, standing and mobility functions directly compromised by his bilateral limb disability. At the age of 50 at the time of the accident, his competitiveness in the labour market stands significantly diminished, and his prospects of any post-retirement employment are virtually extinguished. These cumulative factors conclusively show that the claimant's labour has become less marketable, thereby attracting the doctrine of diminished earning



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capacity recognised in *Ball v. William Hunt & Sons Ltd.* (*supra*) and consistently affirmed by Indian courts.

28. In *Ball v. William Hunt & Sons Ltd.* (*supra*), the focus was placed on ‘marketability of labour’ rather than mere wage continuity. This reasoning was expressly approved by the United States Supreme Court in *New York Central Railroad Co. v. Bianc; American Knife Co. v. Sweeting*, 1919 SCC OnLine US SC 210, while upholding the validity of compensation for serious disfigurement under the New York Workmen’s Compensation Law. The U.S. Supreme Court observed that serious physical disfigurement may reasonably and adversely affect a person’s ability to obtain or retain employment, and relied upon the reasoning in *Ball v. William Hunt & Sons Ltd.*, (*supra*), to underscore that diminished employability constitutes a legitimate basis for compensation, independent of immediate loss of earning power.

29. Although *Ball v. William Hunt & Sons Ltd.* (*supra*), and the *American Knife Co.* (*supra*) decision arose in the context of workmen’s compensation statutes, the underlying principle is fully consonant with Indian Supreme Court jurisprudence under the Motor Vehicles Act. The Act mandates the award of “just compensation” under Section 168, which, as emphasised in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680 and *Sarla Verma v. DTC*, (2009) 6 SCC 121, must be fair, realistic and proximate to the actual loss suffered. Once functional disability affecting earning capacity is established, compensation must be assessed using the multiplier method, irrespective



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of the fact that the claimant may have continued in service or received increments post-accident.

30. The denial of compensation for *loss of future earning capacity* solely on the ground that the claimant continues in employment or has not suffered immediate wage loss would be inconsistent with settled Supreme Court jurisprudence. The law recognises that economic vulnerability, reduced employability, and diminished labour-market acceptability and inability to secure employment are real and compensable consequences of permanent disability. Comparative jurisprudence, including ***Ball v. William Hunt & Sons Ltd.*** (*supra*) as approved by the U.S. Supreme Court, reinforces this understanding and supports a principled, forward-looking assessment of *loss of earning capacity* in motor accident claims.

31. The essence of compensation is to give reparation to an injured who has suffered great impairment in his functionality due to the negligence of the offending vehicle and the respondents. It would be, therefore, imperative that just and reasonable compensation is provided.

32. The Constitutional Bench of the Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680 emphasised that “*just compensation*” under Section 168 of MV Act must rest on fairness, reasonableness and equity, avoiding both windfall gains and inadequate awards. The assessment must be grounded in proven age and income, followed by application of the appropriate multiplier as standardised in



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Sarla Verma v. DTC, (2009) 6 SCC 121 and affirmed in ***Reshma Kumari v. Madan Mohan***, (2013) 9 SCC 65. The Court stressed pragmatic and uniform computation, including *future prospects*, to ensure proximity to real loss. Relevant paragraph is extracted as under:

“55. Section 168 of the Act deals with the concept of “just compensation” and the same has to be determined on the foundation of fairness, reasonableness and equitability on acceptable legal standard because such determination can never be in arithmetical exactitude. It can never be perfect. The aim is to achieve an acceptable degree of proximity to arithmetical precision on the basis of materials brought on record in an individual case. The conception of “just compensation” has to be viewed through the prism of fairness, reasonableness and non-violation of the principle of equitability. In a case of death, the legal heirs of the claimants cannot expect a windfall. Simultaneously, the compensation granted cannot be an apology for compensation. It cannot be a pittance. Though the discretion vested in the tribunal is quite wide, yet it is obligatory on the part of the tribunal to be guided by the expression, that is, “just compensation”. The determination has to be on the foundation of evidence brought on record as regards the age and income of the deceased and thereafter the apposite multiplier to be applied. The formula relating to multiplier has been clearly stated in *Sarla Verma* [*Sarla Verma v. DTC*, (2009) 6 SCC 121 : (2009) 2 SCC (Civ) 770 : (2009) 2 SCC (Cri) 1002] and it has been approved in *Reshma Kumari* [*Reshma Kumari v.*



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Madan Mohan, (2013) 9 SCC 65 : (2013) 4 SCC (Civ) 191 : (2013) 3 SCC (Cri) 826]. The age and income, as stated earlier, have to be established by adducing evidence. The tribunal and the courts have to bear in mind that the basic principle lies in pragmatic computation which is in proximity to reality. It is a well-accepted norm that money cannot substitute a life lost but an effort has to be made for grant of just compensation having uniformity of approach. There has to be a balance between the two extremes, that is, a windfall and the pittance, a bonanza and the modicum. In such an adjudication, the duty of the tribunal and the courts is difficult and hence, an endeavour has been made by this Court for standardisation which in its ambit includes addition of future prospects on the proven income at present. As far as future prospects are concerned, there has been standardisation keeping in view the principle of certainty, stability and consistency. We approve the principle of “standardisation” so that a specific and certain multiplicand is determined for applying the multiplier on the basis of age.”

(emphasis added)

33. In **Sarla Verma v. DTC**, (2009) 6 SCC 121, the Supreme Court underscored that “just compensation” must be fair, equitable and consistent, and cannot vary arbitrarily merely because different tribunals perceive different amounts as just. It emphasised that compensation must be objectively assessed, guided by uniform principles to avoid



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unpredictability and disparity. The Court reiterated that similar facts must yield awards within a consistent range. Relevant paragraphs are extracted as under:

“16. Compensation awarded does not become “just compensation” merely because the Tribunal considers it to be just. For example, if on the same or similar facts (say the deceased aged 40 years having annual income of Rs 45,000 leaving his surviving wife and child), one Tribunal awards Rs 10,00,000 another awards Rs 5,00,000, and yet another awards Rs 1,00,000, all believing that the amount is just, it cannot be said that what is awarded in the first case and the last case is just compensation. “Just compensation” is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well-settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.

17. Assessment of compensation though involving certain hypothetical considerations, should nevertheless be objective. Justice and justness emanate from equality in treatment, consistency and thoroughness in adjudication, and fairness and uniformity in the decision-making process and the decisions. While it may not be possible to have mathematical precision or identical awards in assessing compensation, same or similar facts should lead to awards in the same range. When the factors/inputs are the same, and the formula/legal



principles are the same, consistency and uniformity, and not divergence and freakiness, should be the result of adjudication to arrive at just compensation. In *Susamma Thomas* [(1994) 2 SCC 176 : 1994 SCC (Cri) 335], this Court stated: (SCC p. 185, para 16)

“16. ... The proper method of computation is the multiplier method. Any departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability, for the assessment of compensation.””

(emphasis added)

34. Applying the core mantra of aligning ‘proximity to reality’ in assessment of just compensation, in this Court’s opinion, the compensation in the present case needs to be reworked. If, therefore, the income is taken as Rs.29,519/-, considering that it is admitted by counsels for the parties that the same ought to have been the net income, applying a 30% increase for *future prospects* would be the appropriate approach. This would suitably accommodate *future prospects post-retirement* and career progression through better employment.

35. As regards the multiplier, considering he was 50 years of age and would have retired at the age of 60 years, the principal applied in ***Desh Raj Singh Gautam v. Sunil Kumar & Ors.*** (*supra*) and ***Rajbir Singh v. National Insurance Company Ltd.***, (*supra*) can be suitably adopted. Therefore, as per ***National Insurance Company Limited v. Pranay Sethi***



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& Ors. (supra) and Sarla Verma (Smt.) & Ors. v. Delhi Transport Corporation & Anr. (supra), the multiplier of '9' would be applicable.

36. As regards functional disability, there is no substantial evidence placed on record to show the extent to which functionality was reduced. However, considering that the appellant was engaged in a desk job as a *Cashier* and would have continued in a similar occupation, which would naturally require the use of his right upper limb, the impairment thereof would affect his working at his avocation. Therefore, the functional disability should be assessed at 75% in the present case. Such assessment accords with the principle that functional disability must reflect the *actual loss of earning capacity* having regard to the nature of work performed, and not merely the percentage of medical disability, particularly where the impairment hampers the essential functions of the claimant's avocation.

37. In **Raj Kumar v. Ajay Kumar, (supra)**, the Supreme Court clarified that the percentage of disability noted in relation to a limb cannot be mechanically applied for determining loss of earning capacity, and that the Tribunal must independently assess the impact of the injuries on the claimant's ability to work. The Court further observed that functional disability may, in a given case, be higher or lower than the medical disability, and where specific evidence is absent, a reasonable estimation is required to be made upon consideration of the nature of injuries and the vocation of the claimant. Relevant paragraphs are extracted as under:



“11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])

12. Therefore, the Tribunal has to first decide whether there is any permanent disability and, if so, the extent of such permanent disability. This means that the Tribunal should consider and decide with reference to the evidence:

- (i) whether the disablement is permanent or temporary;
- (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;
- (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.



If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood.”

(emphasis added)

38. As regards the components of conveyance, attendant charges, pain and suffering and loss of amenities, the amounts awarded by the Tribunal do not appear commensurate with the nature and extent of



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injuries suffered by the appellant. The record reflects multiple fractures, prolonged hospitalisation, repeated surgical interventions and a permanent disability of 75% in relation to both the right upper and lower limbs. Appellant remained under treatment for an extended duration and was incapacitated from performing basic activities independently, necessarily requiring continuous assistance for mobility, hospital visits and daily tasks.

39. In such circumstances, enhancement under these heads is warranted. The conveyance charges and attendant expenses assessed by the Tribunal are on the lower side and require upward revision. Likewise, the compensation awarded towards pain and suffering and loss of amenities does not adequately reflect the severity of trauma, prolonged deprivation of normal functioning, and the lasting impact on the appellant's quality of life. The principle of "*just compensation*", as emphasised in *Pranay Sethi (supra)* and *Sarla Verma (supra)*, mandates a realistic assessment, and accordingly, the amounts under these heads deserve enhancement.

40. Accordingly, the impugned award stands modified and the compensation recalculated is as under:

SR. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
PECUNIARY LOSS			
1.	Loss of income	Rs.5,62,213 /- (Rs.25,711/30) x 656	Rs. 6,45,482/- (Rs.29,519/30) x 656 days

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		days	
2.	Loss of Future prospects/Earning Capacity	NIL	Rs. 31,08,350/- (Rs.29,519+ 30% incr.) x 12 x 9 (multiplier) x 75%
3.	Medical Expenses	Rs. 5,05,643/-	Rs. 5,05,643/-
4.	Future Medical Expenses	Rs. 1,50,000/-	Rs.1,50,000 /-
5.	Special Diet	Rs. 20,000/-	Rs.20,000 /-
6.	Conveyance Charges	Rs. 20,000/-	Rs. 50,000/- (Future Conveyance)
7.	Attendant Charges	Rs. 25,000/-	Rs. 50,000/-
NON-PECUNIARY LOSS			
8.	Pain and suffering (I)	Rs. 50,000/-	Rs. 1,00,000/-
9.	Loss of amenities of life (J)	Rs. 1,50,000/-	Rs. 1,50,000/-
Total compensation		Rs. 14,82,856/-	Rs. 47,79,475/-
Interest awarded		9%	9%

Conclusion

41. For the aforesaid reasons, the award of the Tribunal is enhanced by Rs.32,96,619/-. Said amount shall be deposited by the Insurance Company along with accrued interest at the rate of 9% per annum, within eight weeks from today, before the Tribunal.

42. Compensation to be disbursed to the claimant as per the directions passed by the Tribunal.

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43. List before Tribunal on 11th March 2026.
44. Accordingly, the Appeal stands allowed and disposed of.
45. Pending applications (if any) are rendered as infructuous.
46. Statutory deposit, if any, be refunded to appellant.
47. Judgment be uploaded on the website of this Court.

**ANISH DAYAL
(JUDGE)**

FEBRUARY 09, 2026/ak/tk

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