2026:DHC:5202

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

% ***Reserved on : 11th May 2026***
Pronounced on : 01st July 2026
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\+ **MAC.APP. 43/2013**

SUMAN DEBNATH .....Appellant

Through: Mr. Yashish Chandra, Mr. Ankit Singh and Mr. Vijay Rajput Advs.

versus

UNION OF INDIA & ANR .....Respondents

Through: Mr. Jivesh Kumar Tiwari (CGSC) with Ms. Nandini Aggarwal & Ms. Samiksha, Advocates for UOI.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

ANISH DAYAL, J.

1. This appeal has been filed seeking enhancement of compensation granted in Award dated 28th April 2012 ["***impugned award***"] passed by the Motor Accident Claims Tribunal, South, Saket Courts ["***Tribunal***"], awarding compensation of *Rs. 8,43,120/-* with interest @ 9% from the date of the filing of the claim petition.

Factual Background

2. Accident occurred on 1st November 2007, wherein a claimant, who was a *Constable* posted with *Sashastra Seema Bal* ('***SSB'***) at *Gorakhpur*, was travelling along with four other persons in an SSB vehicle bearing no. "*UA-12A-2645*", a *Tata 407*.

3. The driver was allegedly driving in a rash and negligent manner, and the vehicle met with an accident after falling into a ditch, causing injuries to all the occupants. ***FIR No. 159/2007*** dated 2nd November 2007 was registered by SSB/respondent no.1 at *Police Station Madugaon, Rudraprayag, Uttarakhand*. Appellant/claimant was provided medical aid and was thereafter referred to *Orthonova Hospital, New Delhi*, where he was undergoing regular treatment on government expense.

4. Appellant/claimant examined **PW-2**/*Dr. Diganta Borah*, *Assistant Professor, Safdarjung Hospital*, who proved the disability certificate certifying that he had suffered *100% permanent physical disability* in relation to both his lower limbs. The disability certificate was exhibited as **Exhibit PW2/E**. Importantly, the testimony of **RW-1**/*Sh. Manmohan Singh, Commandant, 25th Battalion, SSB, Ghitorni,* with whom the *Constable Suman Debnath* [*appellant herein*] was posted, stated that all medical expenses, admissible as per rules, were claimed and paid to the appellant on a regular basis. Further, he was being paid normal salary while attending office and performing a desk job. Moreover, his personal needs were being taken care of by the Unit. He had been categorized under a low medical category on 7th April 2011, which rendered him "*unfit*" for Force duties. The decision regarding invalidation pension was yet to be taken.

5. It was further stated that, if he was allowed to go on invalidation pension, he would be eligible for the same, including '*attendance allowance*' to the tune of *Rs.3,000/-* per month as per the rules and *ex gratia* amounting to *Rs.9,00,000/-* in relation to his 100% disability, in

case he was medically boarded out. Apart from this, he would be considered for grant from the Force Welfare Fund, which could be up to *Rs.3,00,000/-*.

6. The Tribunal held that, since no evidence was led by the driver of the vehicle, ***Issue No.1*** regarding negligence stood decided in favour of the claimant. As regards compensation, it was noted that he was drawing a monthly salary of *Rs.13,567/-*.

7. Taking into account the principles in ***Raj Kumar v. Ajay Kumar & Anr***. (2011) 1 SCC 343, the Tribunal noted that the claimant had suffered *100% permanent disability* in both lower limbs and that he had continued in employment and was performing a desk job. It was held that there was no immediate *loss of earning capacity*, though he would suffer loss of promotional opportunities, which could not be estimated by adopting the *multiplier* method since the claimant had not suffered any *loss of income* on account of disability.

8. Accordingly, the Tribunal granted compensation towards *loss of amenities* at *Rs.2,00,000/-* and non-pecuniary compensation for *pain and suffering* at *Rs.1,00,000/-*. Compensation towards *loss of marriage prospects* at *Rs.1,50,000/-*, *conveyance allowance* for *Rs.20,000/-,* and towards *special diet* for *Rs.40,000/-* was also awarded. Considering that the claimant was 22 years of age at the time of the accident, the *minimum wages* for "*unskilled*" worker was taken at *Rs.3,470/-*, and attendant charges were calculated for about 8 years to help him overcome minimum difficulties. Accordingly, the following compensation was awarded by the Tribunal along with interest @ 7.5%:

S.NO	HEADS OF COMPENSATION	AMOUNT AWARDED
1.	Attendant Charges	Rs.3,33,120 /-
2.	Conveyance Charges	Rs. 20,000/-
3.	Special Diet	Rs.40,000/-
4.	Pain and Suffering	Rs.1,00,000 /-
5.	Loss of Amenities of Life	Rs.2,00,000 /-
6.	Loss of Marriage Prospects	Rs.1,50,000 /-
TOTAL COMPENSATION		**Rs.8,43,120/-**
INTEREST		**7.5%**

9. Liability was placed on respondent no.1/*Union of India*, which was the owner of the vehicle. Accordingly, the Tribunal, *vide* impugned award, directed release of ***40%*** of the compensation awarded in favour of the appellant/claimant, with the remaining amount to be invested in fixed deposit in terms of the scheme provided in *paragraph 24* of the impugned award.

10. The appeal filed before this Court seeks enhancement on following counts:

(i) That compensation for ***pain and suffering*** ought to have been awarded at *Rs.2,00,000/-* instead of *Rs.1,00,000/-*.

(ii) ***Loss of amenities of life*** including ***loss of marriage prospects*** ought to have been assessed at *Rs.10,00,000/-* instead of *Rs.2,00,000/-*.

(iii) ***Loss of expectation*** or ***longevity of life*** ought to have been assessed at *Rs.2,00,000/-*.

(iv) ***Attendant charges***, which were calculated on the basis of *minimum wages* for "*unskilled*" worker at *Rs.3,470/-* only for 8 years, ought to have been extended to 48 years till the age of 70 and ought to have been calculated at *Rs.8,00,000/-*.

(v) Rate of interest granted @ **7.5%** should be taken at **9%**.

11. While the appeal was pending before this Court, the appellant/claimant was invalidated from service with *SSB* on 17th February 2022, on the account of his disability. The claim made by the appellant/claimant was, therefore, amplified beyond what was originally sought in the appeal.

12. A preliminary objection was taken by *Mr. Jeevesh Kumar Tiwari*, CGSC, appearing on behalf of respondent no.1/*Union of India*, that the invalidation order had been passed, considering the appellant's service record, the opinion of the Medical Board, as well his performance. He had been granted entitlement to pension under the *Central Civil Services Pension Rules,* and an amount of *Rs.30,88,861/-* had been paid towards pensionary benefits. It was contended that, if appellant/claimant was aggrieved by the said invalidation order, then he ought to have challenged the same by way of a Writ Petition, and which would be outside the remit of the present appeal.

13. On 30th January 2026, after hearing preliminary arguments, the Court culled out the certain points on which the counsels were expected to address the Court. The same are extracted hereunder:

> "***(i)*** *Whether appellant/injured can amplify his claim towards non-pecuniary damages beyond those claimed in appeal filed in 2013, by claiming much higher amounts under non-pecuniary heads as on date?*
> ***(ii)*** *One of the main grounds asserted by appellant while*

assailing the impugned award was the non-grant of future prospects, on the ground that appellant would have continued to be in service, based on the testimony of ***RW-1*** *[Commandant of Sashastra Seema Bal]. At that time, appellant was 22 years of age, having been injured while an occupant of a vehicle being driven on duty. Today, appellant is stated to be 36 years of age but has not been invalidated from service, though with certain benefits. Thus, whether future prospects are to be calculated on the basis of multiplier applicable on the date of accident* **or** *as on date of invalidation, considering that he has had the benefit of service from the age of 22 till the age of 34 at the time of invalidation in 2022 ?*

(iii) *Whether the pension, ex-gratia amount, or any other benefits provided to him upon his invalidation from service are liable to be deducted from the compensation to be awarded?*

(iv) *Sashastra Seema Bal ('****SSB****') claims, based on its Standard Operating Procedure (SOP), that the appellant has been granted benefits under* ***Category 'C',*** *which applies to disability due to an accident during the performance of duty. Whether appellant can be doubly benefited i.e. both by additional benefits granted by SSB and through the Motor Accident Claims Tribunal [MACT] process.*

(v) *With the passage of time, since the appeal has been pending on the Board of this Court, whether the claim can be amplified to a higher amount?*

(vi) *There is no challenge by appellant to the invalidation order till date. Whether any such challenge, if raised, would have an impact on compensation being sought?*"

14. Submissions of the parties were appreciated in the context of these issues, which have been delineated hereunder.

<u>Submissions on behalf of appellant/claimants</u>

15. On the ***first issue***, namely whether claim for damages could be amplified during the course of the appeal, counsel for the appellant relied upon the decision of the Coordinate Bench of this Court in ***Jyoti Singh v. Nandkishore & Ors***. 2023:DHC:2569. The said case pertains to an accident, which rendered a 14-year-old child wheelchair-bound for the rest of her life, resulting in 100% disability. Reliance was placed upon on the decision of the Supreme Court in ***Kajal v. Jagdish Chand & Ors***. (2020) 4 SCC 413, which dealt with a similar case of a 12-year-old schoolgirl who had suffered 100% disability and was awarded enhanced compensation.

16. The Court awarded the following compensation:

Sr. No.	Particulars	Calculation by Multiplier (Rs.)	Amount (Rs.)
1.	Medical and Sanitary expenses (as per MACT– only modified by using multiplier)	Rs. 60,000 x 18	10,80,000/-
2.	Attendant charges: @ wages of two skilled persons at 2010 notified rates in Delhi (on the lines of compensation granted in Kajal)	6448 x12 x18x 2	27,85,536/-
3.	Physiotherapy @ Rs.500/- per session, average Rs.11,500/- per month for 23 days each month (As per evidence Exh -1/G Colly)	11500 x 12 x 18	24,84,000/-
4.	Wheel Chair		Already granted by order dated 12.09.2019 and 20.11.2019

5.	Loss of marriage prospectus (as per Kajal)		3,00,000/-
6.	Pain & Suffering, Loss of Amenities, Future prospectus		15,00,000/- (as per Kajal)
7.	KAFO @ 99,750/- (as per evidence Exb -1/E Colly)		99,750/-
8.	Special Diet (lifetime)	36,200 x 18	6,51,600/-
9.	Loss of future earnings		14,66,000/- (as per Kajal)
10.	Driver (for a short duration) (as per MACT)		36,000/-
11.	Petrol & Maintenance (as per MACT) (for a short duration towards necessary travel to hospitals, therapy, etc.)		24,000/-
12.	Actual medical expenses	2,52,410 (as granted by MACT) + 5,80,093 (already paid by insurance company as recorded in the order dated 12.09.2019)	8,32,503
	Total		Rs.1,12,59,389/-
	Less awarded by Trial court		Rs.47,49,610/-
	Enhancement		Rs.65,09,779/-

17. On this basis, appellant contended that the application of the *multiplier* method on *non-pecuniary compensation* was justified, particularly since there has been a material change in circumstances, and

confining appellant's claim to the pleadings of 2013 would amount to ignoring the devastating impact of the accident, which had manifested over a period of time. Reliance was placed on the Court's powers under *Section 168* of the Motor Vehicles Act 1988 ["***MV Act***"] to take cognizance of subsequent events and award the relief.

18. On the ***second issue*** of *future prospects*, it was contended that, while the appellant was in service with the respondent, there was no *future loss of earning*. However, upon his invalidation on 17th February 2022 due to disability suffered, the claim for future loss crystallized. Appellant was 34 years of age at that time of invalidation and, therefore, the *future loss* ought to be reckoned as on the date of invalidation, by adopting a *multiplier* of "**16**" along with **50%** addition towards *future prospects* on basis of the last drawn salary of the appellant/claimant, which was at *Rs.68,918/-* following the principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi,*** (2017) 16 SCC 680**.**

19. On the ***third issue*** concerning *ex gratia deductions,* pension and other benefits, it was contended that compensation was required to be calculated on the basis of the last drawn salary, and retiral benefits of whatever nature, ought not to be deducted while computing the said amount, irrespective of the accident or injury. Reliance in this regard was placed upon the decision of the Supreme Court in ***Hanumantharaju B. v. M. Akram Pasha***, 2025 SCC OnLine SC 1106. The said case pertained to an appellant who was working as a *Sub-Inspector* in Central Reserve Police Force ["***CRPF***"] and met with an accident while riding his motorcycle, which collided with a car within in the CRPF campus. The

High Court had deducted pension amount from the salary, upon which the Supreme Court observed as under:

> "***19.*** *It is also now well settled that the amount of compensation is to be calculated on the basis of last drawn salary of the injured/deceased in respect of salaried persons and pension and such retirement benefits enjoyed cannot be deducted for computing the income, these being statutory rights receivable by the employee or his legal heirs irrespective of any unforeseen incident of accidents, fatal injuries etc. and such pensionary benefit is not directly relatable to the motor accident. Hence, pensionary benefit could not have been treated as "pecuniary advantage" liable to be deducted for the purpose of computation of compensation within the scope of Motor Vehicles Act, 1988.*
>
> *For this proposition of law, we may refer to the decision in Vimal Kanwar v. Kishore Dan (2013) 7 SCC 476, wherein this Court, by referring to the earlier decision in Helen C. Rebello v. Maharashtra SRTC (1999) 1 SCC 90, held as follows:—*
>
>> "***19.*** *The aforesaid issue fell for consideration before this Court in Helen C. Rebello v. Maharashtra SRTC [(1999) 1 SCC 90 : 1999 SCC (Cri) 197]. In the said case, this Court held that provident fund, pension, insurance and similarly any cash, bank balance, shares, fixed deposits, etc. are all a "pecuniary advantage" receivable by the heirs on account of one's death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as "pecuniary advantage" liable for deduction. The following was the observation and finding of this Court : (SCC pp. 111-12, para 35)*

"35. Broadly, we may examine the receipt of the provident fund which is a deferred payment out of the contribution made by an employee during the tenure of his service. Such employee or his heirs are entitled to receive this amount irrespective of the accidental death. <u>This amount is secured, is certain to be received, while the amount under the Motor Vehicles Act is uncertain and is receivable only on the happening of the event viz. accident, which may not take place at all</u>. Similarly, family pension is also earned by an employee for the benefit of his family in the form of his contribution in the service in terms of the service conditions receivable by the heirs after his death. <u>The heirs receive family pension even otherwise than the accidental death. No co-relation between the two</u>. Similarly, life insurance policy is received either by the insured or the heirs of the insured on account of the contract with the insurer, for which the insured contributes in the form of premium. It is receivable even by the insured if he lives till maturity after paying all the premiums. In the case of death, the insurer indemnifies to pay the sum to the heirs, again in terms of the contract for the premium paid. Again, this amount is receivable by the claimant not on account of any accidental death but otherwise on the insured's death. <u>Death is only a step or contingency in terms of the contract, to receive the amount.</u> Similarly, any cash, bank balance, shares, fixed deposits, etc. though are all a pecuniary advantage receivable by the heirs on account of one's death but all these have no co-relation with the amount receivable under a statute occasioned only on account of accidental death. <u>How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction</u>. When we seek the principle of loss and gain, it has to be on a similar and same plane having nexus, inter se, between them and not to which

there is no semblance of any co-relation. <u>The insured (the deceased) contributes his own money for which he receives the amount which has no co-relation to the compensation computed as against the tortfeasor for his negligence on account of the accident.</u> As aforesaid, the amount receivable as compensation under the Act is on account of the injury or death without making any contribution towards it, then how can the fruits of an amount received through contributions of the insured be deducted out of the amount receivable under the Motor Vehicles Act. The amount under this Act he receives without any contribution. As we have said, the compensation payable under the Motor Vehicles Act is statutory while the amount receivable under the life insurance policy is contractual."

<u>Thus, this Court has categorically held that any amount receivable on account of PF, pension or insurance cannot be deducted from the salary of the victim for the purpose of determining the income or loss of earning for calculating compensation</u>. This principle was reiterated in Reliance General Insurance Co. Ltd. v. Shashi Sharma (2016) 9 SCC 627 and National Insurance Company Ltd. v. Birender (2020) 11 SCC 356.

………

***21.** As regards computing the loss of income, in the light of the above referred decisions, it would not be permissible to deduct the pensionary amount of Rs. 15,247/- from the salary of Rs. 36,231/- as was done by the High Court. Hence, for the purpose of computing the loss of earning, the said monthly salary of Rs. 36,231/- has to be accepted without deducting the pension amount.*

………

***25.** As far as the multiplier is concerned, since there is no dispute about the age of the original appellant at the time of the accident, i.e., 43 years, we are also of the view that* *the appropriate multiplier would be 14 as had been applied by the Tribunal and the High Court.*

26. *We, thus, find merit in the submissions made by the appellants for enhancement of the compensation amount.*"

(emphasis added)

20. Reliance was also placed upon the decision of the Supreme Court in ***Surekha v. Santosh***, (2021) 16 SCC 467, wherein the Supreme Court observed as under:

> ***"2.*** *By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants.*"
>
> (emphasis added)

21. In support of the plea for *just compensation*, appellant further relied upon ***Nagappa v. Gurudayal Singh*** (2003) 2 SCC, wherein the Court held as under:

> "***7.*** *Firstly, under the provisions of the Motor Vehicles Act, 1988, (hereinafter referred to as "the MV Act") there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case, where from the evidence brought on record if the Tribunal/court considers that the claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. The only embargo is — it should be "just" compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence. This would be clear by reference to the relevant provisions of the MV Act. Section 166 provides that an application for compensation arising out of an accident involving the death of, or bodily injury to, persons arising out of the use of motor vehicles, or damages to any property of a third party so arising, or both, could be made (a) by the person who has sustained*

the injury; or (b) by the owner of the property; or (c) where death has resulted from the accident, by all or any of the legal representatives of the deceased; or (d) by any agent duly authorised by the person injured or all or any of the legal representatives of the deceased, as the case may be. Under the proviso to sub-section (1), all the legal representatives of the deceased who have not joined as the claimants are to be impleaded as respondents to the application for compensation. The other important part of the said section is sub-section (4) which provides that "the Claims Tribunal shall treat any report of accidents forwarded to it under sub-section (6) of Section 158 as an application for compensation under this Act". Hence, the Claims Tribunal in an appropriate case can treat the report forwarded to it as an application for compensation even though no such claim is made or no specified amount is claimed.

………

***10.** Thereafter, Section 168 empowers the Claims Tribunal to "make an award determining the amount of compensation which appears to it to be just". Therefore, the only requirement for determining the compensation is that it must be "just". There is no other limitation or restriction on its power for awarding just compensation.*

………

***14.** In case, where there is evidence on record justifying the enhanced compensation for the medical treatment which is required because of the injury caused to a claimant due to the accident, there is no reason why such amendment or enhanced compensation should not be granted. In such cases, there is no question of introducing a new or inconsistent cause of action. Cause of action and evidence remain the same. Only question is — application of law as it stands.*"

(emphasis added)

22. The submission made by counsel for appellant, was that the *ex-gratia* amount awarded could be deducted, but not pension, in view of the aforesaid decisions, particularly ***Hanumantharaju B. v. M. Akram Pasha*** (*supra*), since pensionary benefits accrued to him by virtue of his contract for service and were unrelated to the accident. Pension was a deferred payment for past services and, therefore, could not, in any circumstances, be deducted.

23. On the ***fourth issue***, namely whether appellant could receive a "*double benefit*", it was contended that the benefits in question would have accrued to appellant even in the absence of the accident and that he was independently entitled to the same. The amounts mentioned in the Standard Operating Procedure ["***SOP***"] relied upon by respondent were not based on the actual *loss of earning*. Moreover, the SOP specifically stipulated that all pensionary benefits would be extended to the person who has been boarded on account of disability. Therefore, there was no correlation between compensation under the MV Act and statutory benefits, and the question on "*double benefit*" did not arise.

24. On the ***fifth issue***, namely whether the claim amount could be amplified, reliance was placed on ***Nagappa v. Gurudayal Singh*** (*supra*) and the decision of this Court in ***Gita v. Mohammad Jamaluddin & Ors*** 2023 SCC OnLine Del 8065, wherein the Court took into consideration a disability certificate produced during the pendency of the appeal and enhanced the compensation.

25. On the ***sixth issue*** concerning the challenge to the invalidation order, it was submitted that the appellant had not challenged the

invalidation order, but the same could not prejudice his claim. The invalidation had been carried out by a duly constituted Medical Board, which found him permanently unfit. By accepting the said finding, appellant accepted the basis of the *100% loss of earning capacity*, and any challenge to invalidation order would be contradictory to the present claim, since it would imply that the appellant considered himself fit for service. The claim for compensation under the MV Act constituted a separate and distinct legal remedy against the tortfeasor for the negligent act.

Submissions on behalf of respondents

26. *Mr. Tiwari*, CGSC appearing for respondent/*Union of India*, submitted that, in compliance with the impugned award, an amount of *Rs.10,09,490/-* had been deposited in the Savings Bank Account of appellant including interest @ 7.5%. Further, an additional amount of *Rs.3,00,000/-* being the financial assistance towards medical invalidation, had been paid from the *SSB Staff Benevolent Fund*. Moreover, a full-time attendant had been provided to him during his service tenure. He was drawing full salary at par with any other personnel at his rank, and medical expenses were also being reimbursed in order to enable him to lead a normal life.

27. After 13 years of service, the SSB Medical Board conducted a Review Medical Examination and made its recommendation on 1st December 2020 recording as under:

> *"He is given maximum treatment without any neurological improvement for near 13 years. Now the treatment has completed and there is no further chance of improvement.*

> *In view of above, he is recommended to be boarded out and to be produced before DRB for further necessary action as per procedure"*
>
> (emphasis added)

28. On that basis, the disability was reduced from **100%** to **75%**, and a decision was taken to board out the appellant. Appellant approached this Court by way of a Writ Petition being ***W.P.(C) 11688/2021*** seeking to set aside the recommendation of the Medical Board and the direction for boarding out. This Court directed the respondents to constitute another Review Medical Board. The Review Medical Board declared him under category of "**P-5**", reassessed the disability at **88%**, and recorded as under:

> "*In view of above, the Departmental Rehabilitation Board /Medical Invalidation Board finds no reason to retain him in Govt. service and recommends further action as per Ministry of Home Affairs Office Memorandum No. A.12011/126/2014-Pers-III dated. 07.09.2017 and Force Hqrs, SSB Standing Operating Procedure, No. VI/35(1)/Rehabilitation/Pers- II/2018/18707-18836 dated. 29.06.2018. Hence, Board recommends No.060021929, CT/GD Suman Deb Nath (UIN-10020536) may be boarded out from service on medical grounds as his medical condition does not allow for further continuation in service.*"

29. *Mr. Tiwari*, CGSC, submitted that, in terms of ***Rule 27*** of the *SSB Rules, 2009*, the appellant was retired/invalidated on medical grounds *vide* order dated 17th February 2022. He became entitled to pension under the *Central Civil Service (Pension) Rules, 1972* in Category '**C**'. Accordingly, a total of *Rs.30,88,861/-* towards pensionary benefits had been paid, and pension of *Rs.29,120/*per month, along with *dearness allowance*, were

being paid to him. After two years, appellant again approached this Court by way of a Writ Petition being ***W.P.(C) 11462/2024*** challenging the order of 17th February 2022. This said petition was disposed of by the Court granting liberty to appellant to submit a representation.

30. By order dated 8th November 2024, the Competent Authority rejected the representation as being devoid of merit. This same has not been challenged by appellant.

31. Appellant had claimed *Rs.16,00,000/-* in the claim petition, and the Tribunal passed impugned award taking the same into account. Respondents have already paid the entire awarded amount along with interest.

32. It was contended that, in terms of the SOP for Rehabilitation of Disabled Force Personnel dated 29th June 2018, a rehabilitation policy for disabled had been formulated. Appellant was to be invalidated only after being provided vocational training in terms of *Clause 12(3)* of the SOP. However, appellant refused to undergo vocational training *vide* letter dated 26th February 2021.

33. Yet another objection raised was that the jurisdiction of the MACT was confined to road accident cases and did not extend to service-related injuries sustained by paramilitary personnel while on duty.

34. On the issues framed by the Court, the response of the respondent/Union of India is as under:

(i) On the ***first issue***, reliance was placed on Supreme Court's decision in ***Bachchaj Nihar v. Nilima Mandal & Anr***. (2008) 17 SCC 491, on the question of whether a Court travel beyond what is pleaded in the pleadings. The Supreme Court held that relief beyond what has been claimed cannot be granted. Moreover, there was no provision under the *CCS (Pension) Rules, 1972* for grant of additional claims as sought by the appellant.

(ii) On the ***second issue***, it was contended that, in terms of the applicable SOP and the Rehabilitation Policy governing disabled force personnel, appellant had been offered the benefits available thereunder, but had chosen not to avail the same. It was, therefore, submitted that appellant could not claim additional monetary benefits arising out of such refusal. It was further contended that consequent upon his medical invalidation, appellant had already received disability-linked service benefits, including *ex gratia* compensation of *Rs.17,60,000/-,* enhanced *Staff Benevolent Fund* benefit of *Rs.5,28,270/-,* besides *financial assistance* of *Rs.3,00,000/-* from *SSB Staff Benevolent Fund*. It was further submitted that appellant at the time of invalidation was receiving a pension of *Rs.29,120/-* per month, comprising a normal service pension of *Rs.18,200/-* and an additional disability pension of *Rs.10,920/-*. To this Dearness Allowance as admissible, would be added from time to time. According to respondent, considering the applicable Dearness Allowance, appellant was presently receiving an effective monthly pension of approximately *Rs.46,009/-*. Respondent further submitted that appellant had already received the compensation awarded by the Tribunal, which together with accrued interest amounted to approximately *Rs.10,09,490/-*. Moreover, during the period appellant continued in service after the accident, he drew his full salary without interruption, all admissible medical expenses were borne by the department, attendant facilities and other support were provided by the employer, and he continued to receive all consequential service benefits. reimbursed.

(iii) On the ***third issue***, the aforesaid figures were reiterated.

(iv) On the ***fourth issue***, reliance was placed on *Section 167* of the MV Act to contend that where a person was entitled to claim compensation under MV Act as well as under the Workmen's Compensation, the claim could be pursued under either statute but not under both. Therefore, the appellant could not claim "*double benefit*".

(v) On the ***fifth issue***, concerning amplification of the claim, it was submitted that there existed no provision under the Pension Rules permitting enhancement of the claim to a higher amount.

(vi) On the ***sixth issue***, as noted above, it was submitted that the appellant had filed a petition in the year 2024 challenging the order of invalidation, which had already been disposed of.

Analysis

35. The principal issue arising in the present appeal is whether the compensation awarded by the Tribunal continues to satisfy the requirement of "*just compensation*" under Section 168 of MV Act, particularly in light of the subsequent event of appellant's medical invalidation from service. Appellant contends that the Tribunal proceeded on the basis of the evidence then available, namely that he continued in employment, was drawing his regular salary and was receiving medical and attendant support from his employer. On that premise, the Tribunal declined to award compensation towards loss of future earning capacity. The question before this Court is whether the subsequent invalidation from service, during the pendency of the present appeal, materially alters the factual foundation on which the Award proceeded.

36. Appellant suffered injuries in an accident dated 01st November 2007, while travelling in a an SSB vehicle. The disability certificate [**Exhibit-PW2/A**] assessed him as suffering from *100%* permanent disability in relation to both lower limbs. At the time of the accident, appellant was approximately 20 years of age and was serving as a *Constable* with SSB.

37. The Tribunal relying *inter alia* upon the testimony of **RW-1**/ *Commandant* of appellant's unit, recorded that notwithstanding the disability, appellant continued in service, was drawing regular salary, his medical expenses were being borne by the department and his personal needs were being attended to by the Unit. Proceeding on the aforesaid basis, the Tribunal concluded that no actual '*loss of earning capacity*' had

then been established and consequently awarded compensation under the heads of *pain and suffering* [*Rs.1,00,000/-*], *loss of amenities of life* [*Rs.2,00,000/-*], *loss of marriage prospects* [*Rs.1,50,000/-*], *attendant charges* [*Rs.3,33,000/-*], *conveyance* [*Rs.20,000/-*], and *special diet* [*Rs.40,000/-]* aggregating to *Rs.8,43,120/-*.

38. The present appeal, however, assumes significance because of a subsequent event which admittedly did not exist when the Tribunal rendered the impugned award. Appellant continued in service for nearly *fifteen years* after the accident but ultimately came to be medically invalidated from service on 17th February 2022 on account of the very disability suffered in the accident. Had appellant continued in service till the normal age of superannuation, the basis adopted by the Tribunal may have continued to hold good, since his salary, attendant support and medical facilities would have continued to be provided by his employer. However, his premature invalidation has fundamentally altered that position.

39. This Court is, therefore, of the opinion that while the Tribunal was fully justified, on the material available before it in the year 2012, in observing that no actual *loss of earning capacity* had then arisen, the subsequent invalidation from service materially alters the factual premise upon which the impugned award proceeded. The disability has now translated into a real and continuing economic consequence, since appellant has ceased to remain in service and is required to sustain himself for the remainder of his life with the permanent disability suffered in the accident. In these circumstances, the subsequent event deserves to be taken

into consideration while moulding the relief so as to ensure that the compensation ultimately awarded remains "*just*" within the meaning of *Section 168* of MV Act.

40. It is not disputed that the appellant has already received the compensation awarded by the Tribunal, which together with accrued interest amounts to approximately *Rs.10,09,490/-* [originally awarded compensation was *Rs.8,43,120/-*]. Appellant, however, seeks enhancement on the ground that the subsequent invalidation from service has crystallised the *loss of earning capacity* which had not matured when the Tribunal rendered the Award. Appellant further contends that he has been invalidated from service at the age of 34 years and has consequently lost the benefit of continued employment, salary and attendant support, while being required to live the remainder of his life with permanent disability. His last drawn gross salary, immediately prior to invalidation, was *Rs.68,918/-* per month, whereas he is presently dependent upon pensionary benefits. There is no doubt, in the opinion of this Court, that the premature cessation of service has resulted in a substantial diminution of his earning capacity which deserves to be compensated.

41. Having held that appellant has now suffered actual loss of future earning capacity, the next question is the extent to which disability-linked benefits already received are liable to be adjusted while computing just compensation. The question, however, remains whether the disability-linked benefits extended by the employer are liable to be taken into account while determining such compensation. The amounts received by appellant towards *ex gratia* compensation, enhanced Staff Benevolent

Fund benefits and the disability component of pension arise solely because of the disability suffered in the accident. If compensation under the Motor Vehicles Act were awarded without accounting for these accident-specific benefits, appellant would receive overlapping compensation for the same consequence of disability. Such duplication would not accord with the principle of awarding "*just compensation*". Accordingly, only those benefits which are directly relatable to the disability are liable to adjustment.

42. Insofar as pension is concerned, the position now stands settled by the Supreme Court in ***Hanumantharaju B. v. M. Akram Pasha*** (*supra*). Pension, being a deferred payment earned by virtue of past service, is not liable to be deducted while computing compensation under the Motor Vehicles Act. Compensation is required to be determined on the basis of the last drawn salary and not on the reduced post-retirement income. The ordinary pension payable to appellant, therefore, cannot diminish the compensation otherwise payable towards *loss of future earning capacity*.

43. However, the additional disability pension stands on a different footing. Unlike the ordinary pension, the enhanced disability component is not payable by reason of past service alone but arises solely because appellant was medically invalidated on account of the disability suffered in the accident. To that limited extent, the additional disability pension bears a direct nexus with the accident and constitutes an accident-related benefit. It is, therefore, liable to be adjusted while determining compensation so as to avoid duplication under the same head. Consequently, the computation of *future loss of earning capacity* shall be

undertaken as on the date of appellant's medical invalidation, namely 17th February 2022.

44. Based upon the above, in the opinion of this Court, the loss of future income would be calculated at *Rs.68,918/-* per month with *future prospects* at 50% (*considering he was below 40 years of age at the date of his invalidation*) and a multiplier of **16**, as applicable by principles enunciated in ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*). Loss of income shall be the same.

45. This would amount to *Rs.1,98,48,384/-* without deduction of pension. However, as noted above, deductions of amounts, which have been given to appellant on account of disability linked benefits, have to be accounted for. These include *ex gratia* compensation of *Rs.17,60,000/-,* enhanced Staff Benevolent Fund benefit at *Rs.5,28,270/-* and disability pension component of *Rs.10,920/-* per month.

46. Accordingly, appellant's last drawn gross salary at the time of medical invalidation was *Rs.68,918/-* per month. Since the additional disability pension of *Rs.10,920/-* per month is an accident-related benefit liable to be accounted for while determining compensation, the notional monthly income for computing *future loss of earning capacity* is taken at *Rs.57,998/-* per month (*Rs.68,918 – Rs.10,920*). The annual income thus comes to *Rs.6,95,976*/-. Adding **50%** towards *future prospects*, in terms of ***National Insurance Co. Ltd. v. Pranay Sethi*** (*supra*), the annual income is assessed at *Rs.10,43,964/-*. Applying the *multiplier* of **16,** the total *loss of future earning capacity* works out to *Rs.1,67,03,424/-*.

47. Having held that appellant is entitled to compensation towards *loss of future earning capacity* consequent upon his medical invalidation, the next question which arises is the extent to which the disability-linked benefits already received by him are liable to be taken into account while determining such compensation. In the opinion of this Court, the amounts received by appellant towards *ex gratia* compensation of *Rs.17,60,000/-, enhanced Staff Benevolent Fund benefit* of *Rs.5,28,270/-* and financial assistance of *Rs.3,00,000/-* from the SSB Staff Benevolent Fund were extended solely on account of the disability suffered by him and bear a direct nexus to the consequences of the accident. In order to avoid duplication of compensation under the same head and to ensure that the compensation awarded remains just, fair and reasonable, these disability-linked benefits are liable to be adjusted while computing compensation towards loss of future earning capacity. The total amount liable to be adjusted accordingly works out to *Rs.26,88,270/-*.

48. Consequently, the compensation payable towards loss of future earning capacity is assessed at *Rs.1,40,15,154/-* [*Rs.1,67,03,424 – Rs.26,88,270*], which shall be payable to the appellant together with interest at the same rate as awarded by the Tribunal, reckoned from 17th February 2022, being the date of medical invalidation.

49. In addition thereto, appellant is entitled to compensation towards *future attendant charges*. During his service, attendants and allied assistance were being provided by respondent as part of his service conditions. Upon his medical invalidation on 17th February 2022, such facility ceased to be available. Considering the nature of appellant's 100%

permanent disability, the engagement of at least one full-time attendant is both reasonable and necessary. Taking the minimum wages of an '*unskilled worker*' in Delhi applicable with effect from 01st April 2022, i.e., *Rs.16,506/-* per month, the annual expenditure works out to *Rs.1,98,072/-*. Applying the *multiplier* of **16**, the compensation towards *future attendant charges* is assessed at *Rs.31,69,152/-*.

50. Since appellant has already been awarded *Rs.3,33,120/-* by the Tribunal towards *attendant charges*, said amount shall be adjusted. Accordingly, appellant shall be entitled to an additional sum of *Rs.28,36,032/-* [*Rs.31,69,152/-* − *Rs.3,33,120/-*] under this head, together with interest at the same rate as awarded by the Tribunal from 17th February 2022 till realization.

51. Appellant has further claimed *Rs.4,00,000/-* towards a *wheelchair, Rs.28,80,000/-* towards *special diet* and *Rs.8,40,000/-* towards *physiotherapy*. Though the necessity of these future requirements cannot be doubted having regard to appellant's permanent disability, the precise quantum claimed is not supported by evidence. Nevertheless, bearing in mind the continuing nature of the disability and the recurring expenses likely to be incurred by appellant throughout his lifetime, this Court considers it appropriate to award a lump sum compensation of *Rs.10,00,000/-* under these heads, in the interests of just and reasonable compensation.

52. The Court has already deliberated upon the loss of future earning capacity for a salaried employee post-retirement or after not continuing in service, in ***Govind Singh Mouni v. Tej Bhan & Ors***. 2026:DHC:1020.

The issue has been discussed with reference to loss of potentiality of income principles which were usefully enunciated in ***Ball v. William Hunt and Sons Ltd***. 1912 AC 496, a decision of the House of Lords. Other decisions which have bearing on this will be ***Deshraj Singh Gautam v. Sunil Kumar***, 2016:DHC:4159, ***Rajbir Singh v. National Insurance Company Ltd. & Ors***. 2024:DHC:9034.

53. As regards the issue of whether pension is deductible or not, the issue stands settled as noted above in ***Hanumantharaju B. v. M. Akram Pasha*** (*supra*).

Conclusion

54. Accordingly, the compensation is re-computed as under:

SR. NO.	HEADS	AWARDED BY THE TRIBUNAL	AWARDED BY THIS COURT
PECUNIARY LOSS			
1	Expenditure on treatment (A)	Nil (Medical expenses borne by employer)	Nil
2	Expenditure on conveyance (B)	Rs.20,000/-	Rs.20,000/-
3	Expenditure on special diet (C)	Rs.40,000/-	Included in Sl. No. 7
4	Cost of nursing / attendant (D)	Rs.3,33,120/-	Rs.28,36,032/-
5	Loss of earning capacity (E)	Nil	Rs.1,40,15,154/-
6	Loss of income (F)	Nil	Nil
7	Any other loss which may require any special treatment or aid to the injured for the rest of his life (G)	Nil	Rs.10,00,000/- (towards wheelchair, physiotherapy, special diet and allied future requirements)
NON-PECUNIARY LOSS			
8	Compensation for mental and physical shock (H)	Nil	Nil

9	Pain and suffering (I)	Rs.1,00,000/-	Rs.1,00,000/-
10	Loss of amenities of life (J)	Rs.2,00,000/-	Rs.2,00,000/-
11	Disfiguration (K)	Nil	Nil
12	Loss of marriage prospects (L)	Rs.1,50,000/-	Rs.1,50,000/-
13	Loss of earning, inconvenience, hardships, disappointment, frustration, mental stress, dejectment and unhappiness in future life etc. (M)	Nil	Nil
DISABILITY RESULTING IN LOSS OF EARNING CAPACITY			
14	Percentage of disability assessed and nature of disability as permanent or temporary	100% permanent disability in relation to both lower limbs	100% permanent disability in relation to both lower limbs
15	Loss of amenities or loss of expectation of life span on account of disability	Rs.2,00,000/-	Included in Sl. No. 10
16	Percentage of loss of earning capacity in relation to disability	Nil	100% (w.e.f. 17.02.2022)
TOTAL COMPENSATION		**Rs.8,43,120/-**	**Rs.1,83,21,186/-**
Interest Awarded		**7.5% p.a. from 17.09.2009 till realization**	**@7.5% p.a. from 17.02.2022 till realization.**

55. For aforesaid reasons, compensation has been enhanced by *Rs.1,74,78,066*/- ["***enhanced amount***"].

56. It is therefore directed that enhanced amount along with *7.5%* interest per annum from the date of invalidation from the service i.e. 17th February 2022 shall be deposited before Registry of this Court within a period of **four** weeks. It is directed that a lump sum amount of *Rs 25,00,000/-* shall be released to claimant from the deposit of enhanced amount within a period of two weeks thereafter.

57. Remaining enhanced amount, along with accrued interest till date, shall be kept in Fixed Deposit Receipts (***FDRs***) of *Rs. 1,00,000/-* each for periods of 3 month, 6 months, 9 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

58. Accordingly, the appeal stand partly allowed with above directions.

59. Pending applications, if any, are rendered infructuous.

60. Copy of this judgement be sent to concerned MACT.

61. Copy of this judgement shall also be sent to concerned bank.

62. Judgment be uploaded on the website of this Court.

ANISH DAYAL
(JUDGE)

JULY 1, 2026/mk/*tk*