



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

234

FAO-2327-2007

Date of decision: 09.07.2025

Raghuvinder Kaur

...Appellant

Versus

Richhpal Singh @ Balu and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. B.S. Mamli, Advocate for the appellant.

Mr. Sandeep Suri, Advocate
for respondent No.3-Insurance Company.

SUDEEPTI SHARMA, J. (ORAL)

1. The present appeal has been preferred against the award dated 23.01.2006 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') by the learned Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri (for short, 'the Tribunal') for enhancement of compensation granted to claimant/appellant Raghuvinder Kaur to the tune of Rs.75,000/- along with interest @ 7.5 % per annum, on account of injuries sustained by her in a Motor Vehicle Accident, occurred on 27.09.2004.

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

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. Learned counsel for the appellant contends that the



compensation access by the learned Tribunal is on the lower side. He further contends that learned Tribunal has not applied multiplier system while granting the compensation. He further contends:-

i) That the claimant/appellant (minor) was 14 years age at the time of accident and she suffered permanent disability to the extent of 15 % due to accident in question.

ii) He further contends that the compensation granted under the head of future loss to income, medical expenses, pain and suffering, attendant charges and special diet is also on lower side. Therefore, he prays that the present appeal be allowed and compensation be enhanced, as per settled law.

4. Per contra, learned counsel for the respondent-Insurance Company has vehemently argues on the lines of the award and submits that the amount of compensation as assessed by the learned Tribunal, has rightly been granted to the claimant/appellant. Therefore, he prays for dismissal of the appeal.

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

SETTLED LAW OF HON'BLE SUPREME COURT REGARDING GRANT OF COMPENSATION WITH RESPECT TO DISABILITY

6. Hon'ble the Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in case titled as **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.

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19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job,



age, education and other factors.

20. The assessment of loss of future earnings is explained below with reference to the following

Illustration 'A' : *The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

a) Annual income before the accident : Rs. 36,000/-.

b) Loss of future earning per annum

(15% of the prior annual income) : Rs. 5400/-.

c) Multiplier applicable with reference to age : 17

d) Loss of future earnings : (5400 x 17) : Rs. 91,800/-

Illustration 'B' : *The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :*

a) Annual income prior to the accident : Rs. 36,000/- .

b) Loss of future earning per annum

(75% of the prior annual income) : Rs. 27000/-.

c) Multiplier applicable with reference to age : 17

d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-

Illustration 'C' : *The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision*



was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :

- a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-*
- b) Loss of future earning per annum (70% of the expected annual income) : Rs. 42000/-*
- c) Multiplier applicable (25 years) : 18*
- d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-*

[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

7. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law relating to Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

“ Therefore, we think it seemly to fix reasonable



sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”

8. Hon’ble Supreme Court in the case of **Erudhaya Priya Vs. State Express Tran. Corpn. Ltd. 2020 ACJ 2159**, has held as under:-

“ 7. There are three aspects which are required to be examined by us:

(a) the application of multiplier of '17' instead of '18';

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%



In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

- (i) Pain, suffering and trauma resulting from the accident;*
- (ii) Loss of income including future income;*
- (iii) The inability of the victim to lead a normal life together with its amenities;*
- (iv) Medical expenses including those that the victim may be required to undertake in future; and*
- (v) Loss of expectation of life."*

*[emphasis
supplied]*

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

"Nature of injury:



- (i) *compound fracture shaft left humerus*
- (ii) *fracture both bones left forearm*
- (iii) *compound fracture both bones right forearm*
- (iv) *fracture 3rd, 4th & 5th metacarpals right hand*
- (v) *subtrochanteric fracture right femur*
- (vi) *fracture shaft femur*
- (vii) *fracture both bones left leg*

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of



hearing to 9% in view of the judicial pronouncements including in the Jagdish's case (*supra*). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

Heads	Awarded
Loss of earning power (Rs.14,648 x 12 x 31.1/100)	Rs. 9,81,978/-
Future prospects (50 per cent addition)	Rs.4,90,98 9/-
Medical expenses including transport charges, nourishment, etc.	Rs.18,46,8 64/-
Loss of matrimonial prospects	Rs.5,00,00 0/-
Loss of comfort, loss of amenities and mental agony	Rs.1,50,00 0/-
Pain and suffering	Rs.2,00,00 0/-
Total	Rs.41,69,8 31/-

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.

SETTLED LAW REGARDING GRANT OF PAIN AND SUFFERINGS

9. The Hon'ble Apex Court in case titled as **K.S Muralidhar Vs. R. Subbulakshmi and another**, 2024 INSC 886 held as under:-

"12. It is to be noted that both the Tribunal and the High Court have taken the disability suffered by the claimant-appellant to be at 100%. We find no ground to take a different view.

13. While acknowledging that 'pain and suffering', as a concept escapes definition, we may only refer to certain authorities, scholarly as also judicial wherein attempts have been made to set down the contours thereof.

13.1 The entry recording the term 'pain and suffering' in P. Ramanatha Iyer's Advanced Law Lexicon[9] reads as under:-

"Pain and suffering. *The term 'Pain and suffering' mean physical discomfort and distress and include mental and emotional trauma for which damages can be recovered in an accident claim.*

This expression has become almost a term of art, used without making fine distinction between pain and suffering. Pain and suffering which a person undergoes cannot be measured in terms of money by any mathematical calculation. Hence the Court awards a sum which is in the nature of a conventional award [Mediana, The (1900) AC 113, 116]"

13.2 Eric Cassell[10], an American Physician and Bioethicist, defines 'pain' not only as a sensation but also 'as experience embedded in beliefs about causes and diseases and their consequences', and 'suffering' as 'the state of severe distress associated with events that threaten the intactness of person'.

13.3 In a recent article[11] published in the journal of the International Association for the Study of Pain, it has been recorded that there is no consensus on what exactly the concept of pain-related suffering includes, and it is often not precisely operationalised in empirical studies. The authors in their systematic review analysed 111 articles across a variety of disciplines such as bioethics, medical ethics, psycho-oncology, anaesthesiology, philosophy, sociology etc., we may refer to few of them:

13.3.1 Eugene V. Boisauvin[12], who is currently a Professor at the University of Texas, at Houston, in a 1989 article defined it as "Suffering



is experienced by individual and arises from threats to the integrity of the individual as a complex social and psychological entity."

13.3.2 Andrew Edgar, who is currently a Reader Emeritus in Philosophy at Cardiff University at UK has defined, in a 2007 article suffering as an "experience of life never getting better, revealing in the sufferer only vulnerability, futility, and impotence."

13.3.3 Arthur W. Frank[13], Professor Emeritus, Department of Sociology, University of Calgary in his well-known article "Can We Research Suffering?", published in 2001, observed that "at the core of suffering is the sense that something is irreparably wrong with our lives, and wrong is the negation of what could have been right. Suffering resists definition because it is the reality of what is not."

13.3.4 Daryl Pullman[14] who currently serves as University research Professor, Bioethics at the Memorial University of Newfoundland, Canada in his 2002 article defined suffering as the "product of [physical], psychological, economic, or other factors that frustrate an individual in the pursuit of significant life projects."

13.4 The Judicial Studies Board, now known as the Judicial College in the United Kingdom, produced guidelines in 1992 to produce greater consistency of awards and make the judicial scale of values more easily accessible. They have been deduced from a study of past cases, examining the range of awards therein. The latest edition of these guidelines was published in 2021[15]. They record the difficulty of computing 'pain and suffering' as under :-

[15 See : Hassam and Anr. v. Rabot and Anr. (2024) UKSC 11]

"It is widely accepted that making of an award of general damages for pain and suffering is a somewhat artificial task. It involves the Judge seeking to convert the pain and suffering of a given claimant into a monetary award which he or she considers to be reasonable by way of compensation. That is a difficult task and one which has historically led to judges making widely varying awards of damages in respect of relatively comparable injuries a result which not only offends the principle of equality before law but results in unnecessary appeals and the incurring of additional cost, apart altogether from the burden that such appeals place on the Court's own scarce resources."

*13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been highlighted in **Heil v. Rankin [2001] QB 272**, as referred to in **Attorney General of St. Helena v. AB & Ors. Privy Council Appeal No. 0034 of 2018** as under:-*

*"23. This principle of 'full compensation' applies to pecuniary and non-pecuniary damage alike. But, as Dickson J indicated in the passage cited from his judgment in **Andrews v. Grand & Toy Alberta Ltd, 83 DLR (3d)***



*452, 475-476, this statement immediately raises a problem in a situation where what is in issue is what the appropriate level of 'full compensation' for non-pecuniary injury is when the compensation has to be expressed in pecuniary terms. There is no simple formula for converting the pain and suffering, the loss of function, the loss of amenity and disability which an injured person has sustained, into monetary terms. Any process of conversion must be essentially artificial. Lord Pearce expressed it well in **H West & Son Ltd v. Shephard [1964] AC 326, 364** when he said:*

'The Court has to perform the difficult and artificial task of converting into monetary damages the physical injury and deprivation and pain and to give judgment for what it considers to be a reasonable sum. It does not look beyond the judgment to the spending of the damages.'

*24. The last part of this statement is undoubtedly right. The injured person may not even be in a position to enjoy the damages he receives because of the injury which he has sustained. Lord Clyde recognised this in **Wells v. Wells [1999] 1 AC 345, 394H** when he said: 'One clear principle is that what the successful plaintiff will in the event actually do with the award is irrelevant.'*

*13.6 In the context of the United States, the most important piece of legal literature regarding 'pain and suffering' is an article titled *Valuing Life and Limb in Tort: Scheduling Pain and Suffering*, published in the year 1989. Relevant extracts thereof read as under :*

"Pain and suffering and other intangible or non-economic losses are even more problematic. Physical pain and attendant suffering have for centuries being recognised as legitimate elements of damages, and "modern" tort law has seen a marked expansion of the rights to recover for forms of mental anguish. Some Courts have even permitted recovery for emotional trauma unaccompanied by physical injury, including derivative losses stemming from injuries to family members. The precise elements of compensable non-economic loss vary by jurisdiction. Pain and suffering may be used as a catch-all category for the jury's consideration of all non-pecuniary losses in a case of a nonfatal injury, subsuming other qualitative categories such as mental anguish and humiliation. More commonly, though, other non-economic elements - such as "loss of enjoyment of life" are accorded independent standing ..."

Another important observation is that:

"Whatever the categories of non-economic damages allowed in a given jurisdiction, the law provides no objective benchmarks valuing them. As one commentator notes, "Courts have usually been content to say that pain and



suffering damages should amount to 'fair compensation', or a 'reasonable amount', 'without any definite guide'."

13.7 Consideration of the above, underlines that while each discipline has its own conception of the meaning of pain/suffering, within its confines, the commonality that emerges is that a person's understanding of oneself is shaken or compromised at its very root at the hands of consistent suffering. In the present facts, it is unquestionable that the sense of something being irreparably wrong in life, as spoken by Frank (supra); vulnerability and futility, as spoken by Edgar, is present and such a feeling will be present for the remainder of his natural life.

14. In respect of 'pain and suffering' in cases where disability suffered is at 100%, we may notice a few decisions of this Court:-

*14.1 In **R.D Hattangadi v. Pest Control India (P) Ltd. (1995) 1 SCC 551**. It was observed :*

"17. The claim under Sl. No. 16 for 'pain and suffering' and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs.3,00,000 each under the two heads. The High Court has allowed Rs.1,00,000 against the claims of Rs.6,00,000. When compensation is to be awarded for 'pain and suffering' and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs.1,50,000 in respect of claim for 'pain and suffering' and Rs.1,50,000 in respect of loss of amenities of life. We direct payment of Rs.3,00,000 (Rupees three lakhs only) against the claim of Rs.6,00,000 under the heads "'pain and suffering'" and "Loss of amenities of life".

(Emphasis Supplied)

*14.2 This Judgment was recently referred to by this Court in **Sidram v. United Court Insurance Company Ltd. (2023) 3 SCC 439** reference was also made to **Karnataka SRTC v. Mahadeva Shetty (2003) 7 SCC 197** (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed :*

"18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing



compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned."

14.3 In *Kajal v. Jagdish Chand (2020) 4 SCC 413* considering the facts of the case, i.e., 100% disability, child being bedridden for life, her mental age being that of a nine-month-old for life - a vegetative existence, held that "even after taking a conservative view of the matter an amount payable for the 'pain and suffering' of this child should be at least Rs.15,00,000/-."

14.4 In *Ayush v. Reliance General Insurance (2022) 7 SCC 738* relying on *Kajal (supra)* the amount awarded in 'pain and suffering' was enhanced to Rs.10,00,000. The child who had suffered the accident was five years old and the Court noted in paragraph 2 that :

"As per the discharge certificate, the appellant is not able to move both his legs and had complete sensory loss in the legs, urinary incontinence, bowel constipation and bed sores. The appellant was aged about 5 years as on the date of the accident, hence has lost his childhood and is dependent on others for his routine work."

14.5 In *Lalan (supra)* cited by the claimant-appellant, the Tribunal awarded Rs.30,000/- which was enhanced to Rs.40,000/- by the High Court . Considering the fact that the appellant therein has suffered extensive brain injury awarded compensation under 'pain and suffering' to the tune of Rs.3,00,000/-.

*15. Keeping in view the above-referred judgment, the injuries suffered, the 'pain and suffering' caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, **award Rs.15,00,000/-** under the head 'pain and suffering', fully conscious of the fact that the prayer of the claimant-appellant for enhancement of compensation was 22 (2022) 7 SCC 738 15| SLP (C) NO. 18337 OF 2021 by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded.*

SETTLED LAW RELATING TO MARRIAGE PROSPECTS

10. In ***G. Ravindranath Vs. E. Srinivas and Another, 2013(3) RCR (Civil) 934*** , Hon'ble Apex Court while granting compensation to the claimant considered the fact that due to the injuries in the pelvic region, injured has become impotent leading to loss of marital bliss and that he



shall be required to undergo multiple surgeries in future. The relevant paragraphs No. 24, 25 and 26 of the aforesaid judgment are reproduced as under:

"24. From the testimony of three witnesses, it is established that as a result of accident the appellant had suffered grievous injuries in the pelvic region and he has become impotent. It is also established that he has already undergone multiple surgeries and will have to take treatment in institutes like NIMS for at least 10 years.

25. Unfortunately, the Motor Accidents Claims Tribunal, Raichur did not give due weightage to the evidence produced by the appellant and awarded meager compensation and that too by overlooking the documentary evidence produced by appellant regarding the expenses incurred by him at Bhandari Hospital, Raichur and NIMS at Hyderabad. The High Court also failed to properly analyse and evaluate the evidence produced by the appellant and did not adequately enhance the compensation determined by the Tribunal.

26. In our view, the appellant is entitled to Rs.2,20,000/- for the expenses incurred on the treatment including hospitalization charges, mess and lodging charges, transportation etc. For future medical expenses including hospitalization, medicines, attendant charges etc., the appellant is entitled to Rs.6,00,000/-. For pain, suffering and trauma, the appellant is entitled to a sum of Rs.3,00,000/-.



loss of amenities and prospects of marriage, the appellant is entitled to Rs.4,00,000/-. For the loss of expectation of life and loss of future earnings, the appellant is entitled to a sum of Rs.5,00,000/-."

11. In the case in hand, a perusal of the award reveals that the appellant-claimant was aged approximately 14 years at the time of accident, and both the parties do not dispute the same before this Court. It is further revealed from the record that claimant/appellant has sustained multiple grievous injuries and steel rod had been inserted in both of the legs which requiring her to confine to bed and further required helper for some indefinite period. A perusal of the award as well as disability certificate Ex.P-35 further show that the claimant/appellant has suffered permanent disability to the extent of 15 %.

12. Assessing the pecuniary loss suffered by the claimant/appellant presents inherent difficulties, given that she was not engaged in any gainful employment at the time of the accident. However, the principles governing compensation under the Act, emphasize that assessment of compensation must be made not only with reference to actual financial loss but also keeping in view the permanent deprivation of earning capacity, the physical and psychological suffering, and the complete alteration of the claimant's life trajectory.

13. Given that the claimant, prior to the accident, was a minor with an open-ended future, the nature of her disability has effectively foreclosed numerous career opportunities and significantly diminished her employability.



14. In FAO-4284-2006, titled as ***Parvesh Vs. Satbir and others***, this Court, while dealing with a case involving a 16-year-old school-going minor, assessed the notional income at ₹10,000 per month. The relevant portion of the judgment is reproduced as under:-

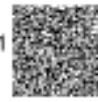
“12. Reference at this stage can be made to a judgment of Hon'ble the Supreme Court of India in a case of V. Mekala vs. M. Malathi and anr, 2014(11) SCC 178 wherein in a motor accident, the victim was a student and bones of her both legs fractured. Hon'ble the Supreme Court assessed her notional monthly income at Rs.10,000/- and awarded her 50% future prospects. She was awarded Rs.3 lacs under the head Loss of enjoyment of life and marriage prospects. She was awarded Rs. 2 lacs under the head pain and suffering and Rs. 2 lacs under the head loss of amenity and attendant charges. The relevant extract of the judgment is reproduced as under:-

“17. The fact that the appellant was a brilliant student at the time of the accident should also be taken into consideration while awarding compensation to her. Therefore, taking Rs.6,000/- as monthly notional income by the Tribunal for the purpose of awarding compensation under this head is too meager an amount. The learned counsel appearing for the respondent No.2 contended that the appellant can still finish her education and find employment and therefore, there is no necessity to enhance the amount of compensation under the head of ‘loss of income’ and ‘future prospects’. It is pertinent to reiterate here that the claimant/appellant has undergone and undergoing substantial pain and suffering due to the accident which has rendered both her legs dysfunctional. This has reduced the scope of her future prospects including her marriage substantially. Moreover, a tortfeasor is not entitled to dictate the terms of the claimants-appellants career as has been held by the Karnataka High Court in the case of K. Narsimha Murthy v. The Manager, Oriental Insurance Company Ltd and Anr.



ILR 2004 KARNATAKA 2471, the relevant paragraph of which reads as under:

“41. Further, it needs to be emphasized that it is not the right of the tortfeasor or a person who has taken over the liability of the tortfeasor in terms of and under the Act to dictate that the injured person should do some other work, manual or otherwise, it does not matter, may be with pain and discomfort, in order to minimize his or its liability. Such insistence is untenable in law and if such is the case, it would violate basic human rights of the injured person. In this case, the appellant is reduced to such a state that he is unable to do any work, manual otherwise, without subjecting himself to pain and suffering, agony and discomfort. In an accident, if a man is disabled for a work which he was doing before the accident, that he has no talents, skill, experience or training for anything else and he is unable to find any work, manual or clerical, such a man for all practical purposes has lost all earning capacity he possessed before and he is required to be compensated on the basis of total loss. In reaching this conclusion we may derive support from the judgments in Daniels v. Sir Robert Mc Alpine and Sons Limited and Blair v. FJC Lilley (Marine) Limited. Secondly, the physical incapacity to earn income sustained by the appellant is not temporary, but permanent and complete as per Exhibit P. 43. Thirdly, it cannot be said that since the appellant has sustained only 54% permanent physical disability in respect of the whole body as per PW. 3, the Court should take into account functional disability also at 54% only while assessing the loss of earning capacity. Such hypothesis does not stand to reason nor can it be accepted as valid in terms of law. An injured person is compensated for the loss which he incurs as a result of physical injury and not for physical injury itself. In other words, compensation is given only for what is lost due to accident in terms of an equivalent in money insofar as the nature of money admits for the loss sustained. In an accident, if a person loses a limb or eye or sustains an injury,



the Court while computing damages for the loss of organs or physical injury, does not value a limb or eye in isolation, but only values totality of the harm which the loss has entailed the loss of amenities of life and infliction of pain and suffering: the loss of the good things of life, joys of life and the positive infliction of pain and distress.”

18. *Further, it has been held in the case of Reshma Kumari (supra) that certain relevant factors should be taken into consideration while awarding compensation under the head of future prospect of income. The relevant paragraph read as under:*

“27. The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guess work may be inevitable. That may be so.”

19. *Therefore, in the light of the principles laid down in the aforesaid case, it would be just and proper for this Court, and keeping in mind her past results we take Rs.10,000/- as her monthly notional income for computation of just and reasonable compensation under the head of loss of income. Further, the High Court has failed to take into consideration the future prospects of income based on the principles laid down by this Court in catena of cases referred to supra. Therefore, the appellant is justified in seeking for enhancement under this head as well and we hold that the claimant- appellant is entitled to 50% increase under this head as per the principle laid down by this Court in the case of Santosh Devi*



(supra). The relevant paragraph reads as under:

“13. In Sarla Verma's case (supra), another two Judge Bench considered various factors relevant for determining the compensation payable in cases involving motor accidents, noticed apparent divergence in the views expressed by this Court in different cases, referred to large number of precedents including the judgments in U.P. SRTC v. Trilok Chandra (1996) 4 SCC 362, Nance v. British Columbia Electric Railway Company Ltd. 1951 AC 601, Davies v. Powell Duffryn Associated Collieries Ltd. 1942 AC 601 and made an attempt to limit the exercise of discretion by the Tribunals and the High Courts in the matter of award of compensation by laying down straightjacket formula under different headings, some of which are enumerated below:

(i) Addition to income for future prospects In Susamma Thomas this Court increased the income by nearly 100%, in Sarla Dixit the income was increased only by 50% and in Abati Bezbaruah the income was increased by a mere 7%. In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances. Therefore, taking both the aspects



into account, the total amount of compensation under this head is calculated as Rs.22,68,000/- [(Rs.10,000/-x 70/100 + 10,000 x 70/100 x 50/100) x 12 x 18].

20. The compensation under the head pain & suffering and mental agony was awarded by the High Court after recording concurrent finding with the award passed by the Tribunal. However, the courts below have not recorded the nature of the permanent disablement sustained by the appellant, while awarding Rs.1,00,000/- under this head which is too meager an amount and is contrary to the judgment of R.D. Hattangadi and Govind Yadav cases (supra). The relevant paragraphs of Govind Yadav case read as under:

“25. The compensation awarded by the Tribunal for pain, suffering and trauma caused due to the amputation of leg was meager. It is not in dispute that the appellant had remained in the hospital for a period of over three months. It is not possible for the tribunals and the courts to make a precise assessment of the pain and trauma suffered by a person whose limb is amputated as a result of accident. Even if the victim of accident gets artificial limb, he will suffer from different kinds of handicaps and social stigma throughout his life. Therefore, in all such cases, the tribunals and the courts should make a broad guess for the purpose of fixing the amount of compensation.

26. Admittedly, at the time of accident, the appellant was a young man of 24 years. For the remaining life, he will suffer the trauma of not being able to do his normal work. Therefore, we feel that ends of justice will be met by awarding him a sum of Rs 1,50,000 in lieu of pain, suffering and trauma caused due to the amputation of leg.” Therefore, under this head the amount awarded should be enhanced to Rs.2,00,000/- as the Doctor-PW2 has opined that at the time of walking with support of crutches, the claimant-appellant will be suffering pain permanently. Therefore, under this head it has to be enhanced from Rs.1,00,000/- to Rs.2,00,000/-.

21. The loss of amenity and attendant charges awarded by the courts below at Rs.1,00,000/- is also too meager an amount as the



appellant has permanently lost her amenity of both the legs. For the purpose of walking, squatting, running and also studying throughout her life and particularly, at the advanced age, she will be requiring the attendant for giving assistance to attend the nature's call and also at the time of sitting or moving around. Therefore, the compensation at this head is required to be enhanced from Rs.1,00,000/- to Rs.2,00,000/- based upon the principle laid down by this court in Govind Yadav case (supra), the relevant paragraph of which reads as under:-

“27. The compensation awarded by the Tribunal for the loss of amenities was also meagre. It can only be a matter of imagination as to how the appellant will have to live for the rest of his life with one artificial leg. The appellant can be expected to live for at least 50 years. During this period he will not be able to live like a normal human being and will not be able to enjoy life. The prospects of his marriage have considerably reduced. Therefore, it would be just and reasonable to award him a sum of Rs 1,50,000 for the loss of amenities and enjoyment of life.”

22. The amount of compensation awarded under the head of 'Loss of enjoyment of life and marriage prospects' at Rs.2,00,000/- is totally inadequate since her marriage prospect has substantially reduced and on account of permanent disablement she will be deprived of enjoyment of life. Therefore, it would be just and proper to enhance the compensation from Rs.2,00,000/- to Rs.3,00,000/-. In so far as, purchase of crutches periodically, it would be just and proper to award a sum of Rs.50,000/-.”

13. In view of the principles set forth in the V. Mekala's (supra) and considering his past results, it is just and appropriate for this Court to fix his notional monthly income at Rs.10,000/-”

15. In view of the above, referred to judgment and peculiar facts of this case and further because of the accident appellant/claimant could not pursue her carrier/education qualifications effectively, in the interest of



justice, it would be appropriate to fix her notional income as Rs.5,000/- per month.

16. A perusal of the award further reveals that the learned Tribunal has not applied multiplier system while calculating the compensation as per settled law. Moreover, the compensation granted for pain and suffering, attendant charges, special diet, loss of amenities of life are on lower side and no compensation was granted for transportation charges. Therefore, the award requires indulgence of this Court.

RELIEF

17. In view of the law laid down by the Hon'ble the Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated 23.01.2006 is modified accordingly. The appellant-claimant is held entitled to grant of compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1	Income	Rs.5,000/-
2	Loss of future prospects 40%	Rs.2,000/- (40% of 5000)
3	Annual Income	Rs.84,000/- (7,000 x12)
4	Loss of future earning per annum (15 % disability)	Rs.12,600/- (15% of 84000)
5	Multiplier 18	Rs.2,26,800/-(12,600x18)
6	Pain and Sufferings	Rs.70,000/-
7	Special diet	Rs.30,000/-
8	Medical expenses	Rs.24,000/-
9	Transportation charges	Rs.30,000/-
10	Attendant Charges	Rs.20,000/-
11	Marriage prospects and loss of amenities	Rs.80,000/-



12	Total Compensation	Rs.4,80,800/-
13	Amount awarded by the Tribunal	Rs.75,000/-
14	Enhanced Amount	Rs.4,05,800/- (4,80,800-75,000)

18. 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 Nandu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the appellant-claimant is granted the interest @ 9% per annum on the amount from the date of filing of claim petition till the date of its realization.

19. The respondent-Insurance Company is directed to deposit the enhanced amount of compensation alongwith interest with the Tribunal within a period of two months from the receipt of copy of judgment. The Tribunal is further directed to disburse the amount of compensation alongwith interest in the account of the claimant/appellant. The claimant/appellant is directed to furnish her bank account details to the Tribunal.

20. The Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Sandeep Suri, Advocate within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007 by this Court.

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

09.07.2025

Yogesh

(SUDEEPTI SHARMA)

JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No