

FAO-549-2012 (O&M)

2025:PHHC:126369



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

FAO-549-2012 (O&M)

Date of Reserve: September 09, 2025

Date of Pronouncement:-12.09.2025

Vikas Verma

.....Appellant

Vs.

Reliance General Insurance Co. Ltd. & ors.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. M.K. Garg, Advocate
for the appellant.

Mr. Subhash Goyal, Advocate,
for respondent No. 1-Insurance Co.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 17.08.2011 passed by the learned Motor Accident Claims Tribunal, Gurgaon in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short, 'the Tribunal') for enhancement of compensation granted to the appellant/claimant to the tune of Rs.5,70,662/-, on account of injuries suffered by him in a Motor Vehicular Accident, occurred on 10.09.2008.

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 for the sake of brevity.

**SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES**

3. The learned counsel for the claimant-appellant contends that the compensation assessed by the learned Tribunal is on the lower side, as the appellant was 26 years of age at the time of accident. He further contends that the appellant was M. Tech (Civil) and was employed as Manager Technical in Legend Surface Developers Pvt Ltd., Manesar, Gurgaon at the time of the accident. He submits that due to the injuries sustained by the appellant in the accident, his left hand became shortened and disfigured. He, thus prays that the present appeal be allowed.

4. Per contra, learned counsel for respondent No. 1-Insurance Company, however, vehemently argues that the award has rightly been passed and the amount of compensation as assessed by the learned Tribunal has rightly been granted. 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 ON COMPENSATION

6. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

General principles relating to compensation in injury cases

5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of



awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).

6. *The heads under which compensation is awarded in personal injury cases are the following :*

Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses. Non-pecuniary damages (General Damages)



(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

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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 under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

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

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

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



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:

<i>Heads</i>	<i>Awarded</i>
<i>Loss of earning power (Rs.14,648 x 12 x 31.1/100</i>	<i>Rs. 9,81,978/-</i>
<i>Future prospects (50 per cent addition)</i>	<i>Rs.4,90,989/-</i>
<i>Medical expenses including transport charges, nourishment, etc.</i>	<i>Rs.18,46,864/-</i>
<i>Loss of matrimonial prospects</i>	<i>Rs.5,00,000/-</i>
<i>Loss of comfort, loss of amenities and mental agony</i>	<i>Rs.1,50,000/-</i>
<i>Pain and suffering</i>	<i>Rs.2,00,000/-</i>
<i>Total</i>	<i>Rs.41,69,831/-</i>

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.

9. This Court is conscious of the recent authoritative pronouncement of Hon’ble the Supreme Court in **Anoop Maheshwari v. Oriental Insurance Company Ltd. & Others, 2025 INSC 1076**, wherein it has been unequivocally held



that, while determining compensation under the Motor Vehicles Act, the assessment of disability must be made with reference to the functional disability, namely, the extent to which the injuries sustained have impaired the earning capacity of the claimant, rather than being confined to the percentage of medical disability as certified by the medical expert.

10. In view of the aforesaid exposition of law by the Apex Court, the present appeal shall be examined bearing in mind that the determinative factor is the impact of the disability on the claimant's earning potential and livelihood, and not merely the medical abstraction of physical impairment.

11. A perusal of the record shows that the appellant was 26 years of age at the time of accident and was an M. Tech (Civil) and was employed as Manager Technical in Legend Surface Developers Pvt Ltd., Manesar Gurgaon at the time of the accident. It is not in dispute that the appellant met with an accident on 10.09.2008 and due to accident, his left hand became shortened and disfigured. The claimant/appellant suffered 70% permanent disability, as per Disability Certificate (Ex PW9/1). The learned Tribunal while granting the compensation has not taken into consideration the future of the appellant, consequent to the accident. The learned Tribunal has not assessed the monthly income of the appellant while awarding compensation, as the appellant was getting gross salary of Rs.50000/- per month, as per salary certificate (Ex PW3/B). The salary after deducting income tax would be Rs.42,917/- per month. Therefore, the monthly income of the appellant/claimant is assessed as Rs.42,917/-.



12. A perusal of the award further reveals that the learned Tribunal has not applied multiplier system while calculation compensation and no amount is granted for future prospects.

13. Further, with respect to awarding of compensation to the appellant/claimant under head “loss of amenities of life”, reference can be made to the judgment of Hon’ble the Supreme Court of India in the case of ***Sri. Benson George vs. Reliance General Insurance Co. Ltd. and another, passed in Civil Appeal No. 1540-2022, decided on 25.02.2022.*** The relevant portion of the judgment is reproduced as under:-

“7.2 Similarly, the amount of Rs.1,00,000/ awarded by the High Court under the head loss of amenities and happiness can also be said to be on lower side. As observed hereinabove no amount can compensate the loss of amenities and happiness more particularly a person who is in coma since number of years and is bedridden for the entire life.

In the facts and circumstances of the case, we are of the opinion that if the amount of compensation under the head loss of amenities and happiness is enhanced to Rs.10,00,000/ (Rupees Ten Lakhs) from that of Rs.1,00,000/ as awarded by the High Court, it can be said to be a reasonable amount under the head loss of amenities and happiness.

8. Now with regard to reliance placed upon the decisions of this Court in the case of [Raj Kumar](#) (supra) and Lalan D. alias [Lal](#) (supra), relied upon by learned counsel appearing on behalf of the Insurance Company is concerned, we are of the opinion that the amount of compensation to be awarded under the heads, pain and suffering and loss of amenities and happiness, there cannot be straight jacket formula. It depends upon



the facts and circumstances of each case and it varies from person to person who has suffered due to the accident. So far as awarding compensation on the head of pain, shock and suffering is concerned, multiple factors are required to be considered namely, prolonged hospitalization; the grievous injuries sustained; the operations underwent and the consequent pain, discomfort and suffering.

8.1 Similarly, loss of amenities and happiness suffered by the claimant and his family members also depend upon various factors, including the position of the claimant post-accident and whether, he is in a position to enjoy life and/or happiness which he was enjoying prior to the accident. To what extent the claimant has lost the amenities in life and the happiness will depend on the facts of each case.

Therefore, in the facts and circumstances of the present case when the claimant is in coma even after a period of eight long years and that he will have to be permanently bedridden during his entire life, as observed above the amount of compensation awarded under the head loss of amenities and happiness of Rs.1,00,000/- only is unreasonable and meagre.”

14. In view of above referred to judgment, it is very much clear that the compensation regarding loss of amenities of life depends upon the facts and circumstances of each case. While awarding the same, this Court must keep in mind multiple factors such as injuries suffered and the effect caused by these injuries, since the effect would not only be limited to the appellant alone but to his whole family members. Therefore, this Court is of considered view that the appellant must be awarded compensation under this head as well.



15. A perusal of the award further reveals that the compensation awarded for pain and suffering is also on the lower side. This Court in ***FAO No.1356-2007 titled as Ajay Kumar vs. Jasbir Singh and others, decided on 18.02.2025*** while assessing the compensation under the head of Pain and Suffering has held as under:-

42. So far as compensation towards pain and suffering is concerned, the Hon'ble Apex Court in ***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. Boisaubin[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 India 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.

43. *Further, the Hon'ble Supreme Court in the case of **Baby Sakshi Greola Vs. Manzoor Ahmad Simon and anothers, 2025(1) RCR (Civil) 238**, where the injured was a female child aged 7 years and had suffered grievous injuries, learned Tribunal awarded Rs.50,000/-towards pain and suffering, but the same was enhanced by the Hon'ble High Court to Rs. 12,00,000/-. When the matter reached to the Hon'ble Apex Court, the same was enhanced to Rs. 15,00,000/-.*

44. *In view of the settled law by Hon'ble Apex Court, since in the present case as well, the disability is 100% by applying the same parameters a compensation of Rs.15 lakhs is hereby awarded to the appellant-claimant towards pain and sufferings.*

16. In view of the above referred to judgment and considering that appellant/claimant has suffered 70% physical disability as depicted from Ex PW9/1, this Court deems it appropriate to grant Rs.2,00,000/- ***under the head of Pain and Suffering.***

17. A perusal of the award further reveals that the amount awarded for attendant charges, transportation charges, special diet is also on the lower side and the same is liable to be enhanced.

RELIEF

18. In view of the above, the present appeal is allowed and award dated 17.08.2011 is modified. Accordingly, as per the settled principles of law as laid



down by Hon’ble Supreme Court as mentioned above, the appellant-claimant is held entitled to the enhanced amount of compensation as calculated below:-

Income	Rs.42917/- per month
Loss of Future Prospect 40%	Rs.17167/-(42917X40%)
Annual Income	Rs.7,21,008/- (60084 X12)
Loss of future earning on account of 70% disability	Rs.5,04,706/- (70% of 7,21,008)
Multiplier of 17	Rs.85,80,002/- (504706X17)
Medical Expenses	Rs.4,30,662/-
Pain and suffering	Rs.2,00,000/-
Attendant Charges	Rs.70,000/-
Transportation Charges	Rs.50,000/-
Loss of amenities of life	Rs.1,00,000/-
Special Diet	Rs.50,000/-
Total compensation awarded:-	Rs.94,80,664/-
Deduction:- Amount awarded by Tribunal	Rs.5,70,662/-
Enhanced amount of compensation	Rs.89,10,002/- (9480664- 570662)

19. 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 amount so calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

20. Respondent No.1-Insurance Company is directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed

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to disburse the same to the appellant-claimant in his bank account. The appellant-claimant is directed to furnish his bank account details to the Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

12.09.2025

Gaurav Arora

Whether speaking/non-speaking : Yes

Whether reportable : Yes