IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 19.06.2025

\+ **MAC.APP. 380/2023 & CM APPL. 40664/2023**

SHRI RAM GENERAL INSURANCE COMPANY LIMITED .....Appellant

versus

HANS RAJ YADAV & ORS. .....Respondents

MAC.APP. 408/2023

HANS RAJ YADAV .....Appellant

versus

HARUN KHAN & ORS. .....Respondents

Advocates who appeared in this case:

For the Appellant(s) : Ms. Niyati, Adv. through V.C. in MAC.APP. 380/2023.
Mr. Bhupesh Narula, Mr. Yogesh Narula & Mr. Abhin Narula, Advs. in MAC.APP. 408/2023.

For the Respondent(s) : Mr. Bhupesh Narula, Mr. Yogesh Narula & Mr. Abhin Narula, Advs. in MAC.APP. 380/2023.
Ms. Niyati, Adv. through V.C for Insurance Company in MAC.APP. 408/2023.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeals are filed under Section 173 of the Motor Vehicles Act, 1988 (hereinafter '**MV Act**') challenging the quantum of compensation awarded by the learned Motor Accident Claims Tribunal *vide* award dated 15.05.2023 (hereafter '**the impugned award**'), passed in MACT No. 127/2016.

2. MAC.APP. 380/2023 has been filed by the Insurance Company seeking reduction of compensation awarded by the learned Tribunal, while MAC.APP. 408/2023 has been filed by the injured seeking enhancement of compensation awarded by the learned Tribunal.

3. The brief facts are that on 05.07.2015 at about 11:15 a.m., the appellant/injured was travelling as a pillion rider on a motorcycle bearing No. DL-8S-ND-2225 being driven by his son. When they reached near Bhagat Singh Chowk, Sector-5, Gurgaon, a truck bearing No. HR-55-P-9031, allegedly being driven in a rash and negligent manner hit the motorcycle from behind.

4. Due to the impact, both the appellant/injured as well as his son fell on the road and sustained injuries. The appellant/injured sustained grievous injuries on his head, whereafter, he was taken to a hospital for treatment.

5. This incident led to the registration of FIR No. 416/2015 at Police Station Sector-5, Gurgaon, for the offences under Sections 279/337/338 of the Indian Penal Code, 1860 ('**IPC**'). After the

completion of investigation, the police charge sheeted the driver of the offending vehicle for the said offences.

6. The learned Tribunal, after examining the pleadings, evidence, and documents on record, assessed the compensation at ₹1,15,37,400/- and awarded an interest at the rate of 7.5% per annum to the appellant/injured. The details thereof are as under:

S.no.	**Heads of Compensation**	**Amount**
1.	Expenditure on Treatment	₹4,00,000/-
2.	Expenditure on Conveyance and Special Diet	₹75,000/- and ₹75,000/-
3.	Cost of Nursing/Attendant	₹25,69,008/-
4.	Loss of Income during Treatment	₹4,16,392/-
5.	Any other loss which may require any special treatment or aid to the injured for the rest of his life	₹2,00,000/-
6.	Mental and Physical Shock	₹1,00,000/-
7.	Pain and Suffering	₹2,00,000/-
8.	Loss of Amenities of Life	₹1,00,000/-
9.	Disfiguration	₹1,00,000/-
10.	Loss of Future Income	₹73,02,000/-
	TOTAL	**₹1,15,37,400/-**

7. Aggrieved by the quantum of compensation awarded, the appellants have preferred the present appeals.

8. The learned Counsel for the appellant/Insurance Company submitted that the learned Tribunal failed to consider the aspect of contributory negligence as the appellant/injured at the time of the accident was travelling on a motorcycle as a pillion rider without wearing a helmet.

9. He submitted that the learned Tribunal while awarding a sum of ₹2,00,000/- under the head of any other loss which may require any special treatment for the rest of his life, failed to consider that the appellant/injured had not placed any evidence to substantiate the said claim.

10. He submitted that the learned Tribunal erred in applying the multiplier system while computing compensation under the head of attendant charges. He submitted that appellant/injured failed to produce bills regarding expense incurred for an attendant and was wrongly awarded an amount of ₹25,69,008/- under the said head.

11. He submitted that the learned Tribunal failed to appreciate that the appellant/injured at the time of the accident was 50 years old and would have retired from service at the age of 58, thereby, the learned Tribunal erred in applying the multiplier of 13 at the time of assessing the income of the appellant/injured.

12. He further submitted that the learned Tribunal erred while awarding a sum of ₹4,00,000/- under the head of loss of income

during treatment. He submitted that the appellant/injured due to the accident had taken voluntary retirement and was not asked to leave service, the said fact was not considered by the learned Tribunal.

13. *Per contra*, the learned counsel for the appellant/injured submitted that the learned Tribunal while relying on the last drawn salary slip of the appellant/injured erred in deducting an amount of ₹4,000/- per month towards income tax and ought have relied on the Form-16 issued by the employer of the appellant/injured.

14. He submitted that the learned Tribunal erred in deducting the amount received as pension at the time of assessing the income of the appellant/injured.

15. He further submitted that interest awarded at the rate of 7.5% per annum is on the lower side and that the same should be enhanced to 9% per annum.

16. The appellant/injured also challenged the award of ₹1,00,000/- for loss of amenities, ₹1,00,000/- for mental and physical shock and ₹2,00,000/- for pain and suffering, arguing that these amounts are inadequate given the severity of his disability.

17. I have heard the learned counsel for the parties and perused the record.

Analysis

18. The short question for consideration before this Court is whether the compensation as awarded by the learned Tribunal ought to be enhanced or reduced.

19. It is well-settled that the amount of compensation awarded under the MV Act should be just and, to the extent possible, should fully and adequately restore the claimant to a position as existed prior to the accident. The object being to make good the loss suffered as a result of the accident in a fair, reasonable and equitable manner.

20. By its very nature, when a tribunal or court is tasked with determining the amount of compensation in accident cases, it inevitably involves a degree of estimation, hypothetical assessments, and a measure of compassion related to the severity of the disability sustained. However, all these factors must be evaluated with objective standards.

Contributory Negligence

21. The learned counsel for the appellant/Insurance Company contended that the appellant/injured at the time of the accident was not wearing a helmet and the learned Tribunal ought to have deducted some amount of compensation towards contributory negligence.

22. This Court in the case of ***Vimla Devi and Anr. v. Royal Sundaram All Ins Co. Ltd. & Anr.*** **: MAC.APP. 653/2018** while dealing with a similar circumstance of attributing contributory negligence on a pillion rider for not wearing a helmet observed as under:

> *"4. The learned counsel for the respondents submits that the deceased fully knew that the mounting of three persons on a moving scooty was impermissible under motor traffic rules. The accident occurred in the middle of the road.* ***The pillion riders were not wearing helmets, therefore, there appears to be contributory negligence. The Court is of the view that the***

> ***aforesaid argument is untenable because not wearing a helmet could at best be a traffic offence and not necessarily be regarded as contributing to the motor accident itself.*** *After an accident occurs, its consequence depends upon the impact. In the present case, the two vehicles crashed into each other in a 'head on collision'. The contribution of the pillion rider is not made out from the nature of the accident. Surely, the oncoming offending motor vehicle was being driven in a rash and negligent manner. In no circumstance, the deceased-pillion rider could be said to have contributed to the said accident. The deceased was the first pillion rider sitting immediately behind the scooterist. It is the second pillion rider who could well have misbalanced because he was sitting on the edge of the rear seat, therefore, the one pillion sandwiched between the other two riders would be the most securely seated, yet he died in the unfortunate accident. The pillion was not in control of the scooty. Hence, no case is made out for apportionment of contributory negligence upon the deceased."*
>
> (emphasis supplied)

23. In the present case, the learned Tribunal in order to establish negligence examined PW-2, son of the appellant/injured, who was riding the motorcycle at the time of the accident. He deposed that it was due to the impact from the offending vehicle that the appellant/injured had received severe injuries on his head.

24. He was cross-examined by the appellant/Insurance Company, however his deposition could not be impeached. The learned Tribunal noted that under MACT proceedings the aspect of negligence is not required to be proved beyond reasonable doubt.

25. Undisputedly the driver of the offending vehicle has not filed any complaint regarding his false implication and is facing criminal trial as an accused for the present accident.

26. Further the appellant/Insurance Company at the time of cross-examination did not give a suggestion to the son of the appellant/injured of whether the appellant/injured was wearing a helmet at the time of the accident. Thus, benefit of doubt can be given to the appellant/injured.

27. Therefore, in the opinion of this Court, the learned Tribunal after examining the record rightly noted that the present accident was caused due to the rash and negligent driving of the driver of the offending vehicle.

28. Therefore, in light of the observations made in ***Vimla Devi and Anr. v. Royal Sundaram All Ins Co. Ltd. & Anr.*** (**supra**) not wearing a helmet by the appellant/injured at the time of the accident can at best be considered as a violation of traffic rules and cannot be attributed as negligence in causing the said motor accident. The impugned award is affirmed to that extent.

Compensation for any other loss which may require any special treatment for the rest of his life

29. The learned counsel for the appellant/Insurance Company contended that the learned Tribunal at the time of computing compensation payable to the appellant/injured erred in awarding a sum of ₹2,00,000/- under the head of any other loss which may require any special treatment for the rest of his life.

30. In the present case the appellant/injured sustained grievous injuries on his head, whereafter, the learned Tribunal assessed the functional disability of the appellant/injured at 100%.

31. PW-1, Dr. Kalpana during the trial had proved Ex PW1/3, Disability Certificate assessing permanent disability of the appellant/injured at 83%. She further deposed that the appellant had sustained such injuries due to the accident.

32. PW-4, Dr. Deepak Kumar deposed that the due to the severe head injuries sustained by the appellant/injured, he had developed behavioral disturbances in the form of irritability, unprovoked aggression and inability to maintain daily activities without assistance.

33. In the opinion of this Court, the learned Tribunal rightly awarded an amount of ₹2,00,000/- under the said head. Due to the accident the appellant had suffered grievous injuries on his head as well as on his body. The nature of injuries as deposed by the expert witnesses would require the victim to visit the hospital regularly for his medical checkups and treatment of the doctors at various hospitals in and outside of Delhi. It would be reasonable to assume that large amount of money will be spent on such medical treatment for which no evidence can be produced at this stage and the learned Tribunal is permitted to make reasonable assessment of the expenses that would be incurred.

34. Sum awarded under this head cannot be said to be unreasonable. The impugned award is affirmed to that extent.

Attendant Charges

35. The learned counsel for the appellant/Insurance Company contended that the learned Tribunal erred in applying the multiplier system and thereby awarding an amount of ₹25,69,008/- towards

attendant charges without any evidence being led by the appellant/injured for the same.

36. In the present case, the learned Tribunal assessed the attendant charges by relying on the judgment of this Court in ***Jyoti Singh v. Nand Kishore & Others*** **: MAC.APP. 870/2011**, wherein it was held that while calculating the compensation for an attendant the multiplier system ought to be applied as such expenses are recurring in nature.

37. The learned Tribunal in the present case assessed the amount of compensation under the head of attendant charges by taking an amount of ₹16,468/- per month which are the minimum wages of a skilled labour applicable for Delhi in 2017 and thereafter applying the same multiplier used for assessing the income of the appellant/injured.

38. The Hon'ble Apex Court in the case of ***Kajal v. Jagdish Chand*** **: (2020) 4 SCC 413** held for determining compensation payable towards attendant charges the multiplier system should be followed. The relevant portion of the judgment is reproduced hereunder:

> *"22. The attendant charges have been awarded by the High Court @ Rs.2,500/ per month for 44 years, which works out to Rs.13,20,000/. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various factors are taken into consideration.* ***When compensation is paid in lump sum, this Court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges etc****. This system was recognised by this Court in Gobald Motor Service Ltd. v. R.M.K. Veluswami. The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method*

> *has been recognised as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of 'just compensation' within the meaning of the Act."*
> (emphasis supplied)

39. In the present case, the appellant had not produced any evidence before the learned Trial Court regarding attendant charges.

40. However, considering the depositions made by PW-1 and PW-4 stating that the appellant/injured suffered from severe head injuries due to the accident and as a result had developed behavioural disturbances, the learned Tribunal rightly noted that he would require assistance of one permanent attendant.

41. It is also common knowledge that evidence for any future expenses that would be incurred for an attendant cannot be adduced by the appellant/injured at this stage. Therefore, the learned Tribunal was right in making an assessment regarding that aspect.

42. Hence, in light of the observations made in ***Kajal v. Jagdish Chand*** (**supra**) and keeping in view the specific facts and circumstances of the present case, this Court is of the opinion the learned Tribunal rightly applied the multiplier system while calculating the compensation under the head of attendant charges.

43. In view of the aforesaid discussion the amount of ₹25,69,008/- awarded under the head of attendant charges is adequate. The impugned award is affirmed to that extent.

Income Tax

44. The learned counsel for the appellant/injured submitted that the learned Tribunal erred in assessing the income of the

appellant/injured. He contended that the learned Tribunal wrongly relied on the last drawn salary slip of the appellant/injured and deducted an amount of ₹4,000/- per month towards income tax. He further contended that the learned Tribunal ought have relied upon Form-16 issued by the employer of the appellant/injured which records that the total tax liability of the appellant/injured was ₹16,487/- per annum.

45. The Hon'ble Apex Court in the case of ***Sarla Verma v. Delhi Transport Corporation ans Anr.* : (2009) 6 SCC 121** held that for calculating compensation, the income of the victim less the income tax should be treated as the actual income.

46. In ***Vimal Kanwar and Ors. v. Kishore Dan and Ors.* : (2013) 7 SCC 476**, the Hon'ble Apex Court while relying on the judgement of ***Sarla Verma v. Delhi Transport Corporation ans Anr.* (supra)** observed as under:

> *"22. The third issue is "whether the income tax is liable to be deducted for determination of compensation under the Motor Vehicles Act".*
>
> *23. In Sarla Verma this Court held:*
>
> > *"20. Generally, the actual income of the deceased less income tax should be the starting point for calculating compensation"*
>
> *This Court further observed that:*
>
> > *"24. … Where the annual income is in taxable range, the words 'actual salary' should be read as 'actual salary less tax'."*

Therefore, it is clear that if the annual income comes within the taxable range, income tax is required to be deducted for determination of the actual salary. *But while deducting income tax from the salary, it is necessary to notice the nature of the income of the victim. If the victim is receiving income chargeable under the head "salaries" one should keep in mind that under Section 192(1) of the Income Tax Act, 1961 any person responsible for paying any income chargeable under the head "salaries" shall at the time of payment, deduct income tax on estimated income of the employee from "salaries" for that financial year. Such deduction is commonly known as tax deducted at source ("TDS", for short). When the employer fails in default to deduct the TDS from the employee's salary, as it is his duty to deduct the TDS, then the penalty for non-deduction of TDS is prescribed under Section 201(1-A) of the Income Tax Act, 1961.* ***Therefore, it is clear that if the annual income comes within the taxable range, income tax is required to be deducted for determination of the actual salary. But while deducting income tax from the salary, it is necessary to notice the nature of the income of the victim.*** *If the victim is receiving income chargeable under the head "salaries" one should income of the victim is only from "salary", the presumption would be that the employer under Section 192(1) of the Income Tax Act, 1961 has deducted the tax at source from the employee's salary. In case if an objection is raised by any party, the objector is required to prove by producing evidence such as LPC to suggest that the employer failed to deduct the TDS from the salary of the employee. However, there can be cases where the victim is not a salaried person i.e. his income is from sources other than salary, and the annual income falls within taxable range, in such cases, if any objection as to deduction of tax is made by a party then the claimant is required to prove that the victim has already paid income tax and no further tax has to be deducted from the income."*

(emphasis supplied)

47. In the present case, the learned Tribunal noted that Form-16 which was Ex. PW3/3 had been issued by the employer of the appellant/injured for the period of March 2016 to February 2017. It was further noted that in order to assess the income of the appellant/injured the last drawn salary slip which is Ex. PW3/2 ought to be considered.

48. This Court in the case of ***Usha & Ors. v. Akbar & Ors. (United India Insurance Co. Ltd.)*** **: MAC.APP. 83/2017** while dealing with a similar circumstance held that for assessing the income of the victim the last drawn salary slip ought to be considered and not Form-16. The relevant portion of the judgment is reproduced hereunder:

> *"9. The reliance of the learned counsel for the appellants on Form No. 16 cannot be accepted as a conclusive proof for the determination of income of the deceased. The TDS is deducted on the amount paid by the employer, which would also include the amounts paid for reimbursement of actual expenses, or other allowances which would be personal to the deceased, and which would not survive on his death. in my view, therefore, the document which is to be relied upon, in the facts of the present case, for determining the income of the deceased has to be the Salary Slip, as it gives the complete breakup of the amount paid to the deceased under various heads."*

49. From a perusal of the salary slip which is Ex. PW3/2 the appellant/injured was receiving gross salary of ₹56,772/- per month. Further an amount of ₹4,000/- was being deducted towards income tax.

50. Therefore, in light of the observations made in ***Usha & Ors. v. Akbar & Ors. (United India Insurance Co. Ltd.)*** (**supra**), the learned

Tribunal rightly deducted an amount of ₹4,000/- per month towards income tax. The impugned award is affirmed to that extent.

Pension

51. The learned counsel for the appellant/injured contended that the learned Tribunal erred in deducting an amount of ₹21,800/- received as pension while assessing the income of the appellant/injured.

52. The Hon'ble Apex Court in the case of ***Vimal Kanwar and Ors. v. Kishore Dan and Ors.*** (**supra**) held that amount received under the heads of provident fund, pension and gratuity cannot be deducted at the time of assessing the income of the victim of a motor accident as such amounts are pecuniary advantages provided to the legal heirs of the victim. The relevant observations are reproduced hereunder:

> *"18. The first issue is "whether provident fund, pension and insurance receivable by the claimants come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction".*
> *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. 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. 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. The heirs receive family pension even otherwise than the accidental death. No co-relation between the two. 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. Death is only a step or contingency in terms of the contract, to receive the amount. 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. How could such an amount come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction. 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. 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. 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.""

53. In the present case, the appellant/injured was working as a Sub Inspector GD in Central Reserve Police Force. As per the Disability Certificate which is Ex. PW1/3 he had suffered 83% permanent disability due to the accident, as a result he had to take voluntary retirement from service.

54. It is pertinent to note that after taking voluntary retirement from service, he was getting pension of ₹21,800/- per month.

55. In light of the observations made by the Hon'ble Apex Court in the case of ***Vimal Kanwar and Ors. v. Kishore Dan and Ors.*** (**supra**), I am of the opinion that the pension amount of ₹21,800/- received by the appellant/injured in lieu of his service rendered, would act as a pecuniary advantage to the legal heirs of the appellant/injured and would enable them to sustain themselves in the future.

56. It is well-settled that the amount of compensation awarded under the MV Act should be just and, to the extent possible, should fully and adequately restore the claimant to a position as existed prior to the accident. The object being to make good the loss suffered as a result of the accident in a fair, reasonable and equitable manner.

57. In the present case, considering the beneficial legislation of the MV Act as held by the Hon'ble Apex Court in the case of ***State of Arunachal Pradesh v. Ramchandra Rabidas alias Ratan Rabidas and another*** : **(2019) 10 SCC 75**, in the opinion of this Court the learned Tribunal ought not to have deducted the pension amount at the time of assessing the income of the appellant/injured.

58. In view of the aforesaid discussion the learned Tribunal is directed to re-assess the income of the appellant/injured by keeping in mind the observations made by the Hon'ble Apex Court in the case of ***Vimal Kanwar and Ors. v. Kishore Dan and Ors.*** (**supra**). The impugned award is modified to that extent.

Compensation for Pain and Suffering as well as Mental and Physical Shock

59. It was argued on behalf of the appellant/injured that the sum awarded towards pain and suffering, and mental and physical shock does not adequately reflect the intensity of the physical pain, multiple surgeries and the emotional trauma endured by the appellant/injured.

60. At this juncture, it is apposite to refer to the judgment in the case of ***R.D. Hattangadi vs Pest control (India) Pvt. Ltd. & Ors* : (1995) 1 SCC 551**, where the Hon'ble Apex Court has expounded on the compensation under pecuniary and non- pecuniary heads that can be awarded in cases of personal injury. The relevant portion of the judgment is reproduced hereunder:

> "***9.*** *Broadly speaking while fixing an amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages... In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far non-pecuniary damages are concerned, they may include* ***(i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in future;*** *(ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.*"
>
> (emphasis supplied)

61. In the present case, the learned Tribunal assessed the functional disability of the appellant/injured at 100%. The disability is stated to be permanent.

62. The learned Tribunal further noted that the appellant/injured due to the accident had suffered severe head injuries and as a result developed behavioral disturbances. The learned Tribunal further noted that due to the injuries sustained the appellant/injured was admitted in a hospital for a considerable time and would have endured a lot of physical pain during his treatment.

63. In the opinion of this Court, the learned Tribunal, though erred in awarding separate compensation of ₹1,00,000/- and ₹2,00,000/- under the distinct heads of mental and physical shock and pain and suffering respectively, the learned Tribunal ought to have treated them as falling under a consolidated head of pain and suffering, which encompasses both physical and mental trauma.

64. Nevertheless, the total compensation of ₹3,00,000/- awarded under these overlapping heads is just, fair and adequate and does not warrant any interference by this Court.

Loss of Amenities

65. It is the contention of the appellant/injured that the learned Tribunal has awarded a lesser amount towards loss of amenities.

66. In the present case, the functional disability of the appellant/injured was assessed at 100%. The son of the appellant/injured deposed that after the accident, his father has not been in full senses and has difficulty in leading his life and requires assistance of an attendant.

67. Therefore, keeping in view the nature of injuries suffered by the appellant/injured, this Court is of the opinion that the learned Tribunal

erred in awarding a meagre sum of ₹1,00,000/- under the head of loss of amenities and the same is enhanced to ₹2,00,000/- is awarded. The impugned award is modified to that extent.

Miscellaneous Head

68. The appellant/Insurance Company has also made a general assertion that the learned Tribunal erred in awarding compensation under certain ancillary heads—such as loss of income during treatment and applying wrong multiplier at the time of assessing the income of the appellant/injured. In the opinion of this Court, the findings of the learned Tribunal are consistent with the legal position and evidentiary material on record. In the absence of any specific pleadings, supporting evidence, or quantified claim under these categories, this Court does not find any justifiable ground to interfere with the compensation awarded under the miscellaneous heads.

Rate of Interest

69. The appellant/injured is aggrieved by the rate of interest of 7.5% per annum. The same appears to be on the lower side.

70. It is pertinent to note that this Court in the case of ***United India Insurance Company Ltd v. Smt. Mithlesh Kumari and Ors*** **: MAC. APP. 161/2025** had noted that the award of interest is a matter of judicial discretion, and that the same found its genesis in the forbearance of the claimants who are kept out of the money that they are entitled to at the time of filing of the claim petition. It was consequently noted that the award of @9% interest is a reasonable assessment.

71. While there is no set standard for the grant of rate of interest in every case, in the opinion of this Court, the rate of interest as awarded by the learned Tribunal is on the lower end and therefore, interest at the rate of 9% per annum is awarded to the appellant/injured.

Conclusion

72. Keeping in view the facts and circumstances of the case, the appeal preferred by the appellant/Insurance Company is dismissed.

73. The appeal preferred by the appellant/injured is partly allowed. The matter is remanded back to the learned Tribunal for the limited purpose of re-determining the compensation by taking into consideration (i) re-assess the income of the appellant/injured by not deducting the requisite amount received as pension, (ii) award a sum of ₹2,00,000/- as compensation towards loss of amenities, (iii) enhance the rate of interest and finally compute the compensation of the appellant afresh.

74. The findings of the Tribunal on all other issues are affirmed and shall remain undisturbed.

75. The learned Tribunal shall undertake this re-computation expeditiously, preferably within a period of four weeks from the date of the first listing of the Claim Petition before the learned Tribunal on remand.

76. The parties shall appear before the learned Tribunal on 09.07.2025.

77. The compensation amount so determined, on remand, shall be released in favour of the appellant in accordance with the schedule of

disbursal which will be stipulated by the learned Tribunal.

78. A copy of this judgment be placed in both the matters.

AMIT MAHAJAN, J

JUNE 19, 2025