2026:DHC:7841

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

% ***Reserved on : 13th August 2026***
Pronounced on : 15th September 2026
Uploaded on : 16th September 2026

\+ **MAC.APP. 156/2014**

UDAYVIR SINGH MEENA .....Appellant

Through: Mr. Anshuman Bal, Ms. Aastha Chauhan, and Mr. Abhinav Sharma, Advocates.

versus

BHARTI AXA GEN INS CO LTD & ORS .....Respondents

Through: Ms. Suman Bagga, Ms. Mouli Sharma, Advs. for R-1.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

1. This appeal has been filed by appellant/claimant seeking enhancement of compensation awarded by judgment dated 09th October 2013 passed by the Motor Accident Claims Tribunal [‘***MACT/Tribunal***’], South District, Saket Courts in Suit No. 161/2013 whereby compensation of *Rs. 5,77,500/-* along with interest *@9%* per annum from the date of filing of the petition was awarded on account of injuries sustained by *Udayvir Singh Meena* (since deceased).

The accident

2. On 5th February 2011, at about 6:15 A.M., the injured was standing near a police patrolling car and having tea when an offending vehicle bearing registration No. RJ-32-GA-5445, driven in a rash and negligent

manner, hit him and the police patrolling car. As a result of the accident, the injured fell down and sustained grievous injuries. FIR No. 188/2011 was registered at P.S. Indrapuram. The injured was 52 years old on the date of the accident and was employed as a constable with the Uttar Pradesh Police.

<u>The impugned award</u>

3. The MACT noted that injured sustained crush injury to the right hand with amputation of index and middle finger and multiple other injuries. As per the Disability Certificate annexed as **Ex PW1/2** the permanent physical disability was certified at *79%* in relation to right upper limb.

4. The Tribunal, in *paragraph 19,* noted that although the injured's career during his service would not be affected, his disability would affect him upon superannuation, and he would have difficulty in securing suitable employment after retirement. Accordingly, the Tribunal awarded a lump-sum amount of *Rs. 1,50,000/-* towards loss of amenities and future prospects (i.e. *loss of earning potential*).

5. The Tribunal also awarded compensation under various heads, including *Rs. 2,60,000/-* towards medical expenses, *Rs. 35,000/-* towards pain and suffering and loss of enjoyment of life, and *Rs. 1,07,500/-* towards loss of income. However, no compensation was awarded towards loss of future income.

<u>Proceedings before this Court</u>

6. The injured/claimant expired on 22nd June 2019 during the pendency of the appeal and was survived by his wife, three sons, and three

daughters. An application, being CM No. 64707/2025, was filed for the impleadment of his legal heirs. *Vide* order dated 30th April 2026, the Joint Registrar (Judicial) noted that the right to sue survives in the applicants and that no objections had been raised by respondent no. 1.

Submission of Appellant

7. *Mr. Anshuman Bal*, counsel for appellant/claimant, submits that the loss of future income ought to have been calculated on the basis of the multiplier method, by taking into account the injured's salary along with future prospects and applying a multiplier of 9 for the post-retirement period.

8. It is further contended that the claim of the injured does not abate upon his death and survives in favour of his legal representatives, who are entitled to pursue the claim for enhancement of compensation on his behalf.

Submission of Respondent/ Insurance Company

9. *Ms. Suman Bagga*, counsel for respondent/ Insurance Company, on the issue of computation of loss of future income, relies upon the order of the Supreme Court in ***New India Assurance Co. Ltd. v. Satish Chandra Sharma & Anr.***, SLP No. 14350/2019, decided on 23rd February 2022, and ***I. Royappan v. The Divisional Manager, United India Insurance Co. Ltd. & Anr.***, Civil Appeal No. 19840/2017, decided on 26th September 2019, to submit that the Supreme Court has calculated loss of future income for the post-retirement period not on the basis of the multiplier method, but by awarding a notional lump-sum amount.

10. It is further submitted that the injured passed away during the pendency of the appeal. Without prejudice to the aforesaid submission, it is contended that, if any compensation is to be granted, it should be limited to a period of one year, relying upon the judgment of the Supreme Court in ***Dhannalal v. Nasir Khan***, 2025 SCC OnLine SC 2083, wherein the Supreme Court determined the multiplier in the case of an injured claimant who subsequently passed away on the basis of his actual lifespan, i.e. the period during which the injured remained alive. In the present case, it was argued that since the injured survived for only one year after his retirement, a multiplier of 1 ought to be applied.

Analysis

11. The question that arises for consideration in the present case is as to the appropriate multiplier to be applied in computing the loss of future earnings of a constable who sustained injuries in the accident and subsequently died at the age of 61 years. It has been contended that, since the injured died at the age of 61 years which was beyond the age of superannuation at 60, a multiplier of 1 ought to be applied in respect of the post-retirement loss of income, the actual lifespan. Before examining this contention, it would be apposite to trace the development of the multiplier method and the rationale underlying its adoption by the Supreme Court.

12. The multiplier method was explained by the Supreme Court in ***Kerala State Road Transport Corporation v. Susamma Thomas***, (1994) 2 SCC 176. The Court explained that the multiplier represents the number of years' purchase on the basis of which the loss of dependency is capitalised. The underlying principle is to determine the capital sum

which, if invested at an appropriate rate of interest in a stable economy, would yield the multiplicand by way of annual interest, while ensuring that the capital itself is exhausted over the period for which the dependency is expected to continue. The Court recognised that such assessment necessarily involves a degree of hypothesis, since life is attended by several imponderables, and accordingly emphasised that the object is to assess the overall loss suffered as fairly and reasonably as possible.

13. The Court, while explaining the rationale for adopting the multiplier method noted as under:

> "***16.*** *It is necessary to reiterate that the multiplier method is logically sound and legally well-established. There are some cases which have proceeded to determine the compensation on the basis of aggregating the entire future earnings for over the period the life expectancy was lost, deducted a percentage therefrom towards uncertainties of future life and award the resulting sum as compensation. This is clearly unscientific. For instance, if the deceased was, say 25 years of age at the time of death and the life expectancy is 70 years, this method would multiply the loss of dependency for 45 years — virtually adopting a multiplier of 45 — and even if one-third or one-fourth is deducted therefrom towards the uncertainties of future life and for immediate lump sum payment, the effective multiplier would be between 30 and 34. This is wholly impermissible. We are, aware that some decisions of the High Courts and of this Court as well have arrived at compensation on some such basis. These decisions cannot be said to have laid down a settled principle. They are merely instances of particular awards in individual cases. The proper method of computation is the multiplier-method. Any departure, except in exceptional and extraordinary cases, would introduce inconsistency of principle, lack of uniformity and an element of unpredictability for the assessment of compensation. Some*

judgments of the High Courts have justified a departure from the multiplier method on the ground that Section 110-B of the Motor Vehicles Act, 1939 insofar as it envisages the compensation to be 'just', the statutory determination of a 'just' compensation would unshackle the exercise from any rigid formula. It must be borne in mind that the multiplier method is the accepted method of ensuring a 'just' compensation which will make for uniformity and certainty of the awards. We disapprove these decisions of the High Courts which have taken a contrary view. We indicate that the multiplier method is the appropriate method, a departure from which can only be justified in rare and extraordinary circumstances and very exceptional cases."

(emphasis supplied)

14. The principle enunciated in ***Susamma Thomas*** (*supra*) was subsequently affirmed and further systematised by the Supreme Court in ***Sarla Verma v. Delhi Transport Corporation***, (2009) 6 SCC 121. While setting out the steps for determination of compensation, the Court explained the manner in which the multiplier is to be selected. In *paragraph 19*, the Court held as under:

"***19.*** *To have uniformity and consistency, the Tribunals should determine compensation in cases of death, by the following well-settled steps:*

Step 1 (Ascertaining the multiplicand)

The income of the deceased per annum should be determined. Out of the said income a deduction should be made in regard to the amount which the deceased would have spent on himself by way of personal and living expenses. The balance, which is considered to be the contribution to the dependant family, constitutes the multiplicand.

Step 2 (Ascertaining the multiplier)

Having regard to the age of the deceased and period of active career, the appropriate multiplier should be selected. This does not mean ascertaining the number of years he would have lived or worked but for the accident. Having regard to several imponderables in life and economic factors, a table of multipliers with reference to the age has been identified by this Court. The multiplier should be chosen from the said table with reference to the age of the deceased.”

(emphasis supplied)

15. It is significant that the Supreme Court, while explaining the manner of selecting the multiplier, expressly cautioned that the multiplier is not to be understood as representing the number of years for which the deceased would have lived or continued to work but for the accident. Rather, the multiplier is a standardised figure evolved after taking into account the various imponderables of life and relevant economic factors. In ***Sarla Verma*** (supra), the Court also identified discrepancies in the multipliers that had evolved through earlier decisions and set out a standardised table in *paragraph 42* with a view to achieving consistency and uniformity in the assessment of compensation.

16. The aforesaid principles were subsequently affirmed by the Constitution Bench in ***National Insurance Co. Ltd. v. Pranay Sethi***, (2017) 16 SCC 680. The Constitution Bench held that, while determining the multiplier, the courts and Tribunals are to be guided by Step 2 in *paragraph 19* of ***Sarla Verma*** (*supra*), read with the table set out in *paragraph 42* thereof.

17. It is also well settled that the multiplier method is not confined to cases involving fatal accidents or loss of dependency. In ***Raj Kumar v.***

Ajay Kumar, (2011) 1 SCC 343, the Supreme Court explained the manner in which compensation is calculated in case of injury under head of loss of future earning capacity. The Court recognised that loss of future earnings is to be determined by adopting the multiplier method. Thus, the multiplier method constitutes the recognised method for assessing loss of future earnings in injury cases as well.

18. The rationale underlying the adoption of the multiplier method is equally important. The Supreme Court in ***Sarla Verma*** (*supra*) expressly identified the absence of uniformity and consistency in the determination of compensation as a matter of serious concern. The Court observed as under:

> "***14.*** *The lack of uniformity and consistency in awarding compensation has been a matter of grave concern. Every district has one or more Motor Accidents Claims Tribunal(s). If different Tribunals calculate compensation differently on the same facts, the claimant, the litigant, the common man will be confused, perplexed and bewildered. If there is significant divergence among the Tribunals in determining the quantum of compensation on similar facts, it will lead to dissatisfaction and distrust in the system.*
> **…**
> ***17.*** *Assessment of compensation though involving certain hypothetical considerations, should nevertheless be objective. Justice and justness emanate from equality in treatment, consistency and thoroughness in adjudication, and fairness and uniformity in the decision-making process and the decisions. While it may not be possible to have mathematical precision or identical awards in assessing compensation, same or similar facts should lead to awards in the same range. When the factors/inputs are the same, and the formula/legal principles are the same, consistency and uniformity, and not divergence and freakiness, should be the result of adjudication to arrive at*

just compensation. In Susamma Thomas [(1994) 2 SCC 176 : 1994 SCC (Cri) 335] , this Court stated: (SCC p. 185, para 16)*

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

(emphasis supplied)

19. The aforesaid authorities therefore establish certain principles which are material to the issue at hand. ***First,*** the multiplier is not a mathematical representation of the number of years for which the injured person would, in fact, have lived or continued in employment but for the accident. ***Secondly***, the multiplier is a standardised factor evolved by the Supreme Court after taking into account several imponderables of life and economic considerations. ***Thirdly***, the multiplier method is the recognised method for determining loss of future earnings in cases of permanent disability arising from injuries. ***Fourthly,*** the standardisation of the multiplier is intended to ensure consistency, certainty, and uniformity in the determination of compensation.

20. Reliance for determining the multiplier as 1 has been placed on the judgment of ***Dhannalal*** (*supra*) where the injured was 45 years on the date of the accident and multiplier of 14 should have been applied, however since injured lived only 11 years, the multiplier of 11 was adopted, basis the actual life span. However, this assessment does not use the rationale of the multiplier which as discussed above, was enunciated by the larger Bench of Supreme Court, including the Constitutional Bench.

The Supreme Court in ***Sarla Verma*** (*supra*) endorsing ***Susamma Thomas*** (*supra*) held that multiplier cannot be representative of how many years a person would have lived or worked if not for the accident.

21. In this case, the subsequent death of the injured person, where such death is unrelated to the injuries sustained in the accident, cannot by itself be treated as determinative of the multiplier. The occurrence of death is itself one of the imponderables of life which the multiplier method, as standardised by the Supreme Court, seeks to accommodate. The multiplier is not intended to be recalculated retrospectively by reference to the actual period for which the injured person ultimately survived or remained in employment. To do so would, in substance, defeat the very rationale for adopting a standardised multiplier and would reintroduce the uncertainty and individualised calculations which the Supreme Court in ***Susamma Thomas*** (*supra*) and ***Sarla Verma*** (*supra*) expressly sought to avoid.

22. Consequently, the mere fact that the injured person subsequently died at the age of 61 years, and that such death was unrelated to the injuries sustained in the accident, cannot lead to the application of a multiplier of 1 on the premise that there was loss of only one year of post-retirement income. Such an approach would effectively equate the multiplier with the actual number of years for which the injured person ultimately survived or continued to earn, which is contrary to the principles laid down in ***Susamma Thomas*** (*supra*), ***Sarla Verma*** (*supra*) and ***Pranay Sethi*** (*supra*). Accordingly, appropriate multiplier must be determined in accordance with the principles laid down by the Supreme Court, having regard to the relevant age and from the table given in ***Sarla Verma*** (*supra*). In view of the analysis above the plea of Insurance Company that

multiplier of 1 for post retirement loss of future income should be applied is rejected.

23. Further, the Supreme Court in judgment of ***Kirti v. Oriental Insurance Co. Ltd.***, (2021) 2 SCC 166 has held that claims and legal liabilities crystallise at the time of the accident itself, and changes post thereto ought not to ordinarily affect pending proceedings. Although the said principle was considered in the context of the subsequent death of one of the dependants, the underlying principle is equally relevant to the present case. The rights and liabilities arising from the injuries sustained by the claimant crystallised on the date of the accident. The subsequent death of the injured claimant, particularly where such death is unrelated to the accident or the injuries sustained therein, would not, by itself, extinguish or otherwise alter the liability which had already arisen.

Claim of injury survives to LRs on death of injured

24. In this regard, reliance can also be placed on the judgment of Supreme Court in **Oriental Insurance Co. Ltd. v. Kahlon,** (2022) 13 SCC 494, wherein the claimant died during the pendency of an appeal seeking enhancement of compensation. The question before the Supreme Court was whether the claim arising from the injuries sustained by the claimant abated upon his death or whether the legal representatives could continue the proceedings. The Supreme Court noted as under:

> "***8.*** *The Act is a beneficial and welfare legislation. Section 166(1)(a) of the Act provides for a statutory claim for compensation arising out of an accident by the person who has sustained the injury. Under clause (b), compensation is payable to the owner of the property. In case of death,*

the legal representatives of the deceased can pursue the claim. Property, under the Act, will have a much wider connotation than the conventional definition. If the legal heirs can pursue claims in case of death, we see no reason why the legal representatives cannot pursue claims for loss of property akin to estate of the injured if he is deceased subsequently for reasons other than attributable to the accident or injuries under clause (c) of Section 166(1). Such a claim would be completely distinct from personal injuries to the claimant and which may not be the cause of death. Such claims of personal injuries would undoubtedly abate with the death of the injured. What would the loss of estate mean and what items would be covered by it are issues which has to engage our attention. The appellant has a statutory obligation to pay compensation in motor accident claim cases. This obligation cannot be evaded behind the defence that it was available only for personal injuries and abates on his death irrespective of the loss caused to the estate of the deceased because of the injuries.

…

17. *The Tribunal, on technicalities rejected his claim for salary, medical expenses and percentage of disability and granted a measly compensation of rupees one lakh only by a cryptic order. We are, therefore, of the opinion that while the claim for personal injuries may not have survived after the death of the injured unrelated to the accident or injuries, during the pendency of the appeal, but the claims for loss of estate caused was available to and could be pursued by the legal representatives of the deceased in the appeal.*

…

19. *We see no reason to deviate from the consistent judicial view taken by more than one High Court that loss of estate would include expenditure on medicines, treatment, diet, attendant, doctor's fee, etc. including income and future prospects which would have caused reasonable accretion to the estate but for the sudden*

<u>expenditure which had to be met from and depleted the estate of the injured, subsequently deceased.</u>

20. *<u>However, the compensation under the head pain and suffering being personal injuries is held to be unsustainable and is disallowed</u>...*"

(emphasis supplied)

25. The Supreme Court in ***Kahlon*** (*supra*) has drawn a distinction between claims relatable to personal injury such as pain and suffering, which may abate, and claims which have a direct bearing on estate of the injured, including income, future prospects, medical expenditure and attendant charges, which will survive to the LRs of the deceased claimant.

26. The principle enunciated in ***Kahlon*** (*supra*) was subsequently affirmed by the Supreme Court in ***Meena v. State of U.P.***, (2025) 9 SCC 28, wherein the Court observed:

> ***"4.*** *At the outset, the learned counsel for the claimants relied on Oriental Insurance Co. Ltd. v. Kahlon [Oriental Insurance Co. Ltd. v. Kahlon, (2022) 13 SCC 494 : (2023) 4 SCC (Civ) 619] to impress upon us that despite the death of the injured, the legal representatives of the deceased can pursue the claim since the property under the Act would have a much wider connotation than the conventional definition and would include the estate left behind by the deceased. It was held that if the legal heirs can pursue claims in case of death, there is no reason to prohibit the legal representatives to pursue claims for loss of a property, akin to estate of the injured, if the injured dies subsequently.*
>
> ***5.*** *<u>We see absolutely no reason to differ from the declaration of law and the insurer also raises no objection on the same. We would consider the enhancement sought by the original applicant, which if granted before her death would have accrued to her estate or rather compensated</u>*

<u>the loss of her estate; caused by reason of the accident, which the legal heirs are entitled to succeed to</u>.”

(emphasis supplied)

27. The issue was thereafter considered by the Supreme Court in ***Dhannalal v. Nasir Khan***, 2025 SCC OnLine SC 2083. In that case, the Court considered the effect of the insertion of sub-section (5) to Section 166 of the Motor Vehicles Act, 1988, introduced by Act 32 of 2019 with effect from 01st April 2022 and the judgment of ***Kahlon*** (*supra*) and ***Meena*** (*supra*) to hold as under:

> **“*5.*** *We have to first deal with the preliminary objection raised against the continuation of the proceedings after the victim died. The Full Bench of the Madhya Pradesh High Court on an interpretation of the provisions of the Motor Vehicles Act, 1988, especially Section 166, juxtaposed with Section 306 of the Indian Succession Act, 1925 held:“…that a claim for personal injury filed under Section 166 of the Motor Vehicles Act, 1988 would abate on the death of the claimant and would not survive to his legal representatives except as regards the claim for pecuniary loss to the estate of the claimant.” (sic paragraph 15).*
>
> ***6.*** *<u>The answer is simple and clear in so far as the insertion of sub-section (5) to Section 166 by Act 32 of 2019 with effect from 01.04.2022, which reads as under:</u>*
>
> *<u>“[(5) Notwithstanding anything in this Act or any other law for the time being in force, the right of a person to claim compensation for injury in an accident shall, upon the death of a person injured, survive to his legal representatives, irrespective of whether the cause of death is relatable to or had any nexus with the injury or not.]</u>”*

7. <u>The right to claim compensation for the injuries caused in a motor vehicle accident hence survives on the legal representatives of the injured even if the injured dies in the course of the proceedings for reasons not relatable to or having any nexus with the injuries sustained</u>. Here the injured died in 2024, after the insertion to Section 166 by amendment. We also have a difference of opinion with the declaration of law in Bhagwati Bai-which we need not dilate upon in the facts of this case where the inserted provision is squarely applicable."

(emphasis supplied)

28. What flows from the aforesaid judgments is that the claims and corresponding legal liabilities crystallise on the date on which the injured sustains injuries in the accident. The subsequent death of the injured claimant, therefore, does not, by itself, extinguish the right to claim compensation arising from such injuries. This position is expressly recognised under the amended Section 166(5) of the Motor Vehicles Act, 1988, which provides that the right to claim compensation for injuries survives to the legal representatives upon the subsequent death of the injured claimant, irrespective of whether such death has any nexus with the injuries sustained in the accident. Even prior to the amendment, as explained in ***Kahlon*** (*supra*) and affirmed in ***Meena*** (*supra*), claims constituting loss to the estate of the injured claimant could be pursued by the legal representatives notwithstanding the subsequent death of the claimant/ injured.

29. In the present case, the accident occurred in 2013 and the injured claimant passed away in 2019. The present case, therefore, pertains to the

pre-amendment situation, as the amendment inserting sub-section (5) to Section 166 of the Motor Vehicles Act, 1988 came into effect only on 01st April 2022. However, the principles laid down by the Supreme Court in ***Kahlon*** (*supra*) and ***Meena*** (*supra*), which deal with the position prior to the said amendment as discussed above, would continue to govern the present case. Therefore, the claim of the injury upon death of injured in this case would survive to the legal heirs.

Functional Disability

30. The issue, therefore, arises with regards to the assessment of functional disability with respect permanent physical disability being certified at *79%* in relation to the right upper limb, basis the principles enunciated in ***Raj Kumar v. Ajay Kumar & Anr***., (2011) 1 SCC 343. The Supreme Court has categorically stated that triple test needs to be applied, focusing on the vocation that the injured has and the effect on the said vocation. The relevant paragraph is extracted as under:

> "***11.*** *What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co.*

Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])

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

(i) whether the disablement is permanent or temporary;

(ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement;

(iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is, the permanent disability suffered by the person.

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

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

(emphasis supplied)

31. In the present case, the injured was serving as a Constable in the Uttar Pradesh Police. The injured suffered crush injuries to his right hand, which resulted in amputation of the index and middle fingers, with permanent physical disability being certified at *79%* in relation to the right upper limb. Though the disability did not result in loss of employment or immediate loss of earning during employment, it cannot be said that it had no bearing on his functional capacity. The duties of a police constable are not purely sedentary and require physical fitness and the use of the hands in the discharge of routine as well as exigent duties. The injury would, therefore, have placed a limitation on his ability to perform such duties in the manner in which he could have done prior to the accident. The effect of the disability would also become more pronounced after his superannuation, when the possibility of securing alternative employment would necessarily depend upon his physical capacity. Therefore, having regard to the nature of the injury, the vocation of the injured and the likely impact of the disability on his earning capacity, both during service and after superannuation, the functional disability is assessed at *50%.*

Post-retirement Multiplier

32. The only question that survives for consideration in the present case is whether a multiplier of 9 ought to be applied for assessing the loss of future earning capacity during the post-retirement period. The Supreme Court, in ***New India Assurance Co. Ltd. v. Satish Chandra Sharma & Anr.***, SLP No. 14350/2019, has recognised that an injured person who, despite being entitled to pension and retirement benefits, suffers injuries in an accident may nevertheless lose the opportunity to undertake post-retirement employment. Although the Supreme Court did not quantify such post-retirement loss by applying the multiplier method, it recognised that the injured may suffer a pecuniary loss after retirement on account of the diminished opportunity to secure post-retirement employment.

33. The question, therefore, is what multiplier ought to be applied in the case of an injured person who continues in employment until superannuation. In the case of a person employed in the public sector or government service, who would ordinarily retire at the age of 60 years, the loss of earning capacity during the post-retirement period can appropriately be assessed by applying a multiplier of 9. In this regard reliance can be placed on the following judgments:

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

> "*4. It is noted that the tribunal awarded lumpsum amount of ₹2 Lakh on account of loss of future income due to disability. This was not a correct approach. Admittedly, the claimant was a regular employee of MTNL. It is conceded by the counsel representing him that he would continue in service till he attains the age of 60 years and, thus, there would be no loss of income till that stage. However, the loss of income post retirement will have to*

be appropriately computed. Since the retirement would occur at the age of 60 years, it had to be calculated with the multiplier of 9. Computed thus, the loss of future earnings on account of disability to the extent of 25% would come to (₹19,000 x 25/100 x 12 x 9) ₹5,13,000/-. Since the tribunal had awarded only lupmsum of ₹2 Lakh, the award deserves to be enhanced by ₹3,13,000/-. Ordered accordingly. Needless to say, it shall carry interest as levied by the tribunal."

(emphasis added)

II. In ***Oriental Insurance Co. Ltd. v. Sangeeta Nanda***, 2017 SCC OnLine Del 11986, a Coordinate Bench of this Court held that normal course, she would retire at the age of 60 years. It is at that stage that the loss would incur. Thus, the calculation for such purposes will have to be made on the multiplier of 9, rather than 15. The said judgment was challenged before the Supreme Court, but the Special Leave Petition no. 14543/2018, was dismissed.

III. In 2024, a Coordinate Bench of this Court in ***Rajbir Singh v. National Insurance Company Ltd & Ors***.(*supra*), analysed this well and adverted to previous decisions and stated as under:

"*12. However, the main question is whether he is entitled to Loss of future earning Capacity on account of Permanent Disability of 40% of right lower limb suffered by him. There is no denying that any Permanent Disability suffered by an injured, results in his reduced earning capacity or impacts his career progression, and he needs to be compensated. The pertinent aspect is whether this Court can take note of his limitation in getting a job post his retirement, as has been claimed by the Appellant. He has placed reliance on TATA AIG General Insurance Co. Ltd. vs. Dipanjan Ghosh & Ors. MAC.APP.44/2014 decided by this Court on 02.03.2016; United India Insurance Company Limited vs. Zile Singh & Ors.*

MAC.APPEAL No.861/2010 decided by this Court on 27.09.2017; Desh Raj Singh Gautam vs. Sunil Kumar and Ors. MAC.APP.632/2007 decided by this Court on 20.05.2016; Kale Ram vs. Ajay & Ors. MAC.APP.615/2013 decided by this Court on 18.11.2022 and Anita A. Pathak vs. Raj Bahadur & Ors. MAC. APP.466/2010 along with MAC.APP.451/2010, MAC.APP.459/2010, MAC.APP.454/2010, MAC.APP.455/2010, MAC.APP.456/2010 and MAC.APP.464/2010 decided on 15.02.2012, wherein this Court has considered that any Permanent Disability suffered by the injured may not impact his financial capacity immediately, but would definitely have an impact post his retirement and he may not be able to take up a job after post- retirement.

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

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

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

(emphasis added)

IV. This Court has previously taken a similar view in its judgment in ***Govind Singh Mauni v. Tej Bhan & Ors.***

2026:DHC:1020, wherein the decision of ***Ball v. William Hunts and Sons Ltd.*** (1912) A.C 496 was cited as regards the issue of potentiality of losing income. The Court recorded as under:

> *"18. The essential principle follows from the House of Lords' decision in Ball v. William Hunts and Sons (supra) which is highlighted in the following extract in National Insurance Co. Ltd. v. Rajbir Singh & Ors (supra):*
>
> *"There is also an opinion of the House of lords that may be relevant to understand this concept. Ball v. William Hunts and Sons Limited, (1912) AC 496, was the case of a workman, who was blinded in one eye. The defect was not visible and he was to have appearance as two-eyed man. He had come to such a disability status when he had sustained an employment injury in which the defective eye had to be removed with the consequences that he could not get employment though physically he was as well as before. The House of Lords held that the incapacity of work included inability to work, or in other words, there is incapacity for work when a man has physical defect which makes his working unsaleable in any market reasonably accessible to him. Applying the same logic, a person who has suffered an injury may not come by immediate loss if he is retained in the same employment and does not lose his job, but in his own saleability elsewhere as a fresh recruit to a new employer, he may come by a serious handicap. That shall come by a serious handicap. That shall be a justification enough to provide for compensation in such types of cases."*
>
> *... 28. In Ball v. William Hunt & Sons Ltd. (supra), the focus was placed on 'marketability of labour' rather than mere wage continuity. This reasoning was expressly approved by the United States Supreme Court in New York Central Railroad Co. v. Bianc; American Knife Co. v. Sweeting, 1919 SCC OnLine US SC 210, while upholding the validity of compensation for serious disfigurement under the New York Workmen's Compensation Law. The U.S. Supreme Court observed that serious physical*

disfigurement may reasonably and adversely affect a person's ability to obtain or retain employment, and relied upon the reasoning in Ball v. William Hunt & Sons Ltd., (supra), to underscore that diminished employability constitutes a legitimate basis for compensation, independent of immediate loss of earning power.

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

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

(emphasis supplied)

34. The principle emerging from ***Ball v. William Hunts & Sons Ltd***. (*supra*), therefore, is that the assessment of loss of earning capacity is not confined to an immediate reduction in wages. The relevant consideration is also the claimant's diminished '*marketability of labour*' and his reduced ability to secure employment in the future. Thus, the mere fact that an injured person continues in his existing employment, without any immediate loss of salary, does not necessarily mean that he has suffered no compensable loss of earning capacity.

35. In the present case, this Court finds the principle laid down in ***Ball v. William Hunts & Sons Ltd***. (supra) to be squarely applicable. The claimant was employed as a Constable and was due to retire in eight years. He suffered *79%* permanent disability in relation to his right upper limb. Such disability would necessarily affect his ability to secure employment in a reasonably accessible labour market after retirement. The absence of an immediate loss of salary, therefore, cannot by itself justify denying compensation for the diminution in his post-retirement earning capacity.

36. A similar approach has been adopted by the Kerala High Court in ***Biju v. National Insurance Co. Ltd***., 2024:KER:90428, which considered the use of a multiplier of 9 for assessing compensation for post-retirement loss of earning capacity. The Court observed that compensation for loss of earning capacity could be assessed and awarded even for a period extending beyond retirement. It was noted that, but for the accident and the resultant permanent disability, the claimant could have meaningfully employed himself in an occupation suited to a retired person and earned a reasonable income. The Court

further observed that application of the multiplier method introduces a degree of precision and consistency into the assessment and avoids reducing the determination of compensation to mere conjecture or guesswork.

37. The aforesaid judgments indicate that the use of a multiplier is preferable to the award of a lump-sum amount in cases involving post-retirement loss of earning capacity. A lump-sum assessment may result in uncertainty and unpredictability and would be inconsistent with the broader objective of standardising the methodology for computation of compensation. The multiplier method, on the other hand, provides a structured and consistent basis for assessing the prospective loss.

38. Accordingly, where an injured person is expected to continue in employment until the age of 60 years, and the permanent disability is found to have impaired his ability to secure employment after retirement, the post-retirement loss of earning capacity ought ordinarily to be assessed by applying the multiplier applicable to the period commencing from the age of 60 years. In terms of the multiplier table recognised in ***Sarla Verma*** (*supra*) and ***Pranay Sethi*** (*supra*), the applicable multiplier at the age of 60 years is 9. Accordingly, a multiplier of 9 ought to be applied for computing the post-retirement loss of earning capacity.

39. However, the application of a multiplier of 9 cannot be divorced from the factual circumstances of the individual case. Where the claimant has suffered premature retirement, or has been discharged from service on account of the disability resulting from the accident, the loss of earning capacity should instead be assessed with reference

to the age at which such premature retirement or discharge occurred. In such cases, the relevant multiplier would be the multiplier applicable to that age, rather than an automatic application of the multiplier of 9.

Future Prospect

40. In fact, this Court in its assessment in ***Govind Singh Mauni*** (*supra*), considered the issue of loss of potentiality to earn post-retirement for which compensation must be taken into account. The relevant paragraphs are extracted as under:

> " *32. The Constitutional Bench of the Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 emphasised that "just compensation" under Section 168 of MV Act must rest on fairness, reasonableness and equity, avoiding both windfall gains and inadequate awards. The assessment must be grounded in proven age and income, followed by application of the appropriate multiplier as standardised in Sarla Verma v. DTC, (2009) 6 SCC 121 and affirmed in Reshma Kumari v. Madan Mohan, (2013) 9 SCC 65. The Court stressed pragmatic and uniform computation, including future prospects, to ensure proximity to real loss…*
>
> …
>
> *34. Applying the core mantra of aligning 'proximity to reality' in assessment of just compensation, in this Court's opinion, the compensation in the present case needs to be reworked. If, therefore, the income is taken as Rs.29,519/-, considering that it is admitted by counsels for the parties that the same ought to have been the net income, applying a 30% increase for future prospects would be the appropriate approach. This would suitably accommodate future prospects post retirement and career progression through better employment*."

(emphasis added)

41. Accordingly, in terms of the principles laid down in ***Pranay Sethi*** (*supra*) and ***Govind Singh Mauni*** (*supra*), and considering that the injured was 52 years at the time of the accident, he would be entitled to future prospects at *15%.*

42. Accordingly, the revised compensation is calculated as under:

S. no.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1.	Expenditure on Medical Bills and medical treatment (A)	Rs.2,60,000/-	Rs.2,60,000/-
2.	Expenditure on special diet and conveyance (B)	Rs. 10,000/-	Rs. 10,000/-
3.	Attendant Charged (C)	Rs. 15,000/-	Rs. 15,000/-
4.	Income of injured per month(D)	Rs.26,430/-	Rs.26,430/-
5.	Loss of income (E)	Rs.1,07,500/-	Rs.1,07,500/-
6.	Add: Future prospects (F)	Nil	15% of Rs.26,430= Rs. 3,965/-
7.	Multiplier (G)	Nil	9
8.	Functional disability (H)	Nil	50%
9.	Loss of future income/future earnings [(D+E) x 12 x G x H] = (I)	Nil	Rs. 16,41,330/-
NON-PECUNIARY LOSS			
10.	Pain and suffering (J)	Rs. 35,000/-	Rs. 35,000/-
11.	Loss of amenities of life and future prospects (K)	Rs. 1,50,000/-	Rs. 1,50,000/-

12.	Total compensation (A + B + C + I+ J+ K) = (L)	Rs. 5,77,500/-	Rs. 22,18,830/-
13.	Interest awarded	9% per annum	9% per annum
14.	Enhanced compensation	**Rs. 16,41,330/-**	

43. For the aforesaid reasons, compensation has been enhanced by *Rs.16,41,330/-* ['***enhanced amount***'].

44. It is therefore directed that the Insurance Company shall deposit enhanced amount along with *9%* interest per annum from the date of filing the petition before MACT within a period of four weeks. It is directed that a lump sum amount of *Rs. 3,00,000/-* shall be released to the claimants from the deposit of enhanced amount within a period of two weeks thereafter. Remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (***FDRs***) of *Rs. 30,000/-* each for periods of 1 month, 2 months, 3 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

45. Accordingly, the appeal is allowed and disposed of.

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

47. Judgement be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

SEPTEMBER 15, 2026/*zb*/RK