



2026:DHC:4335



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

% *Reserved on : 22<sup>nd</sup> April 2026*  
*Pronounced on : 18<sup>th</sup> May 2026*  
*Uploaded on : 19<sup>th</sup> May 2026*

+ **MAC.APP. 608/2016**

HDFC GENERAL INSURANCE CO LTD .....Appellant

Through: Mr. Rajeev M Roy, Mr. P  
Srinivasan, Advocates.

versus

FAKIR CHAND & ORS .....Respondents

Through: Mr. M.K Perwez, Advocate with  
Respondent-in-person.

**CORAM:**

**HON'BLE MR. JUSTICE ANISH DAYAL**

**JUDGMENT**

**ANISH DAYAL, J.**

1. This appeal has been preferred against the judgment dated 20<sup>th</sup> May 2016 passed by the Motor Accident Claims Tribunal ('*MACT*'), East District, Karkardooma Courts, in *MACT* No. 413/2016, whereby the Tribunal allowed the claim of injured/claimant and awarded compensation of *Rs.41,66,835/-* along with interest @9% per annum from date of filing of petition.

**The Incident**

2. The accident occurred on 19<sup>th</sup> January 2014 at about 10:00 PM, when claimant and his colleague were on picket duty and were checking



vehicles and barricades put on road. During checking, claimant tried to stop a *Hyundai I-10* car bearing registration no. *DL-4C-ND-3886* coming from *Geeta Colony Side* at high speed. The driver without stopping dashed the car into barricades and hit the claimant, who was standing near the barricades. As a result of accident claimant sustained crush injuries on his right leg along with multiple fractures. Claimant/injured was taken to LNJP hospital and his right leg below knee was amputated, the injured was later shifted to Max Hospital where he remained admitted from 21<sup>st</sup> January 2014 to 31<sup>st</sup> January 2014. FIR No. 42/14 was registered at PS Geeta Colony under *Sections 279/338* of the India Penal Code, 1860, against driver of offending vehicle and subsequently chargesheet was filed against the driver.

3. As per the Disability Certificate annexed as **Ex. PW1/3**, physical disability was assessed at 70% in relation to right lower limb. At the time of accident, injured was 54 years of age and employed as Head Constable with Delhi Police, due to retire on 31<sup>st</sup> December 2018.

#### **Impugned Award**

4. As regards *Issue no. 1*, the Tribunal held that the lodging of the FIR and the filing of the chargesheet were sufficient to establish negligence on the part of the driver of the offending vehicle.

5. As regards *Issue no. 2* concerning the quantum of compensation, the Tribunal assessed the functional disability at 70%, corresponding to the physical disability assessed at 70% in relation to the right lower limb. The salary of the claimant was assessed at *Rs. 36,338/-* after deduction of income tax and travel allowance. However, no *future prospects* were



granted to the claimant. The multiplier of '11' was applied to compute an amount of Rs. 33,37,631/- under the head of *loss of future income*. Compensation of Rs. 3,00,000/- was awarded towards the non-pecuniary heads of *pain and suffering* and *loss of amenities of life*. Further, compensation of Rs. 1,10,000/- was awarded towards *prosthesis*, and Rs. 50,000/- was awarded towards *future medical expenses* for replacement and maintenance of the prosthesis.

**Submission of Counsel for Appellant**

6. Counsel for appellant submits that the Tribunal has erred in assessing the *functional disability* of the injured at 70%. It is contended that though the permanent physical disability in relation to the right lower limb was assessed at 70% as per the Disability Certificate; the functional disability could not have been taken as equivalent to physical disability. According to counsel for appellant, having regard to the nature of avocation and overall facts and circumstances of the case, the functional disability ought to have been assessed at not more than 35%.

7. Counsel for appellant further submits that the Tribunal has wrongly awarded compensation towards *loss of future income*. It is contended that the injured neither lost his employment nor suffered any diminution in income on account of the accident. It is further submitted that the injured continued in service till attaining the age of superannuation on 31<sup>st</sup> December 2018 and, therefore, no loss of future income can be stated to have arisen due to the injuries sustained in the accident.



### Analysis

8. Considering that there is no issue is raised with respect to the finding by the MACT on issue *no. 1* relating to causation, the only issues in dispute, relate to the quantum of compensation.

### Functional Disability

9. Reliance in this regard can be placed on the judgment of Supreme Court in *Raj Kumar v. Ajay Kumar* (2011) 1 SCC 343, wherein it was held that the Tribunal must assess not merely the extent of permanent disability but its actual impact on the claimant's earning capacity, which may differ from the medical percentage of disability. This requires evaluating the claimant's pre-accident vocation, the functions affected, and whether livelihood can still be earned despite the disability. The Court emphasised that disability and loss of earning capacity are distinct concepts, except in cases where evidence shows they coincide. Relevant paragraphs are 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 added)

10. In the present case, applying the principles laid down in **Raj Kumar v. Ajay Kumar** (*supra*), this Court is required to assess the effect of the permanent disability on claimant’s earning capacity and not merely adopt the medical percentage of disability. Claimant, at the time of accident, was aged about 54 years and was serving as a Head Constable with Delhi Police. The Disability Certificate records 70% permanent physical disability in relation to the right lower limb on account of below-knee amputation. The nature of duties discharged by a police officer, particularly one serving in the field, cannot be equated with a sedentary occupation. The duties attached to the post necessarily require mobility



and prolonged standing to carry out duties such as checking of vehicles, and maintenance of public order. In these circumstances, the amputation suffered by the claimant has undoubtedly resulted in serious restriction of his functional ability insofar as discharge of his official duties. No doubt he may be relegated to a desk job but he would have been seriously disadvantaged over his colleagues leading to loss of promotional opportunities and normal mobility

11. In view of the vocation of injured, the Tribunal is not amiss in assessing functional disability at 70% and the same does not warrant any interference by this Court.

Multiplier

12. On the issue of multiplier which ought to be granted to the injured who continued as a Head Constable, the law is well settled that, for an injured person in public sector job, who would retire on superannuation, post-retirement loss of income must be computed by applying a multiplier of '9', considering retirement at 60 years of age. In this regard reliance may be made decisions of this Court in ***Desh Raj Singh Gautam v. Sunil Kumar & Ors.*** 2016:DHC:4159, ***Rajbir Singh v. National Insurance Company Ltd. & Ors.*** 2024:DHC:9034.

13. 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 lumpsum 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)

14. In 2024, the 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)

15. This Court has previously taken a similar view in its judgment in ***Govind Singh Mauni v. Tej Bhan & Ors.*** 2026:DHC:1020. In this view of the matter, this Court is not inclined to accept the argument of counsel for appellant that no *loss of future income* should be awarded. Accordingly, in light of the decision of this Court in ***Govind Singh Mauni*** (*supra*) the multiplier of ‘9’ would be applicable as opposed to ‘11’ applied by the Tribunal.

*Future Prospect*

16. 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:

*“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 be a justification enough to provide for compensation in such types of cases.*

*(emphasis added)*

...

*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.

31. The essence of compensation is to give reparation to an injured who has suffered great impairment in his functionality due to the negligence of the offending vehicle and the respondents. It would be, therefore, imperative that just and reasonable compensation is provided.

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)



17. In light of the aforesaid judgment, *future prospects* at 15% should be granted since the injured was 54 years of age at the time of accident for calculation of *loss of future income*.

*Prosthetic Limb*

18. The Tribunal has awarded Rs. 1,10,000/- for one prosthetic limb and Rs. 50,000/- has been awarded towards *future medical expenses* for repairs and change in prosthesis. Even though no specific plea with regard to the enhancement of compensation on account of a prosthetic limb has been raised by respondent/claimant, this Court is duty-bound to award *just compensation*, irrespective of whether the same has been specifically pleaded, in terms of the principle laid down by the Supreme Court in *Ningamma v. United India Insurance Co. Ltd.* (2009) 13 SCC 710. Upon perusal of the impugned award, it is noted that the MACT has awarded compensation only towards one prosthetic limb, which does not align with the law laid down by the Supreme Court in *Mohd. Sabeer v. U.P. SRTC*, (2023) 20 SCC 774.

19. In *Mohd. Sabeer v. U.P. SRTC* (*supra*) it was provided that prosthetic needs to be changed five to six years and, therefore, considering that injured is 54 years of age at the date of the accident and taking the potential life expectancy up to 70 years, would require prosthetic for approximately another 16 years. Using that basis of calculation, at least three replacements would be required by him, if the claimant chooses to take a prosthetic. The cost of the prosthetic has been noted by in the impugned award as Rs. 1,10,000/-, with annual maintenance cost at



Rs.15,000/- to Rs.20,000/- basis the testimony of **PW-4/Anshul Sengar**, Senior Associate M/s *Ottobock Healthcare India Pvt. Ltd.*

20. On this basis, the amount for three possible replacements of the prosthetic along with annual maintenance cost will have to be granted to the injured/claimant.

### *Pain and Suffering*

21. Further, no specific pleadings have been advanced with regard to enhancement of compensation under the heads of *pain and suffering* and *loss of amenities of life*. However, upon perusal of the impugned award, it is noted that the lumpsum compensation of Rs. 3,00,000/- awarded under the aforesaid heads does not align with the principles governing grant of *just compensation*. The Supreme Court, in *Ningamma v. United India Insurance Co. Ltd* (*supra*) has held that the Court is duty-bound to award *just compensation* irrespective of the specific pleadings advanced by the parties in that regard.

22. Therefore, as regards compensation for non-pecuniary damages, reliance may be placed on the judgment of the Supreme Court in *K.S. Muralidhar v. R. Subbulakshmi and Anr.* 2024 SCC Online SC 3385, wherein it was observed that '*pain and suffering*' cannot be captured by any fixed definition, drawing on legal, medical, and philosophical sources to emphasize its deeply subjective and life-altering nature. It recognised that translating such profound human loss into money is an inherently artificial exercise, yet courts must ensure fairness, consistency, and sensitivity to the victim's lifelong deprivation. Relevant paragraphs are extracted as under:



“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* 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] A.C. 113, 116]”

...

13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been highlighted in *Heil v. Rankin*, as referred to in *Attorney General of St. Helenav. AB* 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] A.C. 326 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] A.C. 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.'

...

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.* 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".

14.2 This Judgment was recently referred to by this Court in *Sidram v. United India Insurance Company Ltd* reference was also made to *Karnataka SRTC v. Mahadeva Shetty* (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..."

(emphasis added)

23. In light of the observations of the Supreme Court noted above, this Court is of the opinion that, considering this is a case of amputation below knee, the grant of lump sum Rs. 3,00,000/- towards *pain and suffering* and



*loss of amenities of life* is inadequate. The Supreme Court has consistently adopted a liberal and realistic approach in such cases, as is evident from the judgment in ***Mohd. Sabeer v. U.P. SRTC*** (*supra*), wherein, in a similar situation involving amputation below the knee, the Supreme Court awarded Rs. 2,00,000/- each towards *pain and suffering, disfigurement and loss of amenities of life*. The Supreme Court observed as under:

*“Non-pecuniary compensation*

*24... this Court is of the opinion that the compensation provided by the High Court for non-pecuniary heads is inadequate.*

*25. In R.D. Hattangadi v. Pest Control (India) (P) Ltd. [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250] dealing with the different heads of compensation in injury cases this Court held that : (SCC p. 556, para 9)*

*“9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. 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 as 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 the 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.”

26. In light of the above decision of this Court and the facts and circumstances of the case at hand, the compensation to be awarded is as follows:

I. Compensation for pain and suffering — Rs 2,00,000

II. Compensation for loss of amenities of life — Rs 2,00,000

III. Compensation for disability and disfigurement — Rs 2,00,000

Conclusion

...

28. It is almost universally seen that persons from marginalised backgrounds often face an additional layer of discrimination due to bodily disabilities. This is because persons from marginalised sections of the society already face severe discrimination due to a lack of social capital, and a new disability more often than not compounds to such discrimination. In such circumstances, to preserve the essence of justice, it becomes the duty of the Court to at the very least restore the claimant as best as possible to the position he was in before the occurrence of the disability, and to do so must award compensation in a liberal manner.

29. While no material compensation can completely negate the trauma and suffering that the injured and his family faces, the law only knows the language of monetary compensation in such cases. It then becomes the duty of the court to translate the



*provisions of monetary compensation into a fabrication that helps the injured and his family in coping with their loss.”*

(emphasis supplied)

24. Considering the observations of the Supreme Court and the fact that the present case involves amputation, the compensation awarded towards *pain and suffering*, and *loss of amenities of life* is inadequate; therefore, Rs. 2,00,000/- each is awarded under heads of *pain and suffering* and *loss of amenities of life*; the same would be in line with the principle of *just compensation*.

25. The revised computation is as under:

S.no	Heads of Compensation	Awarded by tribunal	Awarded by the Court
<b>Pecuniary Loss</b>			
1.	Medicine Bills (A)	Rs. 28,500/-	Rs. 28,500/-
2.	Expenditure on special diet (B)	Rs. 10,000/-	Rs. 10,000/-
3.	Expenditure of conveyance (C)	Rs. 10,000/-	Rs. 10,000/-
4.	Attendant Charges (D)	Rs. 10,000/-	Rs. 10,000/-
5.	Income of injured per month (E)	Rs. 36,338/-	Rs. 36,338/-
6.	Future prospects @ 15% (F)	Nil	Rs. 5,451/-
7.	Loss of income (E) x 8=(G)	Rs. 2,90,704/-	Rs. 2,90,704/-
8.	Functional disability (H)	70%	70%
9.	Multiplier (I)	11	9
10.	Loss of future income [(E+F) x 12 x H x I]= J	Rs. 33,57,631/-	Rs. 31,59,248/-
11.	Future Medical Expenses	Rs. 50,000/-	<i>Part of annual maintenance for</i>



			<i>prosthetic</i>
12.	Cost of Prosthetic Limb	Rs. 1,10,000/-	<i>Given Separately</i>
<b>Non-pecuniary loss</b>			
13.	Pain and suffering (K)	Rs. 3,00,000/-	Rs. 2,00,000/-
14.	Loss of Amenities of Life (M)	<i>Part of pain and suffering</i>	Rs. 2,00,000/-
15.	<b>Total</b>	<b>Rs. 41,66,835/-</b>	<b>Rs. 39,08,452/-</b>
16.	Interest	9%	9%
<b>Cost of Artificial Limb</b>			
17.	Cost of Prosthetic Limb (A)	Rs. 1,10,000/-	Rs. 1,10,000/- x 3= 3,30,000/-
18.	Annual Maintenance (B)	<i>Nil</i>	Rs.15,000/- x 15= Rs. 2,25,000/-
19.	<b>Total Cost Towards Artificial Limb</b>	<b>Rs. 1,10,000/-</b>	<b>Rs. 5,55,000/-</b>

### Directions

26. Accordingly, the compensation granted towards artificial limb and annual maintenance is enhanced by *Rs.4,45,000/-*. The aforesaid amount for the prosthetic limb and annual maintenance will be deposited by the Insurance Company within a period of four weeks before the Registrar General of this Court, which will be kept in an interest-bearing fixed deposit, the same will be disbursed to the claimant only on production of original invoice/purchase document issued by authorized seller of prosthetic limb. Further, cost towards annual maintenance shall also be disbursed on production of invoice. If any amounts remain unutilized, the Insurance Company will be entitled to withdraw the same along with



accrued interest.

27. It is pertinent to note that the accident occurred in the year 2014, at which time the injured was 54 years of age. At present, the injured would have attained the age of approximately 66 years. It is clarified that in the event the injured/claimant has incurred any expenditure towards procurement, replacement, or maintenance of the prosthetic limb during the pendency of the proceedings over the last 12 years, the same shall be reimbursed upon production of the original invoice/purchase document issued by an authorized seller or dealer. In case the injured/ claimant is unable to produce the aforementioned documents, the amount awarded towards prosthetic limb, along with accrued interest, if any, remains unutilized, the Insurance Company shall be at liberty to withdraw the same.

28. The compensation for pecuniary and non-pecuniary loss is reduced by Rs. 2,58,383/-.

29. This Court *vide* order dated 22<sup>nd</sup> August 2016 directed appellant to deposit 50% of the award amount along with 9% interest per annum from the date of filing of the petition with *UCO Bank, Delhi High Court Branch*, subject to deposit of the amount there has been stay on the operation of the impugned award. Further, it was directed that 10% of the said amount deposited shall be released to claimant in his savings bank account and the balance 90% shall be kept in 9 fixed deposits of 10% each for 1 year, 2 years, 3 years, 4 years, 5 years, 6 years, 7 years, 8 years and 9 years. Further, *vide* order dated 11<sup>th</sup> February 2022, an additional amount of Rs. 5,00,000/- was released to the claimant from the FDRs.



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30. The Insurance Company is directed to deposit the balance amount as per revised compensation along with accrued interest before the Registrar General of this Court within a period of four weeks. The amount deposited shall be released to the claimant in terms of the directions passed by the Tribunal in the impugned award.
31. The appeal is disposed of in above terms. Pending application, if any, are rendered infructuous.
32. A copy of the judgment be sent to the concerned bank for compliance.
33. Statutory deposit, if any, be refunded to appellant/Insurance Company, only if the order of deposit has been complied with.
34. Judgment be uploaded on the website of this Court.

**(ANISH DAYAL)**

**JUDGE**

**May 18, 2026/ak/zb**