



2025:DHC:3882



IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:16.05.2025

+ **MAC.APP. 290/2021**

MOHD. ASIF

..... Appellant

versus

**RANBIR SINGH & ANR. (THE NEW INDIA
ASSURANCE CO. LTD)**

..... Respondents

Advocates who appeared in this case:

For the Appellant : Mr. Varun Sarin, Ms. Parul Dutta & Ms.
Babita Rawat, Advs.

For the Respondents : Mr. JPN Shahi, Adv. for New India
Assurance Co. Ltd.

CORAM

HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeal is filed seeking enhancement of compensation awarded by the learned Motor Accidents Claim Tribunal *vide* award dated 21.11.2020 (hereafter '**the impugned award**') passed in MACT No.189/2018.

2. The brief facts of the case are that on 12.03.2018, the appellant, along with his friend, was riding a motorcycle when he was struck by another motorcycle driven by Respondent No. 1. As a result of the



collision, the appellant sustained multiple fractures and grievous injuries, including the amputation of his right leg above knee.

3. The learned Tribunal, after examining the pleadings, evidence, and documents on record, assessed the compensation at ₹19,29,000/- and awarded an interest @ 9% per annum to the appellant. The details thereof are as under :

S. No.	Heads of Compensation	Amount
1.	Medical Expenses	₹3,67,000/-
2.	Pain & Sufferings & Enjoyment of Life	₹2,00,000/-
3.	Special Diet, Conveyance & Attendant	₹50,000/-
4.	Loss of Income	₹46,000/-
5.	Loss of Future Income	₹12,26,000/-
6.	Loss of Amenities	₹40,000/-
Total		₹19,29,000/-

4. Aggrieved by the quantum of compensation awarded, the appellant has preferred the present appeal.

5. The learned counsel for the appellant contended that the learned Tribunal erred in assessing his functional disability at 60% despite the amputation of his right leg, which rendered him unfit to continue his previous occupation of RCC finishing work. He stated that the appellant's functional disability should be considered at 80%.



6. The learned counsel challenges the learned Tribunal's grant of only ₹46,000/- for loss of income during treatment, emphasizing that he was bedridden for 4-5 months. He argued that the learned Tribunal incorrectly assessed his income based on the minimum wage for unskilled labour i.e. ₹7,600/- per month, despite his skilled occupation and actual earnings of ₹15,000/- per month. The appellant argues that the minimum wage for a skilled labourer in Haryana, as of the date of the accident, should have been ₹10,328.83/- per month.

7. The learned counsel also contended that the learned Tribunal failed to award any compensation for future medical expenses, specifically for the maintenance and replacement of his artificial leg. He submits that the average lifespan of the artificial limb is six years, with annual maintenance costs ranging from ₹10,000 to ₹15,000. Considering his age of 35 years, he would require multiple replacements, necessitating additional compensation.

8. Additionally, the learned counsel contended that the learned Tribunal failed to award compensation for mental and physical shock, disfigurement, mental trauma, and loss of marital prospects, despite the significant impact of his injuries. He further submitted that amount awarded under the head of loss of pain and suffering is very meagre.

9. The learned counsel also challenges the award of ₹40,000/- for loss of amenities and ₹50,000/- for special diet, conveyance, and attendant charges, arguing that these amounts are inadequate given the severity of his disability.

10. *Per contra*, the learned counsel appearing on behalf of the



respondent – Insurance Company contended that the learned Tribunal passed the impugned awards after due appreciation of evidence that came on record, which requires no interference. Hence, it is prayed that the appeal filed by the appellant/victim be dismissed.

Analysis

11. Submissions made by the parties were heard and the record is perused.

12. The short question before this Court is whether compensation that has been awarded to the appellant ought to be enhanced or not.

13. 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.

14. In cases of personal injury, compensation is normally categorised as :—

Pecuniary damages (Special Damages):

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

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

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

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



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

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

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

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

15. In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the claim of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life [Refer : ***Raj Kumar v. Ajay Kumar : (2011) 1 SCC 343***].

16. 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.

17. In ***Arvind Kumar Mishra v. New India Assurance Company Limited : (2010) 10 SCC 254***, the Hon'ble Apex Court addressed the appellant's prayer for an increase in compensation. The appellant, a



final-year engineering student, had sustained 70% disability due to a motor accident. Upon reviewing the factual details of the case, the Court remarked as follows :

“We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. The whole idea is to put the claimant in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered.”

18. Upon careful consideration of the rival submissions and perusal of the impugned award, this Court finds merit in the appeal to a limited extent.

Assessment of disability

19. Firstly, the appellant is essentially aggrieved by the computation of his functional disability as 60%. It is argued that the same should be assessed at 80% due to the amputation of his right leg above the knee, rendering him unfit for his previous skilled labour work.

20. The Hon’ble Apex Court, in the case of ***Raj Kumar v. Ajay Kumar : (2011) 1 SCC 343***, had considered the effect of permanent disability on actual earning capacity. It was held that the Tribunal should first ascertain the activities the claimant was carrying on prior to the accident and the effect of the disability on the activities he is likely to carry on in future. The nature of work before the accident and also the age of the victim were held to be relevant factors.

21. In ***Raj Kumar v. Ajay Kumar (supra)*** the Hon’ble Apex Court



gave an example that where the injured is a driver and suffers a permanent disability in the nature of amputation of his hand, the functional disability of the injured should be taken as loss of earning capacity at 100% of the permanent disability.

22. In the present case, the appellant was doing a private job in Plaza Company, Gurugram of finishing RCC and has stated on his affidavit that he is unable to join work due to the amputation of his leg.

23. It is stated that the appellant even finds it difficult to discharge his routine activities like using the washroom and is looked after by his family members. The Hon'ble Apex Court in *Jagdish v. Mohan* : (2018) 4 SCC 571, while discussing the seriousness of the disability in respect of the vocation of the injured, who is a carpenter, observed as under:

“14. In making the computation in the present case, the court must be mindful of the fact that the appellant has suffered a serious disability in which he has suffered a loss of the use of both his hands. For a person engaged in manual activities, it requires no stretch of imagination to understand that a loss of hands is a complete deprivation of the ability to earn. Nothing—at least in the facts of this case—can restore lost hands. But the measure of compensation must reflect a genuine attempt of the law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of the individual to an assertion of enforceable rights as intrinsic to human dignity.”



15. The Tribunal has noted that the appellant is unable to even eat or to attend to a visit to the toilet without the assistance of an attendant. In this background, it would be a denial of justice to compute the disability at 90%. The disability is indeed total. Having regard to the age of the appellant, the Tribunal applied a multiplier of 18. In the circumstances, the compensation payable to the appellant on account of the loss of income, including future prospects, would be Rs 18,14,400. In addition to this amount, the appellant should be granted an amount of Rs 2 lakhs on account of pain, suffering and loss of amenities. The amount awarded by the Tribunal towards medical expenses (Rs 98,908); for extra nourishment (Rs 25,000) and for attendant's expenses (Rs 1 lakh) is maintained. The Tribunal has declined to award any amount towards future treatment. The appellant should be allowed an amount of Rs 3 lakhs towards future medical expenses. The appellant is thus awarded a total sum of Rs 25,38,308 by way of compensation. The appellant would be entitled to interest at the rate of 9% p.a. on the compensation from the date of the filing of the claim petition. The liability to pay compensation has been fastened by the Tribunal and by the High Court on the insurer, owner and driver jointly and severally which is affirmed. The amount shall be deposited before the Tribunal within a period of 6 weeks from today and shall be paid over to the appellant upon proper identification. ”

(emphasis supplied)

24. This Court in ***Cholamandalam MS General Ins. Co. Ltd. v. Ram Kishan*** : 2018 SCC OnLine Del 10001, assessed the percentage of functional disability of the injured claimant even more than the permanent disability sustained by him. It was held as under:

“7. It has also come in the additional evidence of Dr. Adarsh Kumar that Injured is susceptible to frequent infection and he will frequently need medical consultation and due to the deformity appearing in the abdomen of the Injured, he is not likely to perform normal labour work. It is relevant to note that the Injured was a labourer and now due to this accident, he can only do desk job for which he is not



qualified. It has also come in the additional evidence that there is a possibility of improvement of functional disability after the proposed surgery and Injured may not require the urine bag for his urine collection after the surgery. Although, the permanent disability of the Injured has now been re-assessed to be 27%, but in the face of additional evidence, the functional disability suffered by the Injured due to this accident is assessed as 70%.

(emphasis supplied)

25. It is noted that while determining the appellant's income based on the prevailing minimum wage at the time of the accident, the learned Tribunal took into account the fact that although the appellant claimed to be employed with a company named Plaza and engaged in the finishing of RCC works, he failed to produce any documentary evidence to substantiate his employment or to prove that he was drawing a monthly salary of ₹15,000/-. The compensation was awarded assessing the income of the claimant as minimum wages applicable to unskilled labour.

26. In view of the appellant's physical condition post-accident, it can reasonably be concluded that he would no longer be capable of resuming the same nature of work. Given that the claimant is stated to be doing work of unskilled labour, it is equally unlikely that he would be able to secure alternative employment of a sedentary or desk-based nature that could provide a comparable livelihood. It is common knowledge that the possibility of procuring employment particularly for individuals with significant physical disabilities, is far from accommodating, and the chances of meaningful re-employment are bleak.



27. In such cases it can safely be said that the earning capacity of the appellant will be affected by 100% of the physical permanent disability. The functional disability of the appellant is hereby assessed at 80% for the purpose of determination of the compensation.

Loss of Income and Future Earnings

28. The learned Tribunal assessed the appellant's monthly income at ₹7,600/- per month, the minimum wage for unskilled labour in Haryana, and granted ₹46,000/- for six months of income loss when he must have remained out of work.

29. However, in determining the monthly income of the claimant, it is relevant to note that learned counsel for the appellant, during the course of arguments, placed on record a circular reflecting the minimum wages prevailing in the State of Haryana at the time of the accident. A perusal of the impugned award reveals that the learned Tribunal proceeded to compute the compensation on the basis of the basic minimum wage, without accounting for the applicable increase in wages notified under the said circular. As evident from the document, the minimum wage for an unskilled worker at the relevant time stood at ₹8,497.56/- per month. This figure ought to have been adopted for the purpose of assessing the claimant's income, particularly in the absence of formal documentary proof of earnings.

30. In the considered view of this Court, the appropriate minimum wage to be adopted for the appellant, in the absence of documentary proof of income but keeping in mind his engagement in manual



labour, shall be ₹8,497.56/- per month, as reflected in the prevailing wage notification at the time of the accident.

31. Accordingly, the learned Tribunal ought to have applied this revised figure instead of the outdated or lower rate while computing the compensation.

32. The learned Tribunal is therefore directed to re-compute the loss of income during the period of treatment, as well as the loss of future earning capacity, by taking ₹8,497.56/- as the notional monthly income of the appellant. This correction is necessary to ensure that the compensation awarded is fair, just, and in consonance with the prevailing statutory framework governing minimum wages.

Medical Expenses

33. The learned Tribunal awarded ₹3,67,000/- towards medical expenses. This included ₹3,51,635/- for the artificial limb. However, no compensation was awarded for future medical costs, including maintenance and replacements of the artificial leg, despite the appellant's reliance on the *Rehabilitation Service Proposal* by Otto Bock Healthcare India Pvt. Ltd. Considering that the average lifespan of an artificial limb is six years, the appellant, at 35 years, will require multiple replacements and maintenance from time to time.

34. The learned counsel for the appellant submits that an artificial limb has a limited life and requires constant maintenance and upkeep. In support he places reliance on the judgment passed by a coordinate Bench of this Court in *The United Indian Insurance Co. Ltd. v. Sh Rakesh Kumar & Ors. : 2023 : DHC: 5505*.



35. The Hon'ble Apex Court in the case of *Mohd. Sabeer v. U.P. SRTC* : 2022 SCC OnLine SC 1701, while determining the compensation payable towards prosthetic limb, held as under :

“COMPENSATION FOR THE PURCHASE AND MAINTENANCE OF THE PROSTHETIC LEG

22. *The High Court has awarded a compensation of Rs. 5,20,000/- for the prosthetic limb and Rs. 50,000/- towards repair and maintenance of the same. The Appellant submits that the cost of the prosthetic limb itself is Rs. 2,60,000/- and the life of the prosthetic limb is only 5-6 years. The prosthetic limb also requires repair and maintenance after every 6 months to 1 year, and each repair costs between Rs. 15,000 to Rs. 20,000/-. This would mean that the prosthetic limb would last the Appellant for only 15 years under the current compensation. The Appellant at the time of the accident was aged 37 years and has a full life ahead. It has been clearly stated by this Court in the case of Anant Son of Sidheshwar Dukre (Supra) that the purpose of fair compensation is to restore the injured to the position he was in prior to the accident as best as possible. The relevant paragraph of the judgment is being extracted herein:*

“In cases of motor accidents leading to injuries and disablements, it is a well settled principle that a person must not only be compensated for his physical injury, but also for the non-pecuniary losses which he has suffered due to the injury. The Claimant is entitled to be compensated for his inability to lead a full life and enjoy those things and amenities which he would have enjoyed, but for the injuries.”

“The purpose of compensation under the Motor Vehicles Act is to fully and adequately restore the aggrieved to the position prior to the accident.”

23. *As per the current compensation given for the prosthetic limb and its maintenance, it would last the Appellant for only 15 years, even if we were to assume that the limb would not need to be replaced after a few years. The Appellant was only 37 years at the time of the accident, and it would be reasonable to assume that he would live till he is 70 years old if not more. We are of the opinion that the Appellant must be compensated so that he is able to purchase three prosthetic limbs in his lifetime and is able to*



maintain the same at least till he has reached 70 years of age. For the Prosthetic limbs alone, the Appellant is to be awarded compensation of Rs.7,80,000 and for maintenance of the same he is to be awarded an additional Rs.5,00,000.”

36. In this regard, the learned Tribunal is directed to re-asses the cost of artificial limb to be granted to the petitioner, in terms of the judgement passed in ***Mohd. Shabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation : 2022 SCC OnLine SC 1701***, with the total amount towards Future Medical Expenses including Cost of Prosthetic Leg, maintenance, and repair charges.

Special Diet, Conveyance Charges and Attendant Charges

37. The learned Tribunal awarded a lump sum of ₹50,000/- under the combined heads of conveyance charges, special diet, and attendant charges. This aspect requires reconsideration by this Court, particularly with respect to the adequacy of compensation for attendant care. In ***Sumer v. National Insurance Co. Ltd. : 2023 SCC OnLine Del 5533***, where the claimant had suffered 50% physical disability, this Court enhanced the compensation under the head of attendant charges. The relevant portion of the said judgment is reproduced below:

“33. The appellant challenges the Impugned Award in-so-far as it awards compensation of only Rs. 10,000/- to the appellant towards attendant charges.

34. The learned counsel for the appellant submits that looking into the nature of the injury suffered by the appellant, the appellant would require an attendant. He submits that the family members of the appellant are looking after the



appellant, however, that cannot be a reason for denying the compensation to the appellant towards the attendant charges.

35. On the other hand, the learned counsel for the respondent no. 1 submits that, in fact, the appellant had not claimed any amount towards the attendant charges in the Claim Petition, nor had the same been proved. The appellant has also been granted Rs. 75,000/- for pain, suffering and trauma, and Rs. 50,000/- towards amenities. He submits that, therefore, there is no justification for enhancing the compensation payable towards the attendant charges.

36. I have considered the submissions made by the learned counsels for the parties.

37. Keeping in view the nature of injuries suffered by the appellant, it cannot be said that the appellant would require a permanent attendant. At the same time, he would certainly require some help on a regular basis, especially because of the amnesia suffered by him, as also because of hemiplegia suffered in his left upper and lower limb. **The compensation awarded to the appellant of only Rs. 10,000/- towards attendant charges, therefore, appears to be highly inadequate. Though, the appellant may be taking the services of his own family members, who may be performing the same gratuitously, compensation should still be awarded in favour of the appellant for the contribution made by the family members. Accordingly, the compensation on account of the attendant charges is enhanced to Rs. 2 lakhs.**

(emphasis supplied)

38. In light of the observations made in *Sumer v. National Insurance Co. Ltd.* (*supra*), and keeping in view the specific facts and circumstances of the present case, this Court is of the opinion that separate and enhanced compensation towards attendant charges is fully justified. The appellant has suffered 80% functional disability due to the amputation of his leg, which has significantly impaired his ability to perform daily activities independently. It is not unusual for



family members to step in and provide necessary support in such situations. However, the fact that this assistance is offered gratuitously does not negate the claimant's entitlement to compensation under this head.

39. It is also noted that the appellant remained bedridden for several months following the accident, during which period constant care—whether provided by a hired attendant or a family member—would have been indispensable. The law does not differentiate between paid and unpaid caregiving when determining entitlement to compensation. Accordingly, the claim of ₹1,00,000/- under the head of attendant charges is found to be reasonable and is hereby awarded.

40. As regards the remaining components of ₹50,000/- awarded by the Tribunal under the combined head, this Court is of the opinion that the said amount is fair and reasonable when considered solely towards conveyance charges and special diet. Hence, the award to that extent is affirmed.

Non-Pecuniary Damages

41. The learned counsel for the appellant has argued that the learned Tribunal failed to award compensation for mental and physical shock, disfigurement, loss of marital prospects, despite the significant impact of his injuries. He further submitted that amount awarded under the head of loss of pain and suffering is very meagre.

42. The award of ₹40,000/- for loss of amenities has also been impugned by the appellant as being insufficient, given that the disability not only restricts physical movement but also affects his



capacity to enjoy basic pleasures of life and participate in ordinary social and recreational activities.

43. It can only be a matter of imagination as to how the appellant will have to live for the rest of life with one artificial leg. The appellant can be expected to live for at least 30 years. His prospects of marriage and forming a family are significantly reduced as a consequence of both his physical condition and social stigma associated with disability.

44. In light of the above, the compensation under each of the relevant non-pecuniary heads must be re-evaluated to reflect a fair and just assessment as under:

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

45. It is argued on behalf of the appellant that the sum awarded towards pain and suffering does not adequately reflect the intensity of the physical pain, multiple surgeries, extended hospitalization, and the emotional trauma endured by the appellant. Moreover, no amount has been awarded under the distinct head of mental and physical shock, despite the long-term psychological and emotional toll caused by the sudden and life-altering disability.

46. 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 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)

47. In the opinion of this Court, no separate amount needs to be awarded towards mental and physical shock. Although the sum is awarded under the heading of ‘Pain and suffering’, the same encompasses the purpose of compensation for mental and physical shock as well.

48. Insofar as the quantum for pain and suffering is concerned, the Hon’ble Apex Court in **V. Mekala v. M. Malathi : (2014) 11 SCC 178** while dealing with the similar issue awarded a sum of ₹2,00,000/- under the said head. The relevant paras of the judgement in **V. Mekala v. M. Malathi (supra)** are reproduced as under:

“21. The compensation under the head pain and suffering and mental agony was awarded by the High Court after recording concurrent findings with the award passed by the



Tribunal. However, the courts below have not recorded the nature of the permanent disablement sustained by the appellant, while awarding Rs 1,00,000 under this head which is too meagre an amount and is contrary to the judgment of R.D. Hattangadi [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250] and Govind Yadav [Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683 : (2012) 3 SCC (Civ) 1082 : (2012) 1 SCC (Cri) 82 : (2012) 1 SCC (L&S) 422] cases. The relevant paragraphs of Govind Yadav case [Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683 : (2012) 3 SCC (Civ) 1082 : (2012) 1 SCC (Cri) 82 : (2012) 1 SCC (L&S) 422] read as under: (SCC p. 695, paras 25-26)

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

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

(emphasis supplied)

49. The facts in *V. Mekala v. M. Malathi* (*supra*) closely mirror those of the present case. In the present case, the appellant’s right leg



was amputated, and he remained hospitalised between 13.03.2018 and 17.03.2018, and again from 26.03.2018 to 09.04.2018, undergoing prolonged treatment and multiple surgeries. The doctor (PW-2) also opined that the appellant would continue to experience pain while walking, even with the support of crutches or an artificial limb.

50. In view of the foregoing, this Court is of the considered opinion that the compensation of ₹2,00,000/- awarded by the learned Tribunal under the head of pain and suffering is reasonable and proportionate to the gravity of the injury. Accordingly, no interference with the said award is called for.

Loss of Amenities

51. This Court in *Nandan Mukherjee v. Mohd. Rafiq : 2024 SCC OnLine Del 9012* while granting compensation to a claimant whose leg was amputated in a motor accident, granted a sum of ₹2,00,000/- for loss of amenities. In the present case, compensation for ₹40,000/- has been awarded towards loss of amenities by the learned Tribunal. The relevant paragraphs in *Nandan Mukherjee v. Mohd. Rafiq (supra)* are reproduced hereunder:

“Special Diet and Conveyance Charges:—

35. In view of the nature of injury and period of treatment of about 6 months, the sum of Rs. 18,000/- granted for compensation towards Special Diet and Conveyance charges, the amount is enhanced to Rs. 30,000/-, considering the nature of injury suffered.

Non-Pecuniary Heads:—

38. The Learned Tribunal has granted a total amount of Rs. 3,00,000/- i.e. Rs. 1,00,000/- each towards Pain and



suffering, Loss of amenities of life & Loss of expectation of Life.

39. However, considering that the right leg of the injured was amputated, in light of *Mhd. Sabeer @ Shabir Hussain (Supra)*, the same is re-calculated as under:—

a) **Pain and Suffering = Rs. 2,00,000**

b) **Loss of Amenities of life = Rs. 2,00,000**

c) *Loss of Expectation of Life = Rs. 1,00,000/- (no change)*”

(emphasis supplied)

52. Looking at the nature of the injuries suffered by the appellant, he would have difficulty in leading his life, hence the learned Tribunal erred in awarding a meagre sum under the head of loss of amenities. In view of the observation of this Court in *Nandan Mukherjee v. Mohd. Rafiq (supra)* an amount of ₹2,00,000/- as claimed by the appellant is awarded. The impugned award is modified to that extent.

Disfiguration

53. Another grievance of the appellant is the non – grant of compensation under the head of disfiguration. The Hon’ble Apex Court in the case of *Mohd. Shabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation (supra)* awarded an amount of ₹2,00,000/- under the said head, taking into consideration that the appellant therein had suffered 60% functional disability due to his amputation.

54. Therefore, in the view of the aforesaid judgment, the learned Tribunal erred in not awarding any compensation under the head of disfiguration. It cannot be overlooked that the appellant herein, in



opinion of this Court, suffered 80% functional disability hence, the amount of ₹2,00,000/- as claimed by the appellant under the said head is reasonable and the impugned award is modified to this extent.

Loss of Marital Prospects

55. The learned counsel for the appellant has also contended that the learned Tribunal erred in not awarding any compensation under the head of loss of marital prospects. It was submitted that given the nature of the disability suffered by the appellant—namely, amputation of the right leg above the knee—his chances of marriage have been significantly diminished.

56. The Hon'ble Apex Court in the case of *Sanjay Kumar v. Ashok Kumar and Another* : (2014) 5 SCC 330 while dealing with the said issue awarded a sum of ₹75,000/-, wherein the claimant was earning ₹3,500/- per month.

57. In the present case, the appellant was 35 years of age at the time of the accident and earning a livelihood which is assessed as per the minimum wages applicable in the State of Haryana. While the claim of ₹2,00,000/- towards loss of marital prospects appears on the higher side, there is no doubt that the appellant's prospects of marriage have been adversely affected due to his permanent disability and the long-term limitations it imposes on his physical and social functioning. In the considered opinion of this Court, an amount of ₹1,00,000/- is just and reasonable and is accordingly awarded towards loss of marital prospects.



Miscellaneous Heads

58. The appellant has also made a general assertion that no compensation has been awarded under certain ancillary heads—such as for any special treatment or aid that may be required in the future, or for the broader impact on quality of life including inconvenience, hardship, frustration, mental stress, dejection, and emotional suffering. 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 already awarded under the miscellaneous heads.

Conclusion

59. Keeping in view the facts and circumstances of the case, the present appeal 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) income of the appellant as 8497.56/- per month for the purpose of computing compensation, and the learned Tribunal shall reassess the future loss of income by considering the appellant's functional disability at 80%, (ii) re-evaluate the cost of artificial limb and related future expenses in terms of para 35 of this judgment (iii) award a sum of ₹2,00,000/- under the head of loss of amenities (iv) enhance the compensation under conveyance and special diet to ₹50,000/- (v) award a sum of



₹1,00,000/- as compensation towards attendant charges (vi) award a sum of ₹1,00,000/- under the head of loss of marital prospects, (vii) award a sum of ₹2,00,000/- under the head of disfiguration and finally compute the compensation of the appellant afresh.

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

61. 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.

62. The parties shall appear before the learned Tribunal on 27.05.2025.

63. The compensation amount so determined, on remand, shall be released in favour of the appellant in accordance with the schedule of disbursement which will be stipulated by the learned Tribunal.

64. The present appeal is partly allowed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 16, 2025