IN THE COURT OF MS. ADITI GARG
DISTRICT JUDGE AND ADDITIONAL SESSIONS JUDGE
PO MACT (SE), SAKET COURTS : NEW DELHI

MACT No.301/2022
FIR no.191/2019
PS: Kundali, Sonipat, Haryana
U/s 279/337/338 IPC
CNR No.DLSE010043492022
Aman Vs. Gyan Prasad & Ors.

Aman
S/o Sh. Sanjeev Kumar
R/o H. No. 91, Village + PO Bindroli
Distt., Sonipat, Haryana.

...Claimants/ Legal heirs

Versus

1. Gaya Prasad Mishra
S/o Sh. Shiv Kant Mishra
R/o Village+ Post Pandit ka purva
PS Lal Ganj, Aajhara, Distt.
Pratap Garh, Uttar Pradesh.

….. R1/ Driver

2. RCPL Logistic Pvt Ltd.
X-40, Okhla Industrial Area,
Phase-II, New Delhi.

….. R2/ Owner

3. Iffco Tokio Gen. Insurance Co. Ltd .
Iffco Sadan, C1, Distt. Center, Saket, New Delhi.

….. R3/ Insurance Company

Date of accident	**:**	**22.05.2019**
Date of filing of petition	**:**	**13.05.2022**
Date of Decision	**:**	**30.07.2026**

AWARD

1. Claim Petition:

(a) The present claim petition under Sections 166 and 140 of the Motor Vehicles Act was filed on 13.05.2022 by Sh. Aman (hereinafter referred to as the *claimant/injured*) on account of the grievous injuries sustained by him in a motor vehicular accident which took place on 22.05.2019, allegedly due to the rash and negligent driving of vehicle bearing reg. no. DL 1LX 0913 (hereinafter referred to as offending vehicle), driven by Sh. Gaya Prasad Mishra (hereinafter referred to as R-1), owned by Sh. Manish Gupta (hereinafter referred to as R-2) and insured with The New India Assurance Co. Ltd. (hereinafter referred to as R-3).

2. Brief Facts as alleged in the claim petition:

(a) As per the claim petition, on 22.05.2019 at about 10:00 AM, the injured was riding his motorcycle bearing registration No. DL-8SAY-7413 from his residence towards Nangal Kalan at a normal speed. When he reached KMP Toll Plaza near Village Chhatraihra Bahadurpur, KMP Bridge, the offending vehicle, being driven in a rash and negligent manner, suddenly changed its lane and hit the motorcycle of the injured. As a result of the impact, the injured fell on the road and sustained multiple injuries all over his body. The driver of the offending vehicle fled from the spot after leaving the vehicle there. The brother of the injured reached the spot and shifted him to the hospital, where his MLC was prepared. Thereafter, the injured underwent treatment at BPS Hospital, Khanpur (Haryana), Pt. B.D. Sharma Post Graduate Institute of Medical Sciences, Rohtak (Haryana), and subsequently at LNJP Hospital, New Delhi.

(b) It is further averred that at the time of the accident, the injured was pursuing the final year of B.Sc. at CRA College, Sonipat, Haryana. It is also claimed that he was imparting tuition to students at his residence and earning approximately Rs.15,000/- per month. On these averments, the claimant has sought compensation of Rs.50,00,000/- for the injuries sustained in the accident.

(c) An FIR regarding the accident was registered on 06.06.2019 at Police Station Kundli, Sonipat, Haryana. Upon completion of the investigation, the police filed a charge sheet before the competent criminal court. The claimant has also placed on record certified copies of the criminal case proceedings along with the claim petition.

3. Service of Respondents:

(a) Upon service of notice, the respondents entered appearance before the Tribunal. Initially, the claim petition was instituted against R-2, Sh. Manish Gupta, and R-3, New India Assurance Co. Ltd. Subsequently, separate applications under Order I Rule 10 CPC were moved by R-2, Sh. Manish Gupta, and New India Assurance Co. Ltd. seeking impleadment of RCPL Logistics Pvt.

Ltd. as R-2 and IFFCO Tokio General Insurance Co. Ltd. as R-3. The application on behalf of Sh. Manish Gupta stated that he was merely a Director of RCPL Logistics Pvt. Ltd., which was the registered owner of the offending vehicle, and therefore the company ought to be impleaded in his place. The application filed by New India Assurance Co. Ltd. stated that on the date of the accident, the offending vehicle was duly insured with IFFCO Tokio General Insurance Co. Ltd. Both the applications were allowed by the learned predecessor of this Tribunal, and RCPL Logistics Pvt. Ltd. and IFFCO Tokio General Insurance Co. Ltd. were accordingly impleaded as respondent Nos. 2 and 3, respectively.

4. Written Statements / Replies:

(a) Upon service of notice, the respondents entered appearance before the Tribunal and filed their respective written statements/replies to the claim petition.

(b) Respondent Nos. 1 and 2, in their joint written statement, denied the averments made in the claim petition and disputed that the accident had occurred due to the rash and negligent driving of the offending vehicle by Respondent No. 1. They raised the usual preliminary objections and sought dismissal of the claim petition.

(c) Respondent No. 3/Insurance Company admitted that the offending vehicle was duly insured with it on the date of the accident. Except for taking the usual preliminary objections, no specific statutory or other defence was raised by the Insurance Company.

5. Issues:

(a) From the pleadings of parties, following issues were framed vide order dated **02.02.2024:**

> ***1) Whether the injured suffered injury in a road traffic accident on 22.05.2019 due to rash and negligent driving of vehicle no. DL 8SAY 7413 being driven by R-1, owned by R-2 and insured with R-3? OPP.***
>
> ***2) Whether the claimant is entitled to any compensation, if so, to what extent and from whom ? OPP.***
>
> ***3) Relief.***

6. Disability:

(a) A disability report has been received from Pt. Madan Mohan Malaviya Hospital certifying that the injured has suffered **81% permanent physical disability in relation to his right lower limb** as a consequence of the injuries sustained in the present accident.

7. Evidence

(a) After completion of the pleadings, the matter was listed for recording of evidence. A learned Local Commissioner was appointed for recording the evidence of the parties. The claimant/injured, Aman, examined himself as PW-1 and tendered his evidence by way of affidavit Ex. PW1/A. He relied upon and proved various documents, including the certified copy of the charge sheet, medical records, medical bills, educational certificates, identity proofs and disability certificate, which were exhibited as Ex. PW1/1 to Ex. PW1/9 (colly.). PW-1 was duly cross-examined on behalf of Respondent No. 3/Insurance Company.

(b) Thereafter, PW-2, Dr. Manish Sharma, Specialist Grade-II and Head of the Department of Orthopaedic Surgery, was examined to prove the disability certificate/report. He was also cross-examined on behalf of Respondent No. 3/Insurance Company.

(c) No other witness was examined on behalf of the claimant. Accordingly, the claimant's evidence was closed and the matter was listed for respondents' evidence. However, neither Respondent Nos. 1 and 2 nor Respondent No. 3/Insurance Company led any evidence despite opportunity. Consequently, the respondents' evidence was closed, and the matter was thereafter listed for final arguments.

8. Final Arguments:

Final arguments were advanced by contesting counsels.

(i) Arguments on behalf of the Claimant

(a) Learned counsel for the claimant contended that the accident occurred solely due to the rash and negligent driving of the offending vehicle by Respondent No. 1, as a result of which the claimant sustained grievous injuries leading to permanent disability. It was further submitted that the claimant remained under prolonged medical treatment and incurred considerable expenditure on his treatment, medicines and other incidental expenses. Learned counsel also argued that the claimant was a graduate and, therefore, for the purpose of assessing loss of income, his notional income ought to be taken as the minimum wages payable to a graduate in the State of Haryana on the date of the accident. Accordingly, it was prayed that just and reasonable compensation be awarded in favour of the claimant.

(b) Learned counsel for Respondent Nos. 1 and 2 denied the allegations of rash and negligent driving and contended that the offending vehicle was duly insured on the date of the accident. It was, therefore, submitted that in the event any liability is fastened, the same is liable to be indemnified by the insurer in terms of the policy of insurance.

(c) Learned counsel for Respondent No. 3/Insurance Company conceded that the offending vehicle was covered by a valid insurance policy on the date of the accident. However, it was contended that the claimant himself was negligent, as he was driving his motorcycle on the wrong side of the road at the time of the accident. It was, therefore, argued that the accident occurred due to the contributory negligence of the claimant, and a deduction of 50% from the compensation, if any, was liable to be made on that account.

9. Discussion:

ISSUE NO.1

1) Whether the injured suffered injury in a road traffic accident on 22.05.2019 due to rash and negligent driving of vehicle no. DL 8SAY 7413 being driven by R-1, owned by R-2 and insured with R-3? OPP.

(a) To establish the manner of the accident, the claimant/injured, Aman, examined himself as PW-1 and tendered his affidavit Ex. PW1/A. He deposed that on 22.05.2019 at about

10:00 AM, he was proceeding on his motorcycle bearing registration No. DL-8SAY-7413 from his residence to his sister's house at Nangal Kalan. According to him, he was driving his motorcycle at a normal speed, on the correct side of the road and while observing traffic rules. When he reached KMP Toll Plaza near Village Chhatraihra Bahadurpur, KMP Bridge, the offending vehicle suddenly changed its lane, took a sharp turn and struck his motorcycle, causing him to fall on the road and sustain multiple grievous injuries.

(b) During his cross-examination on behalf of Respondent No. 3/Insurance Company, PW-1 clarified that the offending vehicle had hit his motorcycle from the right side. He categorically denied the suggestions that he was driving in the middle or on the wrong side of the road, that any settlement had taken place between him and the driver/owner of the offending vehicle, or that he had filed forged or fabricated medical documents. He consistently maintained that he was driving at a normal speed and on the correct side of the road. Nothing material could be elicited in his cross-examination to discredit his testimony regarding the manner of the accident. Respondent Nos. 1 and 2 adopted the cross-examination conducted on behalf of the Insurance Company.

(c) The record further reveals that although the accident occurred on 22.05.2019, information regarding the accident had reached the police on the very same day. The concerned police officials obtained the MLC of the injured from the Government Hospital, Rohtak. However, as the injured was declared unfit to make a statement, his version could not be recorded immediately.

Subsequently, the injured submitted a written complaint dated 06.06.2019 to Police Station Kundli, Sonipat, narrating the manner of the accident and specifically mentioning the registration number of the offending vehicle. On the basis of the said complaint, FIR was registered and investigation was commenced.

(d) During the course of investigation, notice under Section 133 of the Motor Vehicles Act was served upon the owner of the offending vehicle. In response thereto, Sh. Ashwani Kumar, who stated that he was working as Incharge in RCPL Logistics Pvt. Ltd. and was holding the power of attorney in respect of the offending vehicle, informed the Investigating Officer that the offending vehicle was being driven by Respondent No. 1/Gaya Prasad at the relevant date and time. Upon completion of investigation and other legal formalities, the Investigating Officer filed the charge sheet before the competent criminal court.

(e) The respondents have neither challenged the authenticity of the FIR, charge sheet or other criminal case records nor led any evidence to rebut the same. Significantly, Respondent No. 1, being the driver of the offending vehicle and the person best placed to explain the manner in which the accident occurred, did not enter the witness box. His failure to depose and offer his version warrants drawing an adverse inference against him. Mere denial of the claimant's case in the written statement or during the course of final arguments, without any supporting evidence, is insufficient to rebut the cogent evidence led by the claimant.

(f) The contention of the Insurance Company that the claimant was guilty of contributory negligence by driving on the wrong side of the road also does not merit acceptance. Except for putting a suggestion to PW-1 during cross-examination, which was categorically denied, no oral or documentary evidence has been produced to substantiate the said plea. It is well settled that a mere suggestion put in cross-examination does not constitute evidence. In the absence of any independent material establishing that the claimant was driving on the wrong side or had contributed to the occurrence of the accident, the plea of contributory negligence remains wholly unsubstantiated and is accordingly rejected.

(g) In view of the consistent and trustworthy testimony of PW-1, duly corroborated by the contemporaneous police records, MLC and charge sheet, and there being no rebuttal evidence from the respondents, this Tribunal is satisfied that the accident dated 22.05.2019 occurred due to the rash and negligent driving of the offending vehicle by Respondent No. 1.

(h) It is settled that filing of charge sheet itself is a significant step towards the inference of negligence on the part of driver of the offending vehicle. ***(Support drawn from the Judgment in the case of National Insurance Company Vs. Pushpa Rana 2009 ACJ 287 Delhi as referred and relied by Hon'ble Supreme Court of India in case of Ranjeet & Anr. Vs. Abdul Kayam Neb & Anr SLP (C) No. 10351/2019).*** It is also settled that adverse inference can be drawn against the driver of the offending vehicle in case he does not appear as a witness to depose and clarify about his stance in respect of the accident. (support drawn from the judgment in the case of ***Cholamandlam insurance company Ltd. Vs. Kamlesh 2009 (3) AD Delhi 310****.)*

(i) It is a well-established legal principle that negligence in motor accident cases should be determined based on the preponderance of probabilities, not on proof beyond reasonable doubt. The facts and circumstances must be considered in a broad and practical manner. It is also settled that proceedings under the Motor Vehicles Act are different from regular civil suits and are not strictly governed by the technical rules of the Indian Evidence Act. (as observed by Their Lordships of the Hon'ble Supreme Court of India in the case of ***Bimla Devi & Ors. v. Himachal Road Transport Corporation & Ors.*, (2009) 13 SCC 530** further referred and relied by Hon'ble Supreme Court of India in recent pronouncement in the case of **Mathew Alexander vs Mohammed Shafi SLP (Crl) No.8211 of 2022).**

(j). The entirety of the evidence discussed points to the inescapable conclusion that the accident resulted from the rash and negligent driving of the driver of the offending vehicle. In light of the aforementioned findings, Issue No. 1 is hereby decided in favor of the petitioners and against the respondents.

ISSUE NO. 2

"Whether the injured is entitled to any compensation, if so, to what extent and from whom?OPP"

10. Sec. 168 MV Act enjoins the Claim Tribunals to hold an inquiry into the claim to determine the compensation payable and pass an award. Relevant portion of Section 168 MV Act is reproduced hereunder for ready reference:

> *"(1) Award of the Claims Tribunal.—On receipt of an application for compensation made under section 166, the Claims Tribunal shall, after giving notice of the application to*

the insurer and after giving the parties (including the insurer) an opportunity of being heard, hold an inquiry into the claim or, as the case may be, each of the claims and, subject to the provisions of section 162 may make an award determining the amount of compensation which appears to it to be just and specifying the person or persons to whom compensation shall be paid and in making the award the Claims Tribunal shall specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be: Provided that where such application makes a claim for compensation under section 140 in respect of the death or permanent disablement of any person, such claim and any other claim (whether made in such application or otherwise) for compensation in respect of such death or permanent disablement shall be disposed of in accordance with the provisions of Chapter X.

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11. ***"….Money cannot renew a physical frame that has been battered."*** {as observed in the case of H. West and Son Limited Vs. Shephard 1958 -65 ACJ 504 (HL, England)}. It recognizes that the physical damage caused once cannot be fully undone. Something which remains as an indelible permanent signs of an unfortunate incident cannot be balanced merely by paying some monetary compensation. The process of damage and the ugly scars left on physical body and mental self, navigating through the entire process post accident and the unintended but compulsory turns that it brings in the course of life is indeed painful and traumatic. It is also required to be underlined that the damage is not restricted to the tangible injuries visible on the body of the injured rather catapults the lives of his family members also.

12. The assessment or grant of compensation is a small attempt

to render assistance to the injured to navigate through the hairpin unanticipated sudden and traumatic turn in order to bring some elbow space for him to move towards stability and normalcy to the extent possible. The underlying principle remains thus to make good the damage so far as possible as equivalent in money.

13. Section 168 MV Act puts an obligation over Tribunal to assess '*just'* compensation with the object of putting the sufferer in the same position as nearly as possible as he would have been if he had not sustained the wrong. It is worthwhile to reproduce certain observations made by Karnataka High Court in the case of K. Narasimha Murthy v. Oriental Insurance Co. Ltd ILR 2004 KAR 2471 as referred and relied in the case of **Rekha Jain Vs. National Insurance Company Limited Civil Appeal No. 5370-5372 of 2013** which enumerates the milestones to be kept in mind by the Tribunal in an endevour to assess just compensation, at the same time acknowledging that any amount of money cannot compensate fully an injured man or completely renew a shattered human physical frame as under:

> *"16. The Courts and Tribunals, in bodily injury cases, while assessing compensation, should take into account all relevant circumstances, evidence, legal principles governing quantification of compensation. Further, they have to approach the issue of awarding compensation on the larger perspectives of justice, equity and good conscience and eschew technicalities in the decision-making. There should be realisation on the part of the Tribunals and Courts that the possession of one's own body is the first and most valuable of all human rights, and that all possessions and ownership are extensions of this primary right, while awarding compensation for bodily injuries. Bodily injury is to be treated as a deprivation which entitles a claimant to damages. The amount of damages varies according to gravity of injuries."*

14. It is also settled that the monetary assessment is a methodology known to law as social and legal security to a

victim even though the nature of injuries and the individual ramifications might vary in different cases, therefore, it is understandable that one remedy cannot heal all. Further, the loss is in the nature of deprivation and it is unlike a personal asset with a price tag which can be simply awarded and therefore, complete accuracy in making such assessment is not humanly possible. The endevour is thus to make an assessment as best and as fair as possible under the given circumstance. The uncertainty of bringing justness to an assessment has been recognized, still holding that substantial damages must be awarded. The observations made by Lord Halsbury in the case of Mediana In re 1900 AC 113 (HL) give valuable insights into the aspect and reproduced as under:

> ***"…...Of course the whole region of inquiry into damages is one of extreme difficulty. You very often cannot even lay down any principle upon which you can give damages; nevertheless it is remitted to the jury or those who stand in place of the jury, to consider what compensation in money shall be given for what is a wrongful act. Take the most familiar and ordinary case: how is anybody to measure pain and suffering in money counted? Nobody can suggest that you can by any arithmetical calculation establish what is the exact amount of money which would represent such a thing as the pain and suffering which a person has undergone by reason of an accident……. But nevertheless the law recognises that as a topic upon which damages may be given"***

15. The uncertainty involved has also been recognized by Hon'ble Supreme Court of India in the case of **Rekha Jain (supra)** where observations of Lord Blacburn in the case of **Livingstone Vs. Rawyards Coal Company (1880) 5 APP CAS 25** were referred as under:

> *"…….where any injury is to be compensated by damages, in settling the sum of money to be given… you should as*

nearly as possible get at that sum of money which will put the party who has been injured.. in the same position as he would have been if he had not sustained the wrong….”

16. It is further observed by their Lordship in the case of Rekha Jain (supra) as follows:

> *“41…..Besides, the Court is well advised to remember that the measures of damages in all these cases ‘should be such as to enable even a tortfeasor to say that he had amply atoned for his misadventure’. The observation of Lord Devlin that the proper approach to the problem or to adopt a test as to what contemporary society would deem to be a fair sum, such as would allow the wrongdoer to ‘hold up his head among his neighbours and say with their approval that he has done the fair thing’ is quite opposite to be kept in mind by the Court in assessing compensation in personal injury cases.”*

17. It is also settled that the compensation is not granted only for the physical injury but for the entire loss which results from the injury in an endevour to place the victim in a position as close as possible as prior to the accident (support drawn from National **Insurance Company Limited v. Pranay Sethi & Ors (2017) 16 SCC 680 also in Raj Kumar v. Ajay Kumar *(2011) 1 SCC 343***). It is also settled as held in catena of judgments that the Motor Vehicles Act is a beneficial piece of legislation and the object of the Tribunal ought to be to assist the injured persons, (support drawn from **Helen C Rebello (Mrs) & Ors. v. Maharashtra State Road Transport Corporation and Anr (1999) 1 SCC 90**).

18. It is settled that an injured is required to be compensated for his inability to lead full life, his inability to enjoy those natural amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or

could have earned (support drawn from **C. K. Subramonia Iyer vs. T. Kunhikuttan Nair - AIR 1970 SC 376** as further referred and relied in the case of Raj Kumar (supra) and then in a recent pronouncement of **Sidram Vs Divisonal Manager United India Insurance Company & Anr SLP (Civil) No.19277 of 2018**).

19. What is required of the Tribunal is to attempt objective assessment of damages as nearly as possible without fanciful or whimsical speculation even though, some conjecture specially in reference of the nature of disability and it consequence would be inevitable. {support drawn from Raj Kumar (supra) as referred and relied in Sidram (supra)}.

20. Observing that a measure of damages cannot be arrived with precise mathematical calculations and that much depends upon peculiar facts and circumstances of any matter, Hon'ble Supreme Court of India elaborated upon the expression *"which appears to it to be just"* in the case of **Divisional Controller, KSRTC v. Mahadeva Shetty and Another, (2003) 7 SCC 197.**

21. The observations made by Hon'ble Supreme Court of India in the case of **K. Suresh Vs. New India Assurance Company Limited (2012) 12 SCC 274** provide valuable insights into the factors to be weighed by the Tribunal for determination of quantum of compensation. The relevant extract of which is reproduced as under:

> *"10. It is noteworthy to state that an adjudicating authority, while determining the quantum of compensation, has to keep in view the sufferings of the injured person which would include his inability to lead a full life, his incapacity to enjoy the normal amenities which he would have enjoyed but for the injuries and his ability to earn as much as he used to earn or could have earned. Hence, while computing compensation the approach of the Tribunal or a court has*

to be broad- based. Needless to say, it would involve some guesswork as there cannot be any mathematical exactitude or a precise formula to determine the quantum of compensation. In determination of compensation the fundamental criterion of "just compensation" should be inhered."

22. The compensation has been broadly delineated as pecuniary and non pecuniary in the case of **R. D. Hattangadi Vs. Pest Control India Pvt Ltd. 1995 AIR 755,** it is worthwhile to reproduce certain observations made therein:

> *"9….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. 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 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."*

23. The issue of determination of compensation in a personal injury matter was extensively deliberated by Hon'ble Supreme Court of India in the case of Raj Kumar (supra) Relevant extract of the aforesaid judgment are reproduced hereunder for further discussion:

> *6. The heads under which compensation is awarded in*

personal injury cases are the following:

Pecuniary damages (Special damages)

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

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

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

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

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

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

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

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

In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b),

(iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

7. Assessment of pecuniary damages under Item (i) and under Item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses—Item (iii)—depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages—Items (iv), (v) and (vi)—involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant. Decisions of this Court and the High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability—Item (ii)(a). We are concerned with that assessment in this case.

24. PECUNIARY DAMAGES

Damages under pecuniary heads primarily involves reimbursement of actual amount spent on account of injury suffered in an accident to undo the monetary loss, suffered by the claimant, as ascertainable from the evidence on record. Given hereunder are various heads under which compensation for pecuniary damages is assessed:

A. Expenditure on treatment: The claimant has placed on record the original medical bills and treatment documents, exhibited as Ex. PW1/4 (colly). The said bills have neither been specifically disputed nor rebutted by the respondents during the course of evidence. As per summary of such medical bills, the total expenditure towards treatment comes to Rs.5,23,989/-. A sum of **Rs.5,23,989/-** is, therefore, awarded to the claimant under this head.

B. Expenditure on Conveyance : The claimant has deposed that he incurred a sum of Rs. 1,00,000/- towards conveyance expenses. Though no documentary evidence has been placed on record in support of the said claim, the record reflects that the claimant remained under treatment for a considerable period and underwent treatment at different medical facilities. Considering the grievous nature of the injuries sustained by the claimant, the prolonged course of treatment, follow-up consultations, physiotherapy/rehabilitation, and the necessity of making repeated visits to hospitals and other medical centres, it can reasonably be inferred that the claimant must have incurred expenditure towards conveyance. Accordingly, this Tribunal deems it just and proper to award a sum of **Rs. 30,000/-** to the claimant towards conveyance charges.

C. Expenditure on Special Diet- The claimant has deposed that he incurred an expenditure of Rs. 1,00,000/- towards special diet. Although no documentary evidence has been placed on record in support of the said claim, it cannot be overlooked that the claimant suffered **an open Grade III floating knee injury comprising a fracture of the distal end of the right femur along with a Schatzker Type VI tibial plateau fracture of the right leg**. Such injuries are severe high-energy orthopaedic injuries involving fractures around both the knee joint and the upper tibia, resulting in extensive soft tissue damage and prolonged immobilization. Recovery from such injuries ordinarily requires surgical intervention, prolonged rehabilitation and enhanced nutritional intake, particularly a protein-rich and calcium-rich diet, to facilitate bone healing, tissue repair and recovery from trauma. It is, therefore, reasonable to infer that the claimant would have incurred expenditure towards a special diet during the period of treatment and convalescence. Accordingly, a sum of **Rs. 30,000/-** is awarded to the claimant towards special diet.

D. Expenditure on Attendant Charges:

No medical bills have been filed on record with respect to attendant charges during recovery period. However, considering the extensive injuries sustained in the accident which further led 81% permanent physical disability the need of day to day assistance, at least during recovery period cannot be denied. It is well settled that even if such services are rendered gratuitously by family members, the claimant is entitled to compensation under this head. In view of the above facts and circumstances, a sum of **Rs.50,000/-** is held to be just and reasonable and is accordingly awarded towards attendant charges.

E. Loss of Earnings During the Period of Treatment

The claimant has pleaded that at the time of the accident he was pursuing the final year of B.Sc. and was also imparting tuition to students at his residence, earning approximately Rs.15,000/- per month. However, no documentary evidence has been placed on record to establish such income. In the absence of any cogent proof of earnings, the income of the claimant is required to be assessed on the basis of the applicable minimum wages.

Learned counsel for the claimant has argued that the income of the claimant should be assessed on the basis of the minimum wages applicable to a graduate. However, the record reveals that on the date of the accident, i.e., 22.05.2019, the claimant had not completed his graduation. The educational documents placed on record show that he completed his B.Sc. only in the year 2021. Therefore, the minimum wages applicable to a graduate cannot be adopted.

The marksheet of the Senior Secondary Examination for the year 2016 placed on record establishes that the claimant was at least a matriculate on the date of the accident. The record further shows that the claimant was ordinarily residing in the State of Haryana. Accordingly, his income is liable to be assessed on the basis of the minimum wages applicable in the State of Haryana. Since the minimum wages prescribed for a matriculate are generally treated at par with those of a skilled worker, the monthly income of the claimant is assessed as per the minimum wages applicable to a skilled worker in Haryana, which were **Rs.10,446/- per month** on the date of the accident.

Having regard to the nature of injuries sustained by the claimant, the prolonged treatment undergone by him and the adverse impact of the injuries on his studies and normal activities, this Tribunal considers it appropriate to award loss of income for a period of **six months**.

Accordingly, the loss of income is computed as under:

Rs.10,446 × 6 = Rs.62,676/-

Hence, the claimant is awarded **Rs.62,676/-** towards **loss of income during the period of treatment**.

F. Loss of future earning: It is settled that a person is required to be compensated not just for the physical injury but also for the loss he has suffered as well as the loss which he might entail for the rest of his life on account of those injuries which he sustained in the accident. This necessarily means that he is required to be compensated for his inability to lead a full life, his inability to enjoy normal amenities, which he would have enjoyed but for the injury, his inability to earn as much as he used to earn or could have earned. **(Support drawn from the judgment titled as C. K. Subramania Iyer *v.* T. Kunhikuttan Nair (1969) 3 SCC 64.**

(i) The claimant has proved the disability certificate/report issued by Pt. Madan Mohan Malaviya Hospital, which certifies that he has suffered 81% permanent physical disability in relation to the right lower limb as a consequence of the injuries sustained in the accident.

(ii) Before proceeding further, it is important to understand as to what disability means and also types thereof. This aspect has been delved into by Hon'ble SC in Raj Kumar (supra):

> *"8. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human being.* ***Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured.*** *Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total.* ***Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity.*** *Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accident injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ("the Disabilities Act", for short). But if any of the disabilities enumerated in Section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation."*

(iii) The term 'disability' means the decrements to the functional efficacy of body of injured whereas 'functioning' encompass all the body functions and activities for an independent life. Functional disability is to determine the extent of loss or extent of restrictive functionality considering the nature of activities required to be necessarily performed in efficient discharge of duties and the limb effected. This computes the extent of adverse effect of physical disability

upon the functional efficacy of an injured person, in turn adversely impacting his earning capacity. The process entails understanding and enumerating the skill set required for performing specific activities. To sum up, functional disability basically measures the extent of ability having been compromised to carry out basic everyday tasks or even more complex tasks required for and independent living. The limitations may occur on account of disability in the personal sphere, in the social sphere and in the occupational sphere. In the personal sphere it may encompass the daily activities of a person, his body function and his involvement in basis life situations. At the societal level, it could mean difficulty in involvement and participation in social and community activities interfering the interpersonal interaction and relationship adversely impacting the civic life. When disability restricts the vocation or employment avenues to make earning for his living, it falls in the category of disability in the occupational sphere. The disability might occur on account of age or any illness and in the case at hand by way of an accident. A person living a normal life in particular set of circumstance and making his living by engaging in any work has suffered disability which might impead his daily life activities, both on a personal and social scale and might also impact his ability to continue earning as much as before and his future employment avenues.

(iv) What is thus required to be assessed is the effect and impact of disability upon the working efficiency of injured and whether it would adversely impact his earning capabilities in future. It is settled that the Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity.

(v) Hon'ble SC laid down certain guidelines for the Tribunal to be able to arrive at an objective figure to quantify the loss for the purpose of computing the compensation in the judgment of **Raj Kumar (supra).** Relevant extracts of this judgment for the purpose of further discussion are reproduced hereunder:

> *"Assessment of future loss of earnings due to permanent disability*
>
> *9. The percentage of permanent disability is expressed by the doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body.* ***The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body.*** *If there is 60% permanent disability of the right hand and 80% permanent disability of left leg, it does not mean that the extent of permanent disability with reference to the whole body is 140% (that is 80% plus 60%). If different parts of the body have suffered different percentages of disabilities, the sum total thereof expressed in terms of the permanent disability with reference to the whole body cannot obviously exceed 100%.*
>
> *10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity.* ***In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability.*** *Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity.* ***In most of the cases, equating***

the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation.

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.

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19. We may now summarise the principles discussed above:

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that the percentage of loss of earning capacity is the same as the percentage of permanent disability).

(iii) The doctor who treated an injured claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard to the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

(vi) Further in the case of **"Mohan Soni v Ram Avtar Tomar & Ors. I (2012) ACC 1 (SC),** the question at hand was deliberated and following observations as relevant in the context were made:

"In the context of loss of future earning, any physical

> ***disability resulting from an accident has to be judged with reference to the nature of work being performed by the person suffering the disability. This is the basic premise and once that is grasped, it clearly follows that the same injury or loss may affect two different persons in different ways. Take the case of a marginal farmer who does his cultivation work himself and ploughs his land with his own two hands; or the puller of a cycle-rickshaw, one of the main means of transport in hundreds of small towns all over the country. The loss of one of the legs either to the marginal farmer or the cycle-rickshaw-puller would be the end of the road insofar as their earning capacity is concerned. But in case of a person engaged in some kind of desk work in an office, the loss of a leg may not have the same effect. The loss of a leg (or for that matter the loss of any limb) to anyone is bound to have very traumatic effects on one's personal, family or social life but the loss of one of the legs to a person working in the office would not interfere with his work/earning capacity in the same degree as in the case of a marginal farmer or a cycle-rickshaw-puller.***

(vii) The question of assessment of impact of disability on the earning capacity has been dealt in several cases but it is understood that each case has to be evaluated on its contextual dynamics established by way of evidence at hand. It brings us to a question whether extent of permanent disability as medically determined can simply be taken to be the extent of functional disability and hence, the loss of earning capacity. It has been held in various pronouncements of Hon'ble Supreme Court of India and Hon'ble High Court that equating the two as a criteria would result in an inobjective and absurd compensation. There however, might be certain cases where the two would correspond to each other but it cannot be mechanically applied rather requires evaluation of applicable factors independently in each case to reach at a fair quantification of loss of earning capacity.

(viii) Functional Disability

The claimant has relied upon the disability certificate issued by

Pt. Madan Mohan Malaviya Hospital, whereby he has been assessed to have suffered 81% permanent physical disability in relation to the right lower limb. To prove the said disability certificate, the claimant examined PW-2, Dr. Manish Sharma, Specialist Grade-II and Head of the Department of Orthopaedic Surgery. PW-2 identified his signatures as well as those of the other members of the Medical Board on the disability certificate. He affirmed that the claimant had suffered 81% permanent physical disability in relation to the right lower limb and further deposed that the disability was permanent in nature and was not likely to improve in future. He also stated that on account of the disability, the claimant would be unable to stand properly on the affected limb, squat, sit cross-legged or kneel. PW-2 further deposed that the claimant had shortening of approximately three and half inches in the right lower limb.

The disability certificate, however, reflects only the extent of physical disability and not the functional disability affecting the earning capacity of the claimant. It is, therefore, incumbent upon the Tribunal to assess the extent to which such disability is likely to impair his future prospects and earning capacity. The record shows that at the time of the accident, the claimant was a young student pursuing B.Sc. He subsequently completed his graduation in the year 2021. The claimant has also placed on record NCC certificates showing that he successfully passed NCC examinations in the years 2016, 2018 and 2019. His continuous participation in NCC demonstrates that he was physically active and possessed the potential to pursue careers requiring physical fitness and endurance.

Owing to the permanent disability suffered by him, the claimant has substantial restriction in the use of his right lower limb. His inability to stand for prolonged periods, squat, kneel or sit cross-legged, coupled with the shortening of his right leg, would significantly diminish his ability to undertake occupations involving physical labour or requiring a high degree of mobility and physical endurance. At the same time, it cannot be overlooked that the claimant is a science graduate and is capable of pursuing sedentary or less physically demanding occupations. He also stated that he was imparting tuition to students, an avocation which is not completely foreclosed by the disability. Thus, while the claimant has not lost his entire earning capacity, his opportunities in several fields requiring physical fitness have been substantially curtailed and he is likely to face disadvantages in the competitive job market throughout his working life. Considering the nature of the injuries, the medical evidence, the extent of permanent disability, the age, educational qualifications, NCC background and the overall impact of the disability on the claimant's future earning prospects, this Tribunal is of the considered opinion that the **functional disability affecting his earning capacity can be reasonably assessed at 60%**.

(ix) Future prospect & Multiplier:

It is well settled that the benefit of future prospects, as recognised by the Hon'ble Supreme Court in National Insurance Co. Ltd. v. Pranay Sethi & Ors., (2017) 16 SCC 680, is not confined to fatal accident claims but is equally applicable while determining compensation in cases of permanent disability affecting the earning capacity of an injured claimant. The said principle has been reiterated by the Hon'ble Supreme Court in Pappu Deo Yadav v. Naresh Kumar & Ors., AIR 2020 SC 4424.

As per the Senior Secondary Examination Certificate (Ex. PW1/5), the claimant's date of birth is 05.06.1998. The accident occurred on 22.05.2019. Thus, on the date of the accident, the claimant was about 20 years and 11 months of age.

Since the claimant was below 40 years of age and his income has been assessed on the basis of minimum wages, he is entitled to an addition of 40% towards future prospects in terms of the law laid down in Pranay Sethi (supra). Having regard to the age of the claimant at the time of the accident, the appropriate multiplier applicable is 18.

In view of the aforesaid discussion, the compensation towards loss of future earning capacity is calculated as under:

(a) Annual Income (Rs.10,446 × 12) = **Rs.1,25,352/-**

(b) Future Prospects (40% of Rs.1,25,352/-) = **Rs.50,141/-**

(c) Total Annual Income = **Rs.1,75,493/-**

(d) Functional Disability calculated = **60%**

(e) Multiplier = **18**

(f) Total Loss of Future Income:

60% of (Rs.1,75,493/- × 18)

= **60% of Rs.31,58,874/-**

= **Rs.18,95,324/-** (rounded off)

Accordingly, the claimant is held entitled to Rs.18,95,324/- towards Loss of Future Earning Capacity.

25. NON-PECUNIARY LOSS

(a) Injured is entitled to both, pecuniary as well as non-pecuniary damages. As the name suggests pecuniary damages are designed to make good the pecuniary loss which can be ascertained in terms of money whereas non pecuniary damages are general damages to compensate the injured for mental and physical shock, pain, suffering, loss of expectation of life, inconvenience, hardship, frustration, stress, dejectment and unhappiness suffered by him on account of injuries sustained in the accident. It takes into account all the aspects of a normal life which deluded injured on account of accident. Given the nature of heads covered, it is bound to involve guess work on the part of Tribunal involving some hypothetical consideration as well, primarily considering the special circumstances of the injured and the effect of those upon his future life.

(b) Regarding non-pecuniary loss, following was stated in Halsbury's Laws of England, 4 th Edition, Vol. 12 (page 446) {also been referred to and relied upon by the Hon'ble Supreme Court in *Sidram (supra)}*

> ***"Non-pecuniary loss: the pattern: Damages awarded for pain and suffering and loss of amenity constitute a conventional sum which is taken to be the sum which society deems fair, fairness being interpreted by the courts in the light of previous decisions. Thus there has been evolved a set of conventional principles providing a provisional guide to the comparative severity of different injuries, and indicating a bracket of damages into which a particular injury will currently fall. The particular circumstances of the plaintiff, including his age and any unusual deprivation he may suffer, is reflected in the actual amount of the award.***

(c) In case of **Common Cause, A Registered Society v. Union of India, (1999) 6 SCC 667,** the Hon'ble Supreme Court of India held that the object of an award of damages is to give the plaintiff compensation for damage, loss or injury he has suffered. The Court further held that the elements of damage recognized by law are divisible into two main groups: pecuniary and non-pecuniary loss. While the pecuniary loss is capable of being arithmetically worked out, the non- pecuniary loss is not so calculable. Non-pecuniary loss is compensated in terms of money, not as a substitute or replacement for other money, but as a substitute, what McGregor says, is generally more important than money: it is the best that a court can do.

(d) Further, in the case of **Nagappa v. Gurudayal Singh,** (2003) 2 SCC 274, the Hon'ble Supreme Court of India held that if a collection of cases on the quantum of damages is to be useful, it must necessarily be classified in such a way that comparable cases can be grouped together. No doubt, no two cases are alike but still, it is possible to make a broad classification which enables one to bring comparable awards together. Inflation should be taken into account while calculating damages.

(The above two cases were also referred and relied in the case of A. Rupin Manohar Through Sh. S. Anandha vs Mohd. Ansari & Ors. MAC App. 602/2015 decided on 17 August, 2017 by Hon'ble Delhi High Court).

(e) To sum up, Compensation under non-pecuniary heads involves objective assessment of the damages in a bid to undo the loss, the injured would incur on account of his inability to a normal life and earn as much as he would, but for the injuries sustained. The whole idea behind assessment for damages for compensation is to put the claimant in the same position in so far as money can. The very nature of these damages, compulsorily involves some guesswork and hypothetical considerations, however, efforts should be made to adjudicate these on the basis of objective parameters rather than guided by subjective sympathy. The nature and severity of injury, the age, nature of disability are some of those parameters. Given hereunder are various heads under which compensation for non-pecuniary loss (general damages) is assessed:

(i) Damages for Pain and Suffering as well as Mental and Physical Trauma: The claimant sustained grievous injuries in the accident, which resulted in 81% permanent physical disability in relation to the right lower limb. He remained under prolonged medical treatment and has been left with permanent physical impairment. The injuries have considerably affected his mobility and normal day-to-day activities, causing him to endure substantial physical pain and discomfort. Being a young individual, the claimant is also likely to suffer continuing mental anguish, emotional distress and loss of enjoyment of life on account of the permanent disability. The physical limitations arising from the injuries are bound to affect his confidence, social life and overall quality of life for years to come. Keeping in view the nature and extent of the injuries, the prolonged treatment undergone by the claimant, the permanent disability suffered by him and the consequent physical pain, mental shock and trauma, this Tribunal considers it just and reasonable to award **Rs.1,50,000/-** towards pain and suffering and **Rs.1,50,000/-** towards mental and physical trauma. Accordingly, a total sum of **Rs.3,00,000/-** is awarded under the aforesaid non-pecuniary heads.

(ii) Loss of Amenities of Life:

Compensation under this head is awarded to offset the deprivation of the ordinary amenities and pleasures of life which the claimant would have otherwise enjoyed. In the present case, the claimant has suffered 81% permanent physical disability in relation to the right lower limb, resulting in permanent restriction in his mobility and physical activities. Being a young individual, he has been deprived of leading a normal life in the same manner as before the accident. The permanent disability is likely to cause difficulty in carrying out several routine activities and participating in social, recreational and other physical pursuits with the same ease as prior to the accident. The disability is also likely to adversely affect his overall enjoyment and quality of life in the years ahead. Considering the age of the claimant, the nature and extent of the permanent disability and the consequent loss of amenities and enjoyment of life, this Tribunal considers it just and reasonable to award a sum of **Rs.50,000/- towards loss of amenities of life.**

26. The compensation awarded against pecuniary and non-pecuniary damages under various heads is being sequentially put in a tabulated form hereunder for ease of reference to all concerned:

S. No.	Head of Compensation	Amount
A.	**Pecuniary Damages**	
1.	Expenditure on Treatment	Rs.5,23,989/-
2.	Conveyance Charges	Rs.30,000/-
3.	Special Diet	Rs.30,000/-

S. No.	Head of Compensation	Amount
4.	Attendant Charges during Treatment & Recovery	Rs.50,000/-
5.	Loss of Earnings during Treatment	Rs.62,676/-
6.	Loss of Future Earning Capacity	Rs.18,95,324/-
B.	**Non-Pecuniary Damages**	
7.	Pain and Suffering	Rs.1,50,000/-
8.	Mental and Physical Trauma	Rs.1,50,000/-
9.	Loss of Amenities of Life	Rs.50,000/-
	Grand Total Compensation	**Rs.29,41,989/-**

27. Interest

(a). It is settled that any fixed rate of interest cannot be prescribed for all cases at all times and would largely depend upon the prevailing rate of interest as per the applicable guidelines. As such, interest at the rate of 7.5% per annum is deemed fit and accordingly granted in the present case. (Reliance placed upon **National Insurance Company Ltd Vs. Yad Ram MAC APP 526/2018 also referred and relied in case of The Oriental Insurance Company Ltd Vs. Sohan Lal & Ors. MAC APP 70/2024** of the Hon'ble Delhi High Court).

28. LIABILITY.

(a) Insurance Company has conceded valid and effective Insurance Policy on the date of accident and has not raised any statutory defence. It has already been held that accident occurred on account of speedy and rash driving of offending vehicle. It is settled that Insurance Company is responsible to indemnify owner / insured for vicarious liability incurred by tort feaser. Therefore, such principal award amount/compensation will be payable by the insurance company of offending vehicle with simple interest @ 7.5% p.a. from the date of filing of claim petition **till actual realization.** ***(If there is any order regarding excluding of interest for specific period same be complied at the time of calculation of award amount. Further, in case the matter adjourned sine die, interest for the period i.e. the date of concerned order till revival of the case, shall not be awarded. Further, if any auction proceeds is received, same be adjusted in the final award amount).***

29. The award amount shall be deposited by the Insurance Company. Counsel for the Insurance Company is also directed to furnish the complete case details, including the MACT case number, CNR number, FIR number, name of Police Station, name of the deceased/claimant(s), date of accident, and any other relevant particulars, to the State Bank of India, Saket Court Branch, New Delhi at the time of getting the amount deposited. The amount shall be deposited through RTGS/NEFT/IMPS in the account titled "MACT FUND PARKING", Account No. 00000042706870765, IFSC Code SBIN0014244, MICR Code 110002342, under intimation to the Nazir of this Tribunal.

30. Release of Award Amount/ Disbursement

(a) Out of total award amount Rs.25,00,000/- along with proportionate interest is directed to be kept in form of monthly FDR of Rs.25,000/- each. Remaining amount ***shall be released in his bank account as per details.***

31. **In terms of the Practice Directions issued by Hon'ble High Court, vide reference no. 134/Rules/DHC, dated 14.05.2025, the claimant (s) are directed to produce their**

bank account details along with either a certificate of the banker giving all details of the bank account of the person or persons entitled to receive the compensation including IFS Code, or a copy of cancelled cheque of the bank account to this Tribunal with seven days of the date of Award, if not already placed on record. They are also directed to file their Aadhar Card and PAN Card if not already filed.

32. Directions to the Branch Manager, SBI, Saket Court Complex

(a). **The Manager, SBI, Saket Court Complex, is further directed to verify the documents and details submitted by the claimant pertaining to their bank account, and upon proper verification, under certification of the Branch Manager (of the bank whose details have been provided by the claimant for release of the compensation amount) disburse the amount, directed to be released to the claimant, directly into the verified bank account of the claimant under notice to the Tribunal.**

32. Directions with respect to Fixed Deposit:

(a) As per Practice Directions, Hon'ble High Court, vide reference no. 134/Rules/DHC, dated 14.05.2025, the bank shall invest the amount to be deposited in fixed deposit with any nationalised bank and fixed deposit shall be with the standing instructions to the bank to renew the same after periodical intervals till further orders are passed by the Tribunal.

(b) The Bank shall not permit any joint name (s) to be added in the savings bank account or fixed deposit accounts of victim i.e. the savings bank account of the claimant shall be individual savings bank account and not a joint account.

(c) The original fixed deposit shall be retained by the bank in safe custody. However, the statement containing FDR number, FDR amount, date of maturity and maturity amount shall be furnished by bank to the claimant.

(d) The monthly interest be credited by Electronic Clearing System (ECS) in

the savings bank account of the claimant near the place of their residence.

(e) The maturity amounts of the FDR (s) be credited by Electronic Clearing System (ECS) in the savings bank account of the claimant near the place of their residence.

(f) No loan, advance or withdrawal or pre-mature discharge be allowed on the fixed deposits without permission of the Court.

(g) The concerned bank shall not issue any cheque book and/ or debit card to claimant (s). However, in case the debit card and/ or cheque book have already been issued, bank shall cancel the same before the disbursement of the award amount. The bank shall debit freeze the account of the claimant so that no debit card be issued in respect of the account of the claimant from any other branch of the bank.

(h) The bank shall make an endorsement on the passbook of the claimant to the effect, that no cheque book and / or debit card have been issued and shall not be issued without the permission of the Court and claimant shall produce the passbook with the necessary endorsement before the Court on the next date fixed for compliance.

33. SUMMARY OF COMPUTATION OF AWARD AMOUNT IN INJURY CASES TO BE INCORPORATED IN THE AWARD.

1	**Date of accident**	22.05.2019
2	**Name of injured**	Aman
3	**Age of the injured**	20 years
4	**Occupation of the injured**	not proved
5	**Income of the injured**	As per minimum wages
6	**Nature injury**	Grievous injury and

		disability
7	**Medical treatment taken by the injured:**	As per record.
8	**Period of Hospitalization**	As per record.
9	**Whether any permanent disability**?	Grievous injury and disability

34. Copy of this award be given to the parties free of cost. The copy of award be sent to Ld. Secretary, DLSA and Ld. Concerned Criminal Court.

ADITI GARG

Digitally signed by ADITI GARG
Date: 2026.07.30 16:57:43 +0530

(Pronounced in the open court on 30.07.2026)

(Aditi Garg)
PO-MACT-02 (South-East)
Saket Court/ New Delhi
30.07.2026