



2026:DHC:9013



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

% **Reserved on : 18th September 2026**
Pronounced on : 12th October 2026
Uploaded on : 13th October 2026

CNR No. DLHC010236672024

+ **MAC.APP. 224/2024**

GANGA DEVI.

.....Appellant

Through: Ms. Pooja Goel & Ms. Muskaan
Goel, Advocates.

versus

RAJESH KUMAR & ORS.

.....Respondents

Through: Mr. Pankaj Seth, Ms. Shruti Jain and
Ms. Tanya Jindal, Advocates for R-
3/Insurance Co.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT

“It’s not the years in your life that count. It’s the life in your years”

-Abraham Lincoln

1. The present appeal presents an opportunity to deal with the issue of compensation to a motor accident victim of advanced age, and whether advanced age, by itself, justifies a conclusion that the person ceases to render economically valuable gratuitous services to the family.

2. This appeal has been filed by the claimant seeking enhancement of compensation awarded by the judgment dated 23rd December 2023 passed by the Motor Vehicles Claims Tribunal [**MACT**], East District, Karkardooma Courts, in MACP No. 674/2019, whereby compensation of



2026:DHC:9013



Rs.14,42,000/- along with interest @ 7.5% has been awarded to the claimant.

The accident

3. The accident occurred on 19th February 2019 at about 2:000 pm near footover bridge, Samaspur bus stand, Pandav Nagar when injured was waiting at the bus stand and trying to board the bus. The driver of the bus bearing registration number DL-1PC-7150, rashly and negligently, at a very high speed, drove the bus due to which claimant got disbalanced and fell down on road and both her legs were crushed under the rear wheels of the bus. FIR No. 68/2015 was registered at PS Pandav Nagar.

4. At the time of accident, the claimant was 74 years old and stated to have never worked/ never been employed and has been a homemaker. The claimant now has attained the age of 81 years. As per the Disability Certificate the claimant suffered 74% permanent disability in relation to both lower limbs with below knee amputation of left leg and amputation of all toes of right leg.

Impugned award

5. On the issue of negligence, the Tribunal relied upon the testimony of **PW1**, the injured claimant, which remained unrebutted in cross-examination, as also the fact that a chargesheet had been filed against the driver of the offending vehicle. On the basis of the aforesaid evidence, the Tribunal held that the accident had occurred due to the negligence of the driver of the offending vehicle.



2026:DHC:9013



6. On the issue of quantum of compensation, the Tribunal awarded compensation under various heads. A sum of *Rs. 4,19,561/-* was awarded towards medical expenses.

7. Considering that the claimant had suffered amputation and would require an artificial limb for the remainder of her life, the Tribunal relied upon the testimony of **PW5**, Prosthetist and Orthotist, Otto Bock Healthcare India Pvt. Ltd., as well as the bills relating to the artificial limb and its maintenance, and awarded a sum of *Rs. 1,66,750/-* towards the cost of the artificial limb and its maintenance. In the absence of any evidence regarding the lifespan of the artificial limb, the Tribunal assumed the same to be ten years. Considering that the annual maintenance cost of the artificial limb was stated to be between *Rs. 10,000/-* and *Rs. 15,000/-*, and that the claimant was 74 years of age, the Tribunal awarded a lump-sum amount of *Rs. 1,00,000/-* towards its maintenance.

8. A further sum of *Rs. 1,30,000/-* was awarded to the claimant, with a direction that the said amount be retained in a Fixed Deposit Receipt and released only upon the claimant producing medical advice, bills relating to the purchase of medicines or treatment, or other supporting medical documents for withdrawal of the amount.

9. Considering the multiple hospitalisations undergone by the claimant, the disability suffered by her, and the amputation of the left leg below the knee as well as all the toes of the right leg, the Tribunal awarded a sum of *Rs. 75,000/-* towards pain and suffering.

10. The Tribunal did not award any amount towards loss of income or loss of future income. A sum of *Rs. 50,000/-* was awarded towards attendant



2026:DHC:9013



charges, Rs. 10,000/- towards conveyance, and Rs. 15,000/- towards special diet. A sum of Rs. 1,00,000/- was awarded towards disfigurement and Rs. 4,00,000/- towards loss of amenities of life.

Submission of counsel for appellant/claimant

11. *Ms. Pooja Goel* seeks enhancement of compensation on the following grounds:

- (i) the Tribunal failed to adequately appreciate the extent of disability suffered by her on account of amputation of both lower limbs and the consequent impact on her mobility, day-to-day activities and overall functioning.
- (ii) Tribunal erred in not awarding any compensation towards loss of income and loss of future income, particularly considering that appellant was a homemaker and her functional capacity had been substantially impaired. The Tribunal has not appreciated the economic value of claimant's contribution as a homemaker, including her role in maintaining the household and attending to her grandchildren as they reside in joint family set up. Accordingly, loss of income and loss of future income ought to be granted to her on the basis of the minimum wages of a skilled worker.
- (iii) Inadequate amount has been awarded on account of artificial limb and the cost of maintenance of the artificial limb.



2026:DHC:9013



- (iv) Rs. 75,000/- awarded towards *pain and suffering* is inadequate considering the nature and extent of the injuries, the multiple hospitalisations and the amputation suffered by the appellant.
- (v) The compensation awarded towards attendant charges, is inadequate, particularly considering her continuing requirement for assistance on account of the loss of functionality of her lower limbs.

Submissions of counsel for Insurance Company

12. Mr. Pankaj Seth contends, **firstly**, that considering that the claimant was 74 years of age and at an advanced stage of life, the equities would have to be balanced while awarding *just and reasonable* compensation. The loss of gratuitous services rendered by a homemaker may have to be rationalised, particularly in the case of persons who are at such an advanced age.

13. **Secondly**, he submits that there is no evidence on record to show that the claimant has suffered any loss of earning capacity and, therefore, the MACT was correct in not awarding any compensation under the head of loss of future income.

14. **Thirdly**, he submits that since the life expectancy is 72 years, the principles enunciated in *Shishu Pal v. Surjeet*, 2026 SCC OnLine SC 1114 and the other judgments may not be strictly applicable to the facts of the present case.

15. **Fourthly**, he submits that there is no basis for awarding charges for two attendants in a matter of this nature.



2026:DHC:9013



16. *Fifthly*, he submits that the use of an artificial limb would result in a reduction in the assessment of functional disability.

17. *Sixthly*, he submits that the hospitalisation was intermittent and, therefore, awarding loss of income for a block period may not be justified.

Analysis

18. The claimant was 74 years of age on the date of the accident. She was a homemaker and suffered 70% permanent disability in relation to her right lower limb. She seeks enhancement of compensation, contending that she was denied just compensation in the assessment of her functional disability, income and multiplier, primarily on account of her advanced age.

19. To compound matters, the submissions advanced on behalf of the Insurance Company seek not only rejection of her claim for enhancement, but also contend that she has already been overcompensated, having regard to her advancing age. The accident occurred on 19th February 2019, on which date the claimant was 74 years of age.

20. The MACT held that the petitioner was about 74 years of age at the time of the accident, was an old lady, post the age of retirement, and had stated that she had never worked or been employed and was a homemaker. It observed that while a person may choose to work post-retirement, there could be no assumption or presumption regarding work and income “*at the fag end of his life*”, particularly beyond the average life expectancy, and concrete evidence would have to be led in this regard. The MACT further observed that the petitioner was not working or contributing to the income



2026:DHC:9013



of her family and could, at such an age, be considered dependent on her children for her care. It noted that there was no evidence to show that she was cooking for the family, doing household chores, overseeing or monitoring the upkeep of her grandchildren. The MACT stated that *“Likewise, a young woman who chooses to sit at home and raise her children and support her husband, cannot be equated with an old lady aged 74, whose children are no longer her responsibility and cannot lay such claim to assisting the household and liquidating her contribution in terms of money.”*

21. The MACT, therefore, held that, considering her age, post-retirement status and the absence of evidence showing that she was working as a homemaker, she was not entitled to any claim towards loss of income and loss of future income.

22. The facts of the present case, the approach adopted by the MACT, and the submissions advanced on behalf of the Insurance Company invite this Court to deliberate upon the prejudice faced by older persons, commonly referred to internationally as ‘ageism’. Ageism encompasses prejudice and stereotypes based on age, including the perception that older persons are necessarily infirm, inactive, irrelevant, or less deserving of assistance and of a reasonable quality of life.

23. World Health Organization in ‘Global Report on Ageism’ noted that *‘ageism arises when age is used to categorise and divide people in way that leads to harm, disadvantage and injustice and erode solidarity across generations.’* Ageism is multifaceted social phenomenon that is defined by WHO as *‘stereotypes (thoughts), prejudice (feelings) and discrimination*



2026:DHC:9013



(actions or behaviour) directed towards others or oneself based on age’.

The report further discussed ‘*institutional ageism*’ referring to laws, rules, social norms, policies and practices of institutions that unfairly restrict opportunities and systematically disadvantage individuals on the basis of their age. The report recommended how policies and laws can be used to reduce or eliminate ageism.

24. India has been part of many international efforts to tackle ageism and promote healthy ageing such as *Political Declaration and Madrid International Plan of Action on Ageing* wherein in Article 5, the member states including India committed to eliminate all forms of discrimination, including age discrimination. *United Nations Decade of Healthy Ageing: Plan of Action 2021-2030*, wherein member states have to adopt and ratify legislations to ban age-based discrimination and mechanisms for enforcement.

25. This is not to suggest that older persons are not respected or cared for within society and families. The question, however, is whether law and policy sufficiently recognise the need to preserve and enhance their quality of life, including the standard of living to which they were accustomed during their working and active years. Life expectancy has increased considerably, both in India and internationally, and there are an increasing number of octogenarians, nonagenarians and centenarians across the world, including in India. Some relevant data is set out below for reference:

- (i) In the *Longitudinal Ageing Study in India (‘LASI’) Wave-1*, report by Ministry of Health and Family Welfare. The proportion of the



2026:DHC:9013



‘*oldest old*’, which refers to people who are at least 80 years of age, has more than doubled over the past 65 years. As of 2025 the oldest old population in age 75 and above (%) has increased from 1.3 in 2000 to 2.3 in 2025 and is expected to further increase to 5.2

(ii) As per the *World Bank* data the life expectancy at birth in the world is 73.5 in total, for male it is 71.1 and 76 in female. In India the total life expectancy is 72.2, in female life expectancy is 73.9 and in males it is 70.7.

(iii) The life expectancy in the world and in India has gradually increased.

26. In the present case it would also be relevant to look at the fundamental rights, specifically Article 21, Constitution of India, 1950 (*protection of life and personal liberty*). The correlation between right to live with dignity has been established by Supreme Court judgment in ***Francis Coralie Mullin v Administrator, Union Territory of Delhi*** (1981) 1. SCC 608, ***Aruna Ramachandra Shanbaug v Union of India*** (2011) 4 SCC 454 and ***Common Cause v Union of India*** (2018) 5 SCC 1.

27. The Supreme Court in ***Dr. Ashwani Kumar v Union of India & Ors.*** 2018 INSC 1201, was presented with the opportunity to recognise and enforce the rights of elderly persons and deliberated upon the same.

28. In the present case, and more particularly in the context of a septuagenarian woman who has suffered permanent disability to one of her limbs and is a homemaker with no stated income, the question arises whether the standardised principles laid down in ***Sarla Verma & Ors. v. Delhi Transport Corp. & Anr.***, (2009) 6 SCC 121 and ***National Insurance***



2026:DHC:9013



Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680, would operate to disentitle her from an addition towards *future prospects* and from the application of a multiplier in the manner applicable to a person with a continuing earning capacity. Consequently, she is left with a compensation assessment which does not adequately account for her needs, functional disability or the continuing contribution which she may make to her household.

29. The question would, therefore, arise as to how life expectancy of a person who has already crossed the average life expectancy is to be assessed. Once again, this can only be a broad-brush estimation, given the inherent unpredictability of individual human life. The other question which emerges from the facts of the present case and the submissions advanced before this Court is whether a homemaker beyond the age of 70 years—who may be a grandmother, having witnessed and participated in the upbringing of successive generations of children and grandchildren—ought not to be compensated for the gratuitous services she continues to render to her family merely because, by reason of her age, she is perceived as an inactive member of the family and a dependant rather than a contributor.

30. Such a perspective, if founded merely upon age, risks being shaped by stereotypes and prejudice. It is precisely such assumptions and prejudices that contemporary discourse surrounding *ageism* seeks to identify and address. Some of these aspects are examined in greater detail hereinafter.

I. Functional Disability

31. An issue arises with regards to the assessment of functional disability with respect to permanent physical disability being certified at 74% in



2026:DHC:9013



relation to both lower limbs with amputation below the knee and amputation of all toes of right leg, basis the principles enunciated in ***Raj Kumar v. Ajay Kumar & Anr.***, (2011) 1 SCC 343. The Supreme Court has categorically stated that triple test needs to be applied, focusing on the vocation that the injured has and the effect on the said vocation. The relevant paragraph is extracted as under:

“11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. [(2010) 10 SCC 254 : (2010) 3 SCC (Cri) 1258 : (2010) 10 Scale 298] and Yadava Kumar v. National Insurance Co. Ltd. [(2010) 10 SCC 341 : (2010) 3 SCC (Cri) 1285 : (2010) 8 Scale 567])

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

(i) whether the disablement is permanent or temporary;



2026:DHC:9013



(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



2026:DHC:9013



livelihood.”

(emphasis supplied)

32. In fact, the aspect of functional disability and the aspect of vocation has been recently considered by the Supreme Court in ***M Paramesh v VRL Logistics Ltd.*** 2026 SCC OnLine SC 1188. The relevant paragraph is extracted as under:

“From the above observations in Raj Kumar(supra), it becomes crystal clear that though the physical disability may be assessed at a particular percentage, the functional disability affecting earning capacity may, depending upon the nature of avocation carried on by the injured, be assessed at a higher percentage including 100%. The assessment of compensation in cases of permanent disability cannot be undertaken by mechanically applying the percentage of physical disability as the percentage of economic loss.

23. There is no dispute with regard to the fact that the appellant was working as a mason at the time of the accident. The work of a mason is essentially a physical and manual avocation requiring continuous use and support of both legs. The material on record further reveals that on account of the injuries suffered in the accident, the appellant underwent amputation of his right leg above the knee.

24. By virtue of the aforesaid amputation, the appellant has effectively lost his capacity to continue the work of a mason which was admittedly the sole avocation being pursued by him for earning his livelihood. It is not even the case of the respondents that the appellant was



2026:DHC:9013



engaged in any other sedentary occupation or that despite the amputation suffered by him, his earning capacity remained unaffected.

25. The amputation of the right leg above the knee has not merely caused physical disability to the appellant but has rendered him incapable of effectively carrying on the manual and physical work which constituted his only source of livelihood. In such circumstances, restricting the loss of earning capacity to 70% merely on the basis of physical disability would not be justified.”

(emphasis supplied)

33. In the present case, the claimant was 74 years of age at the time of the accident and she was a homemaker. She is stated to be residing in a joint family and was also involved in looking after her grandchildren, thereby rendering gratuitous services to the family. The 74% permanent physical disability suffered by her in relation to both lower limbs, on account of amputation below the knee and amputation of all the toes of the right leg, would necessarily hamper her ability to undertake household tasks and to render such services to the members of her family to the same extent as she was able to prior to the accident. The impact of the disability is, therefore, not confined merely to her physical mobility, but extends to the gratuitous services rendered by her within the family.

34. At the same time, the assessment of functional disability cannot be mechanically equated with the percentage of physical disability. The claimant was already 74 years of age at the time of the accident and, therefore, the impact of the disability on her work as homemaker has to be assessed having regard to her age, the nature of the activities undertaken by



2026:DHC:9013



her prior to the accident, and the extent to which the disability would restrict her ability to continue performing those activities.

35. In these circumstances, while the physical disability has been certified at 74% in relation to both lower limbs, considering the claimant's advanced age, and the impact of the disability on her ability to undertake household activities and render gratuitous services to her family, the functional disability affecting her earning capacity is assessed at 50%.

II. Assessment of income

36. As regards the argument that considering the age of injured as 74 years at the time of accident, the loss of gratuitous service has to be rationalised. In this regard it would be pertinent to look at the nature of gratuitous service rendered by housewife which is often termed as unpaid care and domestic work. United Nations ('UN') Women defines unpaid care work as, *"daily labour that keeps households, families, and communities running – work that is mostly done by women and girls without pay. It includes raising children, caring for older or sick relatives, and supporting a person with disabilities, as well as cleaning, cooking, washing and collecting water or fuel. It also includes organizing schedules and anticipating household or community needs – often called the "mental load", unpaid care work is the invisible force that holds households and communities together."*

37. The unpaid care and domestic work or gratuitous care for our purpose are not only rendered by women below the age of 65. The *United Nations Advocacy Brief on Older Women* noted that *"while older persons are often depicted as dependent and recipient of care, unpaid care, and domestic work*



2026:DHC:9013



continues for women in old age, with older women providing care to other older persons and family members even as the financial and emotional cost of this work typically goes unrecognized.” Further, it was also noted that many older women assume caregiving roles as they become grandmothers, or when they take care of older relatives or family members with disabilities. Interestingly it was also noted that studies have suggested undertaking low intensity grandparenting can improve health and life satisfaction of older people. However, despite the crucial role played by older women as care givers their role and contributions are often overlooked.

38. The report of *Help Age India* in 2023 titled ‘*Women & Ageing: Invisibility or Empowerment*’ the demographic of the study was persons were in the age group 60 to 90 years. The study shows data that nearly 70% of older women in the target age group continue to undertake caregiving activities even in their old age.

39. The above data and report are extremely relevant in the Indian context. This assumes particular significance in the context of the continued contribution made by older women through the rendering of gratuitous services. The proposition that older persons cease to contribute to the household merely on account of their age is also difficult to reconcile with the social realities of Indian families. Indian family structures have historically involved substantial intergenerational co-residence and reciprocal exchange of care. While the nature of such structures is changing with urbanisation, migration and the increasing prevalence of nuclear



2026:DHC:9013



households, intergenerational assistance continues to remain an important component of family life.

40. This relationship is not one-directional. Older persons do not merely receive care from younger members of the family; they also provide care and other forms of assistance. A 2025 national-level study, based on data from Wave 1 of the LASI examined the role of older adults in providing care to their grandchildren. Taking care of grandchildren and other dependants in the family constitutes an important form of informal care provided by older persons. The LASI data shows that a little more than 90% of elderly respondents have grandchildren and, among them, almost one-fifth look after their grandchildren. Of the elderly respondents who provide such care, 30% take care of at least one grandchild, 47% take care of two or three grandchildren, and 24% take care of four or more grandchildren. The practice of caring for four or more grandchildren is more prevalent in rural areas than in urban areas. The LASI study notes that looking after grandchildren is a significant contribution of the elderly to the household, as it indirectly facilitates the ability of other family members to participate in the paid economy.

41. The economic significance of such work is evident even where the work itself is unpaid. Where a grandmother cares for a grandchild while the child's parents are engaged in paid employment, the family would otherwise have to incur expenditure on childcare. Similarly, where an older parent cooks, supervises children, undertakes household management, accompanies family members for medical care, manages domestic arrangements, or performs agricultural and allied activities, the family receives services



2026:DHC:9013



having an identifiable replacement value, notwithstanding that no monetary consideration is paid and no invoice is generated.

42. This Court in regard to gratuitous care rendered by an older women aged 68 years at the time of the accident, has previously opined in the judgment of ***Uma Rani v Simranjeet Singh & Ors.***, 2026:DHC:5183. The Court traversed the law on notional income of a homemaker which is extracted as under for reference:

“24. As regards the issue whether for a homemaker, minimum wages of an unskilled worker or a skilled worker ought to be considered, Ms. Singh counsel for appellant/ Uma Rani placed reliance on the decision of a Three-Judge Bench of the Supreme Court in Kirti v. Oriental Insurance Co. Ltd.; (2021) 2 SCC 166 : (2021) 1 SCC (Civ) 704, where the issue concerned a claim filed by three surviving defendants (two minor daughters and father) of the deceased couple.

25. While awarding compensation, High Court adopted the lowest minimum wage applicable for unskilled workers in Haryana, instead of Delhi. Given a totality of circumstances and considering the contribution of a housewife to the household, 25% additional gratuitous income was added to her income.

26. Justice N.V. Ramana, J. (as he then was) in Kirti (supra) gave a supplemental opinion with respect to the notional income of a housewife. The Court noted that the case belonged to a category where income of a non-earning victim, such as a child, student or a homemaker had to be considered. Supreme Court noted that various factors must be taken into account, for example, family background, quality of life, educational qualifications etc.



2026:DHC:9013



27. Reliance was placed on a previous decision of the Supreme Court in *Lata Wadhwa v. State of Bihar*; (2001) 8 SCC 197, which had considered the value of services rendered by housewives in managing the family to be around Rs. 3,000/- per month, in the absence of any data.

28. Further reliance was placed on the decision of Supreme Court in *Arun Kumar Agrawal v. National Insurance Company Ltd.*; (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313, where the Supreme Court stated that it is not possible to quantify any particular amount considering that a wife/mother does not work by the clock, but some pecuniary estimate has to be made. The Court noted that this decision had been followed in *Rajendra Singh v. National Insurance Company Ltd.* SLP (C) No. 13964/2018, where notional income of deceased housewife was considered at Rs. 5,000/- per month.

29. The Court then went on to make certain observations, which are extracted as under:

“25. The sheer amount of time and effort that is dedicated to household work by individuals, who are more likely to be women than men, is not surprising when one considers the plethora of activities a housemaker undertakes. A housemaker often prepares food for the entire family, manages the procurement of groceries and other household shopping needs, cleans and manages the house and its surroundings, undertakes decoration, repairs and maintenance work, looks after the needs of the children and any aged member of the household, manages budgets and so much more. In rural households, they often also assist in the sowing, harvesting and transplanting activities in the field, apart from tending cattle [see Arun Kumar



2026:DHC:9013



Agrawal [Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313]; National Insurance Co. Ltd. v. Deepika [National Insurance Co. Ltd. v. Deepika, 2009 SCC OnLine Mad 828]. However, despite all the above, the conception that housemakers do not “work” or that they do not add economic value to the household is a problematic idea that has persisted for many years and must be overcome.

30. The issue of fixing notional income for a homemaker, therefore, serves extremely important functions. It is a recognition of the multitude of women who are engaged in this activity, whether by choice or as a result of social/cultural norms. It signals to society at large that the law and the courts of the land believe in the value of the labour, services and sacrifices of homemakers. It is an acceptance of the idea that these activities contribute in a very real way to the economic condition of the family, and the economy of the nation, regardless of the fact that it may have been traditionally excluded from economic analyses. It is a reflection of changing attitudes and mindsets and of our international law obligations. And, most importantly, it is a step towards the constitutional vision of social equality and ensuring dignity of life to all individuals.

31. Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and



2026:DHC:9013



circumstances. [See R.K. Malik v. Kiran Pal [See R.K. Malik v. Kiran Pal, (2009) 14 SCC 1 : (2009) 5 SCC (Civ) 265 : (2010) 1 SCC (Cri) 1265, para 9:, (2009) 14 SCC 1 : (2009) 5 SCC (Civ) 265 : (2010) 1 SCC (Cri) 1265].]

32. One method of computing the notional income of a homemaker is by using the formula provided in the Second Schedule to the Motor Vehicles Act, 1988, which has now been omitted by the Motor Vehicles (Amendment) Act, 2019. The Second Schedule provided that the income of a spouse could be calculated as one-third of the income of the earning surviving spouse. This was the method ultimately adopted by the Court in Arun Kumar Agrawal [Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313]. However, rationale behind fixing the ratio as one-third is not very clear. [See Arun Kumar Agrawal [Arun Kumar Agrawal v. National Insurance Co. Ltd., (2010) 9 SCC 218 : (2010) 3 SCC (Civ) 664 : (2010) 3 SCC (Cri) 1313]”

(emphasis added)

...

33. Lastly, the Supreme Court culled out the observations and summarized them as under:

“41. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarised as follows:

41.1. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.



2026:DHC:9013



41.2. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.

41.3. Various methods can be employed by the court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.

41.4. The court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

41.5. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”

(emphasis added)

34. Reliance may also be placed upon a decision by the Coordinate Bench of this Court in Oriental Insurance Co. Ltd. v. Dalbir Singh 2025:DHC:917, where this Court was considering the issue of notional income of a deceased housewife, who was rendering gratuitous service to the family. The Court traversed through various decisions inter alia Lata Wadhwa (supra), Arun Kumar Agrawal (supra), Kirti (supra), Rajendra Singh (supra) and the decision in Arvind Kumar Pandey v. Girish Pandey, Civil Appeal No. 2515/2024 decided on 16th February 2024, which noted that “direct or indirect income of a homemaker cannot be



2026:DHC:9013



less than the prevailing minimum wages of the State at the time of the accident”.

35. The Court, therefore, held that there was extensive contribution of the deceased in the household and with there being no evidence, regarding educational qualifications, minimum wages of a skilled worker were taken and future prospects were applied.”

(emphasis supplied)

43. The Court also referred to the recent judgment of Supreme Court in ***Shishu Pal*** (*supra*), wherein the Supreme Court addressed the issue of quantification of contribution of homemaker to her family and nation. Which introduced ‘*loss of domestic care*’ as a head of compensation, providing that in case homemaker has no income, compensation under this head would be treated as the monthly income. This Court in ***Uma Rani*** (*supra*) noted as under:

“42. The Supreme Court introduced a new head of compensation being, ‘loss of domestic care’, providing that in cases where the homemaker has no income in monetary terms, compensation under this head would be treated as the monthly income. This additional head of ‘loss of domestic care’ is distinct from ‘loss of consortium’ and is to be considered as a composite amount comprising three major heads:

- (i) homemaker's contribution towards smooth functioning of the household;*
- (ii) loss of maternal support for children;*
- (iii) loss of spousal support; or support for parents of the deceased. It was stated that this composite sum of*



2026:DHC:9013



Rs. 30,000/- shall be granted “provided that all three of these heads are met in the given case” and that the said amount shall be revised by 10% cumulative, every three years.”

44. The judgment in ***Shishupal*** (*supra*) would not apply to the present case, as none of the three aforesaid conditions is satisfied in the case at hand. However, the judgment reaffirms the consistent view taken by the Supreme Court that gratuitous services, unpaid care, and domestic work constitute valuable contributions and ought to be duly recognised and compensated.

45. In ***Uma Rani*** (*supra*), this Court concluded as under:

“44. Since no documentary proof of matriculation or graduation has been filed by appellant/Uma Rani it would be apposite to place reliance on the decision of this Court in Savita v. National Insurance Co. Ltd., 2026:DHC:3626, where the Court had culled out the principles for assessment of minimum wages in scenarios where there is no documentary proof of income. It was observed that minimum wages should be used as a yardstick and the Courts should not be constrained to consider wages from the lowest tier.

*45. In any case, there is no hard and fast rule about adopting notional income for a homemaker, considering that the value of services provided by her to a household cannot be quantified, therefore, minimum wages of a skilled worker at Rs. 8,814/- ought to be taken, applying the principles enunciated in decisions discussed in paragraph nos. 24-36 above, but taking into account the higher standard propounded by the Supreme Court Shishu Pal (*supra*),*



2026:DHC:9013



notwithstanding it is an injury case, the Court is inclined to consider the notional income (including elements of loss of domestic care) at Rs. 10,000/-. This would accommodate some elements of what has been positively asserted by the Supreme Court on contribution of a homemaker to a household.”

(emphasis supplied)

46. An argument has been advanced on behalf of the Insurance Company that the aforesaid judgments may not be applicable to the facts of the present case. However, this Court has carefully perused the aforesaid judgments of the Supreme Court, and finds that no age limit has been prescribed by the Court while recognising the economic value of gratuitous services, unpaid care and domestic work for the purpose of determining compensation. To read an age-based limitation into the principle governing compensation for such services would be contrary to the beneficial object of the Motor Vehicles Act as well as the fundamental requirement of awarding just and reasonable compensation.

47. As noted hereinabove, the assessment of compensation should not be founded upon stereotypes or assumptions that a person ceases to contribute merely by reason of having attained an advanced age. The Court must remain cognizant of the prejudice that may operate against older persons and guard against such considerations influencing the assessment of compensation. The data referred to hereinabove further demonstrates that women beyond the age of 70 years continue to render gratuitous services to their families, including household and caregiving services. This Court is



2026:DHC:9013



conscious that such contributions, particularly those rendered within the household and without monetary remuneration, are often overlooked or undervalued. However, the absence of a monetary consideration cannot operate to the advantage of the tortfeasor or diminish the compensation otherwise payable to the injured claimant.

48. In view of the aforesaid discussion, and having regard to the nature of the services rendered by the claimant as a homemaker and taking into consideration that she is stated to taking care of the grandchildren, it would be appropriate to assess her notional income on the basis of the minimum wages prescribed for a skilled worker in Delhi as prevailing on the date of the accident, i.e., Rs. 16,962/- per month as she was resident of Delhi as per her Aadhar card .

III. Loss of income

49. In view of the nature of injuries suffered by appellant, the prolonged period of treatment and repeated hospitalisations, this Court is of the view that a period of *three* months ought to be considered towards loss of income. The appellant was 74 years of age at the time of the accident and suffered 74% permanent disability in relation to both lower limbs. She was initially taken to LBS Hospital on 19th February 2019 and thereafter underwent repeated hospitalisations at R.K. Hospital, Jai Prakash Trauma Centre, Jeevan Anmol Hospital and Jai Prakash Hospital, with treatment and surgeries continuing till 18th May 2019. The continuous and extensive nature of the treatment, coupled with the disability suffered by her, would necessarily have rendered her incapable of attending to her usual household



2026:DHC:9013



activities during the period of treatment. Accordingly, *three* months may reasonably be taken as the period of loss of income.

IV. Multiplier

50. This Court, in *Udayvir Singh Meena v. Bharti Axa General Insurance Co. Ltd. & Ors.*, 2026:DHC:7841, considered the genesis of the multiplier method and the rationale behind its adoption for achieving uniformity and certainty in the award of compensation. The Court held that the multiplier method is the recognised method for determining loss of future earnings in cases of permanent disability arising from injuries and that standardisation of the multiplier is intended to ensure consistency, certainty and uniformity in the determination of compensation.

51. The table prescribed in *Sarla Verma v. DTC*, (2009) 6 SCC 121, does not expressly provide for a further multiplier in respect of persons above the age of 70 years. This omission, however, cannot be construed to mean that a person above the age of 70 years has no compensable future loss. In *Sarla Verma (supra)*, particularly in paragraph 42, the Supreme Court directed that the multiplier indicated in Column 4 of the table set out in paragraph 40 be applied. Similarly, in *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, paragraph 59.6, the Supreme Court reiterated that the selection of the multiplier shall be as indicated in the table in *Sarla Verma (supra)*, read with paragraph 42 thereof. The table in *Sarla Verma (supra)* retains 5 as the terminal multiplier. The purpose of the table was to bring about standardisation and avoid arbitrary calculations. It was not intended to establish that compensation ceases to be capable of computation merely



2026:DHC:9013



because a claimant crosses the age of 70 years. Such an interpretation would fail to account for the increasing life expectancy and the growing population of persons above the age of 70 years and would be contrary to the beneficial object of the Motor Vehicles Act.

52. The High Court of Tripura in *National Insurance Co. Ltd. v. Sadhana Debnath*, 2023 SCC OnLine Tri 846, considered a case where the deceased was 78 years of age and held that a multiplier of 5 would be applicable. The Court observed as under:

“19. According to the Pension Payment Order book, on the date of the accident, the age of the deceased was 78 years. So, in terms of the multiplier as made applicable under the table decided at Column No. (4) in Sarla Verma (supra), multiplier 5 is to be applied for the age group of 65 years and above, the same is taken on record. Accordingly, the first point of argument of Mr. Deb, learned counsel appearing for the appellant-Insurance Company is answered in favour of the claimants. Here the argument of Mr. Deb, learned counsel that in Sarla Verma (supra) multiplier 5 (five) is allowed up to the age schedule 66 years to 70 years does not stand because the same was said the by Hon'ble Apex Court in the said Judgment in the context of other cases. Therefore, the age of the deceased 78 years is considered as per table 65 years and above and considered the case of the claimants accordingly as there is no restriction up to 70 years. The lifespan as per table can be beyond 70 years. Thus, the argument of the Insurance-counsel is rejected.”

(emphasis supplied)



2026:DHC:9013



53. The High Court of Madras, in ***K. Syed Ali v. Mrs. R. Amudha***, C.M.A. No. 1118/2024, also considered the question of the appropriate multiplier in the case of a deceased aged 78 years and held as under:

“12. The fact remains that for all those persons above the age category of 66 years, five multiplier has to be adopted. Originally under the II Schedule, it provided multiplier of five for the victim, who is above 65 years and no upper age limit was prescribed. Therefore, on carefully , going through the II Schedule and the judgement of the Apex Court in Sarla Varma, this Court can safely conclude that for the victims aged above 65 years, five multiplier must be adopted irrespective of the upper age limit. It will not be reasonable to restrict the application of the multiplier only up to 70 years and deprive the victim, if the victim is aged more than 70 years. Such restricted interpretation cannot be applied in a welfare legislation like the Motor Vehicles Act.”

(emphasis supplied)

54. Similarly, the High Court of Madras, in ***Nagajan & Ors. v. Johnpeter***, C.M.A. (MD) No. 1011/2025, wherein the deceased was 72 years of age, applied a multiplier of 5 for computing compensation. The Court observed:

“11. It is pertinent to note that the Second Schedule appended to the Motor Vehicles Act prescribes the multiplier of '5' for persons aged above 65 years. No doubt, in Sarla Varma, the Hon'ble Supreme Court indicated the multiplier of '5' as the last multiplier in the structured table for the age group of 66 to 70 years and did not specifically prescribe any multiplier for persons aged above 71 years. However, the Hon'ble



2026:DHC:9013



Supreme Court has nowhere observed that a claimant would not be entitled to compensation by adopting the multiplier method merely because the deceased had crossed the age of 71 years.

12. It is settled law that the Motor Vehicles Act is a beneficial and welfare legislation intended to provide just and reasonable compensation to victims of motor accidents and to the dependents of deceased. But at the same time, the determination of compensation cannot be left to unfettered discretion. The Hon'ble Supreme Court in Sarla Verma's case standardised the multiplier method with a view to ensuring uniformity and consistency, which has been subsequently affirmed in Reshma Kumari and Others Vs. Madan Mohan and another reported in AIR 2013 SC (Supp) 474.

13. In the present case, the deceased was aged 72 years at the time of the accident and, therefore, falls within the category of persons aged above 65 years. The structured formula does not contemplate any further sub-classification beyond that age so as to warrant a further reduction of the multiplier. Merely because the deceased had crossed the age of 71 years, the multiplier cannot be reduced to '3' in the absence of any authoritative pronouncement to that effect. On the contrary, adoption of the multiplier of '5' would be more consistent with the structured formula and the principles laid down by the Hon'ble Supreme Court.

14. It is trite law that the concept of “just compensation” is neither a bonanza nor a bounty, but representing a fair compensation determined on settled legal principles. Being a beneficial legislation, a liberal approach may be adopted in appropriate cases,



2026:DHC:9013



but such liberal interpretation cannot be extended to the departure from the standard multiplier method without any legally sustainable justification. In view of the above, this Court holds that appropriate multiplier applicable to the case on hand is “5” and the reduction of the multiplier to “3” on the sole ground that the deceased had crossed 71 years is legally unsustainable.”

(emphasis supplied)

55. There are several other decisions of High Courts wherein multiplier of 5 has been applied in cases involving persons above the age of 70 years, including *Fasilath Begum & Anr. v. S. Ganesan & Anr.*, C.M.A. No. 435/2025; *Sivakumari & Ors. v. K.O. Srinivasan & Anr.*, C.M.A. No. 1969/2020; *Sumitra Dwarkanath Sirsat v. Shivanand Hanumantappa Bisirotti*, 2015 SCC OnLine Bom 276; and *Kulwant Kar v. Harpreet Singh & Ors.*, 2013 SCC OnLine P&H 18959, amongst others.

V. Future Prospects

56. Considering that, in terms of the principles enunciated in *Pranay Sethi* (*supra*), no addition towards future prospects is to be made where the claimant is above 60 years of age, the future prospects in the present case shall accordingly be taken as *nil*.

VI. Attendant Charges

57. Reliance in this regard can be placed on the judgment of the Supreme Court in *Chandramani Nanda v. Sarat Chandra Swain & Ors.*, 2024 INSC 777, wherein the Supreme Court recognised the value of attendant services



2026:DHC:9013



rendered by family members to an injured claimant and awarded lump-sum compensation towards the same. Further, Supreme Court in *Kajal v. Jagdish Chand*, (2020) 4 SCC 413 also held that the tortfeasor cannot take benefit of the gratuitous service rendered by the family members, and that the family members are entitled to compensation for the loss of wages and the time spent attending to the injured, including during hospitalisation.

58. In the present case, the claimant was 74 years of age at the time of the accident and is presently 81 years of age. She has suffered 74% permanent disability in relation to both lower limbs. Having regard to her age, the nature and extent of the disability suffered by her, and the consequent impairment in her mobility and ability to undertake routine day-to-day activities, it cannot be said that the absence of evidence of engagement of a paid attendant, by itself, disentitles her from compensation under this head. The assistance required by an injured claimant may also be provided by family members without any formal payment being made to them. Such gratuitous assistance cannot, merely for that reason, be disregarded while determining just compensation.

59. The judgment in *Kajal v. Jagdish Chand* (*supra*), however, was rendered in materially different facts. In that case, the claimant had suffered 100% functional disability and was found to require assistance on a virtually round-the-clock basis, for which compensation towards two attendants was awarded. The present case stands on a different footing. The claimant has been provided with a prosthetic limb, which would enable her to undertake at least some of her day-to-day activities independently. At the same time, the permanent disability suffered by her, coupled with her advanced age,



2026:DHC:9013



would reasonably result in a greater need for assistance in her daily activities. The requirement for such assistance may also increase with advancing age.

60. In these circumstances, while the facts of *Kajal (supra)* do not warrant adoption of the same quantum of attendant charges, the claimant is nevertheless entitled to compensation under this head. Considering the nature of her disability, her age, and the attendant assistance reasonably required by her, a lump-sum compensation of Rs. 5,00,000/- towards attendant charges is awarded.

VII. Artificial Limb

61. In *Mohd. Sabeer v. U.P. SRTC*, (2023) 20 SCC 774, the Court has considered 70 years as the average life expectancy and, taking into account the fact that a prosthetic limb would require replacement every 5-6 years, awarded compensation towards the cost of replacement of prosthetic limb. The Supreme Court also considered the amount required towards maintenance of each such prosthetic limb.

62. The principles relating to prosthetic limbs have now been further developed by the decision of the Supreme Court in *Prahlad Sahai v. Haryana Roadways*, 2026 SCC OnLine SC 651. The case concerned a right leg crush injury resulting in amputation below the knee. The claimant therein relied upon the decision in *Mohd. Sabeer (supra)*, to contend that the injured was 32 years of age; therefore, considering the assumed life expectancy of 70 years, he would require prosthetic limb(s) for 38 years. He



2026:DHC:9013



further contended that since an artificial limb needs to be replaced *every 5 years*, maintenance charges would also have to be granted.

63. Traversing through the law in this regard, the Supreme Court, in ***Prahlad Sahai*** (*supra*), recognized a block of ‘5 years’ as the reasonable replacement period for a prosthetic limb. Further, the Supreme Court assumed the life span of the claimant at 70 years and concluded that the claimant would require seven prosthetic limbs. It, therefore, awarded a consolidated amount of Rs.3,00,000/- per limb on a standard basis for seven limbs. No interest was awarded on this amount, considering that it was being awarded as a consolidated lump sum. Maintenance of the prosthetic limb, at Rs. 15,000/- per annum was also awarded, amounting to Rs. 75,000/- for each block of 5 years. For ready reference, relevant portion from ***Prahlad Sahai*** (*supra*) is reproduced hereinbelow:

“30. As would be clear from the discussion hereinabove, our Court has recognized a block of five years as the reasonable replacement period for a prosthetic limb, and we have followed the same.

31. The appellant was thirty-two years in 2007. Applying an assumed life span of seventy years as the maximum for which as a standard formula compensation for prosthetic limb is awarded and calculating the life of one prosthetic limb as five years, the appellant will need seven prosthetic limbs. Insofar as the price is concerned, the appellant has claimed the 2007 price for the first block with interest @ 9 per cent. Though he has claimed for eight limbs the correct proportion to award would be seven limbs, since the amputation happened on 17.07.2009.



2026:DHC:9013



32. We are inclined to award, like in *Md. Shabir (supra)*, a consolidated amount towards the price. We are inclined to grant Rs. 3,00,000/- per limb on a standard basis for seven limbs. In view of the fact that a consolidated amount is being paid, no interest from the date of the accident is awarded. Considering that the price has been arrived at by broadly applying the case *Md. Shabir (supra)*, which we find reasonable, we are not inclined to proceed on the basis of the notification relied upon by the Insurance Company.

33. We are also inclined to award cost of maintenance of prosthetic limb at Rs. 15,000/- annually. For a block of five years, it would work out to approximately Rs. 75,000/-. We award a consolidated sum of Rs. 5,00,000/- till the assumed life span of seventy years.”

(emphasis added)

64. Reliance is placed on ***Mohd. Sabeer (supra)*** by counsel for Insurance Company to contend that prosthetics were estimated only till the age of 70, without appreciating the fact that the Supreme Court has considered life expectancy of 70 years as a broad estimate to calculate the need for prosthetics. Life expectancy is a broad estimate to be considered for somebody who is below the age of 70 i.e. in his 20s, 30s, 40s, etc. But for somebody who has already crossed the age of 70, the same assessment cannot be taken literally as ‘set in stone’. A person, who is probably beyond the age of 70 and had started using the prosthetics, has to be considered in a different bracket, may be as a special case.

65. It is pertinent to note that, in ***Mohd. Sabeer (supra)*** and ***Prahlad Sahai (supra)***, the Court proceeded on the assumption of a life expectancy of 70 years while awarding compensation towards prosthetic limbs. In the



2026:DHC:9013



present case, however, the injured was 74 years of age at the time of the accident, which is beyond the assumed age of 70 years considered in the aforesaid judgments. At the same time, as noted above, the average life expectancy in India has gradually increased. With improvements in nutrition and medical facilities, there has been a steady increase in life expectancy, and the realities of life have to be borne in mind while determining just compensation. Merely because a claimant has crossed the assumed life expectancy cannot, by itself, place the claimant outside the protective ambit of the Motor Vehicles Act, which is beneficial legislation. The Court cannot, on that account, turn a blind eye to the actual requirement of the claimant.

66. Accordingly, in the facts and circumstances of the present case, considering that the claimant/injured was 74 years of age at the time of the accident, and that the Tribunal has already awarded a sum of *Rs. 1,66,750/-* towards the cost of the artificial limb and its maintenance, along with a further sum of *Rs. 1,30,000/-* which was directed to be retained in an FDR and released upon the claimant producing medical advice, bills or treatment documents, the compensation towards the prosthetic limb requires reconsideration. The Tribunal had proceeded on the basis that the prosthetic limb would have a lifespan of ten years, whereas the aforesaid judgments proceed on the basis of a replacement period of five years.

67. The claimant was 74 years of age at the time of the accident and is presently 81 years of age. In these circumstances, it would be appropriate to award the cost of one further prosthetic limb, assessed at *Rs. 1,30,000/-*. The



2026:DHC:9013



said amount shall be retained in an FDR and shall be released only upon production of the requisite purchase bills.

68. Further, in terms of the directions issued by the Supreme Court, an amount of Rs. 75,000/- towards maintenance of the prosthetic limb is also granted.

69. The amount awarded towards the prosthetic limb and its maintenance, quantified shall be deposited by the appellant/Insurance Company with the MACT within a period of six weeks. The said amount shall be deposited as a separate amount and shall not carry interest for the period which has already elapsed from the date of the accident. The amount shall, however, be kept in an interest-bearing FDR.

70. The amount towards the prosthetic limb shall be released only upon production of the original invoice, duly verified, along with proof of payment to a reputed vendor.

71. In the event that the amount awarded towards the prosthetic limb remains unutilised, the said amount, along with the interest accrued thereon, shall be refunded to the Insurance Company upon an appropriate application being filed before the Tribunal.

VIII. **Non-pecuniary losses**

72. As regards *non-pecuniary losses*, reliance may be placed on the decision of Supreme Court in ***K.S. Muralidhar v. R. Subbulakshmi and Anr.*** 2024 SCC Online SC 3385, where the Supreme Court observed that “*pain and suffering*” cannot be captured by any fixed definition, drawing on



2026:DHC:9013



legal, medical, and philosophical sources to emphasise its deeply subjective and life-altering nature. It recognised that translating such profound human loss into money is an inherently artificial exercise, yet courts must ensure fairness, consistency, and sensitivity to the victim's lifelong deprivation. The Court stressed that in cases of severe or 100% disability, compensation must meaningfully reflect the permanent rupture in the victim's physical, emotional, and existential well-being. Relevant paragraphs are extracted as under:

“13. While acknowledging that ‘pain and suffering’, as a concept escapes definition, we may only refer to certain authorities, scholarly as also judicial wherein attempts have been made to set down the contours thereof.

13.1 The entry recording the term ‘pain and suffering’ in P. Ramanatha Iyer's Advanced Law Lexicon reads as under:—

“Pain and suffering. The term ‘Pain and suffering’ mean physical discomfort and distress and include mental and emotional trauma for which damages can be recovered in an accident claim.

This expression has become almost a term of art, used without making fine distinction between pain and suffering. Pain and suffering which a person undergoes cannot be measured in terms of money by any mathematical calculation. Hence the Court awards a sum which is in the nature of a conventional award [Mediana, The, [1900] A.C. 113, 116]”

...

13.5 In determining non-pecuniary damages, the artificial nature of computing compensation has been



2026:DHC:9013



highlighted in *Heil v. Rankin*, as referred to in *Attorney General of St. Helena v. AB* as under:—

*“23. This principle of ‘full compensation’ applies to pecuniary and non-pecuniary damage alike. But, as Dickson J indicated in the passage cited from his judgment in *Andrews v. Grand & Toy Alberta Ltd.*, 83 DLR (3d) 452, 475-476, this statement immediately raises a problem in a situation where what is in issue is what the appropriate level of ‘full compensation’ for non-pecuniary injury is when the compensation has to be expressed in pecuniary terms. There is no simple formula for converting the pain and suffering, the loss of function, the loss of amenity and disability which an injured person has sustained, into monetary terms. Any process of conversion must be essentially artificial. Lord Pearce expressed it well in *H West & Son Ltd. v. Shephard*, [1964] A.C. 326 when he said:*

‘The court has to perform the difficult and artificial task of converting into monetary damages the physical injury and deprivation and pain and to give judgment for what it considers to be a reasonable sum. It does not look beyond the judgment to the spending of the damages.’

*24. The last part of this statement is undoubtedly right. The injured person may not even be in a position to enjoy the damages he receives because of the injury which he has sustained. Lord Clyde recognised this in *Wells v. Wells*, [1999] A.C. 345, 394H when he said: ‘One clear principle is that what the successful plaintiff will in the event actually do with the award is irrelevant.’*

...

14. In respect of ‘pain and suffering’ in cases where disability suffered is at 100%, we may notice a few decisions of this Court:—



2026:DHC:9013



14.1 In *R.D Hattangadi v. Pest Control (India) (P) Ltd.* It was observed:

“17. The claim under Sl. No. 16 for ‘pain and suffering’ and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs. 3,00,000 each under the two heads. The High Court has allowed Rs. 1,00,000 against the claims of Rs. 6,00,000. When compensation is to be awarded for ‘pain and suffering’ and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs. 1,50,000 in respect of claim for ‘pain and suffering’ and Rs. 1,50,000 in respect of loss of amenities of life. We direct payment of Rs. 3,00,000 (Rupees three lakhs only) against the claim of Rs. 6,00,000 under the heads “‘pain and suffering’” and “Loss of amenities of life”.

14.2 This Judgment was recently referred to by this Court in *Sidram v. United India Insurance Company Ltd* reference was also made to *Karnataka SRTC v. Mahadeva Shetty* (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed:

“18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot



2026:DHC:9013



enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned... ”

(emphasis added)

73. In the present case Rs. 75,000/- has been awarded towards pain and suffering for an injured who has incurred 74% permanent disability in relation to both lower limbs and amputation below knee of left leg and amputation of all toes of right leg. In the opinion of this Court the compensation awarded under this head is inadequate considering the nature of injuries suffered and the advance age of the injured. Therefore, compensation towards *pain and suffering* is increased to Rs.1,00,000/-.

74. The compensation is recomputed as under:

S.no.	Heads	Awarded by the Tribunal	Awarded by this Court
PECUNIARY LOSS			
1.	Expenditure on Medical Bills and medical treatment (A)	Rs. 4,19,561/-	Rs. 4,19,561/-
2.	Expenditure on conveyance (B)	Rs. 10,000/-	Rs. 10,000/-
3.	Expenditure on special diet(C)	Rs. 15,000/-	Rs. 15,000/-
4.	Attendant Charged (D)	Rs. 50,000/-	Rs. 5,00,000/-
5.	Income of injured per month(E)	-	Rs. 16,962/-
6.	Loss of Income (F)	Nil	Rs. 50,886/-
7.	Add: Future prospects (G)	-	Nil
8.	Multiplier (H)	-	5
9.	Functional disability (I)	-	50%



2026:DHC:9013



10.	Loss of future income/future earnings [(E+G) x 12 x H x I] = (J)	Nil	Rs.5,08,860/-
NON-PECUNIARY LOSS			
11.	Pain and suffering (K)	Rs. 75,000/-	Rs. 1,00,000/-
12.	Loss of amenities of life and future prospects (L)	Rs. 4,00,000/-	Rs. 4,00,000/-
13.	Disfigurement (M)	Rs. 1,00,000/-	Rs. 1,00,000/-
14.	Artificial Limb (N)	Rs. 3,96,750/-	<i>Awarded separately in paras 67-71</i>
15.	Interim Compensation (O)	Rs. 25,000/-	Rs. 25,000/-
16.	Total compensation (A+B+C+D+F+J+K+L+M+N-O) = (P)	Rs. 14,42,000/-	Rs.20,79,307/-
17.	Interest awarded	7.5% per annum	7.5% per annum
18.	Enhanced compensation	Rs. 6,37,307/-	

75. For the aforesaid reasons, compensation has been enhanced by Rs.6,37,307/- [***“enhanced amount”***].

76. It is therefore directed that enhanced amount along with 7.5% interest per annum from the date of filing the petition shall be deposited before MACT within a period of four weeks. It is directed that a lump sum amount of Rs. 1,37,307/- shall be released to the claimant from the deposit of enhanced amount within a period of two weeks thereafter. Remaining enhanced amount, along with accrued interest, shall be kept in Fixed Deposit Receipts (***FDRs***) of Rs. 30,000/- each for periods of 3 month, 6 months, 9 months and so on, in succession as maybe calculated. Interest accruing on said FDRs shall be credited to the designated Savings Bank Account of claimant. The amount of FDRs on maturity would be released to the Savings Bank Account of claimant upon due verification.

77. Accordingly, the appeal is disposed of.



2026:DHC:9013



78. Pending applications, if any, are rendered infructuous.
79. Judgment be uploaded on the website of this Court.

(ANISH DAYAL)
JUDGE

OCTOBER 12, 2026/RK/zb