IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1389-2017 (O&M)
RESERVED ON:08.10.2026
PRONOUNCED ON:31.10.2026
UPLOADED ON: 31.10.2026

TATA AIG GENERAL INSURANCE COMPANY LIMITED

... Appellant

VERSUS

TUSHAR YADAV (SINCE DECEASED) THROUGH HIS LRS AND OTHERS

....Respondents

FAO-5626-2017 (O&M)

TUSHAR YADAV (SINCE DECEASED) THROUGH HIS LRS

... Appellants

VERSUS

JEET RAM AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present: Mr. Sachin Gupta, Advocate
for the appellant (in FAO-1389-2017) and
for respondent No.3 (in FAO-5626-2017).

Ms. Deepshikha, Advocate for
Mr. Anil Kumar Gahlawat, Advocate
for the appellants (in FAO-5626-2017) and
for respondent No.1 (in FAO-1389-2017).

*****

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

DEEPINDER SINGH NALWA, J.

1. Both the appeals, as noticed above, are being decided together, by way of this common judgment as in both the appeals, the award dated 11.11.2016 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the Tribunal') is under challenge. FAO-1389-2017 has been filed by the Insurance Company for modification of the award dated 11.11.2016 passed by the Tribunal whereas FAO-5626-2017 has been filed by the claimant-Tushar Yadav through his legal heirs seeking enhancement of compensation.

2. Brief facts of the case are that on 03.12.2014 at about 8.30 p.m., one Karambir, alongwith his friend Tushar Yadav, were standing opposite Dr.Anil Hospital, Garhi Bolni Road, Rewari, near Ganda Nala, on the Kutcha berm of the road and a scooty bearing registration No.RJ-02SV-9149 was parked. In the meantime, the offending car bearing registration No.HR-36Q-8100 came from Garhi Bolni side, which was being driven by driver – Jeet Ram in a rash and negligent manner and at a high speed hit Karambir and Tushar Yadav from behind. As a result of the accident, both Karambir and Tushar sustained serious injuries. After the accident, driver – Jeet Ram got down from the car but ultimately fled away from the spot alongwith his car.

3. After the accident, Tushar Yadav was firstly taken to Dr. Birendra Hospital, Rewari, where first aid was given to him, but due to his serious condition, he was taken to Medanta Hospital, Gurgaon. It transpires that Tushar Yadav remained admitted to Medanta Hospital, Gurgaon, from

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

04.12.2014 to 19.01.2015, where he received treatment for a fracture of the distal 3rd of the right femur with intra-articular extension with bone loss (open fracture type 3B0 with right proximal 3rd tibia (open grade-2). As per Tushar Yadav, he spent a sum of Rs.15,00,000/- on medicines during treatment taken from the hospital, Rs.5,00,000/- were spent on attendant charges, Rs.2,00,000/- on transportation and a sum of Rs.2,00,000/- on special diet. He was about 14 years of age at the time of accident and was a student. On account of injuries caused to Tushar Yadav and Karambir, due to rash and negligent driving of driver-Jeet Ram, Tushar Yadav and Karambir filed claim petitions before the Tribunal wherein Tushar Yadav was claiming a compensation of an amount of Rs.1 crore.

4. Both the claim petitions filed by Karambir and Tushar Yadav were decided by the common award dated 11.11.2016 passed by the Tribunal. As per the award dated 11.11.2016 passed by the Tribunal, the Tribunal has assessed the functional disability of Tushar Yadav at 40% and awarded him a total compensation of Rs.22,20,000/- for the injuries sustained by him in the accident. It further transpires from the award that out of this total amount of Rs.22,20,000/-, a lump-sum amount of Rs.2 lakhs was granted under the head of future prospects, whereas a lump-sum amount of Rs.1 lakh was awarded towards pain and suffering, special diet and loss of amenities, while an amount of Rs.18,91,000/- was awarded towards medical and hospitalization expenses and an amount of Rs.29,000/- was awarded towards transportation costs.

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

5. Aggrieved against the award dated 11.11.2016 passed by the Tribunal, the Insurance Company and the claimant-Tushar Yadav have filed two separate appeals.

FAO-1389-2017

6. The only contention raised by learned counsel appearing on behalf of the appellant-Insurance Company is that, out of the total medical bill, the claimant has received medi-claim of Rs.4 lakhs from E-Meditek TPA Service PV, as such, the above said amount should have been deducted from the final compensation awarded by the Tribunal.

7. In regard to the only contention raised by learned counsel appearing on behalf of the appellant-Insurance Company is concerned, it is well settled law that the amount received by a claimant as a medi-claim from the personal medical insurance is not to be deducted from final compensation awarded under the Motor Vehicles Act, 1988. Reliance is made to the judgment passed by Hon'ble the Supreme Court of India in ***New India Assurance Company Limited Vs. Dolly Satish Gandhi and another, 2026 (3) RCR (Civil) 135***. In the above said judgment, Hon'ble the Supreme Court of India has held that the medi-claim benefits are contractual, arising from premiums paid, whereas compensation under the Motor Vehicle Act is statutory in nature and is intended to provide just compensation for injuries caused by motor vehicle accident. As such, the amount received as a medi-claim benefit under a medical insurance policy is not to be deducted from the final compensation awarded by the Tribunal.

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

8. The relevant extract of the judgment passed by Hon'ble the Supreme Court of India in ***Dolly Satish Gandhi's*** case (supra) is reproduced hereunder:-

> *"9. Having considered judgments of this Court as above, we are of the considered opinion that the answer to the question raised in this appeal is not a matter of Sherlockian deduction. A Mediclaim policy is a policy that is purchased by a person, accounting for the uncertainties of life and preparing a financial base for an unfortunate possible eventuality. The human body is a coming together of intricate systems where there is always a possibility that something may go wrong or may need mending. In today's time when medical expenses are skyrocketing for a variety of reasons, the ability to meet such expenses, suddenly as and when they may arise, is not something that rests with all. It is, as such, a necessary facet of preparation that people undertake. It doesn't specifically deal with accidental coverage only.*
>
> *10. The contractual benefit of reimbursement of medical expenses as a result of this policy is, therefore, independent of any other claim. The provisions of the MVA are only triggered in the unfortunate eventuality if a death or injury arising out of a motor vehicle an accident occurs. That in itself, when it does arise, cannot eclipse the contractual benefit to which a person who has paid premiums, is entitled too. Compensation under MVA while it recognizes reimbursement of medical expenses is distinct from the contractual benefit, though it may be with respect to the very same heads. If the view of the High Courts that this would amount to "double benefit" is agreed to by this Court, a peculiar situation will arise. On the one end, it may save compensation from being affected by double benefit, if it can be called that, but on the other, it would denude the claimant of the benefits that arise out of them parting with their hard-earned money in the form of Mediclaim premiums. It would also amount to an undue advantage to the company granting the Mediclaim policy to the claimant if the claimant's claim is extinguished by the award of the MACT having granted medical expenses for, they would have received the premium but would not be required to pay any amount in the event of medical bills having arisen. Similarly, it may amount to an unjust benefit to the insurer of the offending vehicle if they are not required to compensate under one of the heads of*

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

> *medical expenses solely on account of the fact that the claimant had received the benefit of a policy for which they had been paying premiums for years on end. There is yet another aspect. The guiding yardstick in Mediclaim vis a vis MVA is different. In the former, a Mediclaim policy is taken up to a certain amount and if the claim of the policy holder once found to be holding merit go beyond it, the holder has no option but to foot the bill out of pocket however in the latter, because of its beneficial nature the only guide is the broad principle of just and fair compensation. Put differently, the compensation that may be awarded thereunder has no strict monetary limits.*
>
> *11. We may also say that looking at these two amounts as "double benefit" may not be appropriate since one situation is only the fruit of amounts already paid in the past. Only because they appear same or similar, they cannot be termed as "double benefit". Still further there is another reason why these two amounts stand on a different footing. The amount received under MVA arises from a beneficial legislation and as guided by just compensation which is intended to put the injured or the claimants (legal representatives of the deceased) in a position, as far as possible, at least monetarily, if the accident in question had not taken place. Naturally, this stands on a higher pedestal - not only because it is a statutory entitlement of compensation but also because the nature of the statute is entirely beneficial. To equate these two amounts to pulling down the MVA or unnecessarily hyping up the Mediclaim policy."*

9. Taking into consideration the facts of the present case and in light of the judgment passed by Hon'ble the Supreme Court of India in ***Dolly Satish Gandhi's*** case (supra), the contention raised by learned counsel appearing on behalf of the appellant-Insurance company that the amount of Rs.4 lakhs received by the respondent No.1-claimant from medi-claim should be deducted from the final compensation awarded by the Tribunal, cannot be accepted and is, accordingly, rejected.

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

FAO-5626-2017

10. In FAO-5626-2017, learned counsel appearing on behalf of appellants-claimants submits that a perusal of the award dated 11.11.2016 passed by the Tribunal would show that the Tribunal has failed to assess the monthly income of the minor while determining the quantum of compensation. Learned counsel submits that the Tribunal has granted lump sum amount of Rs.2,00,000/- under the head of future prospects including future medical expenses. She submits that there must be addition to the actual income of the deceased while computing the compensation under the head of future prospects following the principle laid down in the case of **National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009.** She further submits that in case of a minor, minimum wages applicable to a skilled worker/labourer at the time of accident have to be taken into consideration while assessing the income of a minor. Learned counsel submits that on the date of accident, i.e. 03.12.2014, the minimum wages applicable in the case of skilled worker/labourer fixed by the State of Haryana was Rs.6159/-. Learned counsel further submits that no amount under the head of loss of future earnings on account of permanent disability suffered by appellant-claimant and under the head of attendant charges and loss of marriage prospects has been awarded by the Tribunal while granting compensation. Learned counsel also submits that the amounts given under the head of pain and suffering and loss of amenities of life are on the lower side.

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

11. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

12. In regard to the contention raised by learned counsel appearing on behalf of the appellant-claimant that the Tribunal failed to assess the monthly income of the appellant-claimant is concerned, it is well settled law that in case of a minor suffering permanent disability on account of motor vehicular accident, minimum wages applicable to skilled worker/labourer at the time of accident has to be taken into consideration for the purpose of assessing income. Reliance is made to the judgment passed by Hon'ble the Supreme Court of India in ***Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari and another, 2025 SCC Online SC 3446***. Relevant extract of the judgment is reproduced hereunder:-

> "9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a wellentrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in ***Kajal v. Jagdish Chand and Ors., (2020) 4 SCC 413***, and ***Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr., 2024 SCC Online SC 3692***."

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

13. In light of the judgment passed by Hon'ble the Supreme Court of India in ***Hitesh Nagjibhai Patel's*** *case (supra),* as minimum wages for a skilled worker/labourer fixed by the State of Haryana at the time of accident, was Rs.6159/-, accordingly, the income of the appellant-claimant is taken as Rs.6159/- per month.

14. In regard to the contention raised by learned counsel appearing on behalf of appellant that addition has to be made to the actual income of the deceased while computing future prospects is concerned, Hon'ble the Supreme Court in ***Pappu Deo Yadav Vs. Naresh Kumar and others, 2022 (13) SCC 790,*** held that in addition to loss of future earnings (based on determination of income at the time of accident), the claimants are also entitled to compensation for loss of future prospects (following the principles laid down in ***National Insurance Company Limited Vs. Pranay Sethi and others, 2017 (4) RCR (Civil) 1009),*** in a case of permanent disability under the Motor Vehicles Act.

15. In regard to the contention of the learned counsel appearing on behalf of the appellant-claimant that the Tribunal failed to consider compensation under the loss of future earnings on account of permanent disability is concerned, it is well settled law that in the case of permanent disability, claimant is entitled for compensation under the head of loss of future earning. Relevant extract from the judgment of **Pappu Deo Yadav's case (supra),** is reproduced hereunder:-

"7. Two questions arise for consideration: one, whether in cases of permanent disablement incurred as a result of a motor accident, the

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

claimant can seek, apart from compensation for future loss of income, amounts for future prospects too; and two, the extent of disability. On the first question, the High Court no doubt, is technically correct in holding that Pranay Sethi Supra involved assessment of compensation in a case where the victim died. However, it went wrong in saying that later, the three-judge bench decision in Jagdish Supra was not binding, but rather that the subsequent decision in Anant Supra to the extent that it did not award compensation for future prospects, was binding. This court is of the opinion that there was no justification for the High Court to have read the previous rulings of this court, to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading of Pranay Sethi Supra is illogical, because it denies altogether the possibility of the living victim progressing further in life in accident cases – and admits such possibility of future prospects, in case of the victim's death.

8. This court has emphasized time and again that "just compensation" should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives. In ***Santosh Devi v. National Insurance Company Limited (2012) 6 SCC 421****, this Court held that:*

> *"14. We find it extremely difficult to fathom any rationale for the observation made in paragraph 24 of the judgment in Sarla Verma's case that where the deceased was self-employed or was on a fixed salary without provision for annual increment, etc., the Courts will usually take only the actual income at the time of death and a departure from this rule should be made only in rare and exceptional cases involving special circumstances. In our view, it will be nave to say that the wages or total emoluments/income of a person who is self-employed or who is employed on a fixed salary without provision for annual increment, etc., would remain the same throughout his life.*

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

15. The rise in the cost of living affects everyone across the board. It does not make any distinction between rich and poor. As a matter of fact, the effect of rise in prices which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put extra efforts to generate additional income necessary for sustaining their families.

16. The salaries of those employed under the Central and State Governments and their agencies/instrumentalities have been revised from time to time to provide a cushion against the rising prices and provisions have been made for providing security to the families of the deceased employees. The salaries of those employed in private sectors have also increased manifold. Till about two decades ago, nobody could have imagined that salary of Class IV employee of the Government would be in five figures and total emoluments of those in higher echelons of service will cross the figure of rupees one lac.

17. Although, the wages/income of those employed in unorganized sectors has not registered a corresponding increase and has not kept pace with the increase in the salaries of the Government employees and those employed in private sectors but it cannot be denied that there has been incremental enhancement in the income of those who are self-employed and even those engaged on daily basis, monthly basis or even seasonal basis. We can take judicial notice of the fact that with a view to meet the challenges posed by high cost of living, the persons falling in the latter category periodically increase the cost of their labour. In this context, it may be useful to give an example of a tailor who earns his livelihood by stitching cloths. If the cost of living increases and the prices of essentials go up, it is but natural for him to increase the cost of his labour. So will be the cases of ordinary skilled and unskilled labour, like, barber, blacksmith, cobbler, mason etc.

18. Therefore, we do not think that while making the observations in the last three lines of paragraph 24 of Sarla Verma's judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30 per cent increase in his total income over a period of time and if he / she becomes victim of accident then the same formula deserves to be applied for calculating the amount of compensation."

9. In Jagdish Supra. the victim, a carpenter, suffered permanent disablement, and his claim for compensation including for loss of future prospects was considered by a three-judge bench (which included, incidentally, the judges who had decided Pranay Sethi Supra). This court held that:

"13. In the judgment of the Constitution Bench in ***Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680]****, this Court has held that the benefit of future prospects should not be confined only to those who have a permanent job and would extend to self-employed individuals. In the case of a self-employed person, an addition of 40% of the established income should be made where the age of the victim at the time of the accident was below 40 years. Hence, in the present case, the appellant would be entitled to an enhancement of Rs.2400 towards loss of future prospects.*

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

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

individual to an assertion of enforceable rights as intrinsic to human dignity.

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

10. The recent decision in ***Parminder Singh v. New India Assurance Co. Ltd (2019) 7 SCC 217****, involved an accident victim who underwent surgery for hemiplegia. According to the treating medic, he could not work as a labourer or perform any agricultural work, or work as a driver (as he was wont to); the assessment of his disability was at 75%, and of a permanent nature. The court held that:*

"5.2. On the basis of the affidavit filed by the employer of the appellant, we accept that the income of the appellant was Rs. 10,000 p.m. at the time of the accident, for the purpose of computing the compensation payable to him.

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

5.1. The appellant has however, produced an affidavit by his employer in this Court. As per the said affidavit, the appellant was earning Rs. 10,000 p.m. at the time of the accident.

5.3. Taking the income of the appellant as Rs. 10,000 p.m., with future prospects @ 50% as awarded by the High Court, the total income of the appellant would come to Rs. 15,000 p.m.

5.4. The appellant was 23 years old at the time when the accident occurred. Applying the multiplier of 18, the loss of future earnings suffered by the appellant would work out to Rs. 15,000 x 12 x 18 = Rs. 32,40,000.

* *

*5.7. In **K. Suresh v. New India Assurance Co. Ltd (2012) 12 SCC 274**, this Court held that at page 279, para 10 :*

"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 broadbased. 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."

* *

5.9. In the present case, it is an admitted position that it is not possible for the appellant to get employed as a driver, or do any kind of manual labour, or engage in any agricultural operations whatsoever, for his sustenance. In such circumstances, the High Court has rightly assessed the appellant's functional disability at 100% insofar as his loss of earning capacity is concerned. The appellant is, therefore, awarded Rs. 32,40,000 towards loss of earning capacity."

*11. Yet later and more recently in an accident case, which tragically left in its wake a young girl in a life-long state of paraplegia, this court, in **Kajal***

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

v. Jagdish Chand, (2020) 4 SCC 413 *reiterated that in addition to loss of earnings, compensation for future prospects too could be factored in, and observed that:*

> *"14. In* ***Concord of India Insurance Co. Ltd. v. Nirmala Devi [Concord of India Insurance Co. Ltd. v. Nirmala Devi, (1979) 4 SCC 365 : 1979 SCC (Cri) 996 : 1980 ACJ 55]****, this Court held : (SCC p. 366, para 2)*
>
> *"2. .. the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales."*
>
> *15. In* ***R.D. Hattangadi v. Pest Control (India) (P) Ltd. [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250]****, dealing with the different heads of compensation in injury cases this Court held thus : (SCC p. 556, para 9)*
>
> *"9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance;*
>
> *(ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include : (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in the future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for 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."*

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

16. In ***Raj Kumar v. Ajay Kumar [Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343 : (2011) 1 SCC (Civ) 164 : (2011) 1 SCC (Cri) 1161]*** *, this Court laid down the heads under which compensation is to be awarded for personal injuries : (SCC p. 348, para 6)*

"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."

17. In ***K. Suresh v. New India Assurance Co. Ltd. [K. Suresh v. New India Assurance Co. Ltd., (2012) 12 SCC 274 : (2013) 2 SCC (Civ) 279 : (2013) 4 SCC (Cri) 638]****, this Court held as follows : (SCC p. 276, para 2)*

"2. .. There cannot be actual compensation for anguish of the heart or for mental tribulations. The quintessentiality lies in the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. Therefore, section 168 of the

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

Motor Vehicles Act, 1988 (for brevity "the Act") stipulates that there should be grant of "just compensation". Thus, it becomes a challenge for a court of law to determine "just compensation" which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance."

* *

Loss of earnings

20. Both the courts below have held that since the girl was a young child of 12 years only notional income of Rs. 15,000 p.a. can be taken into consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned much more than Rs. 15,000 p.a. Each case has to be decided on its own evidence but taking notional income to be Rs. 15,000 p.a. is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs. 4846 per month. In our opinion, this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be Rs. 6784.40 per month i.e. 81,412.80 p.a. Applying the multiplier of 18, it works out to Rs. 14,65,430.40, which is rounded off to Rs. 14,66,000."

12. In view of the above decisive rulings of this court, the High Court clearly erred in holding that compensation for loss of future prospects could not be awarded. In addition to loss of future earnings (based on a determination of the income at the time of accident), the appellant is also entitled to compensation for loss of future prospects, @ 40% (following the Pranay Sethi principle).”

16. A perusal of the record would show that as per Ex.PW-7/A the permanent disability of the appellant-claimant was held to be 57% on account of post traumatic marked restricted movement of right knee with marked loss of stability with shortening with scarring and pain. However, as per the disability certificate the disability is likely to improve after a period of 05 years considering that the appellant-claimant was a young man of 15

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

years of age. Keeping in view the fact that the disability is likely to improve to some extent but the appellant-claimant will still face difficulty in carrying out his day to day activities, as such, this Court deems it fit to assess the functional disability of the appellant-claimant at 40% for determining the loss of future earnings.

17. In light of the judgment passed by Hon'ble the Supreme Court in ***Pappu Deo Yadav's*** case (supra), the appellant-claimant is held entitled for grant of compensation under the heads loss of future earning and loss of future prospects following the principle laid down by Hon'ble the Supreme Court in ***Pranay Sethi's*** *case (supra).*

18. In regard to the contention raised by learned counsel appearing on behalf of the appellant-claimant, that no amount has been awarded under the head of attendant charges and loss of marriage prospects is concerned, a perusal of the facts of the present case would show that the appellant-claimant was admitted in hospital for a period of 65-66 days and also suffered permanent disability which would substantially affects his prospects of marriage. Taking into consideration the above said facts, the appellant-claimant is also held entitled for compensation under the heads of attendant charges and loss of marriage prospects as well.

19. In regard to the last contention raised by learned counsel appearing on behalf of the appellant-claimant that compensation awarded under the head of pain and suffering and loss of amenities of life is on the lower side is concerned, this Court taking into consideration the facts of the

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

case, finds that the compensation awarded by the Tribunal under the head of pain and sufferings and loss of amenities is also on lower side.

20. Taking into consideration the facts of the case, the appellant-claimant in FAO-5626-2017 is entitled for enhanced compensation. Accordingly, compensation payable to the appellant-claimant is reassessed as under:-

Assessment		
Date of Accident Age of injured Occupation Claimant	03.12.2014 14 years student Tushar Yadav (since deceased) through his LRs	
1.	Annual Income Rs.6,159/- per month (skilled worker)	Rs.73,908/-per annum
2.	Future prospects @ 40% Rs.73,908/- (+) Rs.29, 563/-	Rs.1,03,471/-
3.	Loss of future earnings @ 40% disability by applying multiplier of 18 Rs.1, 03,471/ X 40% X 18	Rs.7,44,991/-
4.	Hospitalization and treatment (as awarded by the Tribunal)	Rs.18,91,000/-
5.	Transportation (as awarded by the Tribunal)	Rs.29,000/-
6.	Pain and suffering	Rs.2,00,000/-
7.	Loss of amenities of life	Rs.2,00,000/-
8.	loss of marriage prospects	Rs.5,00,000/-
9	Attendant charges	Rs.50,000/-
10.	Amount awarded by Tribunal	Rs.22,20,000/-
11.	Enhanced compensation	Rs.13,94,991/-
12.	Final enhanced compensation	**Rs.36,14,991/-**

21. Accordingly, the award passed by the Tribunal is modified to an extent that the appellant-claimant is held entitled for enhanced compensation of Rs.36,14,991/- along with interest @ 7.5% per annum, as awarded by the

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document

Tribunal, from the date of filing of the claim petition till its actual realization.

22. The respondents No.1, 2 and 3, being driver, owner and Insurance Company are directed to deposit the enhanced compensation jointly and severally along with interest with the Tribunal within a period of 2 months from the date of passing of this judgment.

23. The Tribunal is further directed to disburse the enhanced compensation along with interest in the account of LRs of the appellant-claimant in equal shares, as the appellant-claimant has expired during the pendency of the present appeals. The LRs of the appellant-claimant are directed to furnish the bank account details to the Tribunal.

24. In view of the above, the FAO-1389-2017 filed by the Insurance Company is dismissed whereas FAO-5626-2017 filed by the appellant-claimant is allowed in the above said terms.

25. Pending application(s), if any, shall also stand(s) disposed of accordingly.

(DEEPINDER SINGH NALWA)
JUDGE

31.10.2026
Rimpal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

RIMPAL RANI
2026.10.31 15:57
I attest to the accuracy and
integrity of this document