



2026:CGHC:5839

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HIGH COURT OF CHHATTISGARH AT BILASPUR**MAC No. 1879 of 2018**

Vishwakarma Patel S/o Jai Prakash Patel, Aged About 26 Years, Occupation-Driver, R/o Krishan Nagar, Bhanpuri, P.S.- Khamtari, Raipur, Tehsil And District- Raipur, Chhattisgarh.....492001...(Claimant)

... Appellant(s)**versus**

1 - Fuleshwar Rao S/o Thakur Ram, Aged About 36 Years, Occupation Bus Driver, R/o Village-Taraju, P.S.- Lakhanpur, Post-Jamgala, District- Sarguja, Chhattisgarh.....(Owner Of Vehicle Bus Bearing No. C.G. 15-A.B.- 9693) 497001

2 - Ambika Transport Through Managing Director-Ajay Agrawal, R/o Seth Bansilal Magr, Bramhapara, Ambikapur, District- Sarguja, Chhattisgarh 497001

3 - United India Insurance Company Ltd Through Regional Manager, Regional Office-No. 1, Kachahri Chowk, Jail Road, Raipur, Chhattisgarh.....(Insurer)

... Respondent(s)

For Appellant : Mr. Akhilesh Mishra, Advocate

For Respondent No.3 : Mr. Pravesh Sahu, Advocate on behalf of Mr.
Dashrath Gupta, Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad**Order on Board****02/02/2026**

1. This appeal is filed by the appellant/claimant under Section 173 of the Motor Vehicles Act, 1988 (for short "the Act") against the award dated 8.8.2018 passed by the Fifth Additional Motor Accident Claims Tribunal, Raipur, District Raipur (CG) in Claim Case No.795/2016.
2. By the impugned award, the Tribunal partly allowed the claim petition filed by the claimant under Section 166 of the Act and awarded a total sum of Rs.16,50,209/- by way of compensation to the claimant for the injuries sustained by him in a vehicular accident.
3. So the question that arises for consideration in this appeal filed by the claimant (appellant) is whether any case for enhancement is made out in the award of compensation awarded by the Tribunal to the claimant and if so, to what extent?
4. It is an injury case. On 31.10.2016, the appellant was driving a truck bearing registration No.CG-7-A-V-7377 from Bhilai transporting a consignment of vegetables. At about 1:00 p.m., while travelling on Katghora-Ambikapur road, near Gram Chotiya, a bus bearing registration No.CG-15-A B-9693, driven rashly and negligently by respondent No.1 collided head-on with the front of the appellant's truck. The impact completely smashed the front

portion of the truck, causing the vehicle to veer off the road and fall into a ditch. The appellant and the vehicle cleaner sustained grievous injuries. The injured parties were taken to Podi Government Hospital and subsequently to the Government Hospital, Korba. Owing to the critical condition of the claimant, he was referred to CIMS Hospital, Bilaspur for advanced treatment. Subsequently, he was admitted in Suyash Hospital, Raipur for specialized treatment. As a result of the accident, the claimant's left leg was amputated below knee. He also sustained a fracture in his right leg (below knee), which required surgery and internal fixation (plates and screws). He suffered multiple external and internal injuries throughout the body. It was stated that at the time of the accident, the claimant was employed as a driver earning a monthly salary of Rs.8000/- plus a daily allowance of Rs.100/-. The information with regard to the accident was given to Police Station Bango, District Korba, on the basis of which, an offence was registered against respondent No.1.

5. The non-applicants contested the claim. Parties adduced evidence. The Tribunal as stated supra, allowed the claim petition in part. The Tribunal awarded Rs.2,54,079/- towards medicines, Rs.1,24,530/- towards medical expenses and Rs.50,000/- towards future medical treatment. Additionally, Rs.1,00,000/- was awarded towards pain and suffering (mental agony) and Rs.20,000/- towards Special Diet. In this way, a total sum of Rs.16,50,209/- was awarded to the claimant by way of compensation for the injuries sustained by him in the accident.

The appellant/claimant has preferred this appeal challenging the said determination on the ground that the compensation is inadequate and on the lower side, seeking enhancement of the award.

6. Learned counsel for the appellant submits that as a result of the accident, the appellant, who was employed as a professional driver, has suffered 100% permanent functional disability. He submits that the Tribunal failed to appreciate the gravity of this loss in its true perspective. He also submits that in the said accident, the appellant's left leg was amputated below the knee and he sustained a severe fracture in his right leg which required internal fixation with plates and screws. Furthermore, the right leg required Ilizarov fixation and due to these combined injuries, the appellant is unable to walk or sit properly. While a permanent disability certificate has been issued by the District Medical Board, learned counsel submits that for a professional driver, the amputation of left leg below knee coupled with impairment of the other constitutes a total loss of earning capacity. On account of the amputation and the ongoing complications in the right leg, the appellant is permanently rendered incapable of driving a vehicle. Therefore, the Tribunal ought to have awarded compensation on the basis of 100% permanent functional disability. Lastly, he submits that the impugned award passed by the Tribunal warrants a substantial enhancement looking to the fact that the appellant can no longer pursue his livelihood as a driver.

7. On the other hand, learned counsel for the Insurance Company submits that the amputation of a lower limb cannot be equated to 100% permanent functional disability. He submits that as the other leg remains functional, the appellant retains the capacity to engage in alternative vocations or professions to earn a livelihood. He further submits that the Tribunal, after carefully considering the entirety of the evidence and the nature of the injuries, correctly assessed the loss of earning capacity and awarded a just compensation of Rs.16,50,209/-. Lastly, he submits that the award is well-reasoned and based on established legal principles, therefore, it does not call for any interference by this Court.
8. I have heard learned counsel for the parties and also perused the record with utmost circumspection.
9. Admittedly, the appellant, while working as a driver, met with an accident on the date of the incident, resulting in permanent physical disability. The District Medical Board, upon examination, assessed the appellant having 100% permanent disability. However, the Board further noted that there exists a possibility of 5% reduction in the degree of disability after a period of three years. The appellant/injured was a driver by occupation, a vocation which necessitates the full and proper functioning of both legs. The amputation of one leg coupled with the impairment of the other, creates an absolute bar to his ability to operate a vehicle. Consequently, the compensation awarded by the Tribunal

is found to be insufficient and is hereby liable to be enhanced to ensure the delivery of just and fair compensation.

10. In a judgment rendered in the matter of **K.S. Muralidhar vs. R.**

Subbulakshmi and Another reported in **2024 SCC OnLine SC**

3385, the Supreme Court observed as follows :

12. It is to be noted that both the Tribunal and the High Court have taken the disability suffered by the claimant-appellant to be at 100%. We find no ground to take a different view.

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 Lexicon⁹ 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]”

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13.3.4 Daryl Pullman¹⁴ who currently serves as University research Professor, Bioethics at the Memorial University of Newfoundland, Canada in his 2002 article defined suffering as the “*product of [physical], psychological, economic, or other factors that frustrate an individual in the pursuit of significant life projects.*”

13.4 The Judicial Studies Board, now known as the Judicial College in the United Kingdom, produced guidelines in 1992 to produce greater consistency of awards and make the judicial scale of values more easily accessible. They have been deduced from a study of past cases, examining the range of awards therein. The latest edition of these guidelines was published in 2021¹⁵. They record the difficulty of computing '*pain and suffering*' as under:—

“It is widely accepted that making of an award of general damages for pain and suffering is a somewhat artificial task. It involves the Judge seeking to convert the pain and suffering of a given claimant into a monetary award which he or she considers to be reasonable by way of compensation. That is a difficult task and one which has historically led to judges making widely varying awards of damages in respect of relatively comparable injuries a result which not only offends the principle of equality before law but results in unnecessary appeals and the incurring of additional cost, apart altogether from the burden that such appeals place on the Court’s own scarce resources.”

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13.6 In the context of the United States, the most important piece of legal literature regarding ‘*pain and suffering*’ is an article titled ***Valuing Life and Limb in Tort : Scheduling Pain and Suffering***, published in the year 1989. Relevant extracts thereof read as under:

“Pain and suffering and other intangible or non-economic losses are even more problematic. Physical pain and attendant suffering have for centuries being recognised as legitimate elements of damages, and “modern” tort law has seen a marked expansion of the rights to recover for forms of mental anguish. Some Courts have even permitted recovery for emotional trauma unaccompanied by physical injury, including derivative losses stemming from injuries to family members. The precise elements of compensable non-economic loss vary by jurisdiction. Pain and suffering may be used as a catch-all category for the jury’s consideration of all non-pecuniary losses in a case of a non-fatal injury, subsuming other qualitative categories such as mental anguish and humiliation. More commonly, though, other non-economic elements - such as “loss of enjoyment of life” are accorded independent standing ...”

Another important observation is that:

“Whatever the categories of non-economic damages allowed in a given jurisdiction, the law provides no objective benchmarks valuing them. As one commentator notes, “Courts have usually been content to say that pain and suffering damages should amount to ‘fair compensation’, or a ‘reasonable amount’, ‘without any definite guide’.”

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

14.1 In *R.D Hattangadi v. Pest Control (India) (P) Ltd.*¹⁸. 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”.

(Emphasis Supplied)

14.2 This Judgment was recently referred to by this Court in *Sidram v. United India Insurance Company Ltd.*¹⁹ reference was also made to *Karnataka SRTC v. Mahadeva Shetty*²⁰ (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed:

“18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned.”

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14.4 In *Ayush v. Reliance General Insurance*²² relying on *Kajal* (supra) the amount awarded in ‘pain and suffering’ was enhanced to Rs. 10,00,000. The child who had suffered the accident was five years old and the Court noted in paragraph 2 that:

“As per the discharge certificate, the appellant is not able to move both his legs and had complete sensory loss in the legs, urinary incontinence, bowel constipation and bed sores. The appellant was aged about 5 years as on the

date of the accident, hence has lost his childhood and is dependent on others for his routine work.”

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15. Keeping in view the above-referred judgments, the injuries suffered, the '*pain and suffering*' caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, award Rs. 15,00,000/- under the head '*pain and suffering*', fully conscious of the fact that the prayer of the claimant-appellant for enhancement of compensation was by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded.

11. The Tribunal assessed the income of the appellant at Rs.6000/- per month, however, no cogent reasons were assigned for arriving at this figure or for discarding the appellant's claim of Rs.8000/- per month plus a daily outstation allowance of Rs.100/-. Considering the facts and circumstances of the case, the pleadings, and the respondents' failure to rebut the Tribunal's assessment with substantive evidence, this Court finds the assessment inadequate. In view of the Consumer Price Index at the material time and the nature of the appellant's skilled employment as a driver at the time of the accident, this Court deems it appropriate to fix the monthly income of the appellant at Rs.10,000/-. Accordingly, the monthly income of the appellant is hereby fixed at Rs.10,000/- per month.
12. So far as the age of the appellant is concerned, the Tribunal determined it to be 30 years at the time of the accident. This Court finds no reason to deviate from such finding, hence, the age is affirmed as 30 years attracting a multiplier of 17. This Court further observes that the Tribunal erred in failing to award future

prospects. In view of the age of the claimant/appellant and the nature of his employment, an addition of 40% towards future prospects is mandatory as per settled legal principles.

13. Accordingly, the annual income stands at Rs.1,20,000/- (Rs.10,000/- x 12). Applying the multiplier of 17, the total corpus is Rs.20,40,000/-. Accounting for the 90% permanent disability, the loss of earning capacity is determined to be Rs.18,36,000/-. An addition of 40% (Rs.7,34,400/-) towards future prospects is granted on the assessed loss of earning capacity, which amounts Rs.7,34,400/-. The final compensation including medical expenses and conventional heads, is summarized in the table below :

Sl. No.	Head of Compensation	Amount (Rs.)
1.	Loss of Earning Capacity (Rs.10,000/-x12x17x90%)	Rs.18,36,000/-
2.	Future Prospects (40% of Sl. No.1)	Rs.7,34,400/-
3.	Medicines	Rs.2,54,079/-
4.	Medical expenses	Rs.1,24,530/-
5.	Future Medical Treatment	Rs.1,00,000/-
6.	Pain and suffering	Rs.1,00,000/-
7.	Loss of Amenities	Rs.1,00,000/-
8.	Special Diet	Rs.25,000/-
	Grand Total	Rs.32,74,009/-

14. Accordingly, the total compensation is recomputed at Rs.32,74,009/-. After deducting Rs.16,50,209/-, as awarded by the Tribunal, the enhancement amounts to Rs.16,23,800/-
15. In the result, the Appeal is allowed in part. The appellant would be entitled to the enhanced amount of Rs.16,23,800/- in addition to the compensation already awarded by the Claims Tribunal. The enhanced amount shall carry interest @ 6% per annum from the date of the award till its realization. The impugned award stands modified to the above extent; all other conditions of the impugned award shall remain intact.

Sd/-

(Amitendra Kishore Prasad)
Judge

Shyna Ajay

MAC No. 1879 of 2018**HEAD NOTE**

The assessment of compensation for 'pain and suffering' and 'loss of amenity of life' must be grounded in the specific special circumstances of the claimant. In determining such awards, the Court must transition beyond a mere mathematical calculation to consider qualitative factors including age of the Claimant, unusual Deprivation and future impact.