

Shankar Dutt
v.
United India Insurance Co. Ltd. and Others

(Civil Appeal No. 8714 of 2026)

24 June 2026

[Ujjal Bhuyan and N.V. Anjaria,* JJ.]

Issue for Consideration

Issue arose as regards the just and fair compensation to be awarded to the claimant-skilled carpenter in the facts of the case, the parameters and the permissible heads of compensation.

Headnotes[†]

Motor Vehicle Act, 1988 – Compensation – Enhancement – Claimant, 38 years old skilled carpenter, while travelling on his motorcycle, was hit by Jeep driven rashly and negligently, coming from the wrong side of the road – Claimant suffered serious injuries resulting in amputation of his right leg, from above the knee and became completely disabled – Tribunal awarded compensation of Rs.4,77,823/- with 4% pa interest, however, High Court enhanced the amount to Rs.11,51,423/- with 6% pa interest – Correctness:

Held: When the income of the injured claimant carpenter is to be notionally assessed for the purpose of compensation, the fact that he was a skilled worker, cannot be overlooked, and has to be accounted for – In assessing the compensation for permanent disability, quantum of compensation must correspond to the loss of earning capacity which is an important yardstick and an acid test which would guide the courts – Socio-economic conditions of the claimant and the concerning circumstances on that count also to be taken into account – Extent of the functional disability largely remain dependent upon the nature of work and the kind of earning activity in which the injured is engaged, and not what the doctor may have judged in terms of medical standards – Claimant was engaged in the carpentry work and while working as a carpenter, he has to necessarily sit – Because of amputation of the lower half part of the right leg, the claimant is not able to

^{*} Author

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sit in a squatted or crossed legged manner, as such it is evident that he will not be able to perform the carpentry work – Carpenter cannot perform such work while in a standing position – For standing also, he would need support – Thus, the actual effect of amputation resulting out of the accidental injury for the claimant is total in terms of the work in which he is engaged and he is to perform, which really does not match and does not augur well with the extent of 70% disability as medically indicated – Disability of the claimant has to be appreciated and assessed in the context of the occupation of the claimant, activity of work he used to do as carpenter – Functional disability of the claimant has to be taken properly and reasonably at 100% – Claimant is 38 years of age, and taking his average life expectancy to be 75 years, he would require a replacement of artificial limb at least six times for the remaining 37 years – Prosthetic limb would again require a half yearly repair and maintenance – Claimant must be compensated in a manner and to the extent that he is able to live life in the future years almost in the same way as he was leading his life prior to the accident – In the yearly income to be assessed on the basis of monthly income at Rs.9,000/- and 40% will have to be added towards ‘future prospects – Calculation, thus, leading to the amount to be awarded towards loss of future earnings with 100% disability and multiplier of 15% would be 22,68,000/- – In the said total amount, the compensation towards other heads, expenses for prosthetic leg, towards pain, shock and suffering, for attendant charges, medical expenses, loss of amenities, loss of income during laid up period, attendant charges, transportation charges to be added – Compensation of Rs.35,95,923/- to be just and fair compensation to be paid to the claimant, with 6% p.a interest from the date of filing of the claim petition till actual payment. [Paras 5.2, 5.2.4, 5.3.2, 5.4.1, 5.5.1, 5.5.2, 5.6.3, 5.7.4-5.7.65.9, 5.9.2-8]

Case Law Cited

Mohd. Sabeer alias Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation [2022] 18 SCR 427 : (2023) 20 SCC 774; *Jitendra v. Sadiya and Others*, 2025 SCC OnLine SC 261; *Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari and Another* [2025] 8 SCR 2428 : Civil Appeal No. 10278 of 2025 decided on 08.08.2025; *Jagdish v. Mohan and Others* [2018] 3 SCR 20 : (2018) 4 SCC 571; *Laxman alias Laxman Mourya v. Divisional*

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Manager, Oriental Insurance Company Limited and Another (2011) 10 SCC 756; *State of Orissa and Others v. Adwait Charan Mohanty and Others* (1995) Supp. 1 SCC 470; *Neeta and Others v. Divisional Manager, Maharashtra SRTC, Kolhapur* (2015) 3 SCC 590; *Karamjit Singh v. Amandeep Singh and Another*, 2024 SCC OnLine SC 4275; *Sarla Verma v. Delhi Transport Corporation and Anr.* [2009] 5 SCR 1098 : (2009) 6 SCC 121; *Raj Kumar v. Ajay Kumar and Another* [2010] 13 SCR 179 : (2011) 1 SCC 343; *R. Halle v. Reliance General Insurance Company Limited*, 2026 SCC OnLine SC 433; *Anant v. Pratap and Another* [2018] 10 SCR 11 : (2018) 9 SCC 450; *R.D. Hattangadi v. Pest Control (India) Pvt. Ltd. and Others* [1995] 1 SCR 75 : (1995) 1 SCC 551; *National Insurance Co. Ltd. v. Pranay Sethi* [2017] 13 SCR 100 : (2017) 16 SCC 680 – referred to.

Chameli Devi v. Jivrail Mian and Others, 2019 ACJ 3011; *S. Ettiappan v. D. Kumar* (2026) 1 TAC 84 (SC) – referred to.

Books and Periodicals Cited

Shorter Oxford English Dictionary (3rd Edn.) Vol. 1, p. 103; Black's Law Dictionary – referred to.

List of Acts

Motor Vehicle Act, 1988.

List of Keywords

Just and fair compensation; Permissible heads of compensation; Enhancement of compensation; Skilled carpenter; Amputation of right leg, from above the knee; Disability; Multiplier of 15; Permanent disability; Loss of earning capacity of the injured; Socio-economic conditions; Medical standards; Functional disability; 70% disability; Functional disability at 100%; Medical expenses; Expenses for prosthetic leg; Expenses towards pain, shock and suffering; Attendant charges; Loss of amenities; Loss of income during laid up period; Transportation charges.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 8714 of 2026

From the Judgment and Order dated 19.12.2019 of the High Court of Uttarakhand at Nainital in AFO No. 151 of 2012

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Appearances for Parties

Advs. for the Appellant(s):

Ashwani Garg, Brijpal Singh Tomar, Vijay Kumar.

Advs. for the Respondent(s):

Abhishek Gola, Viresh B. Saharya, Anshul Mehral, Akshat Agarwal, Rishabh Mathur, Ranjan Kumar Pandey, K.K. Bhat.

Judgment / Order of the Supreme Court

Judgment

N.V. Anjaria, J.

Leave granted.

2. The present appeal, which is preferred by the original claimant, is directed against the judgment and order dated 19.12.2019 passed by the High Court of Uttarakhand at Nainital¹ in Appeal from Order No. 151 of 2012. Thereby, the High Court enhanced the amount of compensation to Rs.11,51,423/- to be paid with interest at the rate of 6% per annum from the date of filing of the claim petition till the date of realisation.

2.1 The Motor Accident Claims Tribunal-cum-Additional District Judge, Kotdwar, Pauri Garhwal² in Motor Accident Claim Case No.50 of 2005 awarded Rs.4,77,823/- with 4% p.a. interest from the date of filing of claim petition till the date of realisation. In the appeal, the High Court enhanced the amount of compensation to Rs.11,51,423/- with interest at 6% per annum. The appellant seeks further enhancement in the compensation amount, therefore, he has moved this Court by way of the present appeal.

Basic Facts

3. A vehicular accident took place on 09.11.2004. The appellant, 38 years old, engaged in the occupation of a carpenter, suffered serious injuries when, at around 8:00 pm on the said date, he was travelling on his motorcycle bearing registration No. UA-12-5725 from Kotdwar

¹ Hereinafter, "High Court"

² Hereinafter, "Claims Tribunal"

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to Motadhak, a Jeep car bearing No. UP-06-0915, stated to have been driven by its owner-driver rashly and negligently, came from Motadhak, entered the wrong side of the road by proceeding to its right side, and hit the motorcycle. The appellant sustained grievous injuries, especially on his right leg which was badly injured.

3.1 The appellant came to be admitted to the Government Hospital, Kotdwar. On the next day that is 10.11.2004, he was shifted for further treatment to Himalayan Hospital, Jolly Grant, Dehradun, upon medical advice. In order to save the life of the appellant, it was considered necessary to amputate his right leg, which was amputated from above the knee. The appellant was treated at the said Dehradun Hospital since the date of his admission on 10.11.2004 till 22.12.2004, for about 43 days. As per the case of the appellant, on account of the amputation of his right leg, he became completely disabled from doing work as a carpenter and his movement was seriously restricted.

3.1.1 The appellant filed the claim petition before the Claims Tribunal seeking compensation to the tune of Rs.18,50,000/-. Respondent Nos. 1 and 2 are the Insurance Companies, which had insured the offending Jeep and the motorcycle respectively, and respondent No.3 is the driver-cum-owner of the offending Jeep. The respondents filed written statements and contested the petition. The Claims Tribunal passed the award on 02.03.2012, determining total compensation under various heads totalling Rs.4,77,823/- granting interest at 4% interest per annum thereon.

Compensation by the High Court

3.2 The judgment and award of the Claims Tribunal was appealed against. The High Court, while allowing the claimant's appeal, enhanced the amount of compensation to Rs. 11,51,423/- awarding interest at 6% p.a. on the said amount from the date of filing of the claim petition till realisation. In arriving at the enhanced compensation, the High Court took the monthly income at Rs. 5,000/- increasing the same from Rs. 3,000/- per month as adopted by the Claims Tribunal. However, the High Court reduced the multiplier from 17 to 15. The extent of

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permanent disability which was considered to be 70% by the Claims Tribunal was maintained. The High Court enhanced the amount towards pain, suffering and loss of amenities and further granted additional amounts of Rs. 25,000/- and Rs.1,00,000/- towards future nourishment and future medical expenses respectively.

3.2.1 The following tabular chart contains the comparative details of the compensation awarded under different heads by the Claims Tribunal and enhanced by the High Court,

Compensation Heads	Amount awarded by the Claims Tribunal	Amount awarded by the High Court
Monthly Income	Rs. 3,000/-	Rs. 5,000/-
Yearly Income (x 12)	Rs. 36,000/-	Rs. 60,000/-
Future Prospects	-	60,000 + 24,000 (40%) = Rs. 84,000
Multiplier	36,000 x 17 = Rs. 6,12,000/-	84,000 x 15 = Rs. 12,60,000
Permanent Disability (70%)	70% of Rs. 6,12,000 = Rs. 4,28,400/-	70% of Rs. 12,60,000 = Rs. 8,82,000/-
Loss of future Income	Rs. 4,28,400/-	Rs. 8,82,000
Pain and suffering and Loss of Amenities	Rs. 5,000/-	Rs. 1,00,000/-
Future Nourishment	-	Rs. 25,000/-
Medical Expenses	Rs. 44,423/-	Rs. 44,423/-
Future medical expenses	-	Rs. 1,00,000/-
Interest	4 % p.a.	6 % p.a.
TOTAL	Rs.4,77,823/-	Rs.11,51,423/-

Rival Submissions

4. On behalf of the appellant, learned counsel Mr. Ashwani Garg submitted that in respect of the following heads, the High Court has either failed to award any amount or that the amount awarded is on lower side.
 - (i) Notional income was assessed by the High Court at Rs.5,000/- per month which is a low figure having regard to decisions of

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this Court in **Mohd. Sabeer *alias* Shabir Hussain vs. Regional Manager**, in **U.P. State Road Transport Corporation³**, in **Jitendra vs. Sadiya and Others⁴** and in **Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari and Another⁵**. The facts in those cases were similar, therefore, income of the appellant should be notionally taken at least at Rs.8,000/- per month.

- (ii) The High Court failed to award any amount towards expenses for purchase of artificial limb and its maintenance.
- (iii) Also, under the head 'transportation charges', no amount is awarded.
- (iv) Attendant charges have also not been awarded by the High Court which should have been awarded at Rs.2,00,000/- in lump sum.
- (v) The future prospects, that is, loss of future earning is not taken into account.
- (vi) In respect of loss of income during treatment also, no amount is awarded.
- (vii) The High Court has adopted multiplier of 15 which ought to have been 16.
- (viii) The permanent disability is taken at 70%. Looking to the fact that the appellant was a carpenter and his right leg below the knee was amputated, the functional disability needed to be taken at 100%. The loss of income for future earnings due to disability will have to be accounted for accordingly.
- (ix) Relying on the various decisions and suggesting in the factual context of the present case, the amount towards pains, sufferings as well as loss of amenities needed to be given to the tune of Rs.5,00,000/-.
- (x) While awarding medical expenses, the High Court has overlooked that over and above the actual medical expenses, there were out of pocket expenses. Therefore, the amount on this count has to be increased.

3 (2023) 20 SCC 774

4 2025 SCC OnLine SC 261

5 Civil Appeal No.10278 of 2025 decided on 08.08.2025

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- 4.1 On the other hand, learned counsel Mr. Abhishek Gola and learned counsel Mr. K.K. Bhat for respondent Nos.1 and 2 respectively highlighted the stand of the Insurance Companies. None appeared for respondent No.3, though served.
- 4.1.1 On behalf of respondent No.1-United India Insurance Co. Ltd. with which the offending Jeep car was insured, it was submitted through the counter affidavit filed before this Court that the High Court rightly considered the figure of Rs.5,000/- as income of the appellant inasmuch as the said figure was arrived at on the basis of minimum wages in the State of Uttarakhand as prevalent in December 2005. In support of this submission, the decision in **Chameli Devi vs. Jivrail Mian and Others**⁶ was pressed into service.
- 4.1.2 It was also sought to be submitted that the functional disability at 70% was quite justified since it would be possible for the appellant to perform his carpentry work and that he would not be said to have become completely handicap from working.
- 4.1.3 Respondent No.2-National Insurance Company Limited filed its counter affidavit raising various pleas and contested the appeal, emphasizing that the accident had been caused due to negligence of the Jeep car driver and that the said findings was not challenged any further.
5. Proceeding to examine the plea of the appellant for enhancement in compensation and what could be the just and fair compensation to be awarded to the appellant in the facts of the case, the parameters and the permissible heads of compensation, may be looked at, at the outset.
- 5.1 The principles governing the assessment of compensation payable to road accident victim who suffers permanent or temporary disability may be recalled. In **Jagdish vs. Mohan and Others**⁷ this Court highlighted the aspects which must weigh

6 2019 ACJ 3011

7 (2018) 4 SCC 571

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with the court in awarding the compensation. It was observed in paragraph 8 of the judgment that a victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of proper compensation.

5.1.1 The award of compensation must cover among others, the following aspects, stated the court, (i) Pain, suffering and trauma resulting from the accident (ii) Loss of income including future income (iii) The inability of the victim to lead a normal life together with its amenities (iv) Medical expenses including those that the victim may be required to undertake in future and (v) Loss of expectation of life.

5.1.2 In **Laxman alias Laxman Mourya vs. Divisional Manager, Oriental Insurance Company Limited and Another**⁸, after considering several other pronouncements, this Court observed that if the victim of an accident suffers permanent or temporary disability, then endeavour should be to award the adequate compensation, not only for the physical injury and treatment but also for the pain, suffering and trauma caused due to accident, loss of earnings and victim's inability to lead a normal life and enjoy amenities which he would have enjoyed but for the disability caused due to the accident.

Carpentry A skilled work

5.2 The appellant who got injured in the accident and had to suffer amputation of his right leg below the knee was a carpenter. A carpenter is an artisan. An artisan is one who is engaged in production of article of commercial value, or they are kind of industrial arts.

5.2.1 Though in a different context, this Court in **State of Orissa and Others vs. Adwait Charan Mohanty and Others**⁹ explained the concept of the word "artisan" from Shorter Oxford English Dictionary, (3rd Edn.) Vol. 1, p. 103, to define "artisan" as one who practices and cultivates art,

8 (2011) 10 SCC 756

9 (1995) Supp. 1 SCC 470

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an artist, who occupies in any industrial art, a mechanic handicraftsman. It was observed that the Black's Law Dictionary defines "artisan" as "one skilled in some kind of trade, craft, or art requiring manual dexterity, e.g., a carpenter, plumber, tailor, mechanic".

5.2.2 The Court stated thus,

"The word 'artisan', therefore, has to be understood in common parlance in a wider sense as an art or an artist or one employed in any of the industrial arts or produces an article of commercial value or utility with manual dexterity, either by manual labour or with the help of tools or machine and brings into existence a product for sale or service. An element of not only creativity would be applied to bring into existence an article or commercial goods with dexterity employing manual or technical labour or with the aid of tools etc. However, it is not exhaustive. Each case must be considered on its own facts and attendant circumstances to find whether the workman is an artisan. However, if he is a Class IV government servant, he too is entitled to superannuation on attaining 60 years of age."

(Para 10)

5.2.3 In **Neeta and Others vs. Divisional Manager, Maharashtra SRTC, Kolhapur**¹⁰, this Court viewed that carpentry is a skilled job. In **Karamjit Singh vs. Amandeep Singh and Another**¹¹, for the purpose of calculating the notional income of a carpenter, this Court in terms stated that carpentry is a field work and that the carpenter is a skilled worker,

"A carpenter is somebody who uses wood and constructs objects for daily use or beauty or in

¹⁰ (2015) 3 SCC 590

¹¹ 2024 SCC OnLine SC 4275

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certain countries even housing. A normal person who is not trained in the craft certainly cannot undertake these activities with the level of precision that is required. It would be unfair then, to classify a carpenter as an unskilled worker...”

(Para 7)

- 5.2.4 The carpenter is thus a skilled worker, who works to bring into existence various items of wood by his expertise and dexterity. When the income of the injured appellant carpenter is to be notionally assessed for the purpose of compensation, the fact and the aspect that the appellant was a skilled worker, cannot be overlooked, and has to be accounted for.

Fair Notional Income

- 5.3 The High Court, while increasing the figure of monthly income of the injured appellant from Rs.3,000/- to Rs.5,000/-, heavily relied on the decision of this Court **Chameli Devi** (supra) in which also the injured was a carpenter whose income was assessed to Rs.5,000/- per month. The accident in that case had taken place in the year 2001.

- 5.3.1 **Jagdish** (supra) also was the case of a carpenter, where the accident had taken place on 24.11.2011. The Claims Tribunal had considered the income of the appellant Jagdish at Rs.4050/- per month which was confirmed by the High Court. In that case, the injury had resulted into the hands of the injured becoming non-functional and the injured needed assistance even in eating the food. This Court took the figure of income at Rs.6,000/- per month.

- 5.3.2 The present is a case where the accident took place in November 2004. The appellant claimed in this evidence that he was earning Rs.8,000/- to 10,000/- per month. This evidence has almost remained unrefuted. This Court is of the view that the High Court erred in restricting the figure of income at Rs.5,000/- per month. A skilled job would always have potentiality to fetch and earn higher income. Keeping in view **Chameli Devi** (supra) and

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Jagdish (supra), taking guidance from said cases and further by striking a balance in the context of the facts of the present case, this Court considers it appropriate to assess the income of the appellant at Rs.9,000/- per month, when the appellant was a skilled worker for the purpose of computing the compensation.

Adoption of Multiplier

- 5.4 The Tribunal applied the multiplier of 17. However, the High Court applied the multiplier of 15 in view of the law laid down in **Sarla Verma vs. Delhi Transport Corporation and Anr.**¹². Para 42 of **Sarla Verma** (supra) provides that:

“We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas?, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, **M-15 for 36 to 40 years**, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years. M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.”

(Para 42)

- 5.4.1 As the age of the appellant-claimant at the time of accident was 38, multiplier of 15 was rightly applied by the High Court. It has to be maintained.

Loss of Earning Capacity

- 5.5 For the claimant who is rendered partial or completely disabled and who has suffered permanent or partial disability, the factor of loss of earning capacity becomes pivotal in determining the compensation amount. An injured in the vehicular accident stands incapacitated or physically impaired to work for earning

¹² (2009) 6 SCC 121.

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the livelihood. The earning capacity gets adversely affected *in presenti* as well as for the future. When the disability resulted out of the injury is of a permanent nature, it would have an *in futuro* effect. The injured would be left disabled to undertake any effective activity for earning for the rest of the years of his life, both for himself and his family.

- 5.5.1 In assessing the compensation for permanent disability, the extent of loss of earning capacity of the injured is a decisive consideration. It goes with the extent of disability suffered. The quantum of compensation must correspond to the loss of earning capacity. In other words, the loss of earning capacity is an important yardstick and it is an acid test which would guide the assessment of compensation by the Claims Tribunal or the court undertaking such exercise.
- 5.5.2 Furthermore, the socio-economic conditions of the claimant and the concerning circumstances on that count can also be taken into account for adjudging the loss of earning capacity, in turn, for the purpose of arriving at the total compensation. Thus, the loss of earning capacity guided by the compelling socio-economic factors becomes prime considerations.
- 5.5.3 In **Raj Kumar vs. Ajay Kumar and Another**¹³, this Court observed thus,

“Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising

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from a permanent disability will be different from the percentage of permanent disability..."

(Para 10)

- 5.5.4 It was further observed in paragraph 11 that what is required to be assessed 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 income, it has to be quantified in terms of money, by arriving at future loss of earnings by applying the standard multiplier method used to determine loss of dependency.

Medical versus Functional Disability

- 5.6 The Medical Certificate issued by the doctor stated that the injury of the appellant which finally ended up with the amputation of the lower half part of his right leg was about 70%. The appellant-claimant asserted that because of the amputation of the leg, his disability would result 100%.
- 5.6.1 A conceptual distinction has to be drawn between the medically certified disability resulting out of physical injury or impairment on one hand, and the long-term repercussions on the injured, on his or her life and activities on the other hand. The functional disability is one which is suffered and felt by the injured in his day-to-day life or in his avocation, occupation, business or profession.
- 5.6.2 The medical opinion may have suggested that physical impairment on account of the injury is to a particular extent, however its functional effect may be greater. In fact, it could be reasonable to state that the functional incapacity resulting out of a particular bodily injury, which may be impairment or amputation, would be higher and greater than what may be medically perceived.
- 5.6.3 When it comes to assessing the compensation in the context of the injury suffered, what matters is the extent by which the functions of an injured person suffers, and not what the doctor may have judged in terms of medical

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standards. The functional aspect of the disability arising out of injury has correlation with the age of the injured, his occupation, engagement in work or avocation, the adversarial effect on the earning capacity of the injured, which would again depend upon the nature of work or earning activity with which and in which the injured is engaged and such other relevant considerations.

- 5.6.4 For instance, where an injured is a driver, his partial amputation of the hand would render him cent percent incapable of driving the vehicle as he would not be able to effectively and safely handle the steering. The extent of the functional disability would largely remain dependent upon the nature of work and the kind of earning activity in which the injured is engaged.

Cent Percent in Present Case

- 5.7 In the recent decision in **R. Halle vs. Reliance General Insurance Company Limited**¹⁴ which was decided on 18.03.2026, this Court observed *inter alia* that the principles governing the assessment of disability should be properly analyzed on the basis of the attended facts and no abrupt conclusion about the functional disability should be arrived at. It was observed that the assessment of functional disability has a direct bearing on the determination of just compensation and necessarily requires a careful scrutiny of medical evidence and its impact on the avocation of the injured. A failure to undertake such an exercise could amount to the commission of an error in law on the part of the tribunal or the court.

- 5.7.1 In **S. Ettiappan vs. D. Kumar**¹⁵, the appellant was working as a loader, who used to load and unload vegetables into the vehicles. In such an activity as a loader, it required the appellant to use both his legs. Due to the injury caused in the accident, his right leg below the knee was amputated, and he became immobile and was not in a position to work as a loader. The High Court had assessed the disability of the said appellant to the extent of 70%.

14 (2026) SCC OnLine SC 433

15 (2026) 1 TAC 84 (SC)

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5.7.2 The following observations in **S. Ettiappan** (supra) stand in good stead,

“.... However, the High Court while re-appreciating the evidence has restricted the whole-body disability at 70% on the basis of Medical Board Certificate (Ex. C-1) without noticing the fact that on account of said disability suffered by the claimant, his functional disability would be 100%. It is not in dispute that appellant was working as a loader who used to discharge his duties of loading and unloading vegetables into the vehicles. This physical or manual activity would require support of both legs or in other words claimant is required to use both the legs for discharging his duties as a loader. By virtue of amputation of his right leg below the knee, he has become immobile or in other words, he is not in a position to discharge his daily routine work as a loader.....”

(Para 7.1)

5.7.3 It was added that to earn his bread, he had to work by loading or unloading vegetable into the vehicle which was the only avocation he was carrying on. Now by virtue of amputation of his leg below the knee appellant is not only unable to work as a loader but even unable to stand without support. As such the functional disability requires to be considered at 100% and not 70% as held by High Court.

5.7.4 The appellant-claimant in the present case was engaged in the carpentry work. While working as a carpenter, he has to necessarily sit. Because of amputation of the lower half part of the right leg, the appellant is not able to sit in a squatted or crossed legged manner. He cannot stand without support. He cannot work without the help of an attendant. It is stated that the appellant has not been able to pass stool in an Indian style outlet and he has been severely handicapped in doing routine work.

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- 5.7.5 As a skilled carpenter, the appellant used to run the shop of carpentry and used to accept the contracts for making furniture, almirahs, doors, and windows of newly built houses. Appellant had the only source of income from such work to upbringing and to maintain his family which consisted of his wife and two minor children.
- 5.7.6 When the appellant is not able to sit either in a squatted way or with a crossed leg, it is evident that he will not be able to perform the carpentry work. It is essential and indispensable for a carpenter to sit to do the carpentry works. A carpenter cannot perform such work while in a standing position. For standing also, the appellant would need support. Therefore, the actual effect of amputation resulting out of the accidental injury for the appellant is total in terms of the work in which he is engaged and he is to perform, which really does not match and does not augur well with the extent of 70% disability as medically indicated. The disability of the appellant has to be appreciated and assessed in the context of the occupation of the appellant, activity of work he used to do as carpenter. The functional disability of the appellant-claimant has to be taken properly and reasonably at 100%.

Restoring Injured to same position

- 5.8 The compensation for the injured for his or her injuries and disability suffered, are classifiable into two heads, pecuniary and non-pecuniary. In **Mohd. Sabeer alias Shabir Hussain** (supra), this Court elaborately delineated the principles which may govern the determination of compensation towards both pecuniary and non-pecuniary losses, in cases of permanent disablement of the claimant. Both pecuniary damages and non-pecuniary compensation deserve to be granted to the claimant, stated this Court. The pecuniary damages are those which the victim has actually incurred, which are possible to be calculated in terms of money, whereas non-pecuniary damages are incapable of being assessed by arithmetical calculations.
- 5.8.1 The Court emphasized that in case of permanent disability, the claimant would be entitled to not just future loss of income but also future prospects. **Mohd. Sabeer** (supra)

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relied on the earlier judgment of this Court in **Anant vs. Pratap and Another**¹⁶ to reiterate that the purpose of fair compensation is to restore the injured to the position he was in prior to the accident as best as possible.

- 5.8.2 The following observations from **Anant** (supra) came to be highlighted by **Mohd. Sabeer** (supra),

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

(Para 22)

- 5.8.3 **Mohd. Sabeer** (supra) followed the decision in **R.D. Hattangadi vs. Pest Control (India) Pvt. Ltd. and Others**¹⁷, to reproduce the heads of pecuniary damages as well as the heads under the non-pecuniary damages to be considered as part of compensation to the injured who has suffered from disability. The pecuniary damages, it was highlighted, comprised of expenses incurred by the claimant such as: (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. Similarly, as far as the non-pecuniary damages are concerned, they would be under the heads of (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 that is on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, that is, on account of injury the normal longevity of the person concerned is

¹⁶ (2018) 9 SCC 450

¹⁷ (1995) 1 SCC 551

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shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.

Expenses Towards Prosthetic Leg

5.9 Amputation of a limb from the human body has its own effect on the working ability, earning capacity and quality of life in general. In the present case, half part of the right leg of the appellant is amputated and he has been using artificial leg. The prosthetic leg is not an all time same attachment. By its very nature that it is artificial, it would require replacement periodically. It would further need maintenance to keep it properly functional. The injured-appellant whose leg was amputated needs to be compensated on this score also.

5.9.1 In **Mohd. Sabeer** (supra), it was the submission that the cost of the prosthetic limb itself is more than Rs.2,60,000/- and the life of the prosthetic limb is only 5 to 6 years. The prosthetic limb also requires repair and maintenance after every six months, and each repair costs between Rs.15,000/- to Rs.20,000/-. In **Anant** (supra), as noted above, the claimant was held entitled to be compensated for his inability to lead a full life and enjoy those things and amenities which he would have enjoyed, but for the injuries.

5.9.2 Applying the above principles in the present case, the appellant-claimant is 38 years of age. Taking his average life expectancy to be 75 years, he would require a replacement of artificial limb at least six times for the remaining 37 years. The prosthetic limb would again require a half yearly repair and maintenance. The appellant must be compensated in a manner and to the extent that he is able to live life in the future years almost in the same way as he was leading his life prior to the accident.

5.9.3 While the loss of leg cannot be compensated, the appellant could be paid pecuniary compensation towards the purchase of the prosthetic leg and its repairs. It would tend to do justice. This consideration is indeed a part of determining the just and fair compensation. Therefore, this Court is of the view that Rs.10,00,000/-

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should be awarded to the appellant towards the cost and maintenance for the artificial leg he will require during his lifetime. This is the minimum amount which he is qualified for as part of the compensation payable under this head to the appellant-claimant.

6. In the yearly income to be assessed on the basis of monthly income at Rs.9,000/- and 40% will have to be added towards 'future prospects'. This would be in accordance with the principles laid down in **National Insurance Co. Ltd. vs. Pranay Sethi**¹⁸. The calculation, therefore, leading to the amount to be awarded towards loss of future earnings with 100% disability would be calculated thus (i) Monthly income at Rs.9,000/- (ii) Yearly income 9000/- x 12 = 1,08,000/- (iii) Future prospects at 40% 1,08,000/- + 40% (43,200) = 1,51,200/-, (iv) Multiplier 15% 1,51,200/- x 15 = 22,68,000/- (v) 100% Disability 22,68,000/- x 100% = 22,68,000/-.

- 6.1 In the above total amount, the compensation towards other heads, such as towards medical expenses including the expenses for prosthetic leg, towards pain, shock and suffering, for attendant charges, in respect of medical expenses, etc., will be added as indicated in the succeeding paragraph 7 to arrive at the total amount of compensation.

Compensation Under Other Heads

7. Having regard to the nature of injury and the extent of functional disability suffered by the appellant and in the totality of facts and circumstances obtained, following amounts are considered to be just and reasonable under different heads to be added to the total compensation payable to the appellant.
 - (i) For 'Future Medical Expenses' including the cost of prosthetic leg, considering the age of the appellant and other relevant factors, *vis-à-vis* periodicity for which the prosthetic leg will have to be replaced, the amount is required to be awarded. On the above total count, this court considers it fit to award total Rs. 10,00,000/-.
 - (ii) Under the head of 'Pain, Shock and Suffering', the High Court awarded Rs.1,00,000/-. In **S. Ettippaan** (supra), the similar

¹⁸ (2017) 16 SCC 680

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facts and circumstances, same amount was awarded by this Court, therefore, the award of Rs. 1,00,000/- under this head is maintained.

- (iii) Towards 'Loss of Amenities', Rs. 50,000/- is awarded.
- (iv) The appellant had to stay in the hospital for one and a half months, about 43 days for treatment. Therefore, in respect of 'Loss of Income During Laid Up Period', Rs. 13,500/- (Rs. 9,000 x 1.5 = Rs. 13,500/-) will be awardable.
- (v) Considering that the appellant's right leg is amputated, he would need an attendant for his day to day and other work. Under the head of 'Attendant Charges', this Court considers it fit to award Rs. 50,000/-. Under the head of 'Nutrition and Other Incidental Charges', the amount which shall qualify towards compensation will be Rs. 40,000/-.
- (vi) 'Medical Expenses' as actually incurred and awarded is Rs. 44,423/-, which have to be awarded accordingly only to that extent.
- (vii) Under the head of 'Transportation Charges', while the appellant seeks amount of Rs. 50,000/, it would be reasonable to award Rs. 30,000/-.

7.1 In view of the above, the total compensation which would be payable to the appellant is calculated as under in the tabular form,

S. No.	Heads	Amounts in Rupees
	Yearly Income	9,000 x 12 = 1,08,000/-
	Future prospects (40%)	1,08,000/- + 40% (43,200) = 1,51,200/-
	Multiplier (15)	1,51,200/- x 15 = 22,68,000/-
1.	Loss of future earnings towards disability	22,68,000/- x 100% = 22,68,000/-
2.	Pain, shock and suffering	1,00,000/-
3.	Expenses towards prosthetic leg	10,00,000/-

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4.	Loss of income during laid up period	9,000 x 1.5 = 13,500/-
5.	Attendant charges	50,000/-
6.	Nutrition and other incidental charges	40,000/-
7.	Medical expenses	44,423/-
8.	Transportation charges	30,000/-
9.	Loss of amenities	50,000/-
10.	TOTAL	Rs. 35,95,923 /-

8. The above compensation of Rs. 35,95,923/- would be just and fair compensation to be paid to the appellant-claimant. The appellant-claimant shall be entitled to receive the said total amount with 6% p.a. interest from the date of filing of the claim petition till actual payment.
9. The additional entitlement of compensation payable to the appellant shall be disbursed by the Claims Tribunal after undergoing necessary procedure, including identification, by directly transmitting the amount to the bank account of the appellant.
10. The respondent No.1-United India Insurance Co. Ltd. shall deposit the balance additional amount of Rs.24,44,500/- (Rs.35,95,923/- – Rs.11,51,423/-) with interest at 6% p.a. as provided above, with the Claims Tribunal within six weeks from today. The said additional amount shall be disbursed in favour of the appellant by undertaking the necessary process of verification etc. and transferring the same to the bank account of the appellant.
11. The appeal stands allowed in the aforesaid terms.

Any Interlocutory Application, if pending, shall not survive in view of the disposal of main appeal as above.

Result of the case: Appeal allowed.