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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

J.B. PARDIWALA; J., K.V. VISWANATHAN; J.

21 April, 2026

CIVIL APPEAL NO.4642 OF 2026 (@ Special Leave Petition (C) No. 8756 of 2024)

Prahlad Sahai versus Haryana Roadways & Anr.

Maintenance – Computation and Jurisprudential Basis – Principles of Restitutio in Integrum - The Supreme Court examined the jurisprudential framework for computing and awarding compensation under the head of "Prosthetic Limb" in motor accident cases - Emphasizing the mandate of Section 168 to determine "just compensation", Supreme Court reiterated that while damages cannot be arrived at by precise mathematical calculations or expected to be a windfall, they must represent equitability, fairness, and reasonableness, avoiding a pittance - Key Principles Established by the Court- i. Standard Formula for Prosthetic Replacement - Following its prior ruling in *Chandra Mogera v. Santosh A. Ganachari & Anr. (2025)* and *Mohd. Sabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation (2022)*, the Court recognized a block of five (5) years as the reasonable replacement period for a prosthetic limb, with an assumed maximum life expectancy of 70 years for the claimant; ii. Governmental Rates Not Binding - The Court categorically rejected the abysmally low pricing slabs prescribed under Government Notifications - Grounded in the principle of restitutio in integrum (restoring the injured party to their original position as far as money can buy) , held that if the treatment or device chosen by the claimant is reasonable to meet their needs, the insurer/respondent cannot compel them to accept cheaper options or government-subsidized alternatives; iii. Requirement of Price Quotations - Supreme Court reiterated the mandatory directive from *Chandra Mogera (supra)* that any future claim for compensation under the head of a prosthetic/artificial limb must be accompanied by genuine price quotations from at least two or three service providers to enable tribunals to make an informed, actual cost assessment; iv. Assessment of Income Without Documentary Evidence - Relying on *Ramachandrappa (2011)* and *Syed Sadiq (2014)*, the Court held that a claim for monthly income cannot be rejected merely due to a lack of documentary evidence if the claimed amount is reasonable considering the specific strata of income, year of the accident, and nature of employment (e.g., heavy vehicle driver). [Relied on *Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd. (2014) 2 SCC 735; Chandra Mogera v. Santosh A. Ganachari & Anr. (Civil Appeal No. 12183/2025); Paras 25-35]*

[Arising out of impugned judgment and order dated 21-08-2023 in SBCMA No. 1661/2017 passed by the High Court of Judicature for Rajasthan at Jaipur]

For Petitioner(s) Mr. Anuj Bhandari, AOR Ms. Jahanvi Bhardwaj, Adv. Ms. Ishu Bhardwaj, Adv. Mrs. Disha Bhandari, Adv.

For Respondent(s) Mr. Akshay Amritanshu, AOR Mr. Sarthak Srivastava, Adv. Mr. Mayur Goyal, Adv. Mr. Vishnu Mehra, Sr. Adv. Mr. Gautam Jha, AOR Mr. Siddhartha Jha, Adv. Mr. Pankaj Kumar, Adv. Mr. Vimal Prakash Pandey, Adv. Mr. Kartik Jha, Adv.

J U D G M E N T

K. V. Viswanathan, J.

1. For amputees, a prosthetic limb would get them closest to the life experienced, before the onset of their disability. The device, apart from empowering them, is integral to

their life, giving them confidence and self-belief. The appliance is so personal to the individual that its indispensability can only be better appreciated by the person disabled. In a poignant passage, Lord Brooke in David Pinnington vs. Crossleigh¹ observed:

“49. ...Those of us who have not had the misfortune of losing an arm may have more difficulty in appreciating the view of the joint experts when they said how personal this kind of appliance is to a disabled ...”

(Emphasis supplied)

2. The primary issue in this case concerns the jurisprudential basis for the computation and award of compensation under the head of “Prosthetic Limb”, in motor accident cases.

3. Leave granted. The present appeal calls in question the correctness of the order dated 21.08.2023 passed by the High Court of Judicature for Rajasthan, Bench at Jaipur, in S.B. Civil Misc. Appeal No. 1661/2017. By the said Order, the High Court, while partly allowing the appeal of the appellant, enhanced the compensation awarded from Rs. 8,73,211/- (as awarded by the Motor Accident Claims Tribunal, hereinafter referred to as ‘Tribunal’) to Rs. 13,02,043/-.

BRIEF FACTS: -

4. As a result of an unfortunate accident on 02.05.2007, the appellant’s entire right leg was crushed. Ultimately, the appellant’s right leg from below the knee had to be amputated. The accident occurred when the appellant was travelling with his friend on a motorcycle from Transport Nagar to Ajmer Road in Jaipur, Rajasthan. The bus belonging to Haryana Roadways dashed into the motorcycle from behind.

5. A chart showing the compensation awarded by the Tribunal and the enhancement by the High Court under various heads is set out hereinbelow : -

S.No.	Title/item	Compensation awarded by the Tribunal	Compensation determined vide this judgment ²
1	In the head of loss of future income	Rs. 5,61,600/-	Rs. 8,10,432/-
2	In the head of physical and mental sufferings	Rs. 50,000/-	Rs. 65,000/-
3	In the head of loss of future amenities	Nil	Rs. 65,000/-
4	In the head of amount spent during treatment	Rs. 1,61,111/-	Rs. 1,61,111/-
5	In the head of admission for 51 days in hospital during treatment.	Rs. 25,500/-	Rs. 25,500/-
6	In the head of loss of income during treatment period.	Rs. 54,000/-	Rs. 54,000/-
7	In the head of healthy diet	Rs. 10,000/-	Rs. 10,000/-
8	In the head of expenditure on transportation	Rs. 10,000/-	Rs. 10,000/-

¹ [2003] EWCA Civ 1684

² This judgment: means the judgment of the High Court.

9	In the head of loss of property	Rs. 1,000/-	Rs. 1,000/-
10	In the head of attendant/ assistant	Nil	Rs. 1,00,000/-
	Total	Rs. 8,73,211/-	Rs. 13,02,043/-

6. Aggrieved by the order of the High Court, the appellant is in appeal before us seeking enhancement and compensation under additional heads.

7. We have heard Mr. Anuj Bhandari, learned Counsel for the appellant, Mr. Akshay Amritanshu, learned Counsel for the Haryana Roadways Corporation-respondent No.1 and Mr. Vishnu Mehra, learned Senior Counsel for the Insurance Company-respondent No.2.

CONTENTIONS OF THE APPELLANT:-

8. Mr. Anuj Bhandari, learned Counsel submits that no provision has been made for artificial/prosthetic limb and compensation towards purchase and maintenance of the same. Relying upon **Mohd. Sabeer @ Shabir Hussain v. Regional Manager, U.P. State Road Transport Corporation**³, learned Counsel contends that the appellant was 32 years of age on the date of the accident and taking an assumed life expectancy of 70 years, he would need prosthetic limb(s) for 38 years. Learned Counsel contends that an artificial limb needs to be replaced every 5 years and maintenance charges will also have to be incurred. Learned Counsel contends that there is a need for standardization of the compensation for prosthetic limb(s) since even according to the chart furnished by the Counsel for the Haryana Roadways, compensation ranging from Rs. 3,10,000/- to Rs. 35,00,000/- has been awarded in different cases by this Court. Learned Counsel draws attention to **Md. Shabir (supra)** where the cost of a prosthetic limb for one block of 5 years was taken at Rs. 2,60,000/- and maintenance cost between Rs. 15,000/- to 20,000/- were awarded.

9. Learned Counsel further relies on the order of the High Court of Delhi in **Ajay Kumar vs. Shyam Sunder**⁴, wherein the High Court, vide its order dated 04.01.2018 issued notice to various expert bodies and stakeholders to ascertain the pricing of prosthetic limbs. Thereafter, by order dated 19.02.2018, the High Court in **Ajay Kumar (supra)** constituted an expert committee to give report inter alia on fixing artificial limb on motor accident victims and its costing. **Ajay Kumar (supra)** was merged with the case of **Rajesh Tyagi & Ors. v. Jaibir Singh & Ors.**⁵, (Rajesh Tyagi - IV) and thereafter an order was passed on 08.01.2021 (J.R. Midha, J.) making the report of the committee an integral part of the order. Learned counsel ultimately suggested that life span be taken as seventy years following **Md. Shabir (supra)**; In the event of the claimant being above the age of seventy years, one time compensation be granted and as regards inflation even though **National Insurance Company Limited v. Pranay Sethi and Others**⁶ fixed the enhancement rate at 10 per cent for every three years for certain heads, learned counsel suggested that considering the current inflation it ought to be fixed at 5 per cent per annum;

10. Learned Counsel suggested that in case lump sum amount is given, for future years the claimant will be earning interest and as such the price of the prosthetic limb be taken

³ 2022 SCC OnLine SC 1701

⁴ MAC. APP. 1134/2017

⁵ FAO No. 842/2003

⁶ (2017) 16 SCC 680

as a constant and an award for every segment of five years be made till the claimant reaches the age of seventy years; Learned Counsel submits that taking the price of prosthetic limb which was at Rs. 2,78,000/- in 2021, (which, according to him, would have been Rs. 1,78,000/- in 2007), prayed for a suitable award. Learned counsel further prays that the said amount be granted to him at 9 per cent interest from the date of accident till the date of payment.

11. Learned Counsel for the appellant submitted that the High Court has erred in not considering the monthly income of the appellant as Rs. 6,000/-. Learned Counsel contends that the appellant was a driver and his claim of Rs. 6,000/- per month was not unreasonable and further submits that documentary evidence could not be expected from persons employed in that strata of income. Learned Counsel contends that the difference between Rs. 4500 and Rs. 6000 is not very high. Learned Counsel relies on **Chandra and Another v. Mukesh Kumar Yadav and others**⁷, **Ramachandrappa v. Manager, Royal Sundaram Alliance Insurance Company Limited**⁸ and **Syed Sadiq and others v. Divisional Manager, United India Insurance Company Limited**⁹ in support of the proposition.

12. According to the learned Counsel, the loss of future income should have been taken as Rs. 16,12,800/- instead of Rs. 8,10,432/-. Learned Counsel contends that the functional disability of the appellant was hundred per cent. Learned Counsel relies on the evidence of AW-2 Dr. Ratan Lal Dayma to support the plea that the appellant would not be able to drive heavy vehicles. Learned Counsel, relying upon **Pranay Sethi (Supra)** and **Smt. Sarla Verma & Others v. Delhi Transport Corporation & Another**¹⁰, contends that taking future prospect at 40 per cent and applying 100 per cent functional disability, the amount towards loss of future prospects would be Rs. 16,12,800/-.

13. Further, the learned counsel also prays for compensation for future medical treatment as well as for litigation expenses.

CONTENTIONS OF THE RESPONDENTS:-

14. Mr. Akshay Amritanshu, learned Counsel for Haryana Roadways, produced a chart insofar as the claim under compensation for prosthetic limb is concerned. Learned Counsel submitted that there is indeed a variation in the award of compensation between Rs. 3,10,000/- to Rs. 35,00,000/- and relied on a chart to drive home the point. Learned Counsel submits that in **Md. Shabir (supra)** for a thirty-seven year old patient, after taking life span as seventy years, compensation for three prosthetic limbs was awarded. Learned Counsel contends that award of compensation should not result in any windfall and what should be awarded is a “just and reasonable” compensation.

15. Learned Counsel further contends that in **Chandra Mogera v. Santosh A. Ganachari & Anr.**¹¹, this Court held that in every claim petition in which claim for compensation under the head of prosthetic limb is filed, it shall be accompanied with price quotations from at least two or three service providers. Learned Counsel for Haryana Roadways, suggested inflation rate of four per cent per annum for the cost of prosthetic limb.

⁷ (2022) 1 SCC 198

⁸ (2011) 13 SCC 236

⁹ (2014) 2 SCC 735

¹⁰ (2009) 6 SCC 121

¹¹ Civil Appeal 12183/2025 dated 11.9.2025

16. Mr. Vishnu Mehra, learned Senior Counsel for the insurance company drew attention to the notification of the Government of India dated 09.07.2024 and invited particular attention to the suggested price range of Rs. 20,000/- to 25,000/-. Learned counsel for the insurance company contends that no evidence was produced to show that the salary of the appellant was Rs. 6,000/- . Learned Counsel submitted that the claim under the heads of prosthetic limb, further medical treatment, pains, suffering, loss of amenities and litigation cost are on the higher side.

QUESTION FOR CONSIDERATION :-

17. In the above background, the question that arises for consideration is whether the appellant has made out a case for further enhancement of compensation?

ANALYSIS AND REASONING:-

PROSTHETIC LIMB – RESTITUTING CLAIMANT TO THE ORIGINAL POSITION – AS FAR AS POSSIBLE :-

18. For the compensation of prosthetic limb(s), no amount has been awarded by the Tribunal or the High Court. It is undisputed among all parties that the appellant is entitled to be compensated towards the cost of purchase of prosthetic limb(s) and its maintenance. The only question is, what should be the compensation which is payable.

19. Under Section 168 of the Motor Vehicles Act, 1988, the mandate is to determine a ‘just compensation’. Pasayat J., speaking for this Court in **State of Haryana and Another v. Jasbir Kaur and Others**,¹² held as under: -

“7. It has to be kept in view that the Tribunal constituted under the Act as provided in Section 168 is required to make an award determining the amount of compensation which is to be in the real sense “damages” which in turn appears to it to be “just and reasonable”. It has to be borne in mind that compensation for loss of limbs or life can hardly be weighed in golden scales. But at the same time it has to be borne in mind that the compensation is not expected to be a windfall for the victim. Statutory provisions clearly indicate that the compensation must be “just” and it cannot be a bonanza; not a source of profit; but the same should not be a pittance. The courts and tribunals have a duty to weigh the various factors and quantify the amount of compensation, which should be just. What would be “just” compensation is a vexed question. There can be no golden rule applicable to all cases for measuring the value of human life or a limb. Measure of damages cannot be arrived at by precise mathematical calculations. It would depend upon the particular facts and circumstances, and attending peculiar or special features, if any. Every method or mode adopted for assessing compensation has to be considered in the background of “just” compensation which is the pivotal consideration. Though by use of the expression “which appears to it to be just” a wide discretion is vested in the Tribunal, the determination has to be rational, to be done by a judicious approach and not the outcome of whims, wild guesses and arbitrariness. The expression “just” denotes equitability, fairness and reasonableness, and non-arbitrary. If it is not so it cannot be just. (See *Helen C. Rebello v. Maharashtra SRTC* [(1999) 1 SCC 90].”

(Emphasis supplied)

20. As rightly held in ***Jasbir Kaur (supra)*** compensation for loss of limbs can hardly be weighed in golden scales and one cannot expect a mathematical exactitude in arriving at a just and reasonable recompense.

¹² (2003) 7 SCC 484

21. This Court in *Hardeo Kaur v. Rajasthan State Transport Corpn.*,¹³ regarding assumed life span of a claimant held as under: -

“6. This Court in *Jyotsna Dey v. State of Assam*, 1987 ACJ 172 has observed that the span of life should be taken to be 70 years in view of the high rise in life expectancy. It is specially so in the case of Army officers who are disciplined to live an active and energetic life. The courts below were not justified in taking the normal span of life to be 60 years and that of an Army officer 56 years.”

(Emphasis supplied)

22. Further, this Court in *Md. Shabir (supra)* dealing with compensation for purchase and maintenance of prosthetic limb held as under: -

“23. As per the current compensation given for the prosthetic limb and its maintenance, it would last the Appellant for only 15 years, even if we were to assume that the limb would not need to be replaced after a few years. The Appellant was only 37 years at the time of the accident, and it would be reasonable to assume that he would live till he is 70 years old if not more. We are of the opinion that the Appellant must be compensated so that he is able to purchase three prosthetic limbs in his lifetime and is able to maintain the same at least till he has reached 70 years of age. For the Prosthetic limbs alone, the Appellant is to be awarded compensation of Rs. 7,80,000 and for maintenance of the same he is to be awarded an additional Rs. 5,00,000/-.”

(Emphasis supplied)

23. What is crucial to note is, this Court fixed the assumed life span of claimant as seventy years and also awarded maintenance cost. This Court also held that average life of a prosthetic limb would be a few years.

24. Our research led us to a web hosted PowerPoint presentation titled “Prosthetic Claims – *restitutio in integrum?*” by Mr. Steve Love, KC. We have found the presentation, especially the case law referred to therein which we have examined, very useful for the adjudication of the present case.

ARE COURTS BOUND BY THE GOVERNMENTAL RATES UNDER THE NOTIFICATION? :-

25. In *David Pinnington (supra)*, recognizing the entitlement of the disabled individual to opt for a prosthetic limb from a Private Centre and recognizing the legitimacy of computing that amount as a reasonable compensation, it was held: -

“49. Again it seems to me to be very much a matter for the judge to assess. There was not the evidence, as there just might have been in Woodrup, to entitle the judge to indulge in the kind of speculation that Mr Cotter urged on us. **This was a case in which, bearing in mind what he is entitled to do under the 1948 Act, the judge was entitled to find that it was reasonable for Mr Pinnington to acquire this range of devices and renew them once every five years. He would be acting reasonably in acquiring them from a private centre which would provide him properly for his needs in what is very much a very personal affair....”**

(Emphasis supplied)

26. In similar vein, Lloyd Jones J. *A (suing by her litigation friend Mrs H) v. Powys Local Health Board*,¹⁴ held that if the treatment claimed by the claimant is reasonable, it is no answer for the defendant to point to cheaper options. This principle was extended to

¹³ (1992) 2 SCC 5676

¹⁴ [2007] EWHC 2996 (QB)

assessment of damages in respect of aids and equipment, as is clear from the following extracts from *Powys (supra)*.

“**94.** The basis of assessment is the test of reasonableness as stated in *Rialis v Mitchell*, (Court of Appeal, 6 July 1984) and *Sowden v Lodge* [2004] EWCA Civ 1370, [2005] 1 All ER 581, [2005] 1 WLR 2129. **The Claimant is entitled to damages to meet her reasonable requirements and reasonable needs arising from her injuries. In deciding what is reasonable it is necessary to consider first whether the provision chosen and claimed is reasonable and not whether, objectively, it is reasonable or whether other provision would be reasonable. Accordingly, if the treatment claimed by the Claimant is reasonable it is no answer for the Defendant to point to cheaper treatment which is also reasonable.** *Rialis* and *Sowden* were concerned with the appropriate care regime. **However, the principles stated in those cases apply equally to the assessment of damages in respect of aids and equipment. In determining what is required to meet the Claimant's reasonable needs it is necessary to make findings as to the nature and extent of the Claimant's needs and then to consider whether what is proposed by the Claimant is reasonable having regard to those needs.** (*Massey v Tameside and Glossop Acute Services NHS Trust* [2007] EWHC 317 (QB), Teare J at para 59; *Taylor v Chesworth and MIB* [2007] EWHC 1001 (QB) Ramsay J at para 84.”

(Emphasis supplied)

27. Hence, we have no hesitation in rejecting the rates prescribed in the Government Notification relied upon by the Insurance Company which, in any event, are abysmally low.

28. P. Ramanatha Aiyar in his “Advanced Law Lexicon” (3rd Edition 2005) defines *restitutio in integrum* as follows: -

“*To restore parties to their original position. restitution to the original condition*”.

Extending the principle of *restitutio in integrum* to cases of provision for prosthetic limbs after holding that claimants are entitled to their own choice of procuring a prosthetic limb without relying on the National Health Service, and recognizing the right of periodic replacement, it was held in *Kerry Donnelly v. Fas Products Ltd*¹⁵, as under: -

“**41.**She is not obliged to use the National Health Service in order to acquire a prosthesis: Law Reform (Personal Injuries) Act 1948, section 2(4). While I cannot be certain that the pursuer will in fact choose to replace her prosthesis every year, I consider that she is entitled to be put into such a position that she is able to do so. **A prosthesis is a poor substitute for lost fingers but it is the only substitute that is available. The principle of *restitutio in integrum* applies. If it is necessary for the pursuer to succeed in recovering the whole life cost of replacement that I find that she probably will replace the prosthesis each year by private purchase (assuming that she is placed in such a financial position as to allow her to do so), then I make that finding.....**”

(Emphasis supplied)

The only caveat is that the claim should be reasonable. What is also significant to note is the entitlement of the claimant to replacement cost has been recognized.

29. Nearer home, in the case of *Chandra Mogera (supra)*, Sanjay Karol J. speaking for this Court said: -

“**10.** The appellant, on account of the amputation above knee would require a prosthetic limb. It is a fact that a prosthetic limb, which is an aid for mobility, is not permanent in nature. **It generally has a limited span of usability and usually requires replacement once every 5 years in order to function effectively. The appellant was aged 29 years at the time of filing of the**

¹⁵ 2004 S.C.L.R. 678 UK

present appeal, and it would be reasonable to assume that he would live at least till the age of 70 years, as a conservative estimate, if not more. Therefore, he would require prosthetic replacement at an interval of every 5 years until he attains the age of 70 years.....”

11. We find that in recent cases the claim for compensation against the head of prosthetic limb has often come up for consideration before this Court. Almost in every case, no estimate for cost is provided, either as the basic cost of procurement or for periodic maintenance thereof. **It is, as such we direct that henceforth whenever a claim for grant of compensation under the head of Prosthetic Limb/Artificial Limb is filed, then the same shall be accompanied with requisite quotations from at least two or three service providers, enabling the Tribunal to make an informed assessment of the actual cost which may be incurred in the future.”**

(Emphasis Supplied)

This Court in **Chandra Mogera (supra)**, held that the life span as five years for an artificial limb and the age up to which compensation for artificial limb is to be computed as seventy years. Most importantly, this Court also laid down that henceforth whenever a claim for grant of compensation under the head of prosthetic limb/artificial limb is filed the same shall be accompanied with requisite quotations from at least two or three service providers enabling the Tribunal to make an informed assessment. We concur with the said view and reiterate the said holding.

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

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

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

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

MONTHLY INCOME AND FUTURE PROSPECTS: -

34. This Court in **Jai Bhagwan v. Laxman Singh**,¹⁶ regarding the assessment of damages in personal-injury actions, observed as under:-

“9. In the matter of assessment of damages in personal injury-actions, the approach of the Court, as indicated by the House of Lords in *H. West & Son, Ltd. v. Shephard* [(1963) 2 All ER 625] is guided by these considerations:

¹⁶ (1994) 5 SCC 5

“My Lords, the damages which are to be awarded for a tort are those which ‘so far as money can compensate, will give the injured party reparation for the wrongful act and for all the natural and direct consequences of the wrongful act’ [*Admiralty Comrs. v. Susquehanna (Owners), The Susquehanna* [(1926) All ER 124 : 1926 AC 655]]. The words ‘so far as money can compensate’ point to the impossibility of equating money with human suffering or personal deprivations. A money award can be calculated so as to make good a financial loss. Money may be awarded so that something tangible may be procured to replace something else of like nature which has been destroyed or lost. **But money cannot renew a physical frame that has been battered and shattered. All that judges and courts can do is to award sums which must be regarded as giving reasonable compensation. In the process there must be the endeavour to secure some uniformity in the general method of approach.** By common assent awards must be reasonable and must be assessed with moderation. Furthermore, it is eminently desirable that so far as possible comparable injuries should be compensated by comparable awards. When all this is said it still must be that amounts which are awarded are to a considerable extent conventional.”

10. In *Clerk and Lindsell on Torts* (16th Edn.), referring to damages for personal injuries, it is stated:

“In all but a few exceptional cases the victim of personal injury suffers two distinct kinds of damage which may be classed respectively as pecuniary and non-pecuniary. **By pecuniary damage is meant that which is susceptible of direct translation into money terms and includes such matters as loss of earnings, actual and prospective, and out-of-pocket expenses, while non-pecuniary damage includes such immeasurable elements as pain and suffering and loss of amenity or enjoyment of life. In respect of the former, it is submitted, the court should and usually does seek to achieve restitutio in integrum in the sense described above, while for the latter it seeks to award ‘fair compensation’.** This distinction between pecuniary and non-pecuniary damage by no means corresponds to the traditional pleading distinction between ‘special’ and ‘general’ damages, for while the former is necessarily concerned solely with pecuniary losses — notably accrued loss of earnings and out-of-pocket expenses — the latter comprises not only non-pecuniary losses but also prospective loss of earnings and other future pecuniary damage.”

As to awards for non-pecuniary losses, the learned authors say:

“**Non-pecuniary losses are different from pecuniary losses in that the restitutio in integrum objective cannot be applied literally to them — damages cannot restore a lost limb or happiness. While there is some disagreement as to the function of non-pecuniary damages, many would agree with the Royal Commission’s suggestions that they serve as a palliative, or provide the plaintiff with the means to purchase alternative forms of happiness, or help to meet hidden expenses caused by injury.** While the practice of the courts is not to subdivide non-pecuniary damages under specific heads, nevertheless proper consideration cannot be given to the plaintiff’s claim without taking into account the various types of loss he has suffered.”

(Emphasis supplied)

35. The appellant claimed a monthly income of Rs. 6,000/-, as a heavy vehicle driver. The Tribunal and the High Court proceeded on basis of monthly income being Rs 4,500/- . We are inclined to accept the submission of the learned Counsel for the appellant that the income should be taken as Rs. 6,000/- and the future prospects ought to be calculated on that basis. We are persuaded to hold by relying on the judgments of *Ramachandrappa (supra)* and *Syed Sadiq (supra)* that merely because the appellant has not produced the documentary evidence, we are not prepared to reject the same. Considering the occupation as driver and the year of the accident, Rs. 6,000/- per month appears to be a reasonable amount to compute. Further AW-2 Dr. Ratan Lal Dayma has clearly deposed

that the appellant will not be able to drive heavy vehicles. Today, his right leg is amputated. Hence, we compute the functional disability to 100 per cent and applying the formula of Rs.6000 X 40%X 12 X 16 (multiplier) and taking disability at 100 per cent, we arrive at the figure of Rs. 16,12,800/-. The High Court has awarded Rs. 8,10,432/-. Hence, on this head, the compensation will stand further enhanced by Rs. 8,02,368/- and accordingly, the loss of income during the treatment period will stand enhanced by Rs. 18,000/-.

36. Insofar as the claim towards litigation cost, a consolidated sum of Rs. 2,00,000/- is awarded.

CONCLUSION :-

37. For the reasons stated above, we allow the appeal by enhancing the compensation under the head 'loss of future income' by Rs. 8,02,368/-; under 'loss of income during treatment period' to Rs. 18,000/-; litigation cost at Rs. 2,00,000/- and the compensation payable towards prosthetic limb including maintenance cost at Rs. 26,00,000/- (21,00,000 + 5,00,000). Accordingly, we direct the insurance company- Respondent No. 2, to pay a sum of Rs. 36,20,350/-(rounded off). We make it clear that this amount of Rs. 36,20,350/- is over and above the amount as ordered by the High Court.

38. The above amount as directed shall be paid within four weeks from today, failing which interest shall be payable at 9% per annum.

39. The appeal is allowed. No order as to costs.

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