

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****FAO (MV) No. 141 of 2014****Reserved on : 30.05.2026****Decided on : 20.06.2026****Uploaded on : 20.06.2026**

Smt. Kamla

.....Appellant

Versus

Himachal Road Transport Corporation Ltd. ...Respondent

*Coram****The Hon'ble Mr. Justice Virender Singh, Judge.******Whether approved for reporting?<sup>1</sup> Yes*****For the appellant: Mr. Janesh Gupta, Advocate.****For the respondent: Mr. Raman Jamalta,  
Advocate.****Virender Singh, Judge**

Appellant Smt. Kamla, being dissatisfied with the award dated 18.04.20213, passed by the learned Motor Accident Claims Tribunal, Shimla, H.P. (hereinafter referred to as 'the Tribunal') in MACT No. 73-S/2 of 2011, titled as "Smt. Kamla Versus Himachal Road Transport Corporation", has preferred the present appeal, under Section 173 of the Motor Vehicles Act (hereinafter referred to as 'the M.V.Act').

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<sup>1</sup> Whether the reporters of Local Papers may be allowed to see the judgment? Yes.

2. By way of award dated 18.04.2013, the learned Tribunal has allowed the claim petition, by awarding a sum of Rs. 4,36,911/-, as compensation, along with interest @ 9% per annum, from the date of filing of the petition, till deposit, from the respondent.

3. For the sake of convenience, the parties to the present *lis* are, hereinafter, referred to, in the same manner, as were, referred to, by the learned Tribunal.

4. Brief facts, leading to filing of the present appeal, before this Court, as borne out from the record may be summed up, as under:-

Petitioner Kamla has filed the petition under Section 166 of M.V. Act, against the respondent, seeking compensation on account of the injuries sustained by her in a road side accident, which had taken place on 16.11.2009, involving vehicle bearing No. HP42-0747 (hereinafter referred to as 'the offending vehicle'). The claim petition has been filed against the owner of the offending vehicle. The driver of the offending vehicle, unfortunately, expired in the said accident.

4.1 Elaborating her stand, she has pleaded that on 16.11.2009, she had boarded the offending vehicle, which was on its way from Shimla to Reoghati, from Chhaila, along with her husband Sh. Ramesh Chand, and were going to their native village Nera Ghati. The driver of the offending vehicle was driving the bus in a rash and negligent manner and when the offending vehicle reached near Rukhultu, Tehsil Kotkhai, District Shimla, H.P., at about 4:15 PM, the driver could not negotiate the curve and vehicle went out of the road and fell into a deep gorge.

4.2. Due to the said fact, the petitioner sustained multiple injuries. After the accident, she was taken to CHC Kotkhai, from where, she was referred to IGMC Shimla. In IGMC Shimla, she remained admit in Orthopedics Department from 17.11.2009 to 24.12.2009. After the discharge, she was directed to visit hospital for follow ups.

4.3 The petitioner, according to the stand taken by her, also suffered the permanent disability, which, as per the certificate, is 41%, in relation to lower limb.

4.4 Information regarding the accident was given to police of Police Station Kotkhai, where FIR No. 83/2009,

dated 16.11.2009, under Sections 279, 337, 304-A of IPC, was registered. Since, the accident in question has solely been attributed to the rash and negligent driving of the offending vehicle by the driver, the petitioner has sought compensation to the tune of Rs. 12,00,000/- alongwith interest @ 12% per annum, from the date of accident, till the realization of the compensation, from the respondent.

5. When put to notice, the claim petition has been contested by the respondent, by denying the factual position, mainly on the ground of want of knowledge. However, the factum of accident and registration of FIR, as mentioned in paras No. 8 and 9, of the claim petition, have been admitted.

6. The claim petition has further been contested on the ground that the respondent had paid a sum of Rs. 51,079/-, as interim relief and medical expenses.

7. On the basis of above facts, a prayer has been made by the respondent to dismiss the claim petition.

8. From the pleadings of the parties, the following issues were framed, by the learned Tribunal, vide order dated 22.03.2012:-

*1. Whether the petitioner had suffered injuries on account of rash and negligent driving of vehicle No. HP42-0747, by its driver? OPP*

*2. If issue No. 1 is proved, to what amount of compensation and from whom is the petitioner entitled to? OPP*

*3. Relief.*

9. Thereafter, the parties to the *lis* were directed to adduce evidence and after hearing learned counsel for the parties, the claim petition was allowed, as referred to above.

10. Being dissatisfied with the said award, the present appeal has been preferred before this Court, with a prayer to enhance the awarded amount, on the ground, that adequate compensation has not been awarded to her. The amount of compensation is stated to be on lower side. According to the petitioner, the evidence, so adduced by the petitioner, has also not been rightly considered by the learned Tribunal.

11. On the basis of the ground of appeal, Mr. Janesh Gupta, Advocate, appearing for the appellant-petitioner has prayed that the appeal may kindly be allowed and the amount of compensation may kindly be enhanced, so that the same would fall within the definition of 'just compensation'.

12. Per contra, Mr. Raman Jamalta, Advocate, appearing for the respondent, has submitted that just and adequate compensation has been awarded by the learned Tribunal, and prayed that the appeal may kindly be dismissed.

13. It is worthwhile to mention here that the appellant-petitioner has assailed the award only on account of quantum. In such situation, the only question, which arises for determination, before this Court, is with regard to the fact, as to whether, the amount of compensation, which has been awarded to the petitioner, by the learned Tribunal, falls within the definition of 'just compensation' or not?

14. The Hon'ble Apex Court in ***Oriental Insurance Company Limited vs. Mohd. Nasir and another, (2009) 2 SCC (Cri.) 987*** has held that the provisions of M.V. Act are beneficial piece of legislation and the endeavour of the Court/Tribunal should be to provide "just compensation". The relevant paras 23 and 24 of the judgment are reproduced as under:-

*"23. Both, the 1923 Act and 1988 Act are beneficent legislation insofar as they provide for payment of*

compensation to the workmen employed by the employers and/or by use of motor vehicle by the owner thereof and/or the insurer to the petitioners suffering permanent disability. The amount of compensation is to be determined in terms of the provisions of the respective Acts. Whereas in terms of the 1923 Act, the Commissioner who is a quasi judicial authority, is bound to apply the principles and the factors laid down in the Act for the purpose of determining the compensation, Section 168 of the 1988 Act enjoins the Tribunal to make an award determining the amount of compensation which appears to be just.

24. Both the Acts aim at providing for expeditious relief to the victims of accident. In these cases, the accidents took place by reason of use of motor vehicles. Both the statutes are beneficial ones for the workmen as also the third parties. The benefits thereof are available only to the persons specified under the Act besides under the Contract of Insurance. The statutes, therefore, deserve liberal construction. The legislative intent contained therein is required to be interpreted with a view to give effect thereto.

(self emphasis supplied)

15. This view has again been reiterated by Hon'ble Apex Court in **Govind Yadav versus The New India Assurance Co. Ltd.**, reported in **2012 ACJ 28 (SC)**. Relevant paragraphs 12 to 15 of the judgment are reproduced as under:

12. In *Reshma Kumari v. Madan Mohan* (2009) 13 SCC 422, this Court reiterated that the compensation awarded under the Act should be just and also identified the factors which should be kept in mind while determining the amount of compensation. The relevant portions of the judgment are extracted below:

"The compensation which is required to be determined must be just. While the petitioners are required to be compensated for the loss of their dependency, the

same should not be considered to be a windfall. Unjust enrichment should be discouraged. This Court cannot also lose sight of the fact that in given cases, as for example death of the only son to a mother, she can never be compensated in monetary terms. The question as to the methodology required to be applied for determination of compensation as regards prospective loss of future earnings, however, as far as possible should be based on certain principles. A person may have a bright future prospect; he might have become eligible to promotion immediately; there might have been chances of an immediate pay revision, whereas in another (sic situation) the nature of employment was such that he might not have continued in service; his chance of promotion, having regard to the nature of employment may be distant or remote. It is, therefore, difficult for any court to lay down rigid tests which should be applied in all situations. There are divergent views. In some cases it has been suggested that some sort of hypotheses or guess work may be inevitable. That may be so.

In the Indian context several other factors should be taken into consideration including education of the dependants and the nature of job. In the wake of changed societal conditions and global scenario, future prospects may have to be taken into consideration not only having regard to the status of the employee, his educational qualification; his past performance but also other relevant factors, namely, the higher salaries and perks which are being offered by the private companies these days. In fact while determining the multiplicand this Court in *Oriental Insurance Co. Ltd. v. Jas huben* held that even dearness allowance and perks with regard thereto from which the family would have derived monthly benefit, must be taken into consideration.

One of the incidental issues which has also to be taken into consideration is inflation. Is the practice of taking inflation into consideration wholly incorrect? Unfortunately, unlike other developed countries in India there has been no scientific study. It is expected that with the rising inflation the rate of interest would go up. In India it does not happen. It, therefore, may be a relevant factor which may be taken into consideration for determining the actual ground

reality. No hard-and-fast rule, however, can be laid down therefor."

*(emphasis supplied)*

13. In *Arvind Kumar Mishra v. New India Assurance Company Limited* (2010) 10 SCC 254, the Court considered the plea for enhancement of compensation made by the appellant, who was a student of final year of engineering and had suffered 70% disablement in a motor accident. After noticing factual matrix of the case, the Court observed:

"We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. The whole idea is to put the petitioner in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of the wrongdoer and the court must take care to give him full and fair compensation for that he had suffered."

*(emphasis supplied)*

14. In *Raj Kumar v. Ajay Kumar* (2011) 1 SCC 343, the Court considered some of the precedents and held:

"The provision of the Motor Vehicles Act, 1988 ("the Act", for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the petitioner to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or the Tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned.

*The heads under which compensation is awarded in personal injury cases are the following:*

*Pecuniary damages (Special damages)*

*(i) Expenses relating to treatment, hospitalisation, medicines, transportation, nourishing food, and miscellaneous expenditure.*

*(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:*

*(a) Loss of earning during the period of treatment;*

*(b) Loss of future earnings on account of permanent disability.*

*(iii) Future medical expenses.*

*Non-pecuniary damages (General damages)*

*(iv) Damages for pain, suffering and trauma as a consequence of the injuries.*

*(v) Loss of amenities (and/or loss of prospects of marriage).*

*(vi) Loss of expectation of life (shortening of normal longevity).*

*In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the petitioner, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life."*

*(emphasis supplied)*

*15. In our view, the principles laid down in Arvind Kumar Mishra v. New India Assurance Company Ltd. (supra) and Raj Kumar v. Ajay Kumar (supra) must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of accident, who are disabled either permanently or temporarily. If the victim of the accident suffers permanent*

*disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss of earning and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.*

16. It would also be profitable to reproduce relevant paragraphs 29 to 34 of the judgment passed by the Hon'ble Supreme Court in the case titled as, **Sidram versus Divisional Manager, United India Insurance Company Limited & anr.**, reported in **(2023) 3 Supreme Court Cases 439**, as under:

*29. The process of determining the compensation by the court is essentially a very difficult task and can never be an exact science. Perfect compensation is hardly possible, more so in claims of injury and disability. As rightly pointed out in H. West & Son Ltd. v. Shephard, 1958-65 ACJ 504 (HL, England):*

*"...money cannot renew a physical frame that has been battered."*

*30. The principle consistently followed by this court in assessing motor vehicle compensation claims, is to place the victim in as near a position as she or he was in before the accident, with other compensatory directions for loss of amenities and other payments. These general principles have been stated and reiterated in several decisions. [Govind Yadav v. New India Insurance Co. Ltd., (2011) 10 SCC 683.]*

*31. It is now a well settled position of law that even in cases of permanent disablement incurred as a result of a motor-accident, the petitioner can seek, apart from compensation for future loss of income, amounts for future prospects as well. We have come across many orders of different tribunals and unfortunately affirmed by different High Courts, taking the view that the petitioner is not entitled to compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. That is not a correct position of law. There is*

no justification to exclude the possibility of compensation for future prospects in accident cases involving serious injuries resulting in permanent disablement. Such a narrow reading is illogical because it denies altogether the possibility of the living victim progressing further in life in accident cases – and admits such possibility of future prospects, in case of the victim's death.

(Self emphasis supplied)

32. This Court has emphasised time and again that “just compensation” should include all elements that would go to place the victim in as near a position as she or he was in, before the occurrence of the accident. Whilst no amount of money or other material compensation can erase the trauma, pain and suffering that a victim undergoes after a serious accident, (or replace the loss of a loved one), monetary compensation is the manner known to law, whereby society assures some measure of restitution to those who survive, and the victims who have to face their lives.

33. In *Santosh Devi v. National Insurance Company Limited and Others*, (2012) 6 SCC 421, this Court held that:

“14. We find it extremely difficult to fathom any rationale for the observation made in paragraph 24 of the judgment in *Sarla Verma case* [*Sarla Verma v. DTC*, (2009) 6 SCC 121] that where the deceased was self-employed or was on a fixed salary without provision for annual increment, etc., the Courts will usually take only the actual income at the time of death and a departure from this rule should be made only in rare and exceptional cases involving special circumstances. In our view, it will be nave to say that the wages or total emoluments/income of a person who is self-employed or who is employed on a fixed salary without provision for annual increment, etc., would remain the same throughout his life.

15. The rise in the cost of living affects everyone across the board. It does not make any distinction between rich and poor.

As a matter of fact, the effect of rise in prices which directly impacts the cost of living is minimal on the rich and maximum on those who are self-employed or who get fixed income/emoluments. They are the worst affected people. Therefore, they put in extra

*efforts to generate additional income necessary for sustaining their families.*

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

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

*18. Therefore, we do not think that while making the observations in the last three lines of para 24 of Sarla Verma [Sarla Verma v. DTC, (2009) 6 SCC 121] judgment, the Court had intended to lay down an absolute rule that there will be no addition in the income of a person who is self-employed or who is paid fixed wages. Rather, it would be reasonable to say that a person who is self-employed or is engaged on fixed wages will also get 30% increase in his total income over a period of time and if he/she becomes the victim of an accident then the same formula deserves to be applied for calculating the amount of compensation.”*

34. In *Jagdish v. Mohan and Others*, (2018) 4 SCC 571, the victim, a carpenter, suffered permanent disablement, and his claim for compensation including for loss of future prospects was considered by a three-Judge Bench which included, incidentally, the judges who had decided *National Insurance Company* (supra). This Court held that:

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

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

15. The Tribunal has noted that the appellant is unable to even eat or to attend to a visit to the toilet without the assistance of an attendant. In this background, it would be a denial of justice to compute the disability at 90%. The disability is indeed total.

*Having regard to the age of the appellant, the Tribunal applied a multiplier of 18. In the circumstances, the compensation payable to the appellant on account of the loss of income, including future prospects, would be Rs 18,14,400. In addition to this amount, the appellant should be granted an amount of Rs 2 lakhs on account of pain, suffering and loss of amenities. The amount awarded by the Tribunal towards medical expenses (Rs 98,908); for extra nourishment (Rs 25,000) and for attendant's expenses (Rs 1 lakh) is maintained. The Tribunal has declined to award any amount towards future treatment. The appellant should be allowed an amount of Rs 3 lakhs towards future medical expenses. The appellant is thus awarded a total sum of Rs 25,38,308 by way of compensation. The appellant would be entitled to interest at the rate of 9% p.a. on the compensation from the date of the filing of the claim petition. The liability to pay compensation has been fastened by the Tribunal and by the High Court on the insurer, owner and driver jointly and severally which is affirmed. The amount shall be deposited before the Tribunal within a period of 6 weeks from today and shall be paid over to the appellant upon proper identification."*

17. The Hon'ble Supreme Court in **Sushila & Others versus Sudhakar & Another, 2026 Live Law (SC) 343**, has held that the cardinal principle of awarding compensation in the cases of motor accidents is to provide 'just compensation' to the victim and/or the distressed dependents of the deceased. Relevant paragraphs 19 and 20 of the judgment, are reproduced, as under:-

*"19. In our considered opinion, although the High Court had enhanced the compensation, it was on the lower side. The cardinal principle of awarding compensation in the cases of motor accidents is to provide a "just compensation" to the victim and/or the distressed dependents of the deceased. The term "just" implies that the compensation must be fair,*

*reasonable, and equitable as per the applicable legal standards. The compensation should not be too meagre, nor should it be excessive. The sole foundation of providing monetary compensation is to make efforts to put the dependents of the deceased at the same financial position that they were in, had the accident not occurred. [See also: Reshma Kumari and others vs. Madan Mohan and another, reported in (2013) 9 SCC 65; National Insurance Co. Ltd. vs. Indira Srivastava & Ors, reported in (2008) 2 SCC 763; and Divisional Controller, KSRTC vs. Mahadeva Shetty and another, reported in (2003) 7 SCC 197]*

*20) Thus, in the light of the settled principle that the Motor Vehicles Act, 1988 (hereinafter referred to as "M.V. Act") is a beneficial legislation and the compensation should be just and equitable, let us deal with the issues for determination in the present appeal."*

18. Being guided by the above decisions of the Hon'ble Supreme Court, now, this Court would proceed further to determine, as to whether, the amount of compensation awarded by the learned Tribunal to the petitioner falls within the definition of 'just compensation' or not?

19. Learned Tribunal, in the present case, has awarded amount of compensation under only four heads i.e. 'future prospects', 'pain and sufferings', 'attendant charges' and 'medical expenses', whereas, according to the decision of Hon'ble Supreme Court in **Govind Yadav's** case

(supra), the same should have been awarded under various heads.

20. In such situation, this Court has to discuss the evidence, so adduced by the petitioner, so that 'just compensation' could be assessed.

21. After framing of the issues, petitioner stepped into the witness box as PW-2 and deposed about the fact that after the accident, she was taken to CHC Kotkhai, from where, she was referred to IGMC Shimla, where she remained admit from 17.11.2009 to 24.12.2009. She has proved the discharge slip Ext. PW-2/A. During her admission, she underwent surgery twice for backbone and plate was implanted. After discharge from the hospital, petitioner had been attended in IGMC Shimla, on various occasions. She has also tendered in evidence the disability certificate Ext. PW-2/H.

22. PW-4 Dr. J.L. Sharma, has assessed the disability on the person of the petitioner, vide disability certificate Ext. PW-2/H, with the report that the Board found 41% permanent disability in relation to bilateral lower limb of the petitioner.

23. Dr. Dhruv (PW-5), has conducted the medico legal examination, on the person of petitioner, when she was taken to CHC Kotkhai and he has proved the same as Ext. PW-5/A.

24. In view of the above evidence, the entitlement of the petitioner for compensation under various heads is adjudicated as under:

**NON PECUNIARY DAMAGES**

**Pain and Sufferings:**

25. The accident in question had taken place on 16.11.2009, in which, the petitioner sustained injuries. Firstly, she was taken to CHC Kotkhai, where, her medico legal examination was conducted by PW-5, who has proved the same as Ext. PW5/A. Thereafter, she was referred to IGMC Shimla, where she remained admit w.e.f. 17.11.2009 to 24.12.2009. Meaning thereby, the total period of hospitalization, thus, comes to 38 days. The said period must have been traumatic and painful for the petitioner, for which she is held entitled for a sum of Rs. 2000 x 38 = Rs. 76,000/-.

**Loss of Enjoyment of Life:**

26. Period of hospitalization is held to be 38 days and considering the fact that the petitioner underwent surgery for her backbone, while admitted in hospital, this Court is of the view that she might have taken four months for convalescence. The disability was found by the Board as 41%, however, the said disability is not liable to be considered under this head, as same is required to be taken into consideration at the time of ascertaining the compensation under the head 'Loss of Earning Capacity', considering the disability, under both the heads, would amount to double enrichment, which is prohibited under the law.

27. Considering the period of hospitalization, as well as, convalescence, this Court is of the view that for the period of about five months, she could not have enjoyed the life of normal human being, for which she is entitled for a sum of Rs. 50,000/-, under the head 'Loss of Enjoyment of Life'.

**Shorten Expectancy of Life:**

28. There is nothing on the record to demonstrate that on account of the injuries/disability, sustained/

suffered by the petitioner, the life span of the petitioner has been shortened. As such, no amount of compensation is being awarded, under this head.

**PECUNIARY DAMAGES**

**Loss of Earning and Earning Capacity:**

29. As per the petition, petitioner was homemaker and in addition to this, according to her, she also used to work in the orchard of Ravinder Chauhan and Ami Chand of Village Nehra-Ghati. As such, she had pleaded her income as Rs. 12,000/- per month. She has pleaded her age as 41 years, at the time of accident.

30. The petitioner, while appearing in the witness box, as PW-2, deposed on the similar lines. By examining PW-6 Ami Chand, efforts have been made to demonstrate that the petitioner used to work in the orchard of Ami Chand and he used to pay Rs. 30,000/- per annum for doing the multifarious activities in the orchard, such as, removing grass, carrying manure to the orchard.

31. Learned Tribunal has taken the income of petitioner as Rs. 5000/- per month. However, in view of the decision of Hon'ble Supreme Court in **Shishu Pal @**

**Shish Ram & Ors. Versus Surjeet & Ors.**, reported in **2026 INSC 634**, the value of the domestic care of a homemaker is liable to be taken as Rs. 30,000/- per month. Relevant paragraphs 15 to 20, of the said judgment, are reproduced, as under:

***“Quantifying The Contribution-of a Nation Builder***

15. In usual circumstances this Court would not have ventured further than taking note of the fact that the incident and judgment in *Lata Wadhwa (supra)* was contemporaneous to the unfortunate accident in this case and as such compensation could be calculated using the Rs.3000/- per month metric applied therein however, in our considered view that would not be justified. It has to be observed that to measure the contributions of a homemaker and mother as in this case in strictly monetary terms is a task of considerable difficulty for each and every aspect of the day, month and year of such a homemaker's family members is informed, shaped by her sometimes acknowledged, but most often unacknowledged or taken for granted, efforts. If compensation is to be calculated in the present day while accounting for the egregious delay, to do so in terms that were frozen on the day of the death of the deceased would be grossly undervaluing the silent strength of homemakers.

16. That being said, even when it comes to computation for damages under non-pecuniary heads, the loss still does require the recognition of such heads before compensation can be awarded. The first of them being the loss of the homemaker's dexterous ability to manage all the chores of the household. Granted, that in the increasingly modern urban centres of the country it may not be the case that a homemaker stands in front of the gas stove bright and early in the morning or late at night or even that she walks around, slouched, running the broom throughout the house, but, the fact of the

matter is that in smaller cities, towns and villages, even today, such tasks assumedly and invariably fall on the homemaker, without as much as a second thought. The second head pertain to the children of the house. They have lost their mother, the source of never-ending love, comfort and affection, the person who they could run to with all their problems, questions and concerns and heartbreaks. She is also their first point of contact with the ways of the world, silently and subtly teaching them skills of survival, perseverance and excellence shaping them into well rounded human beings capable of being functioning contributors to the economy of the nation. This, in our view, is somewhat different from emotional support or dependence for primary skills necessary for everyday functioning that are imbibed by the children from their mother. This has a distinctly economic angle while also being partly an emotional aspect perfectly fitting into the non-categorizable roles played by homemaker. How does one calculate this? The third is equally troubling. A husband has, no longer, the support of his life partner, someone he depends on entirely to run smoothly, an entire part of his life, his home, family, children, relatives. Even in conservative settings where patriarchy looms large, the sense of dependency that obtains, if taken away, greatly challenges the man for he is now directionless and suddenly responsible for a lot more than he is used to. When the efforts of the homemaker towards the husband and children are taken on the whole it cannot be disputed that although her labour be at emotional or physical is within the four walls of the home, its impact is much wider. In enabling the direct contribution today of their husbands and tomorrow of their children, they are the building blocks for the nation's road to holistic progress.[See: **Kalukutty v. P.M. John**<sup>12</sup>, **Bhuaneswari v. Mani**<sup>13</sup>] We may also observe that in a recent order of this Court in **Arvind Kumar Pandey v. Girish Pandey**<sup>14</sup>, also made similar observations to the following effect:

“7. It goes without saying that the role of a homemaker is as important as that of a family

*member whose income is tangible as a source of livelihood for the family. The activities performed by a homemaker, if counted one by one, there will hardly be any doubt that the contribution of a homemaker is of a high order and invaluable. In fact, it is difficult to assess such a contribution in monetary terms.”*

*Any computation made as a result of injury suffered or death, should be aware of this larger role and not be myopic in its view.*

*The loss of a homemaker however is not limited to husband and children. It also directly impacts the women's own parents who have been deprived of the love and company of their child, who have lost the support and comfort of this person and are left alone with this boundless grief. Still further, the loss is acutely felt by her in-laws who are more often than not members of the same household and therefore are dependent on the love, labour and dedication of this person, for food for medicines and doctor's visit or for even the regular company over a morning tea. Strict arithmetic calculation does not lend its services to any of these scenarios.*

*17. It is settled law by virtue of **National Insurance Co. Ltd. v. Pranay Sethi**<sup>15</sup>, , that in all cases that have resulted in death, loss of consortium is to be paid to the petitioners at the rate of Rs.40,000/- per dependant along with 10% increase on the said amount every three years, so in 2026 the compensation awarded under this head is Rs.48,400/-. This we may note is irrespective of whether the deceased is a male/ female/ child/ retired/working or whatever else. We are of the considered view, in such situations the computation of compensation upon the death of a homemaker suffers from an inherent disadvantage. The amount awarded under the same is over and above what is calculated on the basis of the earnings/ salaries/ pension/notional income for certain categories of petitioners. In view of the fact that there is no standard income on the basis of which compensation can be calculated and a figure is taken for the purposes of calculation on guesswork, the true worth*

of the homemaker is missed out, in as much as it is amenable to calculation in monetary terms.

18. Future prospects when calculated on the basis of the above judgment in **Lata Wadhwa** (supra) would also be calculated on the comparative lower notional income (Rs.3000/-per month) given that, both the fire incident and the accident forming the basis of this appeal are from the year 2001.

19. When such conservative figures are used to build up compensation, the amount arrived at is paltry, and not even close, as much as monetary terms can be, to the loss endured by the petitioners. Notional income is intended to approximate the economic value of in the case of homemaker, services rendered by them. However, for whatever reason, judicial notice of this issue is usually overly conservative, without due acknowledgment of the fact that the role of the homemaker is neither entirely economic nor entirely non-economic and blends the factors of economy with emotional and managerial contributions and as such fixed compensation in terms of loss of consortium does not cover the entire gamut of their contribution.

**Loss Of Domestic Care: An Additional Head**

20. It is in these circumstances, that we deem it appropriate to direct that when a Motor Accidents Claim Tribunal or the High Court or this Court is concerned with or a case involving the death of a homemaker, in order to overcome the inherent disadvantage accrued against the homemaker on a calculation of compensation on the basis of conservatively computed notional income and while being acutely aware of the dictum in **Pranay Sethi** (supra) regarding loss of consortium as also the disposition towards uniformity, that for the three major heads (the homemaker's contribution towards smooth functioning of the household, the loss of maternal support for children and loss of spousal support/the support and care of their child who is an adult, for the parents of the deceased) discussed in the foregoing paragraphs, a composite sum of Rs.30,000/- shall be added under the head of 'loss of domestic care', provided that all three of these heads are met in the given case. This determination

*shall be revised by 10%, cumulatively, every three years. It may be clearly stated that this amount of Rs.30,000/- i.e., loss of domestic care is to be taken as a 'stand- in' (basic minimum monthly income) for monthly income in those cases where the homemaker does not have an input into the house, in strictly conventional, monetary terms. In those cases where the homemaker is part of the workforce, the component of loss of domestic care shall be in addition to the monthly income as may be proved before the Tribunal/Courts."*

32. Due to the accident, the petitioner could not contribute anything for the family, for about five months. Thus, the petitioner is held entitled for a sum of Rs. 30,000/- x 5 = Rs. 1,50,000/-.

33. So far as the loss of earning capacity is concerned, disability has been assessed as 41% by the Medical Board. The said disability is in relation to bilateral lower limb. The petitioner is homemaker and considering the activities, which are being done by the homemaker, this Court is of the view that the disability, which, has been assessed by the Medical Board as 41%, can be taken as 20% functional disability.

34. In view of the law laid down by the Hon'ble Supreme Court in **Sidram's** case (supra), some addition is required to be made in the monthly contribution of petitioner Kamla, on account of her future prospects. In

view of the law laid down by Hon'ble Supreme Court in **Sarla Verma versus Delhi Transport Corporation and Another, (2009) 6 Supreme Court Cases 121**, as well as, keeping in view the age of the petitioner, this Court is of the view that 25% is required to be added in the income of the petitioner, on account of future prospects.

35. Thus, the established income of the petitioner for the purpose of ascertaining the loss of earning and earning capacity, comes to Rs. 37,500/- (Rs. 30,000/- + 25%) and her functional disability is held to be 20%, as such, loss of earning capacity per month, thus comes to Rs. 37,500/- x 20% = Rs. 7,500/-.

36. Keeping in view the age of the petitioner, the multiplier of '14' is required to be applied, in the present case. Thus, the entitlement of the petitioner under the head 'Loss of Earning Capacity' comes to Rs. 7,500/- x 12 x 14 = Rs. 12,60,000/-.

### **Medical Expenses**

37. The learned Tribunal has awarded a sum of Rs. 21,911/- under the head 'Medical Expenses'. The said findings do not require any interference by this Court.

**Transportation Charges**

38. Considering the nature of the injuries/disability, as well as, the fact that the petitioner might have hired the taxi in order to visit IGMC Shimla, for follow ups, it would be just and appropriate to grant Rs. 50,000/-, on account of transportation charges.

**Special Diet and Attendant Charges**

39. Period of hospitalization has been held to be 38 days and period of convalescence is held to be four months, meaning thereby, during the period of about 158 days. The petitioner might have taken the special diet and must have required the services of an attendant/helper to follow her daily pursuits, as she had suffered injury in her backbone. As such, this Court is of the view that petitioner is held entitled to a sum of Rs.  $158 \times 200 =$  Rs. 31,600/-, under the head 'Special Diet and Attendant Charges'.

40. Considering all these facts, the petitioner is held entitled to a sum of Rs. Rs. 76,000 + Rs. 50,000/- + Rs. 1,50,000/- + Rs. 12,60,000/- + Rs. 21,911/- + Rs. 50,000/- + Rs. 31,600/- = Rs. 16,39,511/-.

41. However, rate of interest, which has been awarded by the learned Tribunal, at the rate of 9% per annum, is liable to be reduced, keeping in view the prevailing rate of interest of the nationalized banks and the same is assessed @ 7.5% per annum, from the date of filing of the petition, till the realization of the whole amount.

42. In view of the above discussion, the appeal is partly allowed. The award passed by the learned Tribunal is modified and the amount of compensation is enhanced from Rs. 4,36,911/- to Rs. 16,39,511/-, and the rate of interest is reduced from 9% per annum to 7.5% per annum.

43. Keeping in view the facts and circumstances, there shall be no order so as to costs.

44. Memo of costs be prepared.

45. Pending application(s), if any, are also disposed of.

46. Record be sent back.

**(Virender Singh)**  
**Judge**

**20<sup>th</sup> June, 2026**  
(Pramod Kumar)