

**THE HIGH COURT OF SIKKIM: GANGTOK**  
(Civil appellate Jurisdiction)

SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE

**MAC App. No. 03 of 2025**

- 1. The Divisional Manager,  
National Insurance Company Limited,  
NH 10, Gangtok,  
P.O. & P.S. Gangtok,  
Sikkim Pin No.737101.
- 2. The Branch Manager, National Insurance Company  
Limited,  
Having Office, at: Damber Chowk, Reshi Road,  
Kalimpong, District Darjeeling,  
West Bengal, Pin No.734301.

..... Appellants

**Versus**

- 1. Dhanesh Gupta *alias* Dhanesh Kumar Gupta,  
Aged about 44 years,  
R/o Majhigoan East MW.,  
Housing Colony Jorethang Nagar Panchayat,  
Naya Bazar, District Namchi,  
Sikkim, Pin No.: 737128.  
.....Respondent No.1/Claimant
- 2. Shri Norbu Tshering Bhutia,  
Son of Late Phuchung Bhutia,  
Resident of Jorethang, SNT Colony,  
P.O. & P.S. Jorethang,  
District Namchi, Sikkim,  
Pin No. 737128.  
.....Respondent No.2/  
Owner of the vehicle.

**Appeal under section 173 of the Motor Vehicles Act, 1988.**

**Appearance:**

Mr. Madan Kumar Sundas, Advocate for the Appellants.  
Mr. Rahul Rathi, Ms. Rupa Agarwal, Advocates for the  
Respondent No.1/Claimant.

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None for Respondent No.2.

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Date of Hearing: 11.08.2025  
Date of Judgment: 16.09.2025

## **J U D G M E N T**

### **Bhaskar Raj Pradhan, J.**

**1.** The National Insurance Company Limited (the appellants) is aggrieved by the award of Rs.71,20,670/- dated 27.03.2024 granted in favour of the respondent no.1 (the claimant) by the Motor Accident Claims Tribunal (the learned Tribunal).

**2.** The respondent no.2 is the owner of the vehicle which met with an accident.

**3.** The learned Tribunal has concluded that the accident occurred on 19.04.2016; the driver died on the spot; the claimant sustained injuries and was evacuated to Bahadurganj Hospital after which he underwent medical treatment in Siliguri, West Bengal. The claimant was examined and a disability certificate (exhibit-17) was issued certifying that he had suffered 45% permanent physical impairment.

### **Rash and negligent driving**

**4.** The learned Tribunal did not accept the contention of the appellants that their authorised investigator had found

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out that the accident occurred when the driver was trying to save the vehicle from colliding with the rods on the bridge and as such rash and negligent driving was not proved since the authorised investigator was not examined.

**5.** Under section 166 of the Motor Vehicles Act, 1988 (the MV Act) it was incumbent upon the learned Tribunal to conclusively opine that the accident occurred due to the rash and negligent act of the driver. The learned Tribunal however, did not give any conclusive opinion as to whether the accident occurred due to rash and negligent driving of the deceased driver or not.

**6.** Admittedly, the deceased driver died on the spot at the time of the accident. It is noticed that the First Information Report (FIR) (exhibit-1) was filed against the deceased driver alleging that the driver was driving the vehicle fast and negligently. It is also noticed that pursuant to the FIR registered against the deceased driver, criminal investigation followed and a final report (exhibit-2) was submitted alleging that the deceased driver (as an accused person) had driven the vehicle fast thereby causing the accident. Accordingly, charge-sheet no. 83/16 dated 30.04.2016 was submitted under section 279/337/338/304 (A) of the Indian Penal Code, 1860 (the

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IPC) against the deceased driver. Thereafter, the investigation was closed. This Court is unable to understand how an FIR was lodged, investigation conducted and charge-sheet filed against a dead man. This Court therefore, excludes the FIR as well as the charge-sheet from consideration.

**7.** The claim application asserted that the cause of accident was due to rash and negligent driving on the part of the deceased driver. As the claimant was the only person amongst the witnesses who was physically present at the time of the accident his evidence is of relevance. Although the appellants denied the assertion of the claimant the respondent no.2 did not do so. The claimant in his evidence on affidavit reiterated that the accident was caused due to rash and negligent driving of the deceased driver. This assertion of the claimant could not be demolished during his cross-examination. As such the claimant has been able to prove that the accident occurred due to negligence of the deceased driver.

**8.** The learned Tribunal has concluded that the insurance policy (exhibit-5) and the driving license (exhibit-3) of the deceased driver were valid and proved. The appellants have not contested the fact that the insurance policy (exhibit-5)

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covers the accident. Therefore, this Court shall examine only the issues that have been contested.

9. The learned Tribunal has calculated the compensation as under:

(a) Loss of earnings:	Rs. 36,53,100/- Rs. 2,43,540/-x15
(b) Compensation for permanent Disability	Rs. 16,43,895/- (45% of Rs.36,53,100/-
(c) Medical expenses (excluding hotel bills and railway tickets)	Rs. 2,12,435/-
(d) Loss of earning is calculated as Rs.36,53,100/-; thus future prospects includes 40% on loss of earning i.e.:	Rs. 14,61,240/- (40% of Rs.36,53,100/-)
(e) Future medical expenses:	Rs. 1,00,000/-
(f) Pain and suffering:	Rs. 20,000/-
(g) Loss of amenities:	Rs. 30,000/-
TOTAL	Rs. 71,20,670/-

10. The learned counsel for the appellants has addressed the present appeal on a short point. The appellants does not contest the claim that the claimant’s annual income was Rs.2,43,540/- or the grant of compensation under other heads. The appellants are only aggrieved by the calculation of the “loss of earnings” by the learned Tribunal. According to the learned counsel the “loss of earnings” should have been calculated as Rs.16,43,895/- as done in (b) above as compensation for permanent

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disability and not as calculated in (a) above to the extent of Rs. 36,53,100/-. It is also submitted that while the learned Tribunal could grant compensation for “loss of earnings” it could not, in addition, grant compensation for “permanent disability”. He relied upon the judgment of the Supreme Court in ***Raj Kumar*** vs. ***Ajay Kumar***<sup>1</sup>.

**11.** Mr. Rahul Rathi submitted that he was of the view that compensation calculated by the learned Tribunal under the head loss of earning should not be granted but compensation for permanent disability may be granted. He relying upon the same judgment i.e. ***Raj Kumar*** (supra) submitted that although the disability certificate (exhibit-17) certifies his permanent disability at 45% there is evidence on record which shows that his disability is 100% and therefore he is entitled to a higher compensation than what was granted by the learned Tribunal. He also relied upon ***National Insurance Company*** vs. ***Yoel Subba***<sup>2</sup> to submit that “just compensation” should be granted by the court; and ***Surekha*** vs. ***Santosh***<sup>3</sup> to submit that in a matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical

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<sup>1</sup> (2011) 1SCC 343

<sup>2</sup> 2024:SHC: 44

<sup>3</sup> (2021) 16 SCC 467

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approach and ensure that just compensation is awarded to the affected person or the claimant. The learned counsel for the claimant has therefore sought enhancement of the amount of compensation on various heads i.e. “pain and suffering”, “loss of amenities”, “future medical expenses”, “legal expenses” as well as compensation for “attendant charges”.

**Appellant’s contention**

**12.** This Court shall first examine the issue raised by the appellants. The submission of the learned counsel for the appellants that the learned Tribunal could not have granted compensation both under the head “loss of earnings” and “permanent disability” is liable to be rejected straight away as it is a settled position of law that non granting of compensation towards permanent disability once compensation is computed for “loss of earnings” capacity and “loss of future earnings” is unsustainable. (vide paragraph 21 of ***K. Suresh vs. New India Assurance Company Limited and Anr.***<sup>4</sup>). This Court is of the view that in certain cases it would be just and proper to grant compensation for permanent disability even if compensatiion under the head loss of earning has been

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<sup>4</sup> (2012) 12 SCC 274

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granted (vide paragraph 15 of ***Kothandapani vs. Tamil Nadu State Trasport Corpoation Limited***<sup>5</sup>).

**13.** As per the calculation made by the learned Tribunal in paragraph 14 of the impugned judgment “loss of earnings” has been quantified as Rs.36,53,100/- i.e. Rs.2,43,540/- taken as annual income of the claimant multiplied by multiplier 15 as he was at the time of the accident 38 years old. It is also noticed that the learned Tribunal has granted compensation for “permanent disability” as well as “loss of future earnings”.

**Components of compensation**

**14.** In ***Raj Kumar*** (supra) it has been held that the heads under which compensation is awarded in personal injury cases are as follows:-

***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:

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<sup>5</sup> (2011) 6 SCC 420



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(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).

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

**16.** In view of the opinion of the Supreme Court in **Raj Kumar** (supra) it is important for the learned Tribunal to

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come to a conclusion as to whether it is a “routine personal injury case” or a “serious case of injury” and thereafter award compensation.

**17.** According to the disability certificate (exhibit-17) the claimant has suffered a fracture of the left femoral neck resulting in limb length discrepancy. He has therefore, become physically disabled to the extent of 45%. The discharge certificate (exhibit-53) of the claimant dated 28.04.2016 records the diagnosis as “(1) *Polytrauma with right sided hydropneumothorax and multiple rib fracture* (2) *Left sided neck femur fracture* (3) *Multiple lacerated injury over face*”. The discharge certificate (exhibit-53) also records that the claimant was “*operated for left neck femur fracture, under (S/A)-proximal femur locking plate and SAB on 22.04.2016*”. The disability certificate (exhibit-17) read with the discharge certificate (exhibit-53) makes it clear that the claimant had suffered “serious injury” and it was not a case of “routine personal injury”.

**18.** In ***Raj Kumar*** (supra) the Supreme Court has clarified that the percentage of permanent disability is expressed by the doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a disability certificate states that the injured has suffered

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permanent disability to the extent of 45% of the left lower limb (similar as in the present case), it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body.

**19.** In *Raj Kumar* (supra) loss of earning is sub-categorised into two heads i.e. “loss of earning during the period of treatment” and “loss of future earnings” on account of permanent disability. It has also been held that 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.

**Loss of earnings during medical treatment**

**20.** The claimant had claimed loss of earning during medical treatment for two years as Rs.4,87,080/- i.e. [Rs.2,43,540/- (annual income) multiplied by two years]. The discharge certificate (exhibit-53) reflects the date of admission to the hospital as 20.04.2016 and date of discharge as 28.04.2016. The advice as per the discharge

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certificate (exhibit-53) to the claimant was to do incentive spirometric and chest and limb physiotherapy to continue as advised. The medical papers exhibited by the claimant reflect that he was treated till 2018. A reading of the judgment of the Supreme Court in **Raj Kumar** (supra) makes it evident that the amount of Rs.4,87,080/- i.e. [Rs.2,43,540/- (annual income) multiplied by two years] was correctly claimed by the claimant. Therefore, the compensation granted under the head loss of earnings by the learned Tribunal multiplying the annual income of the claimant with the multiplier 15 was incorrect. It is accordingly *set aside* and the amount of Rs.4,87,080/- as claimed by the claimant is granted.

**Loss of future earnings**

**21.** Under category (d) of the above chart the learned Tribunal has calculated an amount of Rs.14,61,240/- i.e. (40% of Rs.36,53,100/-) as the loss of future earning. For the purpose of calculating loss of future earning as per the dicta of the Supreme Court in **Raj Kumar** (supra) it is important to find out the effect and impact of such permanent disability on his earning capacity. In the opinion of the Supreme Court in the case of an injured claimant with a disability what is calculated is the future

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loss of earning of the claimant, payable to the claimant.

**Functional disability**

**22.** Although in *Raj Kumar* (supra) the Supreme Court has clearly opined that the 45% of the permanent disability of the left lower limb cannot be considered to be functional disability of the body nor could it be assumed to result in a corresponding extent of loss of earning capacity, as the disability would not have prevented him from carrying on his avocation as a cheese vendor, though it might impede in his smooth functioning, the learned counsel for the claimant argues otherwise. The Supreme Court, in the facts of *Raj Kumar* (supra), which is almost similar to the present case, computed functional disability to the extent of 25%. In the present case it is argued that there is evidence to show that the claimant has suffered 100% disability although his medical disability was only to the extent of 45% and therefore, his loss of future earning should be enhanced.

**23.** In the claim petition the claimant has claimed an amount of Rs.17,53,488/- as “loss of future earning” calculated thus: as the age of the victim is 38 years the multiplier to be taken as 16. The net pecuniary loss therefore was calculated as Rs.2,43,540/- (annual income)

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x 45% = 1,09,593.00 x 16 (multiplier) future prospects at the rate of 40% (as the victim was 38 years at the time of the accident relying upon the judgment of the Supreme Court in **National Insurance Company Limited vs. Pranay Shetty**<sup>6</sup> . The learned Tribunal has granted only an amount of Rs.14,61,240/- to the claimant as loss of future earning as calculated in category (d) in the above chart.

**24.** In **Pranay Shetty** (supra) the Supreme Court was determining a case of loss of future earning because of the death of the deceased. The present case is not of that nature as evidence reflects that the claimant was not totally incapacitated and unable to earn anything due to the permanent disability. According to the claimant he was a business man running a trade in Jorethang, South Sikkim vide Trade License dated 21.06.2012 and earning an annual income of Rs.2,43,450/- as per his income tax returns (exhibit-16) filed for the year 2016-17. However, his income tax returns (exhibit-16) reflects his annual income as Rs.2,43,540/- and therefore, this amount is taken as the correct amount. In the claim petition the claimant has

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<sup>6</sup> (2017)16 SCC 680.

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stated that he has suffered 45% permanent disability and he is unable to run his business as he cannot travel to Siliguri for purchase of stocks, stand alone in the shop or to manage the business as he suffered from various grievous injuries. The claimant reiterated these facts in his evidence on affidavit and further stated that in reality the 45% locomotive disability has rendered him 100% disabled and he is unable to perform his business work and has suffered loss of source of income.

**25.** During cross examination the claimant deposed that after the accident he has not been able to look after his shop which is being looked after by his brother. He admitted that initially he used to sit and run his business in the shop and did not have much physical activity. He also admitted that he had submitted the income tax return for his business and that he had travelled alone in a taxi to the learned Tribunal.

**26.** The accident had occurred on 19.04.2016. The income tax returns (exhibit-16) filed by the claimant is for the assessment year 2016-17 filed on 20.03.2018 which suggest that the claimant business was running and he was making an annual income of Rs.2,43,540/-. In such view of the matter it may not be correct on the part of the

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claimant to claim that he has suffered 100% disability although the disability certificate (exhibit-17) issued by the medical expert state that he had only 45% of permanent disability as he suffered a fracture of the left femoral neck resulting in limb length discrepancy.

**27.** This Court therefore, deems it fit to consider his permanent functional disability at 30% keeping in mind that the Supreme Court in almost identical case of 45% permanent disability was of the view that the permanent functional disability should be assessed at 25%. Therefore, in the present case this Court proposes to assess the permanent disability of the body as 30% and the loss of future earning capacity as 25%. As the income of the claimant is assessed at Rs.2,43,540/- per annum, the loss of his earning due to functional disability would be 25% of Rs.2,43,540/- which is Rs.60,885/- per annum. As the age of the claimant at the time of accident was 38 years, the multiplier applicable would be 15. Therefore, the loss of future earning would be Rs.60,885/- x 15 = Rs.9,13,275/. The above loss of future earning is calculated as per the dicta in **Raj Kumar** (supra) in the facts of the present case keeping in mind the type of business activity and that the claimant was still able to travel alone in a vehicle.



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**The claimant's contention**

**28.** This Court shall now examine the submissions for enhancement of compensation under various heads made by the learned counsel for the claimant although it is made only through oral submissions.

**Pain and suffering**

**29.** Under the head pain and suffering the claimant had claimed a total amount of Rs.2,00,000/-. The learned Tribunal has awarded Rs.20,000/- without assigning any reason.

**30.** The facts in ***K.S. Muralidhar vs. R. Subbulakshmi & Anr.***<sup>7</sup> relied upon by the claimant were quite different to the facts of the present case. In that case the victim had suffered 90% permanent disability and functional disability was calculated at 100%.

**31.** In ***Pappu Deo Yadav vs. Naresh Kumar***<sup>8</sup> the Supreme Court underlined that courts should be mindful that a serious injury not only permanently imposes physical limitations and disabilities but too often inflicts deep mental and emotional scars upon the victim. The attendant trauma of the victim having to live in a world entirely

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<sup>7</sup> 2024 INSC 886

<sup>8</sup> (2022) 13 SCC 790

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different from the one she is or he is born into, as an invalid, and with degrees of dependence on others, robbed of complete personal choice of autonomy, should forever be in the judge's mind, whenever tasked to adjudge compensation claims. Severe limitations inflicted due to such injuries undermine the dignity which is now recognised as an intrinsic component of the right to life under Article 21 of the individual, thus depriving the person of the essence of the right to a wholesome life which she or he had lived, hitherto. From the world of able bodied, the victim is thrust into the world of the disabled, itself most discomfiting and unsettling. If courts nit-pick and award niggardly amounts oblivious of these circumstances, there is resultant affront to the injured victim.

**32.** The judgment of the Supreme Court in ***Kajal*** vs. ***Jagdish Chand & Ors.***<sup>9</sup> in which the victim was awarded compensation of Rs.15,00,000/- under the head "pain and sufferings" may not be applicable in the present case since in that case in addition to 100% disability the young girl was suffering from severe incontinence, severe hysteria and

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<sup>9</sup> (2020) 4 SCC 413

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was left with brain of a nine-month-old child. As such departure was made from the normal rule for grant of compensation in the peculiar facts and circumstances to the tune of Rs.15,00,000/-.

**33.** This Court is of the opinion that considering the physical disability and the functional disability of the claimant it would be just and proper to enhance the amount of compensation granted by the learned Tribunal from Rs.20,000/- for pain and suffering to Rs.1,50,000/-.

**Loss of Amenities**

**34.** The learned Tribunal has granted Rs.30,000/- compensation under the head loss of amenities. Loss of amenities would include his inability to lead a full life, his incapacity to enjoy the normal amenities which he would have enjoyed but for the injuries and his ability to earn as much as he used to earn or could have earned. It is settled law that while computing compensation under this head the approach of the learned Tribunal has to be broadbased but it would also involve some guess work as there cannot be any mathematical exactitude or a precise formula to determine the quantum of compensation.

**35.** From the evidence brought on record it is clear that the claimant has suffered physical disability to the extent of

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45% and this Court has calculated his functional disability to the extent of 30%. Keeping this in mind we enhance the compensation under the head loss of amenities from Rs.30,000/- to Rs.50,000/-.

**Future medical expenses**

**36.** The learned Tribunal has granted compensation of Rs.1,00,000/- although no amount of compensation was claimed under this head by the claimant. The evidence led by the claimant suggests that the claimant does require some amount of medical attention, examination and treatment in the future as well. This Court therefore, enhances compensation under this head from Rs.1,00,000/- to Rs.2,00,000/-.

**Attendant charges**

**37.** The claimant has claimed Rs.1,50,000/- as attendant charges. The learned Tribunal has not granted any amount under this head. Due to the disability it is quite obvious that claimant would require some amount of assistance due to his physical and functional disability. This Court is therefore inclined to grant the claim of Rs.1,50,000/- as attendant charges as claimed.

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**Medical expenses**

**38.** Besides the above it is noticed that the learned Tribunal has granted an amount of Rs.2,12,435/- as medical expenses excluding hotel bills and railway tickets. The claimant has sought compensation of medical expenses supported by bills to the extent of Rs.2,77,803/-; transportation charges of Rs.2,00,000/-; compensation for extra nourishment for an amount of Rs.5,00,000/-. The bills presented for medical expenses adds up to an amount of Rs.2,68,035/- which is granted under the head medical expenses.

**39.** This Court shall now examine the compensation to be granted under the head transportation charges, extra nourishment and miscellaneous expenses.

**Transportation charges**

**40.** It is seen that during the period of treatment he has travelled to Bihar and West Bengal for his treatment. The claimant has exhibited railway tickets for an amount of Rs.2,296/- and Rs.1546/- which adds up to Rs.3,842/-. The learned Tribunal has not granted any compensation for transportation charges without assigning any reason. It is quite obvious that the claimant would have incurred transportation charges during the time of treatment and

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would also incur transportation charges for the future. The claimant is a resident of Naya Bazar, Jorethang, Sikkim. The claimant would also have incurred charges for lodging during this period. Therefore, this Court is inclined to award the amount of Rs.2,00,000/- as compensation for transportation and lodging charges as claimed.

**Extra nourishment and miscellaneous expenditure**

**41.** An amount of Rs.5,00,000/- is claimed for extra nourishment by the claimant. The learned Tribunal has awarded nothing under this head. This Court is inclined to grant an amount of Rs.1,50,000/- for extra nourishment of the claimant and Rs.20,000/- for miscellaneous expenditure.

**Permanent disability**

**42.** This Court is of the opinion that as all the components of compensation for permanent disability has already been granted under various heads and this is not a case in which compensation for permanent disability should be granted separately. The computation of compensation under the head permanent disability by the learned Tribunal was incorrect.

**43.** The claimant had to file the application under section 166 of the MV Act to get compensation. Obviously some

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amount of expenditure was made by the claimant on the cost of litigation. The learned counsel for the claimant seeks an amount of Rs.25,000/- to compensate the claimant on the cost of litigation which is reasonable and accordingly granted.

**44.** The contention of the appellants that the learned Tribunal had erroneously calculated and awarded compensation in excess of Rs.44,56,782/- seems to be somewhat correct. Therefore, this Court recomputes the compensation under various heads as under:-

Expenses relating to treatment, hospitalisation, transportation, nourishing food and miscellaneous expenses.	Treatment = Rs 2,68,035/- Transportation =Rs.2,00,000/- Nourishing =Rs.1,50,000/- Food Miscelleneous = <u>Rs.20,000/-</u> expenses Total Rs.6,38,035/-
Loss of earning during the period of treatment.	Rs.4,87,080/-
Loss of future earnings	Rs.9,13,275/-
Pain and suffering	Rs.1,50,000/-
Loss of amenities	Rs. 50,000/-
Future medical expenses	Rs.2,00,000/-
Attendant charges	Rs.1,50,000/-
Extra nourishment and Miscellaneous expenditure	Rs. 1,50,000/- Rs. 20,000/- Total <u>Rs.1,70,000/-</u>
Cost of Litigation	Rs. 25,000/-
GRAND TOTAL	Rs. 27,83,390/-

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**45.** In *Yadava Kumar vs. National Insurance Company Limited*<sup>10</sup> the Supreme Court lucidly explains the concept of “just compensation”. It was held that it goes without saying that in matters of determination of compensation both the tribunal and the court are statutorily charged with a responsibility of fixing a “just compensation”. It is obviously true that determination of a just compensation cannot be equated to a bonanza. At the same time the concept of “just compensation” obviously suggests application of fair and equitable principles and a reasonable approach on the part of the tribunals and the courts. This reasonableness on the part of the tribunal and the court must be on a large peripheral field. In *Concord of India Insurance Co. Ltd. vs. Nirmala Devi (smt) & Ors.*<sup>11</sup> the Supreme Court opined that the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales.

**46.** The “just compensation” to be awarded to the claimant as per the dicta of the Supreme Court in *Raj Kumar* (supra) would therefore be Rs.27,83,390/- only. The impugned judgment is set aside. The Appeal allowed to the above extent. The prayer for enhancement under various

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<sup>10</sup> (2010) 10 SCC 341

<sup>11</sup> (1979) 4 SCC 365



MAC App No. 03 of 2025  
The Divisional Manager, National Insurance Company Limited & Anr.  
vs.  
Dhanesh Gupta *Alias* Dhanesh Kumar Gupta & Anr.

heads made by the claimant was also considered and appropriately granted.

( **Bhaskar Raj Pradhan** )  
**Judge**

Approved for reporting : **Yes**  
Internet : **Yes**  
to/