



reducing the income of the injured.

3. The facts as available on record are that on 09.10.2005 at about 8 PM, the appellant was returning after worship from Velankanni Church along with other passengers in a Toyota Qualis Van bearing Registration No. KL-4/R-4796 on Kottayam-Kumali National Highway, when the vehicle suddenly fell into a gorge called "Mathai Kokka" situated 500 meters east of Peerumade. The appellant and other passengers were severely injured. The injured passengers were shifted to Pushpagiri Medical College Hospital, Thiruvalla where the appellant remained under treatment for 42 days.

4. The appellant (now deceased and represented through his legal representatives) was 24 years old when the accident took place. He was working as Sales Officer at a Hyundai dealership. On account of the accident, the appellant suffered injuries over the spine and head causing complete quadriplegia. He remained permanently bedridden and paralyzed for the rest of his life.

4.1 The appellant filed a claim petition<sup>3</sup> before the Tribunal. On the basis of the disability certificate, the Tribunal assessed the functional disability of the deceased-appellant as

100% and his monthly income was taken as ₹12,000/-. While granting compensation under various other heads, the Tribunal awarded a total amount of ₹51,58,458/-. The details are as under:

<b>Heads</b>	<b>Compensation (₹)</b>
Loss of earning from date of accident till Petition	60,000/-
Loss of future earning	24,48,000/-
Pain and suffering	50,000/-
Medical Expenses	14,56,458/-
Future Treatment expenses	8,00,000/-
Loss of amenities	3,00,000/-
Extra nourishment	4,000/-
Loss of marriage prospects	40,000/-
<b>Total</b>	<b>51,58,458/-</b>

5. The award of the Tribunal was challenged before the High Court. The High Court reduced the amount of compensation from ₹51,58,458/- to ₹45,18,208/- primarily reducing the income of the appellant (now deceased). However, the error in applying the multiplier of 17 was corrected by the High Court by granting multiplier of 18 and attendant charges were granted. The total amount of compensation assessed by the High Court and the details thereof are as under:

<b>Heads</b>	<b>Compensation (₹)</b>
Loss of future earning	(reduced) 17,82,000/-
Loss of earning from date of accident till Petition	(reduced) 35,750/-
Pain and suffering	(enhanced) 1,00,000/-
Medical Expenses (no comments by HC)	14,56,458/-
Bystander expense	(granted) 3,00,000/-
Future Treatment expenses	(upheld) 8,00,000/-
Loss of amenities	(upheld) 3,00,000/-
Extra nourishment	(upheld) 4,000/-
Loss of marriage prospects (no comments by HC)	40,000/-
<b>Total</b>	<b>45,18,208/-</b>

6. The aforesaid order passed by the High Court is under challenge in the present appeal. At the time of filing of the petition, the injured was alive, however during the pendency thereof before this Court, he died on 20.08.2022.

7. A perusal of the order passed by this Court shows that the delay in filing the Special Leave Petition was condoned and notice was issued limited to enhancement of the amount quantified for bystander expenses. However, while examining the matter in detail, it is noticed that the future prospects as awarded by the High Court at 50% was not in consonance with the judgment of this Court in ***National Insurance Company***

**Limited v. Pranay Sethi and Others**<sup>4</sup>. The injured (now deceased) being in private employment on fixed salary was entitled to future prospects of 40%. The income of the deceased was also taken on lower side, which in our opinion instead of ₹5,500/- per month deserves to be enhanced to ₹7,000/- per month, considering the evidence produced on record. From a perusal of the order passed by the High Court, it is not very clear as to how final compensation of ₹45,18,208/- was arrived at. If all the heads under which the compensation has been awarded are calculated, the amount comes out to ₹48,18,208/- and not ₹45,18,208/-.

8. In our opinion, if correction is made on the assessment of the income of the injured (now deceased) and the future prospects, and the compensation as awarded by the High Court under other heads is upheld, the total amount of compensation would come to ₹51,59,250/-.

9. As the Tribunal had awarded total compensation of ₹51,58,458/-, in our opinion, the ends of justice will be met in case the order of the High Court is set aside and the amount as awarded by the Tribunal is restored as there is not much difference in the final compensation as assessed by this Court.

<sup>4</sup> (2017) 16 SCC 680; [2017] SCR 100; 2017 INSC 1068

10. Accordingly, the present appeal is allowed. The impugned order passed by the High Court is set aside. The award of the Tribunal is restored assessing the compensation at ₹51,58,458/-.

....., J.  
[ J.K. MAHESHWARI ]

....., J.  
[ RAJESH BINDAL ]

**New Delhi;**  
**October 14, 2024.**

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 18661/2019

(Arising out of impugned final judgment and order dated 31-01-2018 in MACA No. 2325/2012 passed by the High Court Of Kerala At Ernakulam)

VARGHESE GEORGE @ JOMON (DIED))  
THROUGH ITS LRS

PETITIONER(S)

VERSUS

UNITED INDIA INSURANCE CO. LTD.

RESPONDENT(S)

(IA No. 58115/2024 - APPLICATION FOR SUBSTITUTION, IA No. 57932/2024 - CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN., IA No. 57940/2024 - SETTING ASIDE AN ABATEMENT)

Date : 14-10-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI  
HON'BLE MR. JUSTICE RAJESH BINDAL

For Petitioner(s) Mr. Dileep Poolakkot, Adv.  
Mr. Harshad V. Hameed, AOR  
Mrs. Ashly Harshad, Adv.

For Respondent(s) Mr. K Sita Rama Rao, Adv.  
Mr. Sandeep Kapoor, Adv.  
Mr. Maibam Nabaghanashyam Singh, AOR

UPON hearing the counsel, the Court made the following  
O R D E R

1. The delay in filing the application for bringing on record the legal representatives of the deceased-appellant is condoned. The legal representatives, as mentioned in the application, are permitted to be brought on record

without expressing any opinion as to their entitlement to compensation on account of inheritance.

2. The necessary correction in the Memo of Parties be made by the registry.

3. Leave granted.

4. The appeal is allowed in terms of the signed non-reportable order, which is placed on the file.

**(POOJA SHARMA)**  
**COURT MASTER (SH)**

**(NAND KISHOR)**  
**COURT MASTER (NSH)**