



FAO-1929-2006 (O&M)

-1-

**204 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

-.-

**FAO-1929-2006 (O&M)
Reserved on: 05.09.2024
Date of Decision :01.10.2024**

Harbans Kaur

....Appellant

Versus

Darshan Lal and others

....Respondents

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**Present:** Mr.Ashok Bhardwaj, Advocate
for the appellant.Mr.M.S. Bhatti, Advocate
for respondent No.1, 2 and 2(a).Mr. Pardeep Goyal, Advocate and
Ms. Simran Advocate and Mr. Harpreet Singh, Advocate
for respondent No.4-Ins. Co.

-.-

SUDEEPTI SHARMA, J. (Oral)

1. The present appeal has been preferred against the judgment dated 14.12.2005 passed in the claim petition under Section 166 of the Motor Vehicles Act, 1989 by the learned Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') vide which the claim petition filed by the claimant was dismissed.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that on 19.1.1999 the petitioner, after purchase of sugar from the shop of one Ram Niwas Kariyana Store situated on Gohana Road, was on way back to her juice shop and was present by the side of the road on left, before crossing it, respondent No.1 - Darshan Lal, appeared from behind a bus. He was driving a scooter with registration No. HR-31A-6472 in a reckless and careless manner, driving on the wrong side of the road and resultantly

He struck against the petitioner and fell on the road and the scooter then struck her



right leg, causing severe crush injuries. She also suffered head injuries. Soon after the accident, nearby shop-keepers assembled there and she was shifted by respondent No.1 alongwith others to Jain Dharmarth Hospital situated opposite the bus stand and was treated by Dr. Ajay Goel there. Dr. Goel being a relative of respondent No.1 wanted to help him and to save him from legal complications and, therefore, did not intentionally give information to the police about the accident. Respondent No.1 left the hospital with the assurance that he will bear the entire expenses of treatment of the petitioner besides other charges but later on he refused to pay the same.

3. Upon notice of the claim petition, respondents appeared and denied the factum of compensation.

4. From the pleading of the parties, the Tribunal framed the following issues:-

“1. Whether the petitioner suffered injuries in a vehicular accident which took place on 19.1.1999 at Gohana Road in the area of P.S. City Jind due to rash and negligent driving on the part of respondent no.1 Darshan Lal while driving scooter NO.HR-31-A/6472 as alleged? OPP

2. Whether the petitioner is estopped from filing the petition? OPR.

3. Whether the petition is time barred? OPR.

4. Whether respondent no.1 did not hold a valid driving licence, if so, to what effect? OPR

5. Whether the petitioner is entitled to an award of compensation and if so how much and from whom? OPP.



6. Relief.”

5. After hearing learned counsel for the parties and perusing the whole record, the learned Tribunal dismissed the claim petition. Hence, the claimant appellant filed the present appeal for grant of compensation.

SUBMISSIONS OF THE COUNSEL FOR THE PARTIES

6. Learned counsel for the appellant submits that the judgment of the learned Presiding Officer, MACT is erroneous, based on conjectures and surmises and is against the evidence. He further contends that the learned MACT, Jind erred grossly in dismissing the claim petition and holding that the appellant/claimant has failed to prove the accident with scooter bearing registration No.HR-31A-6472 driven by respondent No.1 in a rash and negligent manner.

7. Per contra, learned for the respondents No.1 and 2 contends that the learned Presiding Officer, MACT, Jind has rightly rejected the claim of the appellant-claimant. Since the appellant-claimant failed to connect the alleged injuries with the alleged accident in any manner, therefore, he contends that the present appeal is liable to be dismissed.

8. I have heard learned counsel for the parties and perused the whole record of this case. Relevant portion of the judgment is reproduced hereunder:-

“Issue No.1:-

10. Petitioner Harbans Kaur stepped in the witness box as PW-4 and deposed that on 19.1.1999 at about 10.30 AM/11 AM she was coming back to her shop after purchase of sugar from the shop of one Ram Niwas when a scooter bearing registration No.HR-31A/6472 came from the side of bus stand being driven by respondent no.1 Darshan Lal in rash and negligent manner



and struck against her right leg and resultantly she fell down. The wheel assembled at the spot. Darshan Lal took her to Jain Dharmarth Hospital where she was treated by Dr.Ajay Goel. She remained under the treatment of Dr.Goel continuously for three months and thereafter got treatment from Chadha Hospital at Rohtak. She disclosed that she instituted a complaint against present respondent No.1 regarding this accident. Copy of the complaint Ex.P.32. She made clear that she has not got any compensation regarding the injuries suffered by her in this accident. PW-1 Dr.Ajay Goel, Orthopaedic Surgeon, Jain Charitable Hospital, Jind, deposed that Harbans Kaur was admitted in the emergency ward on 19.1.1999 with diagnosis of fracture both bones right leg. Plaster was applied and she was discharged on 21.1.1999 with advice for regular follow up. She was gain admitted on 28.1.1999 for operation in the right leg because fracture had displaced. Operation was conducted on 30.1.1999 whereby fixation of fracture with nail was dane and the patient was discharged on 11.2.1999 with advice for regular follow up in the OPD. Admission and Discharge Cards are Exs.P.1 and P.2. OPD card dated 24.9.2001 is Ex.P.3. The witness further deposed that the patient had alleged history of road side accident. According to him, they do not admit medico-legal cases as a matter of policy and take consent from the patient. He added that the fracture could be the result of impact by a



scooter or some other moving vehicle. Dr.N.S.Chadha, who had treated the petitioner at Rohtak, was examined as PW-2. Dr.Rup Singh from PGIMS Rohtak was examined as PW-3 in order in order to prove disability certificate.

11. On the other hand, Jagbir respondent no.2-A stepped in the witness box as RW-1 and deposed that he is owner of scooter no.HR-31A/6472 which was purchased by him from Harish Kumar respondent no.2 prior to 19.1.1999. He further deposed that on that date he was on way to bus stand while driving that scooter and when he reached near Bal Bhawan, on Gohana Road, the petitioner was found lying on the road. Many people were standing there near her and they told that she had slipped from the heap of "bajri" lying on the road. Jagbir further deposed that on the request of those people he alongwith Darshan Lal (who was pillion rider) took the petitioner to Jain Dharmarth Hospital. He further deposed that when the husband of the petitioner reached the hospital he as well as Darshan Lal came back. According to him, no accident was caused by him while driving the scooter nor the scooter had struck against the petitioner. He further testified that he has been possessing a driving licence and copy thereof is Ex.R.1. Copy of Registration Certificate of the vehicle is mark-B. Copy of the insurance policy is Ex.R.2. To the similar effect is the testimony of respondent Darshan Lal who appeared as RW-2. He asserted that Dr.Ajay Goel is not related to him.



RW-3 Satbir Singh, Registration Clerk in the office of Registering-cum-licensing Authority (S.D.M.), Jind, brought the relevant record and deposed that scooter No.HR-31-A/6472 was originally registered in the name of Harish Kumar (respondent no.2) and later on it was transferred in the name of Jagbir (respondent no.2-A). Affidavits were furnished in this regard which were dated 14.1.1999 and the application for transfer was made on 20.1.1999 with the Registering Authority. The witness further disclosed that the date mentioned at the bottom of the application for transfer by applicant Harish Kumar is 14.1.1999. He further disclosed that there is an endorsement on the application from which shows that the application had been marked by the A.S.R. (Assistant Superintendent Registration) to the Registration Clerk on 14.1.1999 itself. True copies of the application form (form NO.29) and Form No.30 and the affidavits are Exs.R.3, R.4, R.5 and R.6. The witness further made clear that the vehicle in question had been transferred in the name of the transferee (Jagbir) on 20.1.1999.

12. Learned counsel for the petitioner contended that there is overwhelming evidence on record to prove the involvement of scooter no.HR-31A/6472 in the accident and to prove the fact that it was respondent no.1 Darshan Lal who caused the accident while driving that scooter. Learned counsel submitted that the petitioner was immediately taken to PW-1 Dr.Ajay



Goel admittedly by Darshan Lal but the Doctor being related to Darshan Lal did not inform the police about the accident. The counsel pointed out that in the cross- examination, Dr.Ajay Goel deposed that Darshan Lal (respondent no.1) had come at the time of second admission of the patient and had agreed to bear the entire expenditure of the petitioner. Dr.Goel, however, denied that he is related to respondent no.1 and wanted to help him to escape from legal liability and complications and did not intentionally inform the police. It is further contention of learned counsel that Jagbir (respondent no.2-A) had no concern with the scooter in question on the relevant date and because Darshan Lal did not hold a valid driving licence, the scooter was shown to have been purchased by Jagbir prior to the date of accident. The counsel referred to the statement of Jagbir (RW-1) who deposed that stamp paper for preparing the affidavit had been purchased 10 days prior to 19.1.1999. The counsel then referred to the statement of RW-3 Satbir Singh, Registration Clerk, who testified that the stamp papers had been purchased on 16.10.1998. According to learned counsel, these inconsistent statements go to show that there is collusion between respondent no.1 and respondent no.2- A. It has also been pointed out that a complaint had been instituted by the petitioner-injured regarding this accident against respondent no.1-Darshan Lal before a criminal court and he has already been summoned in that complaint (Ex.P.32 is the copy of



complaint, Exs.P-33, P.34 and P.36 are copies of statements recorded before the criminal court, Exs. P-35, P.37, P.38 and P.39 are the copies of orders passed by criminal Court. Exs.P.39 is the copy of order whereby accused Darshan Lal was ordered to be summoned). Contention of learned counsel is that lodging of FIR is not an essential pre-requisite for claiming compensation and even if driver of the offending vehicle has not been charged in a criminal case it is no ground to hold that he was not at fault. In support of the contentions, learned counsel relied upon United India Insurance Co. Ltd. through its Regional Manager, Chandigarh and another Versus Shri Swaran Singh and another 1989 (1) Punjab Law Reporter 159 and Tarwinder Singh Vs. Ishwar Chand Mittal 2002 (1) Latest Judicial Reports 780. He also cited Virat Sama Vs. Mohan Lal and others 1994 (1) Punjab Law Reporter 82 in which it was observed that FIR is often lodged in a haste and cannot be a substitute for the evidence giving exhaustive version of the occurrence. Another authority cited as Hargo Rubber Industries Pvt. Ltd. Vs. Mukesh Sharma and Others 1994 Accidents Claims Journal 45, relied upon by learned counsel for the petitioner, is to the effect that even where wrong name of the driver of the offending vehicle is mentioned in the claim petition omission is not fatal and the petition is maintainable even if name of the driver had not been given.



13. On the other hand, learned counsel for the respondents contended that the alleged accident involving scooter No.HR-31-A-6472 is highly doubtful. It has been further contended that there is no reason to disbelieve the record of the Registering Authority which reveals that the scooter in question had been purchased by respondent no.2-A Jagbir prior to the date of accident. The evidence of Satbir Singh, Registration Clerk, (RW-3) shows that affidavits regarding sale of the scooter had been prepared on 14.1.1999 and according to the endorsement on the application form the same had been marked by the A.S.R. to the Registration Clerk on 14.1.1999 itself and the vehicle was transferred in the record in the name of the transferee on 20.1.1999. Besides that said Jagbir while appearing in the witness box as RW-1 testified that he had purchased the scooter from Harish Kumar prior to 19.1.1999. As such, there is no reason to disbelieve this evidence which is sufficient to prove that Jagbir had become owner of the scooter in question prior to the date of accident.

14. No doubt the petitioner had suffered injuries on 19.1.1999 and was taken to Jain Dharmarth Hospital on the same date and was treated there by PW-1 Dr.Ajay Gael. He made clear in cross-examination that the patient was discharged on 21.1.1999 and was again admitted on 28.1.1999 and it was only on 28.1.1999 that she told about the history of road side accident. This means that at the time of first



admission neither the petitioner nor her husband told the Doctor about the alleged accident nor report was made to the police and it was only after 9 days (on 28.1.1999) that the Doctor was told about the accident. In the cross-examination, petitioner Harbans Kaur (PW-4) made clear that she did not get any case registered with the police regarding the accident nor she moved any application to any Authority in this regard. She further admitted that she instituted a criminal complaint only after the institution of the present claim petition. The present claim petition was instituted on 7.6.2002 whereas the accident had allegedly taken place on 19.1.1999. Thus, the claim petition was instituted more than three years after the accident and the complaint before the criminal court was instituted even thereafter. Though there is no limitation prescribed for making a claim under the Motor Vehicles Act after the amendment in the year 1994, yet the circumstances of the present case render the story set up in the claim petition doubtful. The fact that no report was made to the police or to any other Authority regarding the accident for a period of more than three years and complaint has been instituted in the criminal court only after institution of the claim petition are very material circumstances. It appears that the criminal complaint has been instituted subsequently just to create evidence.



15. *In view of the above discussion, I hold that the petitioner has failed to prove that she suffered injuries in a road accident on 19.1.1999 involving scooter No.HR-31A/6472 driven by respondent no.1 Darshan Lal and the issue accordingly stands decided against her.*

9 While deciding issue No.2, learned Tribunal assessed the compensation to the tune of Rs.1,65,000/- but held that the claimant is not entitled to receive the same since issue No.1 is decided against the claimant.

ANALYSIS OF RECORD.

10. A perusal of the record shows that the appellant sustained injuries in an accident involving a scooter bearing registration No.HR-31A-6472 driven in a rash and negligent manner by respondent No 1. The said scooter ran over the right leg of the appellant and the appellant suffered crush injuries on her right leg and blunt injury on the head. The appellant was admitted in Jain Dharmarth Hospital, Jind, by respondent No.1. Initially respondent No.1 was ready to bear all the expenses of the treatment of the appellant but afterwards, he refused to do the same. Consequently, the appellant-claimant filed a claim petition under section 166 of the Motor Vehicles Act, 1988.

11. Dr. Ajay Goel examined as PW-1, deposed that Harbans Kaur was diagnosed with fracture of both bones of right leg and was admitted to his hospital for treatment. He further stated that the person who brought the injured to the hospital had agreed to bear the expenses of her treatment. Exhibit P-2 dated 28.01.1999 is the hospital admission card, which records the history as a “roadside accident”. Exhibit P-36 is the statement of CW-3 Dr. Ajay Goel recorded in complaint case under section 279/337/338/506 IPC, registered against respondent



No. 1, in connection with the accident in question. In his statement the said CW admitted that the injured/patient/appellant was brought to the hospital by respondent No. 1 accompanied by Mr Jagtar Singh i.e. husband of the appellant-claimant.

12. Satbir Singh was examined as RW-3, who is the registration Clerk of the office of Licensing and Registration Authority, Jind, which proves that there was connivance between the respondent No. 1 and 2 regarding transfer of the vehicle in question. Exhibit P-39, is the summoning order issued by the Ld. Judicial Magistrate, IInd Class, Jind in complaint case, whereby the respondent No.1 was summoned to face trial for the said accident.

13. A perusal of the written statement shows that respondent No.1 had admitted that he got the appellant admitted in the hospital.

14. A perusal of the above mentioned record shows that the learned Tribunal has not rightly examined the evidence on record and erroneously rejected the claim of the appellant-claimant.

15. A perusal of the record shows that claimant/appellant was stated to be working at Juice Corner and her income was asserted to be Rs.5000/- per month. However, under the prevailing facts of the present case, her income is to be assessed as Rs.2000/- per month in accordance with the minimum wages prescribed for unskilled worker in the State of Haryana.

SETTLED LAW ON COMPENSATION

16. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **RajKumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

***General principles relating to compensation in injury cases***

5. *The provision of the Motor Vehicles Act, 1988 ('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 claimant 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 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. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).*

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

Pecuniary damages (Special Damages)

(i) *Expenses relating to treatment, hospitalization, 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 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.

xxx

xxx

xxx

xxx

19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of



earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

20. The assessment of loss of future earnings is explained below with reference to the following

Illustration 'A' : *The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

a) Annual income before the accident : Rs. 36,000/-.

*b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5400/-.*



c) Multiplier applicable with reference to age : 17

d) Loss of future earnings : (5400×17) : Rs. 91,800/-

Illustration 'B' : The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :

a) Annual income prior to the accident : Rs. 36,000/- .

b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.

c) Multiplier applicable with reference to age : 17

d) Loss of future earnings : (27000×17) : Rs. 4,59,000/-

Illustration 'C' : The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :

a) Minimum annual income he would
have got if had been employed as an
Engineer : Rs. 60,000/-

b) Loss of future earning per annum
(70% of the expected annual income) : Rs. 42000/-



c) Multiplier applicable (25 years) : 18

d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-

[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

17. Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

“ Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that



we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”

18. Hon’ble Supreme Court in the case of **Erudhaya Priya Vs. State Express Tran. Corpn. Ltd. 2020 ACJ 2159**, has held as under:-

“ 7. There are three aspects which are required to be examined by us:

(a) the application of multiplier of '17' instead of '18';

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in



Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

- (i) Pain, suffering and trauma resulting from the accident;*
- (ii) Loss of income including future income;*
- (iii) The inability of the victim to lead a normal life together with its amenities;*
- (iv) Medical expenses including those that the victim may be required to undertake in future; and*
- (v) Loss of expectation of life."*

[emphasis supplied]

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August



2011 to January 2013. The nature of injuries had been set out as under:

"Nature of injury:

- (i) compound fracture shaft left humerus*
- (ii) fracture both bones left forearm*
- (iii) compound fracture both bones right forearm*
- (iv) fracture 3rd, 4th & 5th metacarpals right hand*
- (v) subtrochanteric fracture right femur*
- (vi) fracture shaft femur*
- (vii) fracture both bones left leg*

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in

National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish’s case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

<i>Heads</i>	<i>Awarded</i>
<i>Loss of earning power (Rs.14,648 x 12 x 31.1/100</i>	<i>Rs. 9,81,978/-</i>
<i>Future prospects (50 per cent addition)</i>	<i>Rs.4,90,989/-</i>
<i>Medical expenses including transport charges, nourishment, etc.</i>	<i>Rs.18,46,864/-</i>
<i>Loss of matrimonial prospects</i>	<i>Rs.5,00,000/-</i>
<i>Loss of comfort, loss of amenities and mental agony</i>	<i>Rs.1,50,000/-</i>

<i>Pain and suffering</i>	<i>Rs.2,00,000/-</i>
<i>Total</i>	<i>Rs.41,69,831/-</i>

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

19. In view of the above, the present appeal is allowed and award dated 14.12.2005 is set aside. Accordingly, as per the settled principles of law as laid down by Hon’ble Supreme Court as mentioned above, the appellant - claimant is held entitled to the compensation amount as calculated below:

Sr. No.	Heads	Compensation Awarded
1	Income	Rs.2000/-
2	Future Prospects 25%	Rs.500/- (25% of 2000)
3	Annual Income	Rs.30000/- (2000+500 x 12)
4	Multiplier (17)	Rs.5,10,000/- (30000 x 17)
5.	Medical	Rs.70000/-
6	Attendant Charges	Rs.25000/-
7	Transportation	Rs.25000/-
8	Pain and Sufferings	Rs.50,000/-
9	Special diet	Rs.15,000/-
10	Loss of amenities	Rs.70,000/-
11	Total Compensation	Rs.7,65,000/-

20. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nandu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the amount so calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.



FAO-1929-2006 (O&M)

-23-

21. As per the award passed by the learned Tribunal dated 14.12.2015, the issue No.4 i.e. whether respondent No.1 did not hold a valid driving licence, if so, to what effect? OPR, it was held that the driver does not hold a valid driving licence and the issue stands decided in favour of respondent No.3 i.e. Insurance Company.

22. The Insurance Company-respondent No.4 is directed to deposit the enhanced amount along with interest with the Tribunal within a period of 03 months from the date of receipt of copy of this judgment in the first instance and liberty is granted to respondent No.4 i.e. Insurance Company to recover the same from respondents No.1 and 2a i.e. driver and owner of the offending vehicle. The Tribunal is directed to disburse the same to the appellant-claimant in her bank account. The appellant-claimant is directed to furnish her bank account details to the Tribunal.

23. Disposed off accordingly.

24. Pending applications, if any, also stand disposed of.

October 01, 2024
A.Kaundal

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No