



IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

223

FAO-2380-2000 (O&M)

Decided on : 23.07.2026

RAM KUMAR

...APPELLANT

VERSUS

KANWAL NAIN AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Manjeet Garhwal, Advocate,
Mr. Sunil K. Dhanda, Advocate and
Mr. Mayank Gupta, Advocate for
Mr. Vinod Gupta, Advocate
for appellant.

Mr. P.S. Bedi, Advocate
for respondent No.3-Insurance Company (through V.C.).

PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by appellant-claimant Ram Kumar being aggrieved by impugned award dated 19.11.1999 passed by learned Motor Accident Claims Tribunal, Hisar (hereinafter referred to as '**Tribunal**'), for enhancement of compensation of Rs.1,15,000/- awarded to him on account of injuries suffered in motor vehicular accident dated 25.06.1997 allegedly caused due to rash and negligent driving of respondent-driver while driving Maruti car bearing registration No.HR-24A-3854 (hereinafter referred to as '**offending vehicle**').

2. Since in present appeal the only issue raised by appellant-claimant is as regards to quantum of compensation and no appeal or cross-objection challenging finding of negligence has been preferred by any of the

respondents, therefore, the detailed facts as regards to manner of accident accident are not being noticed herein for the sake of brevity.

3. In the present case, learned Tribunal had awarded the following compensation to appellant-claimant:

Medical expenses	Rs.20,000/-
Pain and sufferings	Rs.20,000/-
Permanent disability	Rs.75,000/-
Total	Rs.1,15,000/-

4. Learned counsel for injured-claimant-appellant has sought enhancement in compensation on the following grounds that :

- Learned Tribunal had erred in not granting compensation on the basis of functional disability (as permanent disability is 50%);
- Learned Tribunal has erred in not taking the income of appellant-claimant as was pleaded by the appellant-claimant;
- Future prospects were not added while determining loss of earning capacity. Future prospects to the extent 40% of monthly income needs to be added as appellant-claimant 22 to 25 years of age at the time of accident.
- Multiplier was not applied by learned Tribunal;
- Compensation for loss of future prospects and future amenities, for loss of income during treatment and for future medical expenses has not been granted to which appellant-claimant is entitled to; and
- Enhancement of compensation for medical expenses & other expenses and pain and sufferings is warranted being insufficient in view of nature of injuries, nature of

treatment and period of hospitalisation.

5. Injured-appellant-claimant had claimed that on account of injuries suffered in accident dated 25.06.1997, he was initially taken to civil Hospital, Fatehbad where he remained admitted for one day and was medico-legally examined, However, in view of his serious condition, he was shifted to Arora Orthopaedic Hospital, Hisar, where he remained admitted from 26.06.1997 to 12.08.1997. During his admission in hospital, he was operated upon and was asked to follow up for his treatment. In order to corroborate his assertions, injured-appellant-claimant had examined Dr. Ashok Arora-PW2 who duly stated that he had treated the injured-appellant-claimant and had found fracture on D.L. Spine with paraplegia for which injured-appellant-claimant was operated upon. That after surgery, injured-appellant-claimant was discharged on 12.08.1997. PW2 duly proved discharge card (Ex.P2), OPD slips (Ex.P3 to P6), certificate (Ex.P7) and bills (Ex.P8 to P14). PW2 had also given a rough estimate regarding medical expenses generally required for treatment of such injuries and had stated that injured-appellant-claimant would have spent around Rs.20,000/- to Rs.22,000/- on his medical treatment. In order to prove extent of injuries and permanent disability, injured-appellant-claimant had examined Dr. J.S. Bhatia-PW1, who along with other doctors namely Dr. Lalit Kumar and Dr. S.K. Dogra being members of medical board had examined, injured-appellant-claimant on 06.01.1999 and had assessed his disability to the extent of 50%. It was noticed that because of compression of D-12 (dorsal vertebra) of spine with para-perises and weakness of both lower limbs, injured-appellant-claimant would suffer disability regarding lower limbs and would not be able to drive

heavy vehicles, do heavy work and shall have difficulty in climbing the stairs which he can do only with support.

6. From the nature of injuries stated by PW1 and PW2 and extent of disability found by board of doctors, it is clearly established that injured-appellant-claimant had suffered grievous injuries resulting into permanent disability compromising his earning capacity to a great deal. The functional disability therefore has to be determined keeping in view extent of permanent disability along with nature of job which injured-appellant-claimant was performing prior to the accident.

7. In present case, injured-appellant-claimant had claimed himself to be an agriculturist earning Rs.8,000/- per month though could not prove the said income and vocation. However, it is clearly made out that injured-appellant-claimant was involved in labour work. Therefore, the nature and extent of permanent disability in view of spinal injury would lead to loss of future earning capacity and accordingly functional disability is taken as 75%. In absence of any material/reliable to conclude income of injured, same is taken as Rs.1,598/- per month i.e. minimum wages payable to unskilled worker in the year 1997. Injured-appellant-claimant was stated to be aged 22 to 25 years at the time of accident to which there is no rebuttal. Therefore, injured-appellant-claimant is taken in age group of 20-25 years and accordingly future prospects to the extent of 40% for the purposes of determining loss of earning capacity also needs to be added in view of judgment passed by Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680. Multiplier of '18' shall be applicable as per the age of deceased in view of judgment

passed by Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009(6) SCC 121. Accordingly, loss of earning capacity payable to injured-appellant-claimant has to be determined by taking functional disability equivalent to 75% after taking monthly income of the injured to be Rs.1,598/-, by adding future prospects to the extent of 40% and by applying multiplier of '18'.

8. Appellant-claimant was granted compensation of Rs.20,000/- for **pain and sufferings**, which keeping in view nature of injuries, nature of treatment, permanent disability, period of hospitalization is totally insufficient and same is accordingly enhanced to **Rs.75,000/-**. Since appellant-claimant had suffered permanent disability to the extent of 50%, he would have been deprived of future amenities of life as well as future prospects of life/marriage prospects, therefore, he shall be entitled to compensation **for loss of future prospects including marriage prospects and future amenities of life** which is quantified at **Rs.75,000/-**. Compensation for medical expenses, transportation, special diet and attendant charges are enhanced to **Rs.30,000/-**. Appellant-claimant must have also suffered loss of income for the time he was under treatment and keeping in view period of hospitalization and nature of injuries, it is made out that appellant-claimant must have remained out of job for at least 09 months. Accordingly, compensation for **loss of income** during treatment is assessed as **Rs.14,382/-** (1598/- X 9).

9. Re-worked compensation payable to appellant-claimant is as under:-

Income	Rs.1,598/- per month	Rs.1,598/- per month
Future prospects	40% (1,598+ 639)	Rs.2,237/-
75% Permanent disability	75% of Rs.2,237/-	Rs.1,678/-
Multiplier	18	18
Total loss of earning capacity	Rs.1,678 X 18 X 12	Rs.3,62,448/-
Loss of income during treatment	Rs.1,598 X 9	Rs.14,382/-
Compensation for medical expenses, transportation, special diet and attendant charges	Rs.20,000/- (awarded by Tribunal for medical expenses)	Rs.30,000/-
Compensation for pain and sufferings	Rs.20,000/- (as awarded by Tribunal)	Rs.75,000/-
Compensation for loss of future prospects and future amenities of life		Rs.75,000/-
Total compensation awarded by the Tribunal	Rs.1,15,000/-	
Total compensation awarded in appeal		Rs.5,56,830/-
Enhanced compensation	Rs.5,56,830/- (awarded in appeal) - Rs.1,15,000/- (awarded by Tribunal)	Rs.4,41,830/-

10. Appellant-claimant shall also be entitled to interest over enhanced amount to the extent of 7.5% from the date of filing of claim petition till its realization. The liability of respondents to pay compensation shall be as per award.
11. Present appeal is allowed in above terms.
12. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

23.07.2026
Sunil Chander

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No