



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

206-A

FAO-1365-2006 (O&M)

Date of Decision: November 06, 2024

Ranjit Kaur

.....Appellant(s)

Vs.

Punjab State through Secretary and others

.....Respondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Balram Singh, Advocate
for the appellant.

Mr. S.S. Hira, DAG, Punjab

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 28.10.2005 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (for short 'the Act') by the learned Motor Accident Claims Tribunal, Jalandhar (for short, 'the Tribunal') vide which the claim petition filed by the appellant/claimant, was dismissed.

FACTS NOT IN DISPUTE

2. The brief facts of the case as mentioned in the claim petition are that on 6.8.2004 at about 4:05 p.m., Sarwan Singh (since deceased) alongwith his daughter-in-law namely Ranjit Kaur (the present appellant) was going to Kathar from Adampur on Scooter bearing registration No.PJX-9416 being driven by Sarwan Singh. Ranjit Kaur was the pillion rider thereon. When they reached near Airport Crossing Gate Adampur, a bus bearing registration No.PB-12-C-9762 (hereinafter referred to as 'offending vehicle') being driven

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by respondent No.2 in a rash and negligent manner at a very high speed struck the right side of the bus against the scooter straightway by going wrong side of the road. As a result of the accident, both the riders of the scooter fell down and received multiple injuries upon their persons. They were taken to Sant Sarwan Dass Charitable Hospital, Adda Kathar for medical treatment. Sarwan Singh died on reaching the hospital owing to injuries sustained by him in accident. Ranjit Kaur (Pillion rider) daughter-in-law of the deceased also got multiple injuries. The Post Mortem of the deceased Sarwan Singh was conducted at Civil Hospital, Jalandhar on 7.8.2004. FIR No.121 dated 6.8.2004 against the respondent No.2 was registered on the statement of Ranjit Kaur (appellant).

3. Upon notice, respondents have appeared.
4. Respondents No.1 & 3 (owners of the offending vehicle) filed their written statement denying the factum of accident/compensation.
5. Respondent No.2 (driver of the offending vehicle) filed written statement, wherein it was pleaded that no such incident involving offending vehicle, has ever taken place.
6. From the pleadings of the parties, the Tribunal framed the following issues:-

- 1. Whether the applicant received injuries in the motor vehicle accident involving Bus No.PB-12-C-9762 being driven by respondent No.2, due to rash and negligent driving of the said vehicle? OPP*
- 2. Whether the applicant is entitled to compensation, if so to what extent and from which of the respondents? OPP*
- 3. Relief.*



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7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence the claimant/appellant filed the present appeal for grant of compensation.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

8. Learned counsel for the appellant contends that the claim petition was dismissed only on the ground that there are discrepancies in the statement of the claimant injured-Ranjit Kaur. He further contends that FIR was lodged against respondent No.2 but still the claim petition was dismissed. Therefore, he prays that present appeal be allowed and compensation be granted to the appellant/claimant.

9. Per contra, learned counsel for the respondents has vehemently argued that claim petition has rightly been dismissed since story in the claim petition is concocted one and statement of the claimant is contradictory. Therefore, he prays for dismissal of the appeal.

10. I have the heard learned counsel for the parties and perused the whole record of this case.

11. The relevant portion of the award is reproduced as under:-

“10. In order to prove this issue, PW-1 Ranjit Kaur in her affidavit Ext.PW- 1/A sworn to the effect that on 6.8.2005 at about 1.05 PM, she was pillion rider of the scooter No.PIX-9416 which was being driven by her father-in-law namely Sarwan Singh in a very normal and controlled speed on the left side of the road and when they reached near Airport Crossing Adampur, a bus bearing No.PB-12- C-9762 being driven by respondent No.2 in a rash and negligent manner at a very high speed came and dashed into the scooter. Resultantly, they both fell down on the road and received grievous injuries on their bodies. She has further sworn to the effect that on her statement, case was registered at P.S.



Adampur and FIR No.121 dated 6.8.2004 was registered against the respondent No.2. The accident took place due to rash and negligent driving by respondent No.2.

11. On the other hand, the respondent No.2 Malkiat Rai in his affidavit Ext.RW-1/A sworn to the effect that he left Jalandhar Bus Stand at 3.20 PM on 6.8.2004 and was to reach Hoshiarpur Bus Stand at 4.30 PM by covering about 45 KMs distance and when he reached the alleged place of accident at about 4 PM, in between Adampur and Adda Kathar, he found a scooter lying on road side and an old man was injured in some accident and a woman was standing by his side. He further sworn to the effect that on humanitarian grounds he took them to Sant Sarwan Dass Charitable Hospital, Adda Kathar and in the meantime, policeman from P.S Adampur reached the said hospital and took the said bus in custody. His vehicle met with no accident on 6.8.2004 and the question of rash and negligent driving on his part does not arise. He was no way at fault.

12. The applicant in her pleadings has alleged that she alongwith her father in-law Sarwan Singh were going to Kathar from Adampur and she was pillion rider of her father-in-law on Scooter No.PJX-9416. However, in the FIR Mark-A, which was lodged by Ranjil Kaur herself it is mentioned that they were going to Adampur from Kathar. But in her affidavit tendered in court as Ext.PW- 1/A, applicant Ranjit Kaur (PW-1) is silent about this fact. Similarly, in her pleadings, the applicant has alleged that the offending bus being driven by respondent No.2 in a rash and negligent manner struck right side of the bus against the scooter straightway by going wrong side of the road while in her affidavit Ext.PW-1/A she has sworn to the effect that the bus being driven by respondent No.2 dashed into the scooter. In the FIR, Mark-A it has been mentioned that right side of the bus struck against the scooter. From the perusal of the pleadings of the applicant, FIR Mark-A and the statement of applicant Ranjit Kaur (PW-1) in the shape of affidavit Ext.PW-1/A, it is found that the same are



contradictory to each other So, what has been alleged in the pleadings that has not been proved on record and what has been proved on record that has not been alleged in the pleadings. Ranjit Kaur (PW-1) who is claiming herself as an eye witness and also alleging that she received injuries alongwith deceased Sarwan Singh is not sure as to whether she was going from Kathar to Adampur or from Adampur to Kathar. She is silent in that respect for the reasons best known to her. Non-disclosure of the route goes a long way to show that she has concealed something from the court and it is well settled law that if anything is concealed from the court and when a person does not come to the court with clean hands, he/she is not entitled to get any relief from the court. Why Ranjit Kaur (PW-1) did not state the route in her affidavit Ext.PW-1/A? No explanation is forth coming on the file. So, in view of the contradictory stand taken by the applicant it has to be held that she has failed to establish that she received injuries in the motor vehicle accident due to rash and negligent driving of bus bearing registration No.PR-12-C-9762 being driven by respondent No.2. Since the applicant has failed to establish her version, so there is no need to go into the details of the version put forth by the respondent No.2 Malkiat Rai. Accordingly, issue No.1 is decided against the applicant and in favour of the respondents.”

12. A perusal of the record shows that respondents No.1 and 3 did not produce any evidence to prove their case.

13. A perusal of the above shows that the Ld. Tribunal has totally ignored the oral as well as documentary evidence on record and dismissed the claim petition.

14. Ranjit Kaur, claimant was examined as PW-1 who tendered her affidavit as Ex.P-1/A. There is no major discrepancy in her cross-examination.

The FIR is marked ‘A’ which was lodged by Ranjit Kaur (claimant) herself.

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There is no major discrepancy in the statement by way of affidavit and FIR Mark A lodged by Ranjit Kaur (claimant).

15. The reasoning given by the Ld. Tribunal that Ranjit Kaur PW-1 did not stated route in her affidavit Ex.PW-1/A, is not acceptable to this Court and only on this ground, the claim petition was dismissed. Once the factum of accident is stated by the injured eye witness/claimant herself which is proved by lodging of FIR Mark-A. It is not required that word to word narration of accident should be there in each and every document stated by the claimant who is injured eye witness.

16. Ld. Tribunal totally ignored the statement of Dr.Prem Parkash-PW-3, Medical Officer, Ranjit Hospital, Bhagpur, wherein, he stated that on 16.12.2004 Smt. Ranjit Kaur wife of Amarjit Singh was admitted in their hospital on account of injuries suffered by her on right shoulder and left wrist joint and she remained admitted upto 24.12.2004. Treatment was done for fracture. He brought the record also. In his cross-examination, his testimony could not be impeached.

17. Malikat Rai-respondent No.2 (driver) was examined as RW-1, in his cross-examination, he admitted that FIR No.121 dated 06.08.2004 was registered against him. He further admitted that in that case, he and his bus were enlarged on bail and superdari respectively. He further admitted that the case against him was pending in the Court of Shri Tejinderbir Singh, JMIC, Jalandhar. Further, he did not move any application either to SSP, Jalandhar or to Illaqa Magistrate or any other authority regrading his false implication in the FIR.

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18. A perusal of the record shows that appellant/claimant has suffered grievous injuries in the accident. She has incurred expenses on medical treatment to the tune of Rs.15,000/- and proved on record the medical bills as Ex.P-1 to P-9 and Mark-B on record, therefore, she is held entitled to the said amount. Further, there is nothing to suggest on record regarding permanent disability suffered by the appellant/claimant in the accident in question.

19. In view of the above, the award dated 28.10.2005 is totally against the evidence on record and has been passed without application of judicial mind. Therefore, the same is liable to be set aside and the appellant/claimant is entitled to grant of compensation as per settled law.

SETTLED LAW ON COMPENSATION

20. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar 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.

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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 x 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 : (42000×18) : 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)].

21. 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.”

22. 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.

RELIEF

23. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the present appeal is ***allowed***. The award dated 28.10.2005 is hereby set aside. The appellant-claimant is entitled to compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1	Medical expenses	Rs.15,000/-
2	Attendant charges	Rs.20,000/-
3	Special diet	Rs.20,000/-
4.	Pain and suffering	Rs.35,000/-
4	Transportation charges	Rs.20,000/-
5	Loss of amenities	Rs.50,000/-
	Total Compensation	Rs.1,60,000/-

24. 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 Nadu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the appellant-claimant is granted the interest @ 9% per annum on the compensation amount from the date of filing of claim petition till the date of its realization.

25. Respondent No.3 is directed to deposit the awarded amount of compensation alongwith interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the amount of compensation alongwith interest in the accounts of the claimant/appellant. The



claimant/appellant is directed to furnish her bank account details to the Tribunal.

- 26. Disposed off accordingly.
- 27. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

November 06, 2024
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Whether speaking/non-speaking : Speaking
Whether reportable : Yes