2026:PHHC:072761

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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I. CM-13410-CII-2025; RA-CR-100-2025 in/and FAO-3084-2024

Shri Ram General Insurance Company . . . . Appellant

Vs.

Ved Parkash and others . . . . Respondents

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II. CM-14271 & 14272-CII-2024 in/and FAO-3897-2024 (O&M)

United India Insurance Co. Ltd. . . . . Appellant

Vs.

Ved Prakash and others . . . . Respondents

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III. FAO-1471-2024

Ved Prakash . . . . Appellant

Vs.

Ashraf Khan and others . . . . Respondents

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Reserved on:07.05.2026
Pronounced on: 11.05.2026
Pronounced Fully/Operative Part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Harsh Aggarwal, Advocate
for the appellant in FAO-3897-2024 and
for respondent No.5 in FAO-1471-2024 and FAO-3084-2024.

Mr. Gaurav, Advocate with
Mr. Rajbir Singh, Advocate
for the appellant in RA-CR-100-2025 in FAO-3084-2024.

Mr. Yogesh Gupta, Advocate
for the appellant in FAO-1471-2024 and
for respondent No. 1 in RA-CR-100-2025 in FAO-3084-2024.

Mr. Kulwinder Bhargav, Advocate for respondent No.5.

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DEEPAK GUPTA, J.

These three appeals, together with the review application, arise out of the common award dated 31.01.2024 passed by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali, whereby compensation to the tune of ₹8,24,600/- was awarded to the injured claimant-Ved Parkash on account of injuries suffered by him in a motor vehicular accident. Since all the matters arise out of the same award and involve overlapping questions of fact and law, they are being decided together by this common judgment.

2. The factual matrix, as emerging from the paper-book and the record of the Tribunal, is that on 09.07.2018, claimant Ved Parkash was travelling from Hisar towards Lakhimpur Khiri in truck bearing registration No.HR-39-A-9421 along with his goods. He was accompanying the goods and was travelling in the said truck, which was being driven by respondent No.4-Naresh Kumar. At about 11:40 AM, when the vehicle reached near National Highway Toll Plaza of Village Kulcha Khurd on Delhi-Bareilly Highway, another truck bearing registration No.HR-47-B-1018, driven by respondent No.1-Ashraf Khan, allegedly came from behind at a high speed and in a rash and negligent manner. After overtaking the truck in which the claimant was travelling, the said vehicle suddenly applied brakes, compelling Naresh Kumar to collide with it. As a consequence of the impact, claimant Ved Parkash and Naresh Kumar sustained multiple grievous injuries. The claimant was initially taken to Navodaya Hospital, Bareilly and thereafter shifted to PGI, Chandigarh for advanced treatment. FIR regarding the occurrence was duly registered.

3. Claim petition under Section 166 of the Motor Vehicles Act, 1988 was thereafter filed by the claimant seeking compensation from the drivers, owners and insurers of both the offending vehicles. Truck No.HR-47-B-1018 was owned by respondent No.2-Guddu and insured with Shri Ram General Insurance Company Limited-respondent No.3. Truck No.HR-39-A-9421 was owned and driven by Naresh Kumar, who subsequently expired during pendency of proceedings and whose legal representatives were impleaded. The

said vehicle was insured with United India Insurance Company Limited-respondent No.5.

4. The claim petition was contested only by the two insurance companies. Both insurers attempted to shift liability upon the other vehicle and denied negligence on the part of their respective drivers.

5.1 The learned Tribunal framed necessary issues and after appreciating oral as well as documentary evidence, returned a finding that the accident was the result of composite negligence of the drivers of both the trucks.

5.2 The Tribunal assessed loss of future earning capacity by taking monthly income of the claimant as ₹25,600/-, functional disability at 20% and by adding 15% towards future prospects. Though medical bills Exs.P-14 to P-185 were produced on record, the same were discarded on the ground that they had not been formally proved.

5.3 The Tribunal also noticed that though quotation regarding prosthetic limb had been proved on record, the claimant had not actually procured the artificial limb till the date of award. Consequently, instead of quantifying the amount, the Tribunal directed that whenever the claimant procured the prosthetic limb, its cost as well as future replacement expenses would be borne equally by both insurance companies upon production of bills.

5.4 The Tribunal finally held the claimant entitled to compensation of ₹8,24,600/- under different heads including pain and suffering, attendant charges, transportation expenses, special diet, loss of earnings and loss of future income. However, though the Tribunal noted that both the vehicles were duly insured, but since Naresh Kumar, driver-cum-owner of truck No.HR-39-A-9421, was found not to possess a valid driving licence, breach of policy conditions stood established qua United India Insurance Company. Consequently, while both insurers were directed to satisfy the award in equal proportion, United India Insurance Company was granted recovery rights against the legal representatives of Naresh Kumar.

6. Aggrieved against the aforesaid award, separate appeals came to be filed by both insurance companies as well as by the claimant seeking enhancement.

7. **FAO No.3084 of 2024** was filed by Shri Ram General Insurance Company Limited primarily contending that the compensation awarded by the Tribunal was excessive and not supported by cogent evidence. Though the said appeal had earlier been dismissed by this very Bench on 08.07.2024, the insurer approached the Hon'ble Supreme Court by way of SLP(C) No.3720 of 2025. The Hon'ble Supreme Court vide order dated 17.02.2025 granted liberty to the insurer to file review petition before this Court limited to the issue that the Tribunal had failed to quantify compensation towards prosthetic limb. Pursuant thereto, **Review Application RA-CR-100-2025** was filed relying upon the judgment of the Hon'ble Supreme Court in ***HDFC Ergo General Insurance Company Limited Vs. Mukesh Kumar and others [CA No.4576 of 2021]*** to contend that compensation under the head of prosthetic limb ought to have been specifically quantified.

8. **FAO No.3897 of 2024** has been filed by United India Insurance Company Limited, accompanied by an application for condonation of delay of 73 days. The principal contention raised therein is that negligence of driver of truck No.HR-47-B-1018 stood clearly established as the said truck had overtaken the vehicle from behind and suddenly applied brakes. It was further argued that the amount awarded by the Tribunal was highly excessive and unsupported by evidence. Challenge was also laid to the direction regarding future expenses of prosthetic limb on the ground that no quantified amount could have been awarded on the basis of a mere quotation.

9.1 On the other hand, claimant Ved Parkash filed **FAO No.1471 of 2024** seeking substantial enhancement of compensation. The claimant asserted that he had suffered catastrophic injuries including above-knee amputation of left leg, fracture of left humerus and multiple other injuries requiring repeated hospitalization and surgeries. The record reveals that the claimant remained admitted in PGI, Chandigarh from 10.07.2018 to 12.08.2018 and underwent several surgeries including revision amputations, debridement procedures and fixation surgeries. He was again hospitalized in September 2020 due to infected non-union of left humerus and thereafter again underwent surgical intervention in July 2021. The disability certificate proved on record assessed permanent disability at 82% in relation to whole body. The medical expert also deposed that claimant required attendant assistance because of the amputation.

9.2 The claimant further pleaded that he was running a grocery shop under the name and style of M/s Durga Store at Rohini, Delhi and due to the injuries suffered by him, particularly the amputation and restriction in movement of left arm, his earning capacity had been drastically impaired. It was contended that the Tribunal gravely erred in assessing functional disability at merely 20%, despite overwhelming evidence demonstrating severe impairment in mobility and earning capacity. Reliance was placed upon judgments of the Hon'ble Supreme Court in ***Mohd. Sabeer @ Shabir Hussain Vs. Regional Manager, UP State Road Transport Corporation,2023 (1) RCR (Civil) 349; Sarnam Singh Vs. Shriram General Insurance Co. Ltd.,2023(3) AIR SC 3601; Aabid Khan Vs. Dinesh and others, 2024 (4) Scale 855,*** and ***Prahlad Sahai Vs. Haryana Roadways, 2026 INSC 396*** to contend that compensation in cases of permanent disability must be realistic, humane and based upon actual impact on earning capacity and future life.

10. This Court has considered the submissions advanced by learned counsel for the parties and has carefully appraised the entire evidence available on record.

11. As regards the issue of negligence, no ground is made out to interfere with the finding recorded by the learned Tribunal. Neither the drivers

nor the owners of the offending vehicles have challenged the finding of composite negligence. Even otherwise, the evidence led before the Tribunal clearly establishes involvement of both the vehicles in the occurrence. The learned Tribunal rightly concluded that the accident was caused due to composite rash and negligent driving of both the trucks. The said finding is accordingly affirmed.

12. Likewise, there is no dispute regarding the fact that Naresh Kumar, driver-cum-owner of truck No.HR-39-A-9421, was not holding a valid driving licence at the time of accident. Consequently, the learned Tribunal rightly granted recovery rights to respondent No.5-United India Insurance Company Limited after satisfying the award. No interference is called for on that aspect as well.

13. The principal controversy surviving for consideration pertains to the quantum of compensation awarded to the claimant.

14. *Medical Expenses :*The claimant has produced on record medical bills Exs.P-14 to P-185 to establish expenditure incurred on treatment, medicines and hospitalization. The learned Tribunal discarded the said bills on technical grounds observing that the same had not been formally proved in accordance with law. The approach adopted by the Tribunal cannot be sustained. Proceedings under the Motor Vehicles Act are summary in nature and the Tribunal is duty bound to award "just compensation" under Section 168 of the Motor Vehicles Act. Hyper-technical rules of evidence cannot be permitted to defeat a genuine claim, particularly where prolonged treatment and repeated surgeries stand duly established from the medical record. The bills worth ₹1,60,034/- stand sufficiently corroborated by the treatment record. Keeping in view incidental expenses on medicines, follow-up treatment and hospitalization, compensation of ₹1,75,000/- is awarded towards medical expenses.

15. *Disability & Future Loss of Earnings :*The disability certificate Ex.P-3, duly proved by PW-2 Dr. Sanjay Kamboj, Medical Officer, Civil Hospital, Mohali, reveals that the claimant suffered permanent disability to the extent of 82% in relation to the whole body. The witness specifically deposed that the claimant was a case of above-knee amputation of left leg with fracture shaft of left humerus with implant in situ and restricted range of movement. It was further testified that due to the amputation suffered by the claimant, he required assistance of an attendant.

16. The claimant was admittedly running a grocery shop under the name and style of M/s Durga Store. His annual income, as reflected from the Income Tax Return, has been found to be ₹3,10,450/-. Although it cannot be said that the claimant has become completely unemployable on account of the injuries suffered by him, it equally cannot be ignored that above-knee amputation coupled with restricted functioning of the left arm has substantially impaired his mobility and earning capacity. Running a business of such nature necessarily requires physical mobility, supervision, transportation of goods and interaction with customers and suppliers.

17. The learned Tribunal, in the considered opinion of this Court, gravely erred in assessing the functional disability at merely 20%. The Hon'ble Supreme Court in ***Sarnam Singh Vs. Shriram General Insurance Co. Ltd. (supra)*** and ***Sanjay Rajpoot Vs. Ram Singh (supra)*** has held that while determining functional disability, the Court must consider the impact of injuries upon the actual earning capacity of the victim and not merely the percentage of physical disability. Having regard to the nature of injuries, repeated surgeries, above-knee amputation and permanent restriction in movement of left arm, this Court assesses the functional disability of the claimant at 80%.

18. Since the claimant was in the age group of 50-60 years, addition of 10% towards future prospects is liable to be granted in view of the Constitution Bench judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi, 2017 ACJ 2700.*** Accordingly, annual income after

addition of future prospects comes to ₹3,41,495/-. Applying multiplier of 11 and taking functional disability at 80%, the compensation towards loss of future earning capacity is calculated as under:

- ₹3,41,495 × 11 × 0.80 = ₹30,05,156/-

Thus, the claimant is held entitled to ₹30,05,156/- towards loss of future income.

19. Apart from the aforesaid amount, the claimant is also entitled to compensation under conventional heads. The record reveals that the claimant remained hospitalized for a considerable period, underwent multiple surgeries including revision amputations and debridement procedures and has been left permanently disabled. The physical pain, mental trauma and loss of enjoyment of normal life suffered by the claimant can hardly be measured in monetary terms. Accordingly, compensation under the following heads is awarded:-

- Pain and suffering : ₹1,00,000/-
- Medical expenses : ₹1,75,000/-
- Special diet : ₹25,000/-
- Transportation expenses : ₹25,000/-
- Attendant charges : ₹55,000/-
- Loss of amenities and expectation of life : ₹50,000/-
- Loss of future earning capacity : ₹30,05,156/-

20. *Prosthetic Limb* : The next substantial issue pertains to compensation towards prosthetic limb and future maintenance expenses. The learned Tribunal erred in leaving the matter open-ended without quantifying compensation despite there being sufficient evidence available on record regarding cost and replacement cycle of the prosthetic limb.

21. PW-3 Kundan Singh from Ottobock Healthcare India Pvt. Ltd. categorically testified that the cost of femoral prosthesis in the year 2019 was ₹6,44,780/- and presently the same is approximately ₹9,00,000/-. He further

deposed that the average life span of such prosthetic limb is 3 to 5 years and it requires regular servicing after every six months costing approximately ₹20,000/- to ₹25,000/- on each occasion. The testimony of the witness remained unshaken during cross-examination.

22. The Hon'ble Supreme Court in ***Prahlad Sahai Vs. Haryana Roadways (supra)*** has held that compensation towards prosthetic limb must include not only the cost of procurement of artificial limb but also future replacement and maintenance expenses considering the life expectancy of the claimant and the replacement cycle of the prosthetic device.

23. Keeping in view the age of the claimant, nature of disability suffered by him, repeated requirement of replacement of prosthetic limb after every few years, recurring maintenance expenses and escalation in costs over passage of time, this Court finds it just and reasonable to award a consolidated amount of ₹20,00,000/- towards prosthetic limb, future replacement and maintenance expenses.

24. Accordingly, the claimant becomes entitled to compensation recalculated as under:-

Head of Compensation	**Amount**
• Pain and suffering	₹1,00,000/-
• Medical expenses	₹1,75,000/-
• Special diet	₹25,000/-
• Transportation expenses	₹25,000/-
• Attendant charges	₹55,000/-
• Loss of amenities and expectation of life	₹50,000/-
• Loss of future earning capacity	₹30,05,156/-
• Prosthetic limb and future maintenance	₹20,00,000/-
• Total	**₹54,35,156/-**

25. Since the learned Tribunal had already awarded compensation of ₹8,24,600/-, the claimant shall now be entitled to an enhanced compensation of ₹46,10,556/-, which is rounded off to **₹46,11,000/-.**

26. Consequently, **FAO-1471-2024** filed by claimant Ved Parkash is allowed and the compensation awarded by the learned Tribunal is enhanced to ₹54,35,156/-. In addition to compensation awarded by the Tribunal, claimant shall be entitled to enhanced amount of **₹46,11,000/-**payable along with an interest @ 7.5% per annum from the date of filing of the claim petition till its realization. The liability to satisfy the award shall remain upon both the insurance companies in equal proportion. However, respondent No.5-United India Insurance Company Limited shall continue to have recovery rights against the legal representatives of Naresh Kumar in accordance with the award passed by the learned Tribunal.

27. **FAO-3897-2024** filed by United India Insurance Company Limited being devoid of any merit is dismissed.

28. **Review Application No.RA-CR-100-2025** filed by Shri Ram General Insurance Company Limited stands disposed of in terms of the present judgment, as the grievance regarding non-quantification of compensation towards prosthetic limb having now been adequately addressed.

29. Delay in filing FAO-3897-2024 as well as Review Application No.RA-CR-100-2025 is condoned in the interest of justice.

30. All pending miscellaneous applications, if any, also stand disposed of accordingly.

(DEEPAK GUPTA)
JUDGE

11.05.2026
Vivek

Whether Speaking/reasoned *Yes*
Whether reportable *No*

Uploaded on:11.05.2026