IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1334-2019(O&M)
and XOBJC-66-CII-2022
Date of decision: 11.09.2025

National Insurance Company Limited
..Appellant

Versus

Dinesh and others ..Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Gopal Mittal, Advocate for the appellant/Insurance Company

Mr. Rajesh Goyal, Advocate for claimant/respondent no.1/cross objector

MANDEEP PANNU, J.

1. This appeal has been filed by the Insurance Company Limited against the award dated 29.10.2018 passed by the Motor Accident Claims Tribunal, Panipat (hereinafter referred to as ‘Tribunal’), whereby a sum of Rs.15,65,857/- along with interest at the rate of 7.5% per annum was awarded in favour of the claimant-Dinesh, on account of permanent disability due to injuries sustained by him in the vehicular accident, who has filed cross objection No.66-CII-2022 for enhancement of the compensation.

2. Since there is no dispute with regard to the facts of the case, as recorded in the impugned award passed by the Tribunal, the same are not being reproduced herein for the sake of brevity.

3. The accident in question took place on 24.10.2014 and the claimant was 25 years old at the relevant time. The Tribunal assessed the compensation as under:-

Sr.No	Head	Amount awarded
1.	Monthly income	8000/-
2.	Permanent disability/loss of working capacity @ 50%	4000/- per month
3.	Annual income 4000x 12= 48000/-	48000/-
4.	Future prospects @ 40% 48000x40% = 19200/-	67200 [19200+48000=67200]
5.	Mutliplier	18
6.	Loss on account of permanent disability 67200x18 = 12,09,600/-	12,09,600/-
7.	Pain & sufferings	75,000/-
8.	Special diet	20,000/-
9.	Transportation charges	11,000/-
10.	Medical expenses	2,50,257/-
	Total	**Rs.15,65,857/-**

4. Learned counsel for the Insurance Company contends that though Tribunal has rightly assessed functional disability of claimant/injured as 50%, however, it has erred in assessing his income at the rate of Rs.8000/- per month, without there being any evidence thereof. He states that income assessed is more than that of minimum wages of a highly skilled worker i.e Rs.6289/- at the time of accident. He further submits that claimant is also not entitled to multiplier and escalation in income on account of future prospects. Therefore, he

submits that compensation awarded by the Tribunal is highly excessive and needs to be reassessed. He places reliance on judgment of the Hon'ble Supreme Court in **Anoop Maheshwari vs. Oriental Insurance Company Limited and others (Civil Apeal Nos. 12098-12099-2024) decided on 04.09.2025** wherein it has been held that loss of future prospects cannot be granted to a claimant who has suffered 50% disability as there is no difficulty in continuing with his business and he has also been fitted with prosthetic leg, which ensures mobility and continuance of business. Therefore, 40% enhancement in annual income is held to be improper.

5. Per contra, learned counsel for cross-objector/claimant has vehemently argued that no doubt permanent disability of claimant is 69%, however, his functional disability be assessed as 100%. He was a young man aged 25 years at the time of accident. He has placed on record certified copy of statement of Dr. Pardeep Kumar, Orthopaedic Surgeon, Civil Hospital, Panipat (PW6) wherein it has been stated that *Dinesh-injured is a case of head injury with mild left side hemiparesis. Operated case of fracture femur right side with implant in situ, united case of fracture both bone leg right side with decrees range of motion at right knee and right hip joint.* In his cross examination, *doctor has stated that it is incorrect to suggest that the patient Dinesh is not suffering 25% disability with regard to the head injury. It is incorrect to suggest that other parts of the body of patient are working properly and normally. The patient suffering from*

paralysis on the left side and patient sustain disability 61% on right side lower limb,which called orthopaedic disability. He further submits that income of the claimant assessed by the Tribunal is not appropriate and no compensation has been awarded on account of loss of marriage prospects and amenities of life. Furthermore, he also prays for enhancement of compensation under heads 'transportation', 'special diet' and 'pain & suffering'.

6. This Court has considered the submissions made by the learned counsel for the parties.

7. Let us first analyse the extent of permanent disability suffered by the claimant. As per statement of Dr. Pardeep Kumar, Orthopaedic Surgeon, Civil Hospital, Panipat (PW6) claimant suffered total 69% disability. He has also stated in his cross-examination that patient is suffering from paralysis on left side and he has sustained disability 61% on right side lower limb. It is well settled law that courts should not adopt stereotypical or myopic approach in such matters rather case should be decided taking into consideration realities of life, both in assessment of extent of disabilities and compensation under various heads. In medical sense, permanent disability might be on lower side, however, its impact on earning capacity as well as basic amenities of life has been to kept in mind while assessing compensation for such loss. Reliance in this regard can be placed on judgment of the Hon'ble the Supreme Court in the

case of **Pappu Deo Yadav vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** wherein it has been held as under :

> *"12. In view of the above decisive rulings of this court, the High Court clearly erred in holding that compensation for loss of future prospects could not be awarded. In addition to loss of future earnings (based on a determination of the income at the time of accident), the appellant is also entitled to compensation for loss of future prospects, @ 40% (following the Pranay Sethi principle).*
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> *13. The factual narrative discloses that the appellant, a 20-year-old data entry operator (who had studied up to 12th standard) incurred permanent disability, i.e. loss of his right hand (which was amputated). The disability was assessed to be 89%. However, the tribunal and the High Court re-assessed the disability to be only 45%, on the assumption that the assessment for compensation was to be on a different basis, as the injury entailed loss of only one arm.* ***This approach, in the opinion of this court, is completely mechanical and entirely ignores realities. Whilst it is true that assessment of injury of one limb or to one part may not entail permanent injury to the whole body, the inquiry which the court has to conduct is the resultant loss which the injury entails to the earning or income generating capacity of the claimant. Thus, loss of one leg to someone carrying on a vocation such as driving or something that entails walking or constant mobility, results in severe***

income generating impairment or its extinguishment altogether. Likewise, for one involved in a job like a carpenter or hairdresser, or machinist, and an experienced one at that, loss of an arm, (more so a functional arm) leads to near extinction of income generation. *If the age of the victim is beyond 40, the scope of rehabilitation too diminishes.* ***These individual factors are of crucial importance which are to be borne in mind while determining the extent of permanent disablement, for the purpose of assessment of loss of earning capacity.****"*

8. Reliance can also be placed on judgment of the Hon'ble Supreme Court in **Arvind Kumar Mishra vs. New India Assurance Co. Ltd. (2010) 10 SCC 254,** wherein following observations have been made:-

> *"9. We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation.* ***The whole idea is to put the claimant in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of wrongdoer and the court must take care to give him full and fair compensation for that he had suffered.***
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> *10.* ***In some cases for personal injury, the claim could be in respect of lifetime's earnings lost***

> ***because, though, he will live, he cannot earn his living.*** *In others, the claim may be made for partial loss of earnings.* ***Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum.*** *The conventional basis of assessing compensation in personal injury cases and that is now recognised mode as to the proper measure of compensation is taking an appropriate multiplier of an appropriate multicipand.*

9. In view of aforesaid observations of the Hon'ble Supreme Court in **Pappu Deo Yadav's and Arvind Kumar Mishra's cases (supra)**, this Court has no hesitation to hold that the permanent disability suffered by the claimant is to the extent of 100%. Even the claim petition has been filed through his mother/natural guardian.

10. Now let us assess income of claimant. He was stated to be earning Rs.15,000/- per month from private service and he is the only earning member of family, since his father is also dead. However, income assessed by the Tribunal at the rate of Rs.8000/-per month is erroneous since it is more than that of minimum wages of skilled worker at the relevant time. Therefore, income is assessed as Rs.6289.50 which is rounded off as Rs.6290/-. As far as escalation in income on account of future income is concerned, while relying upon observations of Hon'ble Supreme Court in **National Insurance Company Limited vs. Pranay Sethi and others (2017) 16 SCC 680,** and considering the age of claimant (25 years), he is held entitled to

future income @ 40%. Ratio of law laid down by the Hon'ble Supreme Court in case of **Anoop Maheshwari's case (supra)** as relied by Insurance Company is not applicable to the present case, since claimant/injured is paralysed from his left side and on right side, he has disability to the extent of 61%, whereas in Anoop Maheshwari's case, the claimant has suffered only 50% disability and that too was improved by use of artificial limb. Multiplier of 18 applied by the Tribunal and the amounts awarded under Heads 'pain and suffering ie. Rs.75,000/-, 'Medical Expenses'' (Rs.2,50,257/-), and 'transportation' (Rs.11,000/) are maintained. The claimant is also held entitled to Rs.3,00,000/- towards loss of marriage prospects & amenities of life and amount awarded under special diet is enhanced to Rs.30,000/-. Looking at the overall medical and physical condition of the claimant, where he would be requiring services of attendant, he is also held entitled to lump sum amount of Rs.3,00,000/- for attendant charges.

11. Accordingly, amount of compensation is reassessed as under:-

Sr.No	**Head**	**Amount awarded**
1.	Monthly income	6290/-
3.	Annual income 6290x 12= 75,480/-	75,480/-
4.	Future prospects @ 40% i.e 30192/-	1,05,672/-
5.	Mutliplier	18
6.	Loss on account of permanent disability @ 100% 1,05,672x18 = 19,02,096	19,02,096/-
7.	Pain & sufferings	75,000/-

Sr.No	Head	Amount awarded
8.	Special diet	30,000/-
9.	Transportation charges	11,000/-
10.	Medical expenses	2,50,257/-
11.	Loss of marriage prospects & amenities	3,00,000/-
12.	Attendant charges for life	3,00,000/-
	Total	**Rs.28,68,353/-**

12. The claimant shall be entitled to enhanced amount of compensation alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realization.

13. In view of the aforesaid facts and discussion, FAO-1334-2019 filed by Insurance Company is dismissed whereas Cross Objection No.66-CII-2022 filed by the claimant is partly allowed.

14. All the pending miscellaneous applications, if any, are also disposed of.

(MANDEEP PANNU)
JUDGE

11 .09.2025
rekha
Whether speaking/reasoned Yes/No
Whether reportable Yes/No