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

**FAO No.1157 of 2025 (O&M)**

**Reserved on: 27.11.2025
Pronounced on: 18.12.2025
Uploaded on:18.12.2025**

**PARVIN KUMAR** **......Appellant(s)**
**Vs**
**MUSTKEEM AND OTHERS** **....Respondent(s)**

**CORAM:** ***HON'BLE MR. JUSTICE HARKESH MANUJA***

Present: Mr. Ashish Yadav, Advocate
for the appellant.

Mr. Nigam K. Bhardwaj, Advocate
for respondent No.3/Insurance Company.
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***HARKESH MANUJA, J.***

**CM No.3402-CII of 2025**

Prayer in the present application moved on behalf of the applicant-appellant, is for condonation of delay of 97 days in filing the appeal.

Notice of the application.

Learned counsel appearing on behalf of respondent No.3/Insurance Company accepts notice and does not oppose to the prayer made in the application.

Upon hearing learned counsel for the parties and considering the averments made in the application, which is duly supported by an affidavit, the same is allowed. The delay of 97 days in filing the present appeal is condoned.

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[1]. By way of present appeal, challenge has been laid to an award dated 02.08.2024, passed by the learned Motor Accident Claims Tribunal, Gurugram (for brevity, "the Tribunal"), whereby an amount of Rs.3,67,125/- was awarded as compensation to the appellant/claimant along with interest @ 6% per annum from

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the date of filing of the petition till its actual realization, on account of injuries suffered by him in a motor vehicular accident.

**FACTS**

[2]. The appellant, being injured filed a claim petition before the learned Tribunal praying for grant of compensation on account of injuries suffered by him in a motor vehicular accident which took place on 19.03.2021 while alleging rash and negligent driving of vehicle bearing registration No.HR-27E-0701 being driven by respondent No.1/driver.

[3]. After going through the claim petition and evaluating the evidence led by both the parties, learned Tribunal vide award dated 02.08.2024, arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No.1 and awarded Rs.3,67,125/- as compensation.

**[4].** Being aggrieved against the aforesaid award dated 02.08.2024; the present appeal has been preferred by the appellant/claimant for enhancement of compensation. Facts as specified in the claim petition and the issue regarding negligence of the driver been recorded in favour of the appellant/claimant by the learned Tribunal being not in dispute, therefore, for the sake of brevity, those are not being repeated here.

**ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT**

[5]. Learned counsel appearing on behalf of the appellant/claimant contended that the amount awarded by the learned Tribunal was grossly meager and disproportionate to the nature and extent of injuries sustained by the appellant/claimant. It was submitted that the learned Tribunal failed to appreciate the settled principles laid down by the Hon'ble Apex Court governing the assessment of just and fair compensation in injury cases. He further argued that the

appellant/claimant suffered permanent disability to the extent of 6%, thereby rendering him incapable of performing his daily activities; therefore, the Tribunal ought to have granted adequate compensation towards future loss of income by applying appropriate multiplier and taking into consideration the permanent and incapacitating nature of the disability. Accordingly, he prayed that the compensation awarded be suitably enhanced in accordance with the settled law so as to meet the ends of justice.

**ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT NO.3/ INSURANCE COMPANY**

[6]. Per contra, learned counsel for respondent No.3/Insurance Company vehemently contended that in the facts and circumstances of the case, the appellant was adequately compensated, thus, the present appeal was liable to be dismissed.

**DISCUSSION**

[7]. I have heard learned counsel for the parties and perused the paper-book of the case as well. I find force in the arguments advanced by learned Counsel for appellant/claimant.

[8]. Before determining the quantum of compensation, it is essential to draw guidance from the principles laid down in similar cases by the Hon'ble Apex Court. In ***"Raj Kumar vs. Ajay Kumar and Ors***." reported ***as (2011) 1 SCC 343*** the Court laid down the heads under which compensation is to be awarded for personal injuries.

> *"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, the compensation will 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".*

**ON THE ASPECT OF ENHANCEMENT OF COMPENSATION ASSESSMENT UNDER "MEDICAL EXPENSES/HOSPITALIZATION"**

[9]. In the case at hand, the appellant/claimant has sustained permanent disability assessed at 6% on account of fracture of his right leg with mild restricted and painful movement of ankle, duly proved through the disability certificate exhibited as Ex.P6, as well as the testimony of Dr. Pankaj Aggarwal, Ortho Surgeon, Civil Hospital, Gurugram, who appeared as PW-3. Further, as per the case of appellant/claimant and bill note of Dr. Deepak Yadav, the appellant/claimant remained hospitalized from 19.03.2021 to 08.04.2021. He also proved medical receipts Ex.P8 to Ex.P23, Ex.P25 to Ex.P28, which show that the appellant/claimant had spent a sum of Rs.1,81,178/- on his treatment. Therefore,

keeping in mind the cost factor prevalent at the time of motor vehicular accident and the treatment besides need of medicines during rehabilitation period, the compensation under this head needs to be reassessed. The aforesaid view finds force from the fact that due to shock and mental agony on account of accident, a person cannot be presumed to be vigilant enough to collect all the bills for claim/reimbursement purposes, though, total bills proved are for Rs.1,81,178/- yet in the humble opinion of this Court, compensation under this head is assessed as Rs.2,50,000/-.

**ASSESSMENT UNDER "LOSS OF INCOME"**

[10]. As per the statement of Shri Mantosh (PW-2), Supervisor, Om Sai Enterprises, Sector-5 Gurugram, the appellant/claimant was an employee there, and was getting salary of Rs.12,281/- per month. He further adduced wage slips as Ex.P2 to Ex.P5 from the period between December 2020 to March 2021. In view of the aforesaid documentary evidence, this Court is of the considered opinion that the appellant/claimant was drawing a monthly salary of Rs.12,281/- (Rs.409.36 per day). Now, as per the case of claimant and discharge certificate Ex.P7, the appellant/claimant remained in hospital from 19.03.2021 to 08.04.2021 i.e. 20 days and as such loss of income suffered by him during the said hospitalization period is assessed as Rs.8,187.2/- (409.36 x 20).

Further, evidently the motor vehicular accident in the present case took place on 19.03.2021 and the appellant/claimant must have been bed ridden for 3 months after accident. Thus, it would be safe to assume that appellant would have suffered loss of income for 3 months due to reduced working capacity. Therefore, after considering facts and circumstances of the present case, loss of income for the said period is conservatively assessed @ Rs.36,842.4/- (409.36 x 90).

Furthermore, though, the appellant/claimant has suffered 6% permanent disability, it would be just and fair if the future loss of income/functional disability is assessed @ 3%. Additionally, the Hon'ble Supreme Court, in the case of ***"Pappu Deo Yadav v. Naresh Kumar"*** reported as ***2020 INSC 553*** held that in cases where a claimant suffers permanent disability due to a motor vehicle accident, compensation may be awarded not only for the future loss of income but also towards future prospects.

[10.1]. A perusal of the record shows that the age of claimant/appellant at the time of the accident was 36 years. The computation of future prospects is to be done as per the law laid down by a Constitution Bench of the Hon'ble Supreme Court in ***"National Insurance Co. Ltd. v. Pranay Sethi"*** reported as ***(2017) 16 SCC 680*** para 59.3, which records the conclusion in this regard, reads as under:-

> *"59.3 While determining income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should read as actual salary less tax."*

[10.2]. In view of the above discussion, the appellant/claimant in addition to loss of future earnings, shall also be entitled to compensation for loss of future prospects @ 40%. Therefore, the income of the appellant/claimant after adding future prospects be taken @ Rs.17,193.4/- per month (12,281/- + 4912.4) for the purpose of calculation of compensation. Accordingly, this Court finds that the compensation payable for the functional disability to the extent of 3% is assessed @ Rs.92,844.36/- (17,193.4 x 12 x 15 x 3/100).

**ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'**

[11]. Admittedly, the injured was bed ridden for 3 months as he was operated upon and would have definitely gone for his post-operative care. However, learned Tribunal failed to grant compensation under the head of special diet, conveyance charges and attendant charges. Therefore, compensation granted under these heads is reassessed @ Rs.1,00,000/.

**ASSESSMENT UNDER 'NON PECUNIARY HEADS'**

[12]. In the present motor vehicular accident, appellant/claimant suffered injuries for which he went into the phase of obtaining treatment, spanning over a period of 3 months. In injury cases compensation for mental agony and pain and suffering cannot be assessed with mathematical certainty and the fact that no amount of compensation can restore the injured person's physical frame and eradicate or ameliorate the agony suffered by the injured. Therefore, the compensation under this head is reassessed as Rs.70,000/-.

**CONCLUSION**

[13]. In view of what has been discussed hereinabove, the appellant/claimant shall be entitled for the grant of compensation in the following manner:-

| Sr.No. | Nature | Amount in Rupees |
|---|---|---|
| *1.* | Loss of Income (Rs.8,187.2 + Rs. 36,842.4 + Rs. 92,844.36) | Rs.1,37,873.96 |
| *2.* | Medical Expenses/Hospitalization | Rs.2,50,000/- |

| | | |
|---|---|---|
| *3* | Compensation under other pecuniary head | Rs.1,00,000/- |
| *4.* | Compensation under non-pecuniary head | Rs.70,000/- |
| *5.* | **Total Compensation** | **Rs. 5,57,873.96** |
| *6.* | **Amount Awarded by the Tribunal** | **Rs. 3,67,125/-** |
| *7.* | **Enhanced Amount** | **Rs. 1,90,748.96/-** |

[14]. The grant of interest @ 6% per annum is not equitable and just in view of the observation made by the Hon'ble Supreme Court in ***Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513*** approved in a subsequent judgment titled as ***Puttamma and others Vs. K.L. Naryana Reddy and another, 2014 (1) RCR (Civil) 443,*** thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimant from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

[15]. In view of aforesaid modification of the award, the present appeal stands disposed of. Pending miscellaneous application(s) if any, shall also stand disposed of.

**(HARKESH MANUJA)**
**JUDGE**

**December 18, 2025**
*Atik*

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