

2025:PHHC:175482



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

FAO-2069-2009 (O&M)
Reserved on: 11.11.2025
Pronounced on:- 18.12.2025
Uploaded on:-18.12.2025

RAM SINGH

.....Appellant

Vs.

RAKESH AND OTHERS

.....Respondents

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

Present: Mr. Tara Chand Dhanwal, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.3- Insurance Company.

HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to an award dated 23.09.2008, passed by learned Motor Accident Claims Tribunal, Bhiwani (for brevity, "the Tribunal"), whereby an amount of Rs. 1,00,000/- was awarded as compensation to the appellant/claimant along with interest @ 7.5% per annum from the date of institution of the claim petition till realization of the award amount, on account of injuries suffered by him in a vehicular accident.

FACTS

2. The appellant, being injured filed a claim petition before the Ld. Tribunal praying for grant of compensation on account of injuries suffered by him in a motor vehicular accident which took place on 27.11.2006 while alleging rash and

negligent driving of vehicle No. HR-61/1095 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 23.09.2008, arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No.1 and awarded Rs. 1,00,000/- as compensation in favour of the appellant.

4. Being aggrieved against the aforesaid award dated 23.09.2008; the present appeal has been preferred 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, for the sake of brevity, those are not being repeated here.

ARGUMENTS
ON BEHALF OF APPELLANT/CLAIMANT

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 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 40%, rendering him incapable of performing any gainful employment in future; therefore, the Tribunal ought to have granted adequate compensation towards future loss of income by applying the appropriate multiplier and taking into consideration the permanent and incapacitating nature of the disability. Accordingly, he prayed that

the compensation be suitably enhanced in accordance with the settled law so as to meet the ends of justice.

ON BEHALF OF 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. Upon perusal of the Award, another aspect requiring consideration in the present appeal pertains to the circumstances of the accident. The incident occurred on the intervening night of 26/27.11.2006 at about 3:30 a.m. The claimant/appellant, employed as a conductor on the vehicle bearing registration No. HR-61/1095, was travelling from Sirsa to Bhiwani after loading plastic waste, and the said vehicle was being driven by respondent No.1. When the vehicle approached the area near village Chikanwas, a mule suddenly came on the road. At the same time, the driver was momentarily blinded by the headlights of an oncoming vehicle from the opposite direction, causing respondent No.1 to lose control. Consequently, the vehicle first struck the mule and thereafter collided with a tree existing on the left side of the road, resulting in its overturning. Thus, it is evident that the accident did not involve any collision with another vehicle. In such circumstances, even the claim petition under Section 163-A of the Motor Vehicles Act would not be maintainable.

9. This Court, while deciding FAO No. 6895 of 2015, “National Insurance Company Limited v. Gurmel Kaur and others”, examined a similar situation where a front right tyre of a car suddenly burst, leading to loss of control and the vehicle crashing into a kikkar tree, causing fatal injuries to one Amrik Singh. In that case, reliance was placed on the judgment in “Harmesh Kumar @ Ramesh Kumar v. Inderjit Singh and others”, 2014 (3) RCR (Civil) 408, wherein it was held that a driver must possess adequate driving skills to avert a situation of collision and that negligence cannot be attributed to any agency other than a human agency. Since the loss of control in that case was attributable to the puncture of the right tyre, the legal heirs of the deceased were held entitled to maintain the claim petition against the driver, Nazam Singh and the Court, while exercising its inherent revisional powers, had converted the claim petition from Section 163-A to Section 166 of the Act and assessed compensation in accordance with the principles laid down by the Hon’ble Supreme Court in “National Insurance Company Limited v. Pranay Sethi and others”, SLP (Civil) No. 25590 of 2014 decided on 31.10.2017. Keeping in view the discussion made hereinabove, the claim petition is converted under Section 166 of the Act, while exercising its inherent supervisory revisional powers.

10. 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 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”.

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

11. In the case at hand, the appellant/claimant has sustained permanent disability assessed at 40% on account of a compound fracture, dislocation and injury to the tarso-metatarsal joint of the right foot, duly proved through the disability certificate exhibited as Ex.P-76, issued by Dr. T.S. Bagri, who appeared as PW-3. Further, as per the testimony of Dr. Vikram Singh (PW-1), the appellant remained hospitalised from 27.11.2006 to 22.12.2006 and, thereafter, continued treatment as an outdoor patient. He was again admitted on 04.04.2007 and discharged on 10.04.2007. The learned Tribunal fell in error by restricting the consideration of medical expenses only as per Ex.P-71 to Ex.P-75, while ignoring the other medical bills exhibited as Ex.P-30 to Ex.P-70 and Marks P-1 to P-41, as well as dressing charges proved through Ex.P-79 to Ex.P-89. Having regard to the

cost of medical treatment prevailing at the time of accident and the continued need for medicines and care during the rehabilitation period, reassessment of compensation under this head is warranted. The aforesaid view is fortified by the fact that a victim of a road traffic accident, owing to trauma, shock and mental agony, cannot reasonably be expected to maintain meticulous record of each and every medical bill for reimbursement, though, total bills proved are for Rs.45,802/-, yet this Court, in its considered view, assesses the compensation under the head of medical expenses at Rs. 1,50,000/-.

ASSESSMENT UNDER “LOSS OF INCOME”

12. Learned Tribunal failed to assess loss of income of injured on the ground that the appellant failed to bring on record any documentary evidence to prove his income. However, it is an admitted fact that the appellant was 45 years of age at the time of accident and, in this regard observations made by the Hon’ble Apex Court in **“Kubra Bibi vs. Oriental Insurance Co. Ltd.”**, reported as **2023(3) Apex Court Judgments (SC) 23**, to the effect that in the absence of definite proof of income, the social status of the deceased needs to be kept in mind where such person is employed in an unorganized sector and accordingly, the notional income in any event is required to be taken into consideration; may help the cause of the appellant. Relevant para from this judgment is reproduced hereunder:

“7. In a matter of the present nature where the compensation is sought and even in absence of definite proof of the income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income in any event is required to be taken into consideration. The fact that the deceased had three dependents to be cared for and had claimed that he was working as a mechanic, the amount payable to an unskilled labour, cannot be the basis and in that circumstance

when he was a skilled person, the daily income at Rs. 200 per day in any event could have been taken even if the income from jeep transport business was discarded for want of documents. More so in a circumstance, where the MACT had referred to the evidence available on record and then arrived at its conclusion, the re-appreciation of the evidence by the High Court is without being sensitive to nature of lis before it.”

12.1 Furthermore, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in *stricto sensu* is not required. The Hon’ble Supreme Court in case of “Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors.”, reported as (2022) 1 SCC 198, held that in absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

“.....In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month.....”

12.2 Therefore, this Court in its humble opinion and after giving anxious thought to the facts and circumstances of the present case conservatively assesses the notional income of the appellant/claimant @ Rs. 3,000/- per month (Rs. 100 per day). Now, as per discharge card (Ex.P1 & Ex.P3) the appellant remained

hospitalized for 30 days, thus the loss of income during hospitalization period is assessed as Rs. 3,000/-. Further, evidently the motor vehicular accident in the present case took place on the intervening night of 26/27.11.2006 and appellant/claimant must have been bed-ridden for 6 months after accident. Thus, it would be safe to assume that the appellant would have suffered loss of income for 6 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. 18,000/- (100 x 180). Furthermore, though, the appellant/claimant has suffered 40% disability, yet it being a case of amputation of right upper limb it would be just and fair if the future loss of income/functional disability is assessed @ 35%. 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.

12.3 A perusal of the record shows that the age of claimant/appellant at the time of the accident was 45 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."

12.4 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 @ 25%. Therefore, the income of the appellant/claimant after adding future prospects be taken @ Rs. 3,750/- per month for the purpose of calculation of compensation. Accordingly, this Court finds that the compensation payable for the functional disability to the extent of 35% is assessed @ Rs. 2,20,500/-.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

13. Admittedly, the injured was bed ridden for 6 months as he was operated upon and thus 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 assessed @ Rs. 1,00,000/-.

ASSESSMENT UNDER 'NON PECUNIARY HEADS'

14. 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 6 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 assessed as Rs. 1,00,000/-.

CONCLUSION

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

S.No.	Nature	Amount (in Rs.)
1.	Loss of Income (Rs. 3,000 + Rs. 18,000 + Rs. 2,20,500)	Rs. 2,41,500/-
2.	Medical Expenses/Hospitalization	Rs. 1,50,000/-
3.	Compensation under other pecuniary head	Rs. 1,00,000/-
4.	Compensation under non-pecuniary head	Rs. 1,00,000/-
	Total Compensation	Rs. 5,91,500/-
	Amount Awarded by the Tribunal	Rs. 1,00,000/-
	Enhanced Amount	Rs. 4,91,500/-

16. The grant of interest @ 7.5% 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.

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

(HARKESH MANUJA)
JUDGE

December 18, 2025
sonika

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