



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

FAO-636-2008 (O&M)
Date of Decision: October 14, 2025

Bhushan Lal

...Appellant

VERSUS

Mahipal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Ms.Ekta Thakur and Ms.Shikha, Advocates
for the appellant.

Mr.D.P.Gupta and Mr.Shubham Gupta, Advocates
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby, questioning the adequacy of the compensation awarded to him by learned Tribunal, on account of injuries sustained, in a motor vehicular accident.

At the very outset, it is pertinent to mention that record of Tribunal, which was summoned by this Court, is not available, on account of destruction of the same, in the fire incident, which took place in the High Court premises in the year 2011. Anyhow, some of the record has been re-constructed with the assistance of counsel for the parties. However, counsel for the parties have made statement that they have no objection, if the appeal

is decided, on the basis of the re-constructed record, which is now available.

Be it noted that, the appeal has been filed to seek enhancement of the compensation by the appellant-claimant. None of the respondents, upon whom, the liability was fastened, have assailed the factum and manner of taking place of the accident well as the extent of compensation awarded. Thus, there is no necessity, as such, to further dwell on the aforesaid aspects.

Suffice to consider that the accident had taken place on 10.06.2005. On appraisal of the evidence, it was concluded that the claimant-appellant had sustained injuries in the accident in question, due to rash and negligent driving of Toyota Qualis bearing registration No.DL-9CG-7360, driven by respondent No.1-Mahipal.

The appellant-claimant himself stepped into witness box as PW-1 and further also examined PW-2 Dr.P.N.Gupta, who proved the disability certificate Ex.PX. Considering the evidence, brought on record, learned Tribunal concluded about the appellant-claimant, to be case of post-traumatic quadriplegia and his permanent disability was assessed as 75%.

It is the claim of the appellant-claimant that he was vegetable vendor. Though, he claimed his earnings to be Rs.5,000/- per month, but learned Tribunal considered the same to be Rs.2500/- per month. Considering the age of the appellant-claimant to be 50 years, multiplier of '8' was applied and compensation was worked upon as Rs.2,40,000/-. Besides the same, another amount of Rs.8000/- was awarded, on the count of 'transportation'. On the basis of medical bills Ex.P3 to Ex.P177, total amounting to Rs.35,688/-, learned Tribunal had awarded Rs.35,700/-. Further, an amount of Rs.10,300/- was awarded on the count of 'special diet'. In total, an amount of Rs.2,94,000/- was awarded.

Being aggrieved, the appellant-claimant has filed the present appeal.

At the very outset, it is submitted by learned counsel for the appellant that the appellant-claimant had suffered 75% permanent disability of the whole body and as such, he is unable to perform everyday activities. He requires constant support, even for the confined life, which he has been forced to live, after the accident. He has since become invalid. He cannot sit, stand, squat and walk of his own and therefore, requires assistance, all the time. Considering the same, the compensation awarded is too meagre. Many of the aspects have been given amiss, while making assessment of the compensation. Not only this, even it is pointed out that learned Tribunal had worked upon the compensation, vis-a-vis, permanent disability, in a mechanical manner. It has not been taken into consideration the impact of permanent disability upon the life of the appellant-claimant, not only relating to his income generating capacity, at the relevant time, but also about non-quantifiable implications, on the life of the appellant-claimant.

Besides the aforesaid, learned counsel for the appellant assiduously submits that looking at the nature of injuries sustained by the appellant, additional medical exigencies are also necessitated and expenses are to be incurred for medical treatment also in future and this aspect, has also been overlooked by the Tribunal

Thus, learned counsel for the appellant has made a prayer for extensive enhancement of the amount, awarded by the Tribunal.

On the other hand, learned counsel for the Insurance Company has assiduously refuted the claim the appellant-claimant, while asserting that no satisfactory evidence has been led to seek compensation, as now

impressed upon. Thus, he submits that the appeal sans merit and deserves to be dismissed.

Keeping in view the prevalent law and in view of various aspects having been given amiss, while working upon the compensation, the compensation awarded do call for re-computation.

The Motor Vehicles Act is in the nature of social welfare legislation and its provisions make it clear that compensation should be '**justly**' determined. A person, therefore, is not only to be compensated for the injury suffered due to the accident but also for the loss suffered, on account of the injury and his inability to lead the life, he led prior to the life altering event.

Beneficial reference is made to *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, wherein, it was held by the Court that the '**just**' compensation is adequate compensation and the Award must be just that-'**no less and no more**'. The plea of victim suffering from a cruel twist of fate, when asking for some more, is not extravagant, but it is for seeking appropriate recompense, to negotiate with the unforeseeable and the fortuitous twists, in his/her impaired life. Therefore, while the money awarded by Courts, can hardly redress the actual sufferings of the injured victim (who is deprived of the normal amenities of life and suffers the unease of being a burden on others), the Courts can make a genuine attempt to help restore the self-dignity of such claimant, by awarding '**just compensation**'.

Suffice to make reference to the decision rendered by the Hon'ble Supreme Court in *Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343*, wherein the Hon'ble Supreme Court brought out difference

between personal disability and functional disability, resulting in the loss of earning capacity. It was laid down that compensation, on account of loss of earning capacity, has to be granted in accordance with the nature of job undertaken by the victim of the motor vehicular accident. The test for determining the effect of permanent disability, on future earning capacity involves the three steps, as was laid down in *Raj Kumar's case (supra)*, which was further reiterated in *Chanappa Nagappa Muchalagoda vs. Divisional Manager, New India Insurance Company Limited, 2020 (1) SCC 796*.

Thus, it goes without saying that in matters of determination of compensation, the Tribunals/Courts are statutorily bound with the responsibility of fixing '**just**' compensation. It is obviously true that determination of '**just**' compensation, cannot be equated to bonanza, but at the same time, it ought not to be a niggard amount. The concept of '**just compensation**' obviously suggest an application of fair and equitable principles and reasonable approach, on the part of Tribunals/Courts. However, the measures have to be applied proportionately.

Adverting to the case in hand, it is pertinent to mention that the appellant-claimant did sustain injuries in the accident as he was occupant of the three-wheeler, which was struck by the offending vehicle bearing registration No.DL-9CG-7360. The appellant-claimant, while in the witness box has categorically stated about the manner of taking place of the accident and proved the FIR, copy whereof is Ex.P1. Further, he has also deposed about his admission in the Government Medical Hospital, at first instance on 10.06.2005 and his being discharged on 28.07.2005 and further also deposed about having remained formally admitted again on 28.07.2005 and was

discharged on 08.08.2005. He had fracture on back bone, neck and other parts of the body. He also categorically stated that he cannot sit, stand, squat, walk and he cannot lie down on the bed, without assistance of a person. He cannot go to toilet himself and he cannot take bath or do anything. He also categorically stated he had become totally disabled, due to the injuries suffered by him and on that day also, he was brought to the Tribunal with the help of two persons.

Furthermore, the said witness had also proved the discharge slip Ex.P2 and bills, which Ex.P3 to Ex.P161. He was subjected to lengthy cross-examination, but nothing material elicited out to dislodge his version.

Besides the aforesaid, PW-2 Dr.P.N.Gupta, who was member of the board of doctors, who had made assessment of the disability has proved the disability certificate Ex.PX, which reveals about the appellant-claimant to be a 'case of post-traumatic quadriplegia.' He is permanently physically disabled by 75%, with respect to body. The age of the appellant-claimant, at the relevant time was 50 years and he was a vegetable vendor. Though, he had claimed his income to be Rs.5000/- per month, but learned Tribunal had considered the same to be Rs.2500/- per month. Even if it is so taken, the impact of the injuries, on his earning capacity, as such, has to be considered. The ailment of 'quadriplegia' is about weakening of muscles of all the four limbs. Considering it to be so and to the extent of 75% disability, obviously the body functionality of the appellant-claimant, must have come to stand-still. He has also categorically stated that he is unable to walk, sit, stand, squat and follow his normal routine. Thus, he was forced to live assisted living. Considering the extent of his disability, obviously, the appellant would not be able to follow his pursuit. Hence, the disability for all intents

and purposes, ought to be taken as 100%.

In the light of the same, taking the earnings of appellant-claimant as Rs.2500/- per month, which is appropriate and keeping in view his age, addition to the extent of 10%, ought to be made, on the count of 'future prospects'. Thus, the earnings of the appellant-claimant comes to be Rs.2500+250(10%)=Rs.2750/-, annual whereof is **Rs.33,000/-**. However, the appropriate multiplier as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, to be applied is '13', instead of '8', as applied by learned Tribunal and thus, while applying the same, the loss is assessed as **Rs.33,000x13=Rs.4,29,000/-**.

It should be noted that medical bills qua the expenditure incurred on purchase of medicines have been proved. Considering the same, learned Tribunal had appropriately granted an amount of **Rs.35,700/-**, towards '**medical expenses**'.

Besides the same, looking at the kind of injuries sustained by the appellant-claimant, it is quite obvious that on account of use of the conveyance for 'to and fro' to the hospital, some amount must have been spent by the family of the appellant-claimant. Thus, on the count of 'transportation charges', the amount of Rs.8000/- as awarded by learned Tribunal stands enhanced to **Rs.20,000/-**.

Obviously, during the period of treatment and some time thereafter, in the minimum, the appellant-claimant must have been put on special rich diet, for the healing process. Learned Tribunal has awarded an amount of Rs.10,300/-, on this count, which is on the lesser side and as such, it stands enhanced to **Rs.30,000/-**.

Furthermore, after the accident, looking at the kind of injuries

sustained, the appellant-claimant must have been looked after by a bystander/attendant throughout. Even if, the appellant-claimant was being looked after only by his family members, then also, it should be noted that they could perform the role of care-giver, only by diverting their own time, from any form of gainful employment, which could have generated some income. However, the appellant-claimant will be required to life ‘assisted living’ throughout and considering the same, the value of services of the attendant, whosoever may be, in the minimum, are taken as Rs.2000/- per month, annual whereof is Rs.24,000/-. Considering the fact that looking after by the attendant to be a life-long process, the multiplier of ‘13’ is applied and thus, on the count of ‘attendant charges’, an amount of **Rs.24,000x13=Rs.3,12,000/-** is awarded.

The appellant-claimant, on account of the injuries sustained, must have passed through a very traumatic state of mind, on account of injuries sustained. Considering the same, on the count of ‘pain and suffering’, the compensation of **Rs.50,000/-** is granted.

Looking at the kind of injuries suffered by the appellant-claimant, on account of which, he has become invalid, obviously, some future medical treatment ought to be extended to him, from time to time, on account of inevitable consequences of loss of muscle power. Considering the same, on the count of ‘future medical needs’, another amount of **Rs.1,00,000/-** is awarded.

Thus, on the various counts, the compensation granted to appellant-claimant Bhushan Lal, is re-computed as herein given:-

1.	Loss of earnings	Rs.4,29,000/-
2.	Medical Bills	Rs.35,700/-

3.	Transportation charges	Rs.20,000/-
4.	Special diet	Rs.30,000/-
5.	Attendant charges	Rs.3,12,000/-
6.	Pain and suffering	Rs.50,000/-
7.	Future medical need	Rs.1,00,000/-
	Total	Rs.9,76,700/-

As such, the compensation, so awarded by learned Tribunal, stands enhanced from **Rs.2,94,000/-** to **Rs.9,76,700/-**. On the enhanced amount of compensation i.e. $Rs.9,76,700-2,94,000=Rs.6,82,700/-$, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

Accordingly, the impugned Award dated 06.12.2007 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the above observations, the present appeal stands allowed.

October 14, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No