IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3822-2009 (O&M)
Reserved on : 22.08.2025
Date of Decision : 02.09.2025

Ravi Kumar ....Appellant

VERSUS

Yashwant Singh and Others ....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.S. Mamli, Advocate for the appellant.

Mr. Ankur Gupta, Advocate for respondent No.3.

ALKA SARIN, J.

1. The present appeal has been preferred by the claimant-appellant through his father as natural guardian and next friend aggrieved by the award dated 31.10.2008 passed by the Motor Accident Claims Tribunal, Yamunanagar at Jagadhri (hereinafter referred to as the 'Tribunal').

2. Since the factum of the accident is not in dispute the facts as narrated in the award passed by the Tribunal are not being reiterated.

3. The only dispute in the present case is qua the quantum of compensation which has been awarded by the Tribunal to the minor child.

4. The accident in the present case took place on 20.09.2005, when the appellant was aged about 06 years. The Tribunal on the basis of the pleadings and the evidence on the record awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Medical Treatment	₹65,000/-
2	Transportation, attendant charges, special diet, pain and suffering and permanent disability	₹3,10,000/-
	Total Compensation	**₹3,75,000**
	Interest	**@ 9% per annum**

5. The learned counsel for the appellant would contend that the compensation awarded is on the lower side inasmuch as due to the accident, the appellant has suffered 70% disability. The disability certificate (Ex.P64) was duly proved on the record by PW6 Dr. Sandeep Gupta who stated that the permanent disability suffered by the appellant was to the extent of 70% because of the head injury leading to hemiparesis of the right side. It is further the contention that a lump sum amount of ₹3,10,000/- has been awarded by the Tribunal however keeping in view the law laid down by the Supreme Court in the cases of **Kajal vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27]** and **Baby Sakshi Greola vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]** a multiplier method ought to have been applied.

6. *Per contra* the learned counsel for respondent No.3 would contend that the amount has rightly been awarded and there was no scope of any enhancement.

7. I have heard the learned counsel for the parties.

8. In the present case the appellant met with an accident on 20.09.2005 and was brought to the hospital unconscious. He was intubated and put on T-Piece. It was noted that the appellant was not moving the right limbs. Tracheostomy was done on the 10th day of the admission (as per the

discharge summary Ex.P78) and was removed on 08.11.2005. The appellant was discharged on 14.11.2005. Dr. Vandana, Medical Officer, Gaba Hospital, Yamunanagar stepped into the witness-box as PW7 and stated that the CT-Scan conducted of the appellant showed a left tempo parietal linear fracture with pneumocranium with left frontal hemorrhagic contusion. The appellant was 06 years of age and had his whole life ahead of him. The heads under which compensation is to be awarded for personal injuries were dealt with by the Hon'ble Supreme Court in the case of **Raj Kumar vs. Ajay Kumar & Anr. [2011 (1) SCC 343]** wherein it was laid down as under:

> *"5. 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, that 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 4 medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life. Assessment of pecuniary damages under item (i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses – item (iii) -- depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages – items (iv), (v) and (vi) -- involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the *claimant. Decision of this Court and High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability - item (ii)(a). We are concerned with that assessment in this case."*

9. In the present case as noted above the appellant has suffered right side hemiparesis leading to 70% disability. The Tribunal has awarded an amount of ₹65,000/- towards the medical expenses which has not been challenged by the learned counsel for the appellant. The same is hence maintained. The appellant remained admitted in hospital from 20.09.2005 to 15.11.2005 and therefore, heavy expenses must have been incurred by his parents on transportation to and for from the hospital. This Court deems it appropriate to award an amount of ₹50,000/- towards transportation.

10. The appellant would have studied and would have worked and earned atleast a minimum wage. Hon'ble Supreme Court in the case of **Kajal** (supra) while assessing the income of a minor child of 12 years of age, who had suffered 100% disability, assessed the income of the child as per the minimum wages payable to a skilled worker as per the prevailing rate. In para 20 of the said judgment, their Lordships has held as under :

"20. Both the courts below have held that since the girl was a young child of 12 years only notional income of Rs.15,000/ per annum can be taken into consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned 11 much more

> *than Rs.15,000/ per annum. Each case has to be decided on its own evidence but taking notional income to be Rs.15,000/ per annum is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs.4846/ per month. In our opinion this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be Rs.6784.40/ per month, i.e., 81,412.80 per annum. Applying the multiplier of 18 it works out to Rs.14,65,430.40, which is rounded off to Rs.14,66,000/-.*

11. While granting the compensation an addition of 40% was also made in the said case towards future prospects and a multiplier of '18' was applied. Similarly in the case of **Baby Sakshi Greola** (supra) where the incident related to a 07 years' old child, who had met with an accident in 2009, Hon'ble Supreme Court once again assessed the income of the minor child as per the minimum wage as applicable to a skilled worker. In para 29 it was held as under :

> *"29. This Court in the case of Kajal (supra) has held that taking notional income is not the correct approach. Instead, the minimum wages payable to a skilled workman in the concerned State has to be taken into consideration because, that would be the minimum amount which she would have earned on becoming a major. In this case, the minimum wage payable to a skilled workman in the State of Delhi at the time of the*

accident, i.e., 2nd June 2009, was Rs. 4,358/- per month."

12. Their Lordships in case of **Baby Sakshi Greola** (supra) also added 40% towards future prospects and applied a multiplier of '18'. Taking a cue from both the aforesaid two judgements, this Court deems it appropriate to assess the income of the appellant, in the present case, as per the minimum wages for a skilled worker, which was ₹2,619.54 ps. rounded off ₹2,620/- per month at the relevant time. The bodily disability of the appellant was assessed as 70%. This Court deems it appropriate to assess the disability of the appellant as 70% keeping in view that he has suffered right side hemiparesis. Keeping in view the nature of disability, the appellant would require an attendant for day and night. Taking a cue from the judgments in cases of **Kajal** (supra) and **Baby Sakshi Greola** (supra), this Court deems it appropriate to award the charges for two attendants according to the minimum wages for a skilled worker prevalent at the time of the accident in the State of Haryana which were ₹2,620/- per month. Thus, the appellant would be entitled to an amount of ₹11,31,840/- [₹2,620 x 2 x 12 x 18 (multiplier)] towards attendant charges.

13. So far as compensation under the other non-pecuniary heads i.e. pain and suffering, loss of amenities and loss of marriage prospects and special diet as awarded by the Tribunal is concerned, the same in the opinion of this Court is on the lower side. As stated above, for his treatment the appellant remained under hospitalization w.e.f. 20.09.2005 to 15.11.2005 and thus he must have suffered a lot of pain and agony while being under treatment. Accordingly, keeping in view the age and disability of the appellant, this Court deems it appropriate to award an amount of ₹5,00,000/-

towards pain and suffering; ₹50,000/- towards special diet; ₹3,00,000/- towards loss of amenities of life and loss of marriage prospects. The amount of ₹65,000/- awarded by the Tribunal towards medical expenses is maintained.

14. Accordingly, the reworked compensation is as under :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹2,620/-
2	Loss of income on account of 70% disability	[₹2,620 – 786] ₹1,834/-
3	Future prospects @ 40%	[₹1,834 + 734] = ₹2,568/-
4	Income after applying the multiplier of 18	[₹2,568 x 12 x 18] = ₹5,54,688/-
5	Attendant charges for 02 attendants	₹11,31,840/-
6	Transportation charges	₹50,000/-
7	Pain and suffering	₹5,00,000/-
8	Loss of amenities of life and marriage prospects	₹3,00,000/-
9	Special Diet	₹50,000/-
10	Medical expenses as assessed by the Tribunal	₹65,000/-
	Total Compensation	**₹26,51,528/-**

15. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

16. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the appellant within six weeks from today. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the appellant to the

Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

17. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

02.09.2025
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO