



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

FAO-2026-2013 (O&M)
Date of Decision: April 09, 2025

Sunil Kumar @ Shina

...Appellant

VERSUS

Hanuman Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Prashant Singh Chauhan, Advocate
for the appellant.

Mr.Vinod Chaudhari, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by claimant-Sunil Kumar @ Shina, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of injuries sustained by him, in a motor vehicular accident, which took place on 25.01.2010.

On appraisal of the evidence, brought on record, it was held by learned Tribunal that accident had taken place, on account of rash and negligent driving of Utility Mahindra bearing registration No.HR-01H-2521, driven by respondent No.1-Hanuman Singh. Also, it was held that Sunil Kumar @ Shina had sustained injuries, in the accident in question, which resulted in amputation of his right arm and right leg. Thereupon, learned Tribunal, while considering the evidence, brought on record, had awarded



compensation to the extent of Rs.25,000/-, on account of 'pain and suffering and special diet'. On account of medical bills, proved in evidence, the compensation awarded was Rs.1,22,392/-. Considering the disability certificate Ex.P30, which states about the extent of disability to be 100%, another amount of Rs.2 lakh was awarded. Besides the same, considering the fact of amputation of right arm and right leg just below knee and also taking into consideration, the requirement of artificial limb to carry out the routine, another amount of Rs.2 lakh was granted. In total, the compensation awarded by learned Tribunal was Rs.5,47,392/-. The liability was held to be joint and several of the respondents, in the capacity of being driver, owner and insurer of the offending vehicle.

Suffice to consider that none of the respondents, upon whom, the liability was fastened, as such, have challenged the Award.

Be it noted that it is only the appellant-claimant, who had sought enhancement of the compensation.

Learned counsel for the parties heard.

As noted aforesaid, the 'work on' of the compensation, do call for re-computation.

The appellant-claimant, while himself stepping into witness box as PW-3 has deposed about the manner of taking place of the accident and also imputed rashness and negligence, on the part of respondent No.1- Hanuman Singh. Besides the same, he has also deposed about the detail of the injuries suffered by him, in the accident in question and further deposed about the detail of the treatment undergone by him, in various hospitals. He also deposed about amputation of his right arm from shoulder as well as



right leg, just below knee.

Even various doctors have been examined, vis-a-vis, treatment undergone by the appellant-claimant. PW-5 Dr.Lokesh Kumar, Medical Officer, CMC Hospital, has deposed about initial admission of the claimant, in their hospital. He proved the bed head ticket Ex.P32, photocopy of MLR Ex.P33, hospital bill Ex.P34 and photocopy of police information Ex.P35. PW-6 Dr.Parveen Chawla, Chawla Nursing Home, Dabra Chowk, has also deposed about admission of Sunil @ Shina on 27.01.2010, in his nursing home, with crushed right upper and lower limb, allegedly sustained in road side accident, which was amputated. He further deposed that claimant remained in their hospital from 27.01.2010 to 11.02.2010 and proved bills Ex.P36 as well as Ex.P37 and bed head ticket Ex.P38. He also deposed that patient will need artificial limb.

PW-7 Dr.Joginder Singh, SMO, deposed about being member of the board, who had examined the claimant for assessment of the disability, which was found to be to the extent of 100%, on account of amputation of right upper limb at shoulder and amputation of right leg.

Thus, from the evidence, it stands amply established that as a result of injuries sustained, in the accident in question, the appellant-claimant had amputation of right arm from shoulder as well as right leg below knee. In the light of the aforesaid, the compensation awarded by learned Tribunal is too meagre an amount.

In this regard, beneficial reference is made to *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, wherein, the Hon'ble Supreme Court held that the 'just' compensation is



adequate compensation and the Award must be just that-'**no less and no more**'. Time and again, it has been held by the Courts that the money awarded, 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). However, the Courts can make a genuine attempt to help restore the self-dignity of such claimant, by awarding '**just compensation**'.

Suffice to consider the aspect of functional disability to be taken in case of permanent disability, as elucidated in ***Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343.***

On this count, how the compensation is to be worked upon, which affects the functional disability, has been considered by the Courts, time and again. In ***Jagdish Vs. Mohan and others, 2018 (4) SCC 571***, the Hon'ble Supreme Court, while considering the case of a carpenter, who had sustained injuries and lost both his hands, had worked upon the total disability as 90% and thereupon, enhancement was made.

In ***Sri Anthony Alias Anthony Swamy vs. Managing Director, KSRTC, 2020(2) RCR (Civil) 846***, the Hon'ble Supreme Court, considered the inadequacy of the compensation, as asserted by the injured, on account of injuries sustained, in the motor vehicular accident. At first instance, considering the amputation of left leg of the injured, the physical disability of the lower limb was assessed as 75%, which was about 37.5% of the whole body. However, in appeal, the Hon'ble High Court had assessed the disability 25% of the whole body only. However, Hon'ble Supreme Court, while considering the injured to be working as manual labourer, for which, he required use of both of hands, made an observation that the accident had



left injured with one useless hand, which will severely affect his ability to perform work as coolie or any other work. It was also observed therein, that it has to be kept in mind, that the appellant is to do manual work for the rest of his life, without full use of his hand and this is bound to affect the quality of his work and also his ability to find work, considering his disability. Thus, while computing loss of future income, the disability was taken as 68% and thereupon, the compensation was re-determined.

Even, in *Sarnam Singh vs. Shriram General Insurance Co. Ltd. & Ors*, 2023 LiveLaw (SC) 498, the Hon'ble Supreme Court had made reference to *Mohan Soni vs. Ram Avtar Tomar and others*, 2012 (2) SCC 267, wherein, the injured was working as cart puller. As a result of the accident, his left leg was amputated. His disability was assessed as 60%. The Tribunal assessed the compensation, taking the loss of earning as 50%, on the theory that he can do some other work while sitting. Also, it was observed that this finding was not disturbed by the High Court, regarding the loss of income, on account of disability. However, considering the injured to be 55 years of age and that it may be difficult for him to find a job, it was observed that in fact, any physical disability, resulting from the accident, has to be judged with reference to the nature of the work being performed by the person, who suffered disability. The same injury suffered by two persons, may affect them in different ways. Loss of leg by a farmer or a rickshaw puller may be end of the road, as far as his earning capacity is concerned. Whereas, in case of the persons engaged in some kind of desk work in office, loss of leg may have lesser effect. The Court enhanced the loss of earning capacity from 50% to 90%.



Applying the aforesaid principle, in the case under consideration in *Sarnam's case (supra)*, while taking into consideration the injured to be working as gunman, on account of amputation of right leg, above knee, he was terminated. His age was 50 years and 5 months, at the time of accident. Considering the same, the Hon'ble Court held that learned Tribunal was right in assessing the loss of earning capacity of the appellant as 100% and assessed the compensation accordingly.

In the backdrop of the aforesaid case law, it is pertinent to mention that each case of victim of accident, has to be considered, keeping in view the nature and kind of injuries, as well as various other circumstances, such like, socio-economic conditions of the victim as well as kind of job, he was doing and also about the affluence of the family etc.

Now, reverting to the case in hand, it is pertinent to mention that from the evidence, brought on record, more particularly, from the recitals of the matriculation certificate, the date of birth of the claimant is 10.01.1993. As such, on the date of accident, he was 17 years old. He was student of 10+2 class, at the relevant time. Considering the same, some kind of guess work, ought to be applied, to work upon the compensation.

Considering the minimum wages, prevalent at the relevant time, the earnings of appellant-claimant, as such, can conveniently be taken as Rs.4200/- per month. Considering the age of the appellant and also impact of amputation of his right arm and right leg, it is quite obvious that many avenues of earning a livelihood, have been shut out for him. Otherwise also, in the maximum, considering the extent of education, he had undergone, at the time of accident and also considering his socio-economic condition, he is



bound to indulge in manual labour. Considering the same, with the right hand loss and right leg loss, the field of being labourer also, is bound to be very restrictive. It shall be difficult for him to do manual labour also and this field again is going to give him very little choice to follow this kind of work.

Considering the same and loss of future income, the functional disability can conveniently, as such, be taken as 100%, as assessed in disability certificate Ex.P30. However, no deduction on the count of 'personal expenses' ought to be made, as the appellant is survivor in the accident with severe injuries, resulting into permanent disability.

In the light of the same, for the purposes of re-computation, it is necessary to note that earnings of the appellant-claimant are taken as Rs.4200/- per month. Addition to the extent 40%, has to be made, on the count of 'future prospects', which is to the extent of Rs.1680/- and thus, the total monthly earnings comes to be Rs.5880/- per month, annual whereof, comes to be Rs.70,560/-. Considering the age of the appellant-claimant, the suitable multiplier to be applied is '18' and thus, the extent of loss of earnings, on account of disability to be 100%, is worked upon as $\text{Rs.70,560} \times 18 = \text{Rs.12,70,080/-}$.

On the basis of medical bills, proved in evidence, learned Tribunal had appropriately awarded **Rs.1,22,392/-** as 'medical expenses'.

However, learned Tribunal, while making assessment of compensation, has given amiss to the artificial prosthetic limb, required by the appellant. PW-6 Dr.Parveen Chawla had stated that claimant will need artificial limb. In this regard, reference is made to '*G.Vivek vs. National*



Insurance Co. Ltd. & Anr, 2023 ACJ 585'. It is relevant to make reference to the observations of the Hon'ble Supreme Court, as herein given:-

11. In our view, the Tribunal was justified in awarding a sum of Rs.20,00,000/- towards cost of new prosthesis at the rate of Rs.5,00,000/- to be changed four times in five years. In other words, the Tribunal awarded this cost component only for 20 years despite the fact that Appellant was hardly of the age of 15-16 years old at the time when the Award was passed.

13. Having held so, the Appellant is indeed entitled to Rs.26,00,000/- towards cost and maintenance of prosthesis and that being so, the compensation amount stands increased from Rs.5,00,000/- (as awarded by the High Court) to Rs.26,00,000/- and excluding a sum of Rs.5,00,000/- awarded by the High Court towards cost of prosthesis, totaling to Rs.71,00,000/-.

Considering the aforesaid, it is pertinent to mention that appellant-claimant was 17 years of age, at the relevant time and also considering testimony of PW-6 Dr.Parveen Chawla, who had stated about the cost of prosthetic limb to be varying from Rs.10,000/- to few lakhs, some guess work has to be applied, with regard to the prosthetic limb, considering the socio-economic background of the appellant. Thus, the assessment of cost of prosthetic limb is taken as Rs.3 lakh. Considering the age of the appellant-claimant, at the relevant time and considering the period of longevity, in the minimum, even if the age of prosthetic limb is taken as five years, in his lifespan, the appellant-claimant, in the minimum, is bound to have eight replacements. Thus, on the count of 'prosthetic need', an amount of **Rs.24,00,000/-** is granted. Another amount of **Rs.2,00,000/-** is awarded



for the maintenance of the prosthetic limb.

Even, considering the kind of injuries sustained and consequential result of amputation of right arm and right leg, it is quite obvious that the claimant must have passed through a traumatic state of mind, during the process of treatment as well as thereafter. Thus, compensation awarded, on the count of 'pain and suffering' is too less an amount and as such, the same is enhanced to **Rs.2,00,000/-**.

Looking at the kind of injuries sustained by the appellant-claimant and amputation, undergone by him, all the time, he must have required constant help, to lead 'assisted living', till he adept to skill of self-dependence. Even then, many a times, he will be bound to take assistance of others to carry on with his disability. Considering the same, on the count of 'attendant charges', an amount of **Rs.1,00,000/-** is granted.

During the period of his hospitalization, several rounds, must have been made to the hospital for taking care of the claimant and after discharge also, many trips must have been required to be made to the hospital. The claimant may also require such trips to be made, while affixation and taking care of the prosthetic limb. Considering the same, the compensation on the count of 'transportation' is granted to the extent of **Rs.20,000/-**.

Obviously, during the period of treatment and some time thereafter, the appellant-claimant must have been put on special rich diet, for the healing process. On this count also, the compensation is enhanced to **Rs.40,000/-**.

Considering the disability, so suffered, it is quite obvious, the



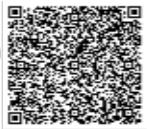
marriage prospects of the appellant-claimant had also become very restricted and on this count, he is entitled to be compensated and therefore, on the count of ‘**loss of marriage prospects**’, compensation is granted to the extent of **Rs.2,00,000/-**.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant- Sunil Kumar @ Shina, is re-computed, as herein given:-

1.	Loss of earnings	Rs.12,70,080/-
2.	Medical Bills	Rs.1,22,392/-
3.	Prosthetic need	Rs.24,00,000/-
4.	Maintenance of prosthetic	Rs.2,00,000/-
5.	Pain and suffering	Rs.2,00,000/-
5.	Attendant charges	Rs.1,00,000/-
6.	Transportation charges	Rs.20,000/-
7.	Special diet	Rs.40,000/-
8.	Loss of marriage prospects	Rs.2,00,000/-
	Total	Rs.45,52,472/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.45,52,472-5,47,392=Rs.40,05,080/-**. On the enhanced amount of compensation, i.e. **Rs.40,05,080/-**, 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 01.06.2012 stands modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.



FAO-2026-2013

With the above observations, the present appeal stands allowed.

April 09, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No