



FAO-2263-2018

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

FAO-2263-2018

Reserved on: 05.12.2025

Date of decision: 09.12.2025

Uploaded on: 09.12.2025

TARIF MOHD @ TARIF

.....Appellant

Vs.

HAKMUDDIN & OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sukhdev Singh, Advocate
for Mr. Ashish Gupta, Advocate
for the appellant.

Mr. Simranjit Singh, Advocate
for Mr. H.S. Dhandi, Advocate
for respondent No.2

Mr. Vinod Chaudhri, Advocate
for respondent No.3-Insurance Co.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 30.11.2017 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, Gurugram (in short 'the Tribunal') for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.15,06,000/- along with interest @ 8% per annum on account of injuries sustained by the appellant/claimant – Tarif Mohd in a Motor Vehicular Accident, occurred on 30.04.2016.



FAO-2263-2018

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. The learned counsel for the appellant/claimant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and the compensation awarded to the appellant/claimant be enhanced, as per latest law.

4. *Per contra*, learned counsel for the respondents, however, vehemently argues on the lines of the award and contends that the amount of compensation as assessed by Ld. Tribunal, has rightly been granted to the appellant/claimant. Therefore, he prays for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

SETTLED LAW ON COMPENSATION

6. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

General principles relating to compensation in injury cases

5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation



or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).

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, 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 medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

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19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.



(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

20. The assessment of loss of future earnings is explained below with reference to the following

Illustration 'A' : The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:

- a) Annual income before the accident : Rs. 36,000/-.
- b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5400/-.
- c) Multiplier applicable with reference to age : 17
- d) Loss of future earnings : (5400 x 17) : Rs. 91,800/-

Illustration 'B' : The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :

- a) Annual income prior to the accident : Rs. 36,000/- .
- b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.
- c) Multiplier applicable with reference to age : 17
- d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-

Illustration 'C' : The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :

- a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-
- b) Loss of future earning per annum
(70% of the expected annual income) : Rs. 42000/-
- c) Multiplier applicable (25 years) : 18



FAO-2263-2018

d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-

[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

7. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

“ Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”

8. Hon'ble Supreme Court in the case of **Erudhaya Priya Vs. State Express Tran. Corpn. Ltd.** 2020 ACJ 2159, has held as under:-

“ 7. There are three aspects which are required to be examined by us: (a) the application of multiplier of '17' instead of '18';

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age



group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in *Jagdish v. Mohan & Others*, 2018 ACJ 1011 (SC) and *Sandeep Khanuja v. Atul Dande & Another*, 2017 ACJ 979 (SC). We extract below the principle set out in the *Jagdish* (supra) in para 8:

- "8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:
- (i) Pain, suffering and trauma resulting from the accident;
 - (ii) Loss of income including future income;
 - (iii) The inability of the victim to lead a normal life together with its amenities;
 - (iv) Medical expenses including those that the victim may be required to undertake in future; and
 - (v) Loss of expectation of life."

[emphasis supplied]

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the *Sandeep Khanuja* case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

"Nature of injury:

- (i) compound fracture shaft left humerus
- (ii) fracture both bones left forearm
- (iii) compound fracture both bones right forearm
- (iv) fracture 3rd, 4th & 5th metacarpals right hand
- (v) subtrochanteric fracture right femur
- (vi) fracture shaft femur
- (vii) fracture both bones left leg

We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and

the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish’s case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

<i>Heads</i>	<i>Awarded</i>
<i>Loss of earning power (Rs.14,648 x 12 x 31.1/100</i>	<i>Rs. 9,81,978/-</i>
<i>Future prospects (50 per cent addition)</i>	<i>Rs.4,90,989/-</i>
<i>Medical expenses including transport charges, nourishment, etc.</i>	<i>Rs.18,46,864/-</i>
<i>Loss of matrimonial prospects</i>	<i>Rs.5,00,000/-</i>
<i>Loss of comfort, loss of amenities and mental agony</i>	<i>Rs.1,50,000/-</i>
<i>Pain and suffering</i>	<i>Rs.2,00,000/-</i>
<i>Total</i>	<i>Rs.41,69,831/-</i>



FAO-2263-2018

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

9. A perusal of the impugned Award reveals that the claimant was 27 years of age at the time of the accident and was self-employed, running a grocery shop, with an asserted monthly income of Rs. 20,000/-. In absence of any documentary evidence to substantiate the said earnings, the learned Tribunal was constrained to resort to conjecture and estimation while assessing income of the claimant and assessed monthly income as Rs.8,000/-. However, the correct method will be resorting to minimum wages applicable at the relevant time. As per the notified minimum wages applicable to skilled workers during the relevant period, the correct monthly income ought to have been assessed at Rs.9695/-. Therefore, the monthly income of the claimant may be reasonably rounded off and reassessed at **Rs.10,000/-**.

10. A further perusal of the award reveals that no amount is added to the income of the claimant as future prospects. Considering the age of the claimant being 27 years and in accordance with the settled law on compensation **40%** is to be added to the salary of the claimant as future prospects.

11. A further perusal of the award reveals that the learned Tribunal has rightly assessed the functional permanent disability of the claimant at 82%, having duly appreciated that the injuries suffered in the accident resulted in near-total functional impairment of the left knee, thereby substantially diminishing the capacity of the claimant to engage in gainful employment.

12. The learned Tribunal was vested with an onerous duty to award just, fair and reasonable compensation after a comprehensive evaluation of the nature



FAO-2263-2018

of injuries, their long-term consequences, the resultant functional disability, and the corresponding loss of earning capacity.

13. This Court is cognizant of the recent authoritative judgment of the Hon'ble Supreme Court in **Anoop Maheshwari v. Oriental Insurance Company Ltd. & Others, 2025 INSC 1076**, wherein it has been unequivocally held that, for the purposes of determining compensation under the Motor Vehicles Act, the assessment of disability must primarily relate to functional disability that is, the actual impairment of the earning capacity of the victim rather than being restricted to the percentage of medical disability recorded in the disability certificate.

14. The relevant portion of the same is produced as under :

“7. Insofar as the disability is concerned, we have no doubt that the medical board's certificate can be accepted, even without a witness being examined. The disability certificate also indicates that the amputation suffered by the petitioner is of hemipelvectomy; which is the amputation of one leg and a portion of the pelvic bone on the same side. The disability to be assessed for the purpose of awarding compensation arising from a motor accident is the functional disability which reduces the earning capacity of the claimant and not strictly the medical disability. In the present case, admittedly the claimant was running a business, and the claimant has already been fitted with a prosthetic limb to ensure his mobility. In the above circumstances, the order of the High Court holding the disability to be 50% for the purpose of computing loss of income as relatable to the loss of earning capacity is correct



and within the parameters to be considered for assessing the loss of income arising from a motor accident which led to disability of the victim. The disability assessed at 50% is the functional disability and it is quite reasonable.

8. As far as the income is concerned, we agree with the High Court that the Tribunal had entered into mere surmises and conjectures to decline adoption of the income as per the income tax returns. In this context, we have to notice that the registration of the firm of the claimant took place on 06.03.2006 and the income tax returns produced are also for the assessment years 2005-2006 and 2006-2007 relatable to the financial years 2004-2005 and 2005-2006 which are prior to the accident which occurred on 09.04.2007. It cannot be said that the claimant apprehended an accident and got registration of a firm and filed his income tax returns two years prior to the accident. Further, the claimant had also produced sales tax returns which was also rejected by the Tribunal on the ground that there was no taxable profits in the said year. Insofar as the levy of sales tax is concerned, the levy is on the sales and not on the profits. The finding of the Tribunal also is that in the first year, there was no tax payable and hence there was no profits or income. The exemption from tax is only because the purchase and sales did not exceed the taxable value. The sale proceeds being not within the taxable limit is not an indication of the profit accrued, or the income received



FAO-2263-2018

from the business which is reflected in the income tax returns.

On the above reasoning, we have to accept the income tax returns for the financial year 2007-2008 in which the total gross income is seen as Rs.1,96,000/- out of which the tax of Rs.4,641/- has to be deducted. The income, hence, has to be assessed at Rs.1,91,000/-. In assessing the loss of income, the multiplier of 18 is perfectly in order and the disability is 50% as determined by the High Court.”

15. In consonance with this settled legal principle, the learned Tribunal has correctly relied upon the testimony of Dr. Pankaj Aggarwal (PW-1), Orthopaedic Surgeon, Civil Hospital, Gurugram, who categorically deposed that the claimant was suffering from 82% functional disability, and duly proved the disability certificate exhibited as Ex. P-1. The findings of the tribunal that functional disability of the claimant is 82% is thus lawful, well-reasoned, and firmly supported by binding precedent. Therefore, no interference is warranted in this regard.

16. A further perusal of the record shows that the learned Tribunal has awarded the compensation on the lower side to the claimant under the heads of Pain and suffering, which is required to be enhanced.

17. It is trite that permanent disability suffered by an individual not only impairs his cognitive abilities and his physical facilities, but there are multiple non-quantifiable implications for the victim. Further, the very fact that healthy person turns into invalid being deprived of normal companionship and incapable of leading a productive life makes one suffer loss of dignity. As per the facts of the case the claimant was admitted at SMS hospital, Jaipur on 30.04.2016 and was



FAO-2263-2018

discharged on 26.05.2017. Further according to the report of the ortho surgeon and the disability certificate it reveals that the claimant has suffered fracture on the left tibia or the shine bone vide which the left leg movements are restrained of the left knee. This fairly concludes the fact that the claimant have suffered immense amount of pain and agony due to the accident in question.

18. The Hon'ble Apex Court in the case of '**KS Muralidhar versus R Subbulakshmi and another 2024 INSC 886**' highlighted the intangible but devastating consequence of pain and suffering. The relevant portion of the same is reproduce as under:-

“15. Keeping in view the above-referred judgments, the injuries suffered, the 'pain and suffering' caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, award Rs.15,00,000/- under the head 'pain and suffering', fully conscious of the fact that the prayer of the claimant-appellant for enhancement of compensation was by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded.”

19. Therefore, in view of the above judgment and facts and circumstances of the present case, this Court deems it appropriate to grant compensation of **seven lakhs** under the heads of pain and suffering.

20. A further perusal of the award reveals that the learned Tribunal has erred in granting meager amount under the head of special diet, transportation

FAO-2263-2018

charges, loss of amenities & attendant charges. Furthermore, no amount is granted for medical expenses for future treatment. Therefore, the award requires indulgence of this Court.

CONCLUSION

21. In view of the law laid down by the Hon’ble Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated 30.11.2017 is modified accordingly. The appellant-claimant is entitled to enhanced compensation as per the calculations made hereunder:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.10,000/-
2	Future prospects @ 40%	Rs.4,000/- (40% of 10,000)
3	Annual Income	Rs.14,000/-
4	Loss of earning due to disability (82%)	Rs.1,37,760/- (14,000 X 12 X 82%)
5	Multiplier	17
6	Loss of future earning per annum	Rs.23,41,920/- (Rs.1,37,760 X 17)
7	Medical expenses	Rs.67,059/-
8	Pain and suffering	Rs.7,00,000/-
9	Special diet	Rs.50,000/-
10	Transportation charges	Rs.50,000/-
11	Attendant Charges	Rs.30,000/-
12	Loss of amenities of life	Rs.2,00,000/-
13	Medical expenses for future treatment	Rs.50,000/-
14	Total Compensation	Rs.34,88,979/-
15	Deduction Amount Awarded by the Tribunal	Rs.15,06,000/-
16	Enhanced amount	Rs.19,82,979/- (28,88,979-15,06,000)

22. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nandu State Transport Corporation (2022) 5**



FAO-2263-2018

Supreme Court Cases 107, the appellant-claimant is granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

23. The Insurance Company-respondent No.3 is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the accounts of the claimant/appellant, as per ration settled by the learned Tribunal, vide its award dated 30.11.2017. The claimant/appellant is directed to furnish their bank account details to the Tribunal.

24. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

09.12.2025

Ayub

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No