



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

FAO-6242-2017 (O&M)
Date of Decision: November 18, 2025

Bharat Singh

...Appellant

VERSUS

Sandeep and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Narender Kaajla, Advocate
for the appellant.

Mr.Mayank Gupta, Advocate for
Mr.Vinod Gupta, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by appellant-claimant-Bharat Singh, 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 28.12.2014.

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 car bearing registration No.HR-21H-2982, driven by respondent No.1-Sandeep. Also, it was held that Bharat Singh and another person, namely, Mukesh had sustained injuries, in the accident in question.

Vide impugned Award, learned Tribunal had decided both the claim

petitions filed, at the instance of Bharat Singh as well as injured Mukesh.

While considering the evidence, brought on record, learned Tribunal had awarded compensation to appellant-claimant Bharat Singh, which is reproduced in tabular form, as under:-

Medical expenses	Rs.318715-00
Pain & Suffering, mental shock and agony	Rs.020000-00
Special diet	Rs.018000-00
Attendant charges	Rs.018000-00
Transportation	Rs.020000-00
Loss of income	Rs.036000-00
Disability	Rs.244880-00
Total	Rs.6,75,515/-

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.

It is pertinent to mention that during the pendency of the appeal, an application for additional evidence was filed at the instance of the appellant-claimant for production of the medical record, relating to the treatment undergone by the appellant, in the post-Award period and also with regard to the amputation of his right leg, as a result whereof, he had suffered disability to the extent of 70%. The said application was allowed and in consonance with the order passed by this Court, learned Tribunal had examined as many as three witnesses and considering the evidence brought on record, had awarded additional compensation to the extent of Rs.2,93,010/-, the detail whereof is given as herein:-

Sr.No.	Name of Head	Amount
1	Medical expenses	Rs.1,83,010/-

2	Nourishing Diet and Attendant charges	Rs.40,000/-
3	Transportation Charges	Rs.20,000/-
4	Pain & Suffering	Rs.50,000/-
	Total	Rs.2,93,010/-

However, the ‘work on’ of the compensation done by learned Tribunal at first instance and also the ‘additional work on’, after examination of witnesses in the additional evidence, do call for re-computation, as per settled prevalent law.

Suffice to consider that accident had taken place on 28.12.2014. Also, it is evident from the evidence, brought on record, about appellant-claimant Bharat Singh to have sustained injuries, in the accident in question. Appellant-claimant himself stepped into witness box and categorically deposed about the detail of the injuries and also further admitted about his admission in Bharat Hospital, Agroha Road, Barwala, at first instance, where from, he was shifted to N.C. Jindal Hospital, Hisar, where he remained admitted for a long time. Also further, various witnesses were examined, such like PW-1 Dr.Surender Gulia, PW-4 Dr.Amit Bhutani, PW-5 Dr.Anil Goyal, PW-6 Dr.Sanjay Sheoran and PW-7 Dr.Prasoon Kamra.

PW-1 Dr.Surender Gulia, Medical Officer, Bharat Hospital, has deposed about having medico-legally examined Bharat Singh on 28.12.2014 and proved his MLR Ex.P1. The patient was further referred to higher centre for management.

PW-5 Dr.Anil Goel, Medical Officer, Jindal Hospital deposed about Bharat Singh having admitted in their hospital on 29.12.2014, with alleged history of road side accident and he was diagnosed with open fracture both bone. He was operated on 01.01.2015. Debridement and external fixation was done. On 06.01.2015, would debridement and flap was done. He also

deposed that on 13.01.2015, flap and skin grafting was done and appellant-claimant was discharged on 22.01.2015 and also proved the treatment record. This witness further deposed that on 06.02.2015, again patient Bharat Singh was re-admitted with history of anterior tibial artery bleed and artery ligation was done on 13.02.2015 by Dr.Sanjay Sheoran and patient was discharged on 20.02.2015. He proved the treatment record. This witness also deposed that said patient was again re-admitted on 15.04.2015, with diagnosis of old fracture both bone leg non union with neglected fracture right hip. Bone grafting for right tibia was done on 16.04.2015 by Dr.Prasoon Kamra and he proved the treatment record. This witness had further given the details of the medical expenses incurred by the appellant-claimant.

PW-6 Dr.Sanjay Sheoran and PW-7 Dr.Prasoon Kamra further deposed in consonance with the manner of treatment, as deposed by PW-5 Dr.Anil Goyal. PW-7 Dr.Prasoon Kamra has also deposed about the patient having operated by him on 16.04.2015 in the form of rail road fixator and was discharged on 18.04.2015, with advise of total hip replacement, after healing of pin site infection. Furthermore, he deposed about rail road fixator procured from Raj Orthocare and proved the bill of the same.

PW-4 Dr.Amit Bhutani, Orthopedic Surgeon, Aarogya Hospital also deposed about admission of Bharat Singh in their hospital on 01.06.2015, with diagnosis of fracture dislocation right hip and he was operated on right hip and discharged on 06.06.2015 and further deposed about the medical expenditure incurred on the treatment. Also, further he deposed about re-admission of Bharat Singh on 15.07.2015 and P.O.P was done and he was discharged on 18.07.2015. He proved the discharge summary and further

this witness deposed that patient was operated on 17.08.2015 and discharged on 19.08.2015.

Besides the same, various medical bills were also tendered into evidence. The disability certificate Ex.P200 was proved, wherein, the disability was assessed to be 6% permanent. Again, the disability of the claimant was re-assessed on 03.03.2017 and his disability was assessed to be 66%, on account of total hip replacement right, equinus contractive ankle right, deep infection, scarring, limb length discrepancy, nerve palsy and pain. Copy of the disability certificate is Ex.P230.

Considering this extent of disability, learned Tribunal had considered the disability qua whole body as 33% and loss of earning capacity was taken as 20%.

Besides the aforesaid assessment made by learned Tribunal, it is pertinent to mention that various other witnesses were examined by the Tribunal, in the additional evidence, as ordered by this Court. PW-8 Dr.Parveen Chawla of Chawla Nursing Home, Hisar, was examined through video conferencing and he has deposed about the admission of Bharat Singh in their hospital on 06.03.2018 and he was operated upon and right leg below knee was amputated. The patient remained admitted in the hospital from 06.03.2018 to 10.03.2018 and proved the treatment record, which is Ex.PW8/A and further also tendered into evidence, the medical bills. Also, learned Tribunal had examined Dr.Asid Lllahi, Consultant Prosthesis and Orthotist as PW-9. He has also deposed about the fitment of the artificial limb (modular leg prosthesis TT), in the right leg of Bharat Singh and amount of Rs.1,44,000/- was charged from Bharat Singh vide tax invoice Ex.PW9/A.

Further also, after amputation of the right leg, the disability was again re-assessed on 20.06.2018 by the board of doctors and one of the member of board of doctors Dr.Sangeeta was examined, who has also proved the disability certificate, which is Ex.PW10/A. Perusal of the same reveals about the appellant-claimant to have been assessed with “® BKA” and the disability was assessed to be 70% permanent. This witness also clarified about the word ‘BKA’ to be referred to ‘right below knee amputation’.

Taking into consideration the previous disability certificate Ex.P230, where the disability was assessed to be 66%, on account of total hip replacement right, equinus contractive ankle right, deep infection, scarring, limb length discrepancy, nerve palsy and pain, it was observed by learned Tribunal that its unfortunate for the claimant, even though, he continued with the medical treatment, but his condition did not improve and infection in his right leg worsened, consequent upon which, he was unable to walk and resultantly, his right leg was amputated.

Considering the same, on account of disability, as such, no amount, was further enhanced, but however, on the ground of medical expenses, an amount of Rs.1,83,010/- was awarded. Besides the same, on the counts of ‘nourishing diet and attendant charges’, ‘transportation charges’ and ‘pain & suffering’, the compensation was awarded, as detailed aforesaid.

From the evidence adduced, it is evident that appellant had suffered multiple injuries, which also included fracture tibia and fabula, fracture meta tarsal 3rd and 4th open fracture of both bones and fracture in his right hip, resulting in total dislocation of hip bone. For the kind of injury suffered by him, even the surgical intervention was done, from time to time.

Anyhow, considering the kind of injuries suffered, which ultimately culminated into amputation of right leg, the compensation awarded by learned Tribunal, in two parts, firstly vide impugned Award as well as in the additional Award, to the extent, as detailed aforesaid, is too meagre.

It is pertinent to mention that though, there is no rule of absolute certainty to make assessment of the impact of injuries, but however, the metric for consideration is just and fair compensation. 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 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 other circumstances, such like, socio-economic conditions of the victim as well as kind of job, he was doing and the impact of injury, on his source of livelihood.

Now, reverting to the case in hand, it is required to be taken into consideration that total compensation awarded by learned Tribunal is Rs.6,75,515+2,93,010=Rs.9,68,525/-, which definitely calls for enhancement, more particularly, considering the age of the appellant-claimant. The appellant-claimant was in the age group of 25-26 years, at the relevant time. Even though, it is pleaded case that he was working as

Security Guard and also following the agricultural pursuit, after taking the land on contractual basis from Sher Singh, but very correctly, learned Tribunal had concluded about no evidence having come forth, to substantiate this source of earning of the appellant. Considering the same, learned Tribunal had appropriately considered the earnings of appellant-claimant as Rs.6000/- per month, as that of a labourer.

However, with regard to the extent of disability, it is pertinent to mention that it was the leg, which has been amputated and considering the same, with the loss of one leg, the field of labour also is bound to be very restrictive for the appellant. It shall be difficult for him to do the manual labour also and this field is again going to give him very little choice, to follow this kind of work. Considering the same and the loss of future income, the functional disability, very close to the proximate reality, is taken as 50%.

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.6000/- per month. Addition to the extent 40%, has to be made, on the count of 'future prospects', which is to the extent of Rs.2400/- and thus, the total monthly earnings comes to be Rs.8400/- per month, annual whereof, is Rs.1,00,800/-. Considering the age of the appellant-claimant, the suitable multiplier to be applied is '17' and thus, the extent of loss of earnings, on account of disability to be 50%, is worked upon as $\text{Rs.}100800 \times 17 \times 50\% = \text{Rs.}8,56,800/-$.

Besides the same, considering the long duration of time, since when the appellant after inflicting of the injuries, in the accident in question, remained under treatment, which ultimately let to amputation of his right

leg, there is bound to be loss of income, which in modest estimate is taken for two years and thus, compensation on this count is taken as $\text{Rs.}6000 \times 24 = \text{Rs.}1,44,000/-$.

The medical bills have been duly proved in evidence before learned Tribunal to the extent of Rs.3,18,715/-, at first instance and Rs.1,83,010/- by way of additional evidence, the total whereof comes to be **Rs.5,01,715/-** and the same has been appropriately awarded by learned Tribunal. As evident from the evidence, the appellant-claimant has also purchased prosthetic limb, for a sum of Rs.1,44,000/- and amount thereof, has also been calculated in the medical expenditure as worked upon by learned Tribunal, in the subsequent report.

However, it is pertinent to mention that appellant was 26 years old, at the time of accident. Considering his age, at the relevant time and considering the period of longevity, while extending the period of usage of prosthetic limb, while taking value of each prosthetic limb to be Rs.1,50,000/-, in the minimum, the appellant is bound to have six replacements and thus, an amount of **Rs.8,00,000/-** is awarded. Besides the same, 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 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, more particularly, considering the ultimate amputation of his right leg. 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 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 is a life-long process, the multiplier of '17' is applied and thus, an amount of $\text{Rs.}24,000 \times 17 = \text{Rs.}4,08,000/-$, which is rounded off as **Rs.4,00,000/-**, is awarded, on the count of 'attendant charges'.

During the period of his hospitalization, several rounds, must have been made to the hospital for taking care of the appellant-claimant and after discharge also, many trips must have been required to be made to the hospital. He also, many a times, may require future trips to be made, while affixation and taking care of the prosthetic limb. Considering the same, the compensation on the count of 'transportation' is enhanced to the extent of **Rs.60,000/-**.

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.50,000/-**.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant-Bharat Singh, is re-computed, as herein given:-

1. Loss on account of disability Rs.8,56,800/-

2.	Loss of earnings	Rs.1,44,000/-
3.	Medical Bills	Rs.5,01,715/-
4.	Prosthetic limb	Rs.8,00,000/-
5.	Maintenance of prosthetic	Rs.2,00,000/-
6.	Pain and suffering	Rs.2,00,000/-
7.	Attendant charges	Rs.4,00,000/-
8.	Transportation charges	Rs.60,000/-
9.	Special diet	Rs.50,000/-
	Total	Rs.32,12,515/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.32,12,515-9,68,525=Rs.22,43,990/-**. On the enhanced amount of compensation, i.e. **Rs.22,43,990/-**, 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.

With the above observations, the present appeal stands allowed.

November 18, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No