2025:PHHC:130174

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4379-2018 (O&M)
Reserved on: 03.09.2025
Pronounced on: 19.09.2025

ALI HUSSAIN …..**Appellant**

Vs

RAJINDER RAINA AND ORS. …..**Respondents**

CORAM: ***HON'BLE MR. JUSTICE HARKESH MANUJA***

Present: Mr. Ashwani Arora, Advocate
for the appellant.

Mr. Banni Thomas, Advocate
for respondent No. 3- New India Insurance Company.

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HARKESH MANUJA, J.

CM No. 14949-CII of 2018

For the reasons stated in the application, the same is allowed. The delay of 1 day in filing the present appeal is condoned.

Main Case

[1]. By way of present appeal, challenge has been laid to an award dated 14.11.2017 passed by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter to be referred as "the Tribunal"), whereby an amount of Rs. 13,81,829/- as compensation was awarded to the appellant/claimant along with interest @ 9% per annum.

Brief Facts

[2]. Appellant being injured, filed claim petition before the Ld. Tribunal praying for grant of compensation to the tune of Rs. 1,00,00,000/- (Rupees one crore only) along with interest on account of injuries received by him in a motor vehicular accident which took place on 22.03.2015 while alleging rash and negligent driving of respondent No.1/driver.

[3]. After going through the claim petition and evaluating the evidence led by both the parties, learned Tribunal vide award dated 14.11.2017, arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No.1/driver and awarded compensation in the following manner:-

S.No.	**Heads of Claim**	**Amount (in Rs.)**
1.	Loss of earning capacity	Rs. 11,75,040/-
2.	Medical Treatment/expenditure	Rs. 1,06,789/-
3.	Expenses relating to transportation, nourishing food, and miscellaneous expenditure expenses	Rs. 50,000/-
4.	Damages for pain, suffering and trauma as a consequence of the injuries.	Rs. 50,000/-
	Total	**Rs. 13,81,829/-**

[4]. Being aggrieved against the aforesaid award dated 14.11.2017, the present appeal has been preferred by the appellant/claimant for enhancement of compensation. Facts as specified in the claim petition and the issue regarding negligence of the driver been recorded in favour of the appellant/claimant by the ld. Tribunal being not in dispute, therefore, for the sake of brevity, those are not repeated here.

Arguments

[5]. Learned counsel for the appellant/claimant has submitted that the appellant/claimant being a professional wrestler apart from doing dairy farming, was earning Rs. 1,20,000/- per month; had taken a vehicle on loan and was paying Rs. 10,170/- as monthly installment, therefore, the ld. Tribunal erred in assessing the monthly income of the appellant as only Rs.7,200/- per month. He also argued that ld. Tribunal failed to add 40% as future prospects to his income in view of the settled law. He concluded his argument by submitting that not only compensation granted for transportation, attendant charges and nutritious diet was on lower side and liable to be enhanced, but compensation awarded under non-pecuniary headings was also on the lower side.

[6]. Per contra, learned counsel for the respondent No.3/Insurance Company vehemently argued that the appellant has been adequately compensated, thus, the present appeal is liable to be dismissed.

Discussion

[7]. I have heard learned counsel for the parties and perused the paper book of the case. I find force in the arguments advanced by learned counsel for the appellant/claimant.

On the aspect of enhancement of compensation

Assessment under "loss of income" and "future income"

[8]. To prove his case, appellant/claimant tendered in evidence his affidavit as Ex.PW1/A, copies of medical bills as Ex.P1 to Ex.P140, charge sheet as Ex.P141, challan as Ex.P142, copy of FIR as Ex.P143, OPD cards as Ex.P144 to Ex.P165, General Master Sheet as Ex.P166, sale deed as Ex.P167, pass book of Andhra Bank as Ex.P168, photographs as Ex.P169 to Ex.P174, Disability Certificate as Ex.PW6/A and balance sheet as Ex.PW2/A.

[8.1]. In the present case, appellant/claimant suffered serious injuries i.e. Femur fracture on right side of arm (upper limb), facial injury (bone fracture near right eye) and skull fracture besides other multiple injuries. It was stated in his affidavit that he remained admitted in PGI, Chandigarh from 26.03.2015 to 08.04.2015, and was again admitted from 15.03.2016 to 16.03.2016, which was corroborated from the statement of Dr. Ragvendra, Sr. Resident, Department of Plastic Surgery, PGI Chandigarh (PW-4) and his injuries were also supported by documentary evidence in the shape of OPD cards (Ex.P144 to Ex.P165) as well as from the statement of Dr. Poorna, Sr. Resident, Department of Orthopaedic, PGI Chandigarh (PW-3). Further, a perusal of the disability certificate of the injured shows that the appellant suffered permanent disability to the extent of 84% along with 30% locomotor disability and 75% low vision/blindness besides 20% 6th and 7th right nerve palsy was also proved on record, which was corroborated from the statement of Dr. Rajesh Chabbra, PGI Chandigarh (PW-6), who deposed that the disability was permanent in nature and not likely to improve. Thus, in such facts it would not be over jealous to assume that learned Tribunal erred while assessing that injured suffered future loss of income @ 80%; whereas keeping in view the fact that injured was 30 years of age and suffered physical/mental impairment as evident from his disability certificate, it would be just and fair if the future loss of income/functional disability is assessed @ 100%.

[8.2]. To substantiate the income of the appellant/claimant, his bank statements were brought on record to show that he was paying Rs. 10,170/- as EMI for the car besides having examined Sh.Ashish Shukla, Assistant Branch Manager, Andhra Bank as PW-2, but the material brought on record by the appellant/claimant was discarded by the ld. Tribunal in the absence of any conclusive proof regarding the income of the deceased and assessed his income as Rs. 7,200/- per month.

[8.3]. However, in the humble opinion of this Court, it appears that the Ld. Tribunal failed to appreciate that the Motor Vehicles Act, 1988 is a benevolent legislation and therefore strict rule of evidence cannot be applied. It cannot be reasonably believed that a person who was paying Rs. 10,170/- as EMI for the car, could be earning only Rs. 7,200/- per month. Apart from the EMI being paid by him, not only he must be bearing his own daily expenses including the expenses to pursue his profession, he must have been extending some portion of the income to his wife as well. Support in this context can also be drawn from ***"Gurpreet Kaur and Ors. Vs. United India Insurance Company Ltd. & Ors."*** reported as ***2022 SCC Online SC 1778***, wherein Hon'ble Apex Court upheld the order of the Ld. Tribunal assessing the income of the deceased on the basis of EMI being paid by him and observed that since the deceased was regularly making the payment of Rs.11,550/- as installment to discharge his loan liability towards the Tractor, it clearly established the earning capacity of the deceased. Relevant extract from this judgment is reproduced hereunder:-

> *"9. In our considered view, the Tribunal's approach is quite justified in law as well as on facts. In the summary proceedings where the approach of the Tribunal's determination must be in conformity with the object of the welfare legislation, it was rightly held that the monthly income of the deceased could not be less than Rs. 25,000/-. The reason assigned by the High Court to reduce the monthly income of the deceased is totally cryptic and has no rationale. The Notification of Minimum Wages Act can be a guiding factor only in a*

> *case where there is no clue available to evaluate monthly income of the deceased. Where positive evidence has been led, no reliance on the Notification could be placed, particularly when it was nobody's case that the deceased was a labourer as presumed by the High Court."*

[8.4]. Accordingly, taking into consideration the fact that the evidence led by the appellant/claimant that he was earning Rs. 1,20,000/- per month by pursuing dairy farming as well as professional wrestling and paying EMI of Rs. 10,170/- per month, his income can be reasonably taken as Rs. 20,000/- per month.

[8.5]. Therefore, this Court after giving anxious thoughts to the facts and circumstances of the present case and as per PW.1/A the appellant/claimant having remained admitted in PGI, Chandigarh from 26.03.2015 to 08.04.2015, and was again admitted from 15.03.2016 to 16.03.2016 (15 days in total), and as such loss of income suffered by him during the said hospitalization period is assessed as Rs.10,000/- (round off) (Rs. 20,000/30= 667 x 15). Further, compensation under the head of 'loss of future income' after applying the multiplier of 17 as injured was 30 years of age at the time of motor vehicular accident comes to Rs. 40,80,000 (Rs. 20,000 x 12 x 17 x 100/100).

Assessment under "medical expenses/hospitalization"

[9]. In the present case, appellant/claimant suffered serious injuries i.e. Femur fracture on right side of arm (upper limb), facial injury (bone fracture near right eye) and skull fracture besides other multiple injuries. Further, a perusal of disability certificate (Ex.PW6/A) of the injured shows that he suffered 100% permanent and functional disability due to injuries sustained by him in the

accident. Even though appellant could produce medical bills amounting to Rs. 1,06,789/- only but keeping in mind the cost factor prevalent at the time of motor vehicular accident and treatment; permanent disability suffered due to stiffness in shoulder, retinitis pigmentosa and 6th and 7th right nerve palsy besides need of medicines during rehabilitation period, the compensation under this head needs to be reassessed. This fact even finds force from the fact that due to shock and mental agony on account of accident, a person cannot be presumed to be vigilant enough to collect all the bills for claim/reimbursement purposes. Thus, compensation under this head is assessed as Rs. 3,00,000/-. In this regard, reliance can be placed upon the decision rendered by the Hon'ble Supreme Court in Civil Appeal No.735 of 2020, titled as ***"Kajal vs. Jagdish Chand and others,*** 2020 INSC 135 ***"***

Assessment under "Pecuniary headings"

[10]. Admittedly, the injured remained in hospital for a period of 15 days and would have definitely went for his post-operative care. Thus, compensation granted for special diet and conveyance charges @ Rs. 50,000/- is very less and no compensation is granted under the head of attendant charges. Therefore, compensation granted under these heads is reassessed @ Rs. 2,00,000/-.

Assessment under "non-pecuniary headings"

[11]. In the present motor vehicular accident, appellant/claimant suffered injuries for which he went into the phase of obtaining treatment, assuming it to be for a period of 12 months and seriously diminished his future earning capacity and even had psychological implications in lieu of 100% permanent and functional disability. In injury cases compensation for mental agony and pain and suffering cannot be assessed with mathematical certainty and even no amount of compensation can restore the injured person's physical frame and eradicate or

ameliorate the agony suffered by the injured. The Hon'ble Supreme Court in case of ***"Divya vs. The National Insurance Co.Ltd."*** reported as ***2022 (4) Law Herald (SC) 3479,*** held that in cases of exceptional circumstances where pain and suffering and loss of life amenities (and/or loss of marriage prospects) are beyond quantification for the remaining life of the injured, it would be just for the Court to take extra-ordinary measures to render justice and in this case the Hon'ble Supreme Court granted compensation under the aforementioned heads to the tune of Rs. 6,00,000/- (Rs. 3,00,000/- each).

Therefore, appellant/injured being 30 years of age is awarded Rs. 3,00,000/- on account of 'pain and suffering' and Rs. 3,00,000/- for 'loss of amenities and enjoyment of life.'

Conclusion

[12]. In view of what has been discussed hereinabove, the appellant/claimant shall be entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Loss of Income (15 days)	Rs. 10,000/-
2.	Loss of future earning capacity/income [100% disability] of total income	Rs. 40,80,000/-
3.	Medical Expenses/Hospitalization	Rs. 3,00,000/-
4.	Compensation under pecuniary headings	Rs. 2,00,000/-
5.	Compensation under non-pecuniary headings	Rs. 6,00,000/-
	Total Compensation	**Rs. 51,90,000/-**
	Amount Awarded by the Tribunal	**Rs. 13,81,829/-**
	Enhanced Compensation	**Rs, 38,08,171/-**

[13]. The grant of interest @ 6% per annum is not equitable and just in view of the observation made by the Hon'ble Supreme Court in ***Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513***

approved in a subsequent judgment titled as ***Puttamma and others Vs. K.L. Naryana Reddy and another, 2014 (1) RCR (Civil) 443,*** thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimant from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

[14]. In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s) if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

September 19, 2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/ No