FAO Nos.4560 & 2853 of 2018 (O&M)

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

Reserved on: 05.12.2025
Pronounced on: 24.12.2025
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FAO No.4560 of 2018 (O&M)

PINKI **......Appellant(s)**
Vs
HARPREET SINGH AND ORS. **....Respondent(s)**

2. **FAO No.2853 of 2018 (O&M)**

NATIONAL INSURANCE CO. LTD. **......Appellant(s)**
Vs
PINKI AND ORS. **....Respondent(s)**

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

Present: Mr. Yogesh Gupta, Advocate
for the appellant in FAO No.4560 of 2018 and
for respondent No.1 in FAO No.2853 of 2018.

Mr. H.S. Gharoon, Advocate for
Mr. A.K. Goyal, Advocate
for the appellant in FAO No.2853 of 2018 and
for respondent No.3 in FAO No.4560 of 2018.

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HARKESH MANUJA, J.

[1]. Vide this common judgment, the above noted two appeals, bearing FAO No.2853 of 2018 and FAO No.4560 of 2018 impugning the award dated 24.01.2018 passed by the learned Motor Accident Claims Tribunal, S.A.S. Nagar (hereinafter referred to as “the Tribunal”), shall be decided. For convenience, facts are being taken from FAO No.4560 of 2018.

FACTS

[2]. The appellant, being injured filed a claim petition before the learned Tribunal praying for grant of compensation on account of injuries suffered by her

in a motor vehicular accident which took place on 08.12.2016 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 24.01.2018, arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No.1 and awarded compensation in the following manner:-

S.No.	Heads of claim	Amount (in Rs.)
1	Monthly Income	Rs. 6,000/-
2	40% Future Prospects	Rs. 2,400/-
3	Multiplier	16
4	Functional Disability	80%
5	**Loss of Future Earnings (8,400 x 12 x 16 x 80/100)**	**Rs. 12,90,240/-**
6	**Medical Bills**	**Rs. 40,705/-**
7	**Future Medical Expenses & Artificial Limb (including maintenance & replacement)**	**Rs. 10,00,000/-**
8	**Pain Suffering**	**Rs. 1,00,000/-**
9	**Transportation & Special Diet**	**Rs. 50,000/-**
10	**Attendant**	**Rs. 30,000/-**
11	**Loss of Amenities**	**Rs. 50,000/-**
12	**Loss of expectation of life**	**Rs. 50,000/-**
	Total Compensation	**Rs. 26,10,945/-**

[4]. The said award dated 24.01.2018 has been challenged by way of present two appeals.

<u>ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT/CLAIMANT</u>

[5]. Learned counsel for the appellant/claimant assailed the award while submitting that in the given facts, the compensation awarded by the learned Tribunal was on the lower side. It was further submitted that the learned Tribunal

gravely erred in assessing the functional disability of the appellant at only 80%, despite uncontroverted evidence that her left leg was amputated above the thigh; besides she also suffered fracture in the right leg and multiple serious injuries, rendering her completely incapacitated to stand, walk or perform her avocation and day-to-day activities, thus the functional disability should have been assessed at 100%. He further contended that the learned Tribunal erred in assessing the monthly income of the appellant @ Rs. 6,000/- only, ignoring the fact that she was engaged in tailoring work in addition to household work. Furthermore, it was submitted that the compensation awarded under various heads such as permanent disability, medical expenses (past and future), pain and suffering and loss of amenities of life was grossly inadequate, considering the prolonged hospitalization, multiple surgeries, continued treatment and the lifelong hardship suffered by the appellant. Therefore, learned counsel prayed that the present appeal be allowed and compensation be enhanced, as per latest decisions on the subject.

ON BEHALF OF LEARNED COUNSEL FOR APPELLANT/RESPONDENT NO.3/ INSURANCE COMPANY

[6]. Per contra, learned counsel for the respondent/ Insurance Company, vehemently argued that the impugned award was highly excessive and contended that the learned Tribunal fell in error while awarding a whopping sum of Rs. 26,10,945/- as compensation and as such the same was liable to be set aside.

DISCUSSION

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

[8]. Before determining the quantum of compensation, it is essential to draw guidance from the principles laid down in similar cases by the Hon'ble Apex Court. In ***"Raj Kumar vs. Ajay Kumar and Ors***." reported ***as (2011) 1 SCC 343*** the Court laid down the heads under which compensation is to be awarded for personal injuries.

> *"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, the compensation will 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".*

ON THE ASPECT OF ENHANCEMENT OF COMPENSATION ASSESSMENT UNDER "LOSS OF INCOME"

[9]. A perusal of the record in the case in hand reveals that the appellant/claimant was 34 years of age at the time of the accident and earning Rs. 10,000/- per month by doing tailoring work besides being a homemaker providing household services to her husband, children and other family members. However, the learned Tribunal assessed the monthly income of the claimant/appellant @ Rs. 6,000/- per month in the absence of documentary evidence on record. In this regard, the observations made by the Hon'ble Apex Court in case ***Civil Appeal No. 5221 of 2025*** titled as ***"Parameswaran vs. Sunny George"*** to the effect that in such cases, notional income of a home maker is to be reasonably assessed for the purpose of calculating just compensation in a claim under section 166 of the Motor Vehicles Act, needs to be kept in mind.

[9.1]. In the present case, deceased was a homemaker and her income was assessed as Rs.6,000/- per month, which appears to be on lower side. In case of ***"Laxmidhar Nayak v. Jugal Kishore Behera"*** reported as ***(2018) 1 SCC 746,*** notional income of house wife-cum-agricultural labour, who died in the year 1991 was considered as Rs. 4,500/- per month. (Due to passage of so many years, there would be substantial hike in the minimum wages of ordinary labours).

[9.2]. Even in the case of ***"National Insurance Co. Ltd. vs. Dhan Singh"*** reported as ***2019 (3) PLR 301,*** notional income of housewife was assessed @ Rs.11,000/- per month by this Court while awarding compensation in relation to an accident dated 20.09.2017.

[9.3]. In view of the aforesaid discussion, this Court is of the considered opinion that the notional income of the appellant/claimant needs to be assessed @

Rs. 10,000/- per month (Rs. 333.33 per day). Now, as per the statement of appellant/claimant who appeared as PW1, she remained in hospital from 09.12.2016 to 05.01.2017 i.e. 27 days and as such loss of income suffered by her during the said hospitalization period is assessed as Rs. 9,000/- (333.33 x 27). Further, evidently the motor vehicular accident in the present case took place on 08.12.2016; taking into account the injuries suffered by the appellant/claimant, she must have been bed-ridden for six months after the accident. Thus, it would be safe to assume that appellant would have suffered loss of income for the period of six months due to reduced working capacity. Therefore, after considering the facts and circumstances of the present case, loss of income for the said period is conservatively assessed @ Rs. 59,999.4 (333.33 x 180). Furthermore, though, the appellant/claimant has suffered 80% disability, yet it being a case of amputation of left leg above thigh it would be just and fair if the future loss of income/functional disability is assessed @ 70%. Additionally, the Hon'ble Supreme Court, in the case of ***"Pappu Deo Yadav v. Naresh Kumar"*** reported as ***2020 INSC 553*** held that in cases where a claimant suffers permanent disability due to a motor vehicle accident, compensation may be awarded not only for the future loss of income but also towards future prospects.

[9.4]. A perusal of record shows that the age of appellant/claimant at the time of accident was 34 years. The computation of future prospects is to be done as per the law laid down by a Constitution Bench of the Hon'ble Supreme Court in ***"National Insurance Co. Ltd. v. Pranay Sethi"*** reported as ***(2017) 16 SCC 680*** para 59.3, which records the conclusion in this regard, reads as under:-

> *"59.3 While determining income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the*

> *deceased had a permanent job and was below the age of 40 years should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should read as actual salary less tax."*

[9.5]. In view of the above discussion, the appellant/claimant in addition to the loss of future earnings, shall also be entitled to compensation for loss of future prospects @ 40%. Therefore, the income of the appellant/claimant after adding future prospects be taken @ Rs. 14,000/-(10,000 + 4,000) per month for the purpose of calculation of compensation. Accordingly, this Court finds that the compensation payable for the functional disability to the extent of 70% is assessed @ Rs.18,81,600/- (14,000 x 12 x 16 x 70/100).

<u>ASSESSMENT UNDER "MEDICAL EXPENSES/HOSPITALIZATION"</u>

[10]. In the present case, the appellant/claimant suffered disability to the extent of 80% of the left leg due to amputation, which has been established from the disability certificate proved on record as Ex.P2 by Dr. Saurav Aggarwal, Sr. Resident Orthopaedic Department PGI, Chandigarh and Dr. Parveen Puri, Medical Officer who appeared as PW-3. The appellant/claimant has also proved on record medical bills Ex.P6 to Ex.P72, which show that the appellant/claimant spent an amount of Rs. 40,705/- on her treatment. Therefore, keeping in mind the cost factor prevalent at the time of motor vehicular accident and the treatment besides need of medicines during rehabilitation period, the compensation under this head needs to be reassessed. The aforesaid view 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, though, total bills proved are for Rs.40,705/- yet in the humble opinion of this Court, compensation under this head is assessed as Rs. 1,00,000/-.

So far as the artificial limb is concerned, the appellant/claimant has examined PW4, Joginder Kumar Verma from Deep Artificial Limb Center, who deposed that the appellant/claimant was the case of left above knee amputation and thus required above knee prosthesis and the witness had suggested her left above knee prosthesis for her left leg, costing Rs. 7,08,000/- including all expenses. This witness also proved on record the original quotation for such treatment as Ex.P4. He further deposed that after the fitment of the above said prosthesis, the patient requires annual maintenance for the above said prosthesis after a year, which costs around Rs. 25,000/- to Rs. 30,000/- per annum. In these circumstances, in the humble opinion of this Court, compensation under the head of future medical expenses against artificial limb is assessed as Rs.15,00,000/-

ON THE ASPECT OF PAIN AND SUFFERINGS

[11]. For assessing just compensation under the head of pain and sufferings, reference may be drawn to the decision of the Hon'ble Supreme Court in ***K. Murlidhar vs. R. Subbulakshmi & Anr., 2024 INSC 886,*** wherein it was held that the award of compensation under non-pecuniary heads must be reasonable and commensurate with gravity of the injuries suffered; the extent of disability; the duration of hospitalization, and the mental and physical agony endured by the claimant. Relevant portion of the same is reproduced 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."

[11]. In view of the settled law laid down by the Hon'ble Apex Court in ***Muralidhar's case (supra),*** and taking into account the peculiar facts and circumstances of the case, especially when as per the deposition of PW-5 Sr. Resident Orthopedic Department, PGI, Chandigarh, Dr. Saurav Aggarwal, the appellant was admitted in PGI on 08.12.2016 with the injury on left mangled lower limb and lacerated wound on the right leg; besides she was also operated upon on 09.12.2016 and her left leg above knew was amputated. More than that, Dr. Parveen Puri, Medical Officer who appeared as PW-3 proved on record the disability certificate as Ex.P2, as per which, she was found to be having 70% permanent disability. Thus, this Court is of the opinion that an amount of Rs. 3,00,000/- is awarded under the head of pain and sufferings.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

[12]. Admittedly, the injured was bed ridden for 6 months as he was operated upon and would have definitely gone for her post-operative care. However, learned Tribunal failed to grant adequate compensation under the head of special diet, conveyance charges and attendant charges. Therefore, compensation granted under these heads is reassessed @ Rs.1,00,000/.

CONCLUSION

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

Sr.No.	Nature	Amount in Rupees
1.	Loss of Income (Rs. 9,000+ Rs. 59,999.4 + Rs. 18,81,600)	Rs.19,50,599.4
2.	Medical Expenses/Hospitalization (1,00,000 + 15,00,000)	Rs.16,00,000/-
3	Compensation under other pecuniary head	Rs.1,00,000/-
4.	Compensation under pain and sufferings	Rs.3,00,000/-
	Total Compensation	**Rs. 39,50,599.4**
	Amount Awarded by the Tribunal	**Rs. 26,10,945/-**
	Enhanced Amount	**Rs. 13,39,654.4 (rounded off to Rs.13,39,655/-)**

[14]. In the view of the observations made by the Hon'ble Supreme Court in ***"Smt. Supe Dei and others vs. National Insurance Company Limited and other,*** reported as ***(2009) (4) SCC 513*** approved in a subsequent judgment titled as ***"Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443,*** the grant of interest @ 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization is justified. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimants shall be deducted from the enhanced compensation.

[15]. Accordingly, the appeal filed at the instance of Insurance Company is hereby dismissed and the appeal for enhancement filed at the instance of

claimant/appellant is disposed of in view of the aforesaid modification of the award passed by the learned Tribunal.

[16]. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

December 24, 2025
Atik

Whether speaking/reasoned Yes/No
Whether reportable Yes/No