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

FAO-5097-2002
Date of Decision: 02.07.2026

KAMAL MEHANDIRATTA

.... Appellant

VERSUS

JAMUNA SHAW AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present*:* Ms. Ekta Thakur, Advocate and
Ms. Pawandeep Kaur, Advocate
for the appellant.

Mr. Sandeep Suri, Advocate
for respondent No.3-National Insurance Co. Ltd.

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YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 27.08.2002 passed by Motor Accident Claim Tribunal, Chandigarh (**for short "Tribunal"**) for enhancement of compensation awarded in MACT Case No.86/171 of 2000 in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,36,000/- has been awarded as compensation to the claimant/appellant along with interest @ 9% per annum on account of injuries suffered by him in a motor vehicular accident which took place on 30.03.2000, due to rash and negligent driving by respondent No.1, while driving offending vehicle bearing

No.WB-03A-6399 **(for short 'offending vehicle')**, owned by respondent No.2, which was insured with respondent No.3.

2. From the pleadings of parties, following issues were framed by the learned Tribunal:-

> *"1) Whether the accident in which petitioner Kamal Mehndiratta suffered injuries and Shri Arun Mehndiratta died had taken place on account of rash and negligent driving of Tata Diesel Truck No.WB-03A-6399 by respondent No.1?OPP.*
>
> *2) If issue No.1 is proved, whether petitioners are entitled to compensation, if so to what amount and from whom? OPP.*
>
> *3) Whether respondent No.1 was not holding a valid and effective driving licence on the date of accident? If so, to what effect? OPR.*
>
> *4) Relief."*

3. Thereafter, the parties led evidence in support of their case.

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,36,000/- as compensation to the claimant, on account of injuries suffered by him along with interest @ 9% per annum from the date of filing of claim petition till realization, payable by respondents No.1 to 3 jointly and severally.

5. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.

6. The only issue required to be determined in the present

appeal relates to the assessment of compensation. Therefore, the entire facts regarding the manner of the accident are not required to be reproduced in detail, as the Tribunal has already held under Issue No.1 that the accident had occurred due to the rash and negligent driving on the part of respondent No.1, while driving offending vehicle bearing No.WB-03A-6399, which was owned by respondent No.2 and insured with respondent No.3. No appeal or cross-objections have been filed by the respondents, challenging the said finding and accordingly, finding on issue No.1 is not required to be interfered with and the same is affirmed.

7. Learned counsel for the appellant argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation which is grossly inadequate. The claimant had suffered 30% permanent disability and he has been awarded a total compensation of Rs.1,36,000/- for permanent disability, expenses incurred on treatment/physiotherapy, medicines, transportation and special diet. Learned counsel further argued that adequate compensation has not been awarded under pecuniary and non-pecuniary heads and same is liable to be enhanced. In support of his contentions, learned counsel for the appellant has relied upon 2014 (1) RCR (Civil) 914 **Sanjay Verma Vs. Haryana Roadways,** 2009(6) SCC 121 **Sarla Verma and others Vs. Delhi Transport Corporation and Another** and 2017 (16) SCC 680 **National Insurance Co. Ltd Vs. Pranay Sethi and Others**.

8. On the other hand, learned counsel for respondent No.3

argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

9. As per version of claimant, he had suffered grievous injuries in the accident in question including 30% permanent disability as assessed by All India Institute of Medical Sciences, New Delhi. He was a graduate in Hotel Management and was 21 years of age and has suffered loss of income as he is not getting any employment.

10. To prove the injuries, claimant has led in evidence the medical report Ex.P11 issued by AIIMS, New Delhi, which shows that he was admitted in the hospital on 30.03.2000 with multiple injuries. He had suffered fracture in nasal bone and fracture in left shoulder besides injuries on his left side of the face. He also tendered in evidence follow-up treatment card Ex.P17, which shows that he continued taking treatment and physiotherapy on 08.08.2000. Ex.P18, Ex.P19, Ex.P21, Ex.P23, Ex.P24 are the treatment cards of the AIIMS and Ex.P20 and Ex.P26 are prescription slips of a private doctor. While appearing as PW2, he deposed that his left hand does not work and he feels severe pain. He had qualified in the course of Hotel Management and had worked with Lea Meridan Hotel and Surya Hotel but now he is unemployed and does not get selected. He has also tendered in evidence disability certificate Ex.P13 issued by AIIMS, New Delhi, which shows that he had suffered 30% permanent physical impairment in relation to

left upper limb. It has been specifically mentioned in the said certificate that his condition is not likely to change or improve. Learned Tribunal held that he has suffered 30% permanent disability in relation to a particular limb and his disability qua whole body comes to 10%. His monthly income was assessed as Rs.5,000/- and taking into consideration 10% disability in relation to whole body, it was held that he will suffer loss of income of Rs.500/- per month i.e. Rs.6,000/- per annum and after applying multiplier of 16, a sum of Rs.96,000/- was awarded on account of loss of income due to permanent disability. Besides this, he was awarded Rs.30,000/- for expenses incurred on treatment/physiotherapy while another sum of Rs.10,000/- for medicines, transportation and special diet and in all, he was awarded a sum of Rs.1,36,000/- as compensation.

11. However, in my considered opinion, the compensation awarded to the claimant is grossly inadequate. The claimant had suffered fracture in his nasal bone as well as in his left shoulder besides injuries on his face. It is a matter of common knowledge that pain component in such injuries is enormous and such injuries take a long time to heal. It must have taken at least four months for the injuries to heal and taking into consideration the severity of injuries, claimant is held entitled to a sum of **Rs.25,000/-** on account of **'pain and sufferings'**.

12. As per disability certificate Ex.P13 issued by AIIMS, New Delhi, claimant has suffered 30% permanent disability in relation to left upper limb. No doubt the injury has been suffered in relation to a

particular limb and same does not pertain to the whole body yet it will certainly diminish his earning capability as he will not be able to do any work and his earning capability will certainly be diminished at least by 20%. The compensation under the head 'loss of income' thus has to be assessed keeping in view the percentage by which his earning capability has been diminished and by applying a suitable multiplier in view of law laid down by Hon'ble Supreme Court in 2010(4) PLR 242 **Yadava Kumar Vs. The Divisional Manager, National Insurance Company Limited**.

13. Hon'ble Supreme Court in 2013 (3) RCR (Civil) 934 - **G.Ravindranath @ R. Chowdary Vs. E. Srinivas and another**, has held that in a case of accident resulting in injuries to the victim, the compensation in personal injury cases should be determined under the following heads:-

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing expenditure. food and miscellaneous

(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 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.

14. The tribunal has held his monthly income to be Rs.5,000/-, which is too on lower side. The claimant was graduate in Hotel management but no cogent evidence was led on record to establish his income and in these circumstances, some amount of guesswork has to be applied while assessing the monthly income and accordingly, his monthly income is assessed as **Rs.7,500/-** per month.

15. Claimant was 21 years of age on the date of accident. Accordingly, 40% of amount has to be added to his monthly income towards future prospects in view of law laid down in **Sanjay Verma's case (supra)** and **Pranay Sethi's case (supra)** and after adding the same, his monthly income comes out to **Rs.10,500/- per month (Rs.7,500/- + Rs.3000/-)**.

16. Claimant has suffered permanent disability to the extent of 20% and the monthly loss of income will thus come to **Rs.2,100/- (Rs.10,500/- X 20%)** and '**annual loss of income**' will come out to **Rs.25,200/- per annum (i.e. Rs.2,100/- X 12)**.

17. As per the claim petition, claimant was 21 years of age and in view of law laid down in **Pranay Sethi's case (supra)** and **Sarla Verma's case (supra),** the multiplier of 18 has to be applied which takes the compensation to **Rs.4,53,600/- (Rs.25,200/- X 18)** on account of '**loss of income**' due to permanent disability.

18. It must have taken at least four months for the injuries to heal and during this period, claimant would not have been able to do any job and must have suffered loss of income and he is entitled to a sum of **Rs.30,000/-** on account of '**loss of income during the period of treatment'**

19. During this period, he must have spent some amount on transportation, special diet and in engaging an attendant and he is accordingly held entitled to a sum of **Rs.20,000/-** under these heads.

20. Claimant was unmarried and a young boy of 21 years of age and this disability in his left upper limb is going to remain with him throughout his life. Accordingly, the claimant is held entitled to a sum of **Rs.25,000/-** on account of '**loss of amenities**'.

21. Resultantly, the compensation to be awarded by this Court is assessed as under:-

Sr. No.	Head	This Court (₹)
1.	Loss of future income/ permanent disability	Rs.4,53,600/-
2.	Pain & suffering	Rs.25,000/-
3.	Transportation, special diet and attendant charges	Rs.20,000/-
4.	Loss of income (treatment)	Rs.30,000/-
5.	Loss of amenities	Rs.25,000/-
	Total	**Rs.5,53,600/-**
	Interest	**9%**

22. Resultantly, the appeal in hand is partly accepted with costs and appellant/claimant is held entitled to a sum of **Rs.5,53,600/-** as compensation. The enhanced compensation thus comes out to **Rs.4,17,600/- (Rs.5,53,600/- - Rs.1,36,000/-) (rounded off to Rs.4,18,000/-)** over and above the compensation awarded by the Tribunal along with interest at the rate of 9% per annum from the date of filing of claim petition i.e. 18.07.2000 till realization payable by respondents No.1 to 3 jointly and severally.

23. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of directions issued by the Hon'ble Supreme Court in Writ Petition (Civil) No.534 of 2020 titled "**Bajaj Allianz General Insurance Company Versus Union of India and others**", decided on 16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said

judgment.

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

(YASHVIR SINGH RATHOR)
JUDGE

02.07.2026
Priyanka Thakur

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