



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

105

**(1) FAO No.156-2003
Date of decision :17.03.2026**

PARMOD KUMAR

...APPELLANT

VERSUS

MUSTAKEEM AND OTHERS

...RESPONDENTS

(2) FAO-5429-2002

VIPAN KUMAR

...APPELLANT

VERSUS

MUSTAKEEM AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sanjay Jain, Advocate
for the appellant(s).

Mr. Aseem Aggarwal, Advocate
for the respondent No.4-Insurance Company.

PARMOD GOYAL, J. (ORAL)

1. Appellants-claimants have filed present appeals which are being taken up together as both the claim petitions preferred by appellants-claimants arose out of the same accident and were decided by common impugned award dated 10.08.2002, passed by learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as '**Tribunal**'). Appellants-claimants in FAO No.156 of 2003 and FAO No.5429 of 2002 being injured are aggrieved by the grant of compensation of Rs.86,300/- and Rs.44,200/- respectively by learned Tribunal and have sought enhancement of compensation.

2. Injured Parmod and Vipan suffered injuries in motor vehicular accident which took place on 25.06.2000 on account of rash and negligent driving by respondent No.1 while driving truck bearing registration No. HR-07-1593 (hereinafter referred to as '**offending truck**').

3. Appellant-claimant is aggrieved by the grant of compensation and have sought enhanced compensation. However, learned counsel for respondent No.4 has argued that sufficient amount has already been given as compensation in the present case and there is no scope for any enhancement.

4. It is the case of the injured appellant-claimant that on 25.06.2000 at about 01:30 p.m. injured Vipan was riding motorcycle with injured Parmod Kumar as pillion rider. When they reached near sugarcane centre near Chuaharpur Kalan then suddenly offending truck being driven in rash and negligent manner came at high speed from Chhraulhi side on the wrong side of the road and rammed against the motorcycle of the injured. As a result, the motorcycle got damaged and the claimants- appellants suffered multiple injuries. Learned Tribunal has accepted the manner of accident as asserted by appellant-claimant and had decided issue No.1 in favour of appellant-claimant. The manner of accident is not under challenge, therefore, not being discussed in detail.

In FAO No.156-2003

5. Leaned Tribunal had granted following compensation to injured appellant/claimant-Parmod Kumar:-

Expenditure towards purchase of medicines and the fee of the doctor	Rs.12,300/-
Disability to the tune of 25%	Rs.50,000/-
Loss of Income	Rs.4,000/-
Pain and Sufferings	Rs.17,000/-
Transportation and special diet and miscellaneous expenditure	Rs.3,000/-
Total compensation	Rs.86,300/-

6. Learned counsel for injured-appellant-claimant-Parmod Kumar has sought enhancement in compensation on following grounds that:-

- Learned Tribunal has erred in not granting compensation on the basis of functional disability which is not less than 25% (in view of permanent disability of 25%).
- Future prospects were not added while determining loss of earning capacity. Future prospects to the extent 40% of monthly income needs to be added as the injured-appellant-claimant was 32 years of age at the time of accident.
- Learned Tribunal has erred in not applying multiplier as per the age of the appellant-claimant. Multiplier of ‘16’ ought to have been applied by the learned Tribunal.
- Compensation for loss of future prospects and future amenities and for future medical expenses has not been granted to which appellant-claimant is entitled to.
- Compensation under heads medical expenses, other expenses for loss of income during treatment and pain and sufferings being insufficient in view of nature of injury,

nature of treatment and period of hospitalization, needs to be enhanced.

7. The Injured appellant-claimant who appeared as PW-5 deposed that after the accident he remained admitted in Kohli Nursing home for about 15 days. He received injuries on his fore-head, right side of the eye and right side of the jaw. His right hand was fractured and he had also suffered two fractures on the right leg. He was advised rest by the doctor for about 4-5 months. A rod was inserted in his right leg at Kohli Nursing Home. He also deposed of having suffered wounds on his right leg. He was again advised operation by the doctor of Kohli Nursing Home. He also took treatment from M.M General Hospital, Mullana. The treatment record was placed on record as Ex.P12 to ExP20.

8. Dr. P.K.Nigam who was examined as PW-2 deposed that the injured appellant-claimant had three months old age of fracture lateral condyle right femur with fracture upper and right tibia with partial stiffness right knee joint and partial stiffness right wrist joint. The disability was assessed at 25% vide disability certificate Exp3. Dr Pradeep Kumar Kohli who had medicolegally examined the injured appellant-claimant appeared as PW3 and stated that following injuries were sustained by the injured appellant-claimant:

- i. Lacerated wound of the Outer side of the right eye and on the right side of the fore-head.
- ii. Injury right fore-arm and hand. His X-ray showed fractures in the distal end of the radius and ulna and also fractures in the hand.

iii. Injury right X-ray showed fractures in both bones of the right leg, fracture lateral condyle of femur and also fracture upper part of tibia. He was also having injury in the mandible. X-ray showed fracture in the Zygomatic bone, fracture in the right angle of the mandible. He was treated by me.

9. It is the case of the injured appellant-claimant that he was employed with M/s Modern Packages as dye maker and was earning Rs.4,000/- per month. PW-4 J.S Lamba, managing partner of modern packages, Ambala, deposed that injured was employed in their factory as machine man and drawing salary of Rs.4,000/- per month, salary certificate was duly placed as Ex.P10.

10. From the evidence led by appellant-claimant, appellant-claimant had succeeded in proving that he had suffered multiple injuries including fractures in accident dated 10.8.2002. From evidence of PW2-doctor, permanent disability to the extent of 25% on account of fractures has been duly proved. Disability certificate (Ex.P3) in this regard was duly proved by PW2. Keeping in view evidence of PW2-doctor, who had issued permanent disability certificate and that of PW3-treating doctor, who had found multiple injuries on claimant, functional disability in present case needs to be taken equivalent to permanent disability that is to the extent of 25%. Appellant-claimant has made claim that he was working with M/s. Modern Packages and was earning Rs.4,000/- per month. PW4 J.S. Lamba, Managing Partner of M/s. Modern Packages, had duly appeared and asserted that appellant-claimant was earning

Rs.4,000/- per month and had placed salary certificate as Ex.P6. PW-4 further asserted that after accident appellant-claimant is not working with him. However, apart from placing salary certificate, no other documentary evidence to support salary certificate (Ex.P6) has been placed on record. Perusal of cross-examination of PW4 goes to show that he had admitted that employment of appellant-claimant was within knowledge of Labour Department, wherein PW4 had shown salary of appellant-claimant to be Rs.2,000/-. The fact that employer himself admitted that he had shown salary of appellant-claimant to be Rs.2,000/- in fact creates grave doubt over salary certificate (Ex.P10). Accordingly, income of appellant-claimant is taken as Rs.2,000/- per month as same is little higher than minimum wages payable at the time of accident. Appellant-claimant is stated to be 32 years old at the time of accident, therefore multiplier of '16' would be applicable for determining loss of earning capacity. Similarly, future prospects to the extent of 40% of assessed income needs to be added in view of mandate of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680. Learned Tribunal has granted pain and suffering to the extent of Rs.17,000/- which in view of nature of injuries, period of hospitalization as well as in view of permanent disability to the extent of 25%, needs to be increased. Accordingly, compensation for pain and suffering is enhanced to Rs.30,000/-. In present case, appellant-claimant has succeeded in proving medical treatment expenses of Rs.12,300/-. Appellant-claimants must have also spent some amount upon special diet, transportation, as well as upon attendant charges.

Accordingly, appellant-claimant is awarded Rs.25,000/- as compensation for medical expenses, attendant and transportation charges, and special diet on account of permanent disability to the extent of 25%. Appellant-claimant must have suffered loss of future prospects as well as will not be able to enjoy amenities of life in future on account of permanent disability. Accordingly, amount of Rs. 50,000/- is awarded towards loss of future prospects and amenities of life. No compensation has been paid by learned Tribunal for loss of income during period of treatment which in view of nature of injuries was for five months. Keeping in view the fact that deceased had remained hospitalized and had suffered multiple fractures which could have taken minimum 05 months to heal, appellant-claimant is entitled to Rs.10,000/- for loss of income during 05 months of treatment.

11. Appellant-claimant shall be entitled to following re-worked compensation :-

Income	Rs.2,000/-	Rs.2,000/-
Future Prospects	40% (2000+800)	Rs.2,800/-
25% Functional disability	25% of Rs.2,800/-	Rs.700/-
Multiplier	16	16
Total Loss of earning capacity	Rs.700X12X16	Rs.1,34,400/-
Pain and Sufferings	Rs.17,000/-(by Tribunal)	Rs.30,000/-
Medical expenses, attendant and transportation charges and special diet	Rs.12,300 + Rs.3,000 = Rs.15,300/-	Rs.25,000/-
Loss of income during treatment	2000 X 5	Rs.10,000/-
Loss of future amenities and future prospects		Rs.50,000/-

Compensation awarded by Tribunal	Rs.86,300/-	
Compensation awarded in appeal		Rs.2,49,400/-
Enhanced amount of compensation	Rs.2,49,400/- (as awarded in appeal) – Rs.86,300/- (as awarded by Tribunal)	Rs.1,63,100/-

In FAO No. 5429 of 2002

12. Learned Tribunal had granted following compensation to injured appellant/claimant-Vipan Kumar:

Expenditure towards purchase of medicines and the fee of the doctor	Rs.9,000/-
Disability to the tune of 10%	Rs.20,000/-
Loss of Income	Rs.3,200/-
Pain and Sufferings	Rs.10,000/-
Transportation and special diet and miscellaneous expenditure	Rs.2,000/-
Total compensation	Rs.44,200/-

13. Learned counsel for injured-appellant-claimant-Vipan Kumar has sought enhancement in compensation on following grounds that :-

- Learned Tribunal has erred in not granting compensation on the basis of functional disability which is 10% (in view of permanent disability of 10%).
- Future prospects were not added while determining loss of earning capacity. Future prospects to the extent 40% of

monthly income needs to be added as the injured-appellant-claimant was 24 years of age at the time of accident.

- Learned Tribunal has erred in not applying multiplier as per the age of the appellant-claimant. Multiplier of '18' ought to have been applied by the learned Tribunal.
- Compensation for loss of future prospects and future amenities and for future medical expenses has not been granted to which appellant-claimant is entitled to.
- Compensation under heads medical expenses, other expenses for loss of income during treatment and pain and sufferings being insufficient in view of nature of injury, nature of treatment and period of hospitalization, needs to be enhanced.

14. Injured-appellant-claimant himself appeared as PW6 and deposed that he had suffered injuries on his right leg, right knee and on the forehead. He also stated to have suffered fractures on his right leg. He remained admitted in Kohli Nursing Home for about 10-12 days. He had also deposed that plaster was applied on his right leg and been advised rest for ½ months by the doctor.

15. Injuries sustained by the injured appellant-claimant are corroborated by Dr. P.K Nigam PW-2, who deposed that it was an old case of fracture of right patella with partial stiffness in right knee joint and assessed the disability as 10%, vide disability certificate Ex.P2.

16. It is the case of the injured appellant claimant that prior to the accident he was working with modern packages on a standing machine and earning about salary to the tune of Rs.3,200/- per month.

After the accident he has been posted at the gate of M/s Modern

Packages to register the number of vehicles as he is unable to work properly due to the injuries sustained in the accident and drawing salary of Rs.1,200/- per month. J.S Lamba PW-4, the Managing Partner of M/s Modern Packages deposed the injured was employed in their factory and drawing a salary of Rs.3,200/- as per the salary certificate, which was duly placed as Ex.P11. He further deposed that the injured is not working on the stitching machine after the accident and is now doing passive work, drawing a salary of Rs.2,000/- per month without any facility.

17. From the evidence led by appellant-claimant, appellant-claimant had succeeded in proving that he had suffered multiple injuries including fractures in accident dated 10.08.2002. From evidence of PW2- Dr. P.K. Nigam, permanent disability to the extent of 10% on account of fractures has been duly proved. Keeping in view evidence of PW2- doctor, who had issued permanent disability certificate and that of PW3- treating doctor, who had found multiple injuries on claimant, functional disability in present case needs to be taken equivalent to permanent disability that is to the extent of 10%. Appellant-claimant has made claim that he was working with M/s. Modern Packages and was earning Rs.3,200/- to Rs.3,300/- per month. PW4 J.S. Lamba, Managing Partner of M/s. Modern Packages, had duly appeared and asserted that appellant-claimant was earning Rs.3,200/- per month and had placed salary certificate as Ex.P11. PW-4 further asserted that after accident appellant-claimant is not working on stitching machine after the accident and doing passive work earning a salary of Rs.2,000/- per month. However, apart from placing salary certificate, no other documentary evidence to support

salary certificate (Ex.P11) has been placed on record. Perusal of cross-examination of PW4 goes to show that he had admitted that employment of appellant-claimant was within knowledge of Labour Department, wherein PW4 had shown salary of appellant-claimant to be Rs.2,000/-. Accordingly, income of appellant-claimant is taken as Rs.2,000/- per month as same is little higher than minimum wages payable at the time of accident. Appellant-claimant is stated to be 24 years old at the time of accident, therefore multiplier of '18' would be applicable for determining loss of earning capacity. Similarly, future prospects to the extent of 40% of assessed income needs to be added in view of mandate of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680. Learned Tribunal has granted pain and suffering to the extent of Rs.10,000/- which in view of nature of injuries, period of hospitalization as well as in view of permanent disability to the extent of 10%, needs to be increased. Accordingly, compensation for pain and suffering is enhanced to Rs.20,000/-. In present case, appellant-claimant is also entitled to Rs.20,000/- towards medical expenses, special diet, transportation, as well as upon attendant charges. Accordingly, appellant-claimant is awarded Rs.20,000/- as compensation for medical expenses, attendant and transportation charges, and special diet on account of injuries suffered in accident. Appellant-claimant will suffer loss of future prospects as well as will not be able to enjoy amenities of life in future. Accordingly, amount of Rs.20,000/- is awarded towards loss of future prospects and amenities of life. Compensation of Rs.3,200/- has been paid by learned Tribunal for loss of income during period of

treatment. Keeping in view the fact that deceased had remained hospitalized for 10 to 20 days and had suffered multiple fractures and was advised 15 days’ rest, appellant-claimant is entitled to Rs.5,000/- for loss of income equal to wages of 2 ½ months during period of treatment.

18. Appellant-claimant shall be entitled to following re-worked compensation :-

Income	Rs.2,000/-	Rs.2,000/-
Future Prospects	40% (2000 + 800)	Rs.2,800/-
10% Functional disability	10% of Rs.2,800/-	Rs.280/-
Multiplier	18	18
Total Loss of earning capacity	Rs.280 X 12 X 18	Rs.60,480/-
Pain and Sufferings	Rs.10,000/- (by Tribunal)	Rs.20,000/-
Medical expenses, attendant and transportation charges and special diet	Rs.9000 + Rs.2,000 = Rs.11,000/-	Rs.20,000/-
Loss of income during treatment	Rs.3200/- (by Tribunal)	Rs.5,000/-
Loss of future amenities and future prospects		Rs.20,000/-
Compensation awarded by Tribunal	Rs.44,200/-	
Compensation awarded in appeal		Rs.1,25,480/-
Enhanced amount of compensation	Rs.1,25,480/- (as awarded in appeal) – Rs.44,200/- (as awarded by Tribunal)	Rs.81,280/-

19. Appellants-claimants shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petitions till its realization. Both the appeals are accordingly allowed in

above terms. Liability to pay compensation and apportionment of enhanced amount shall be as per award.

20. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly. Photocopy of this order be placed on the file of connected case.

17.03.2026
Manoj

(PARMOD GOYAL)
JUDGE

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