



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

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

105(2 cases)

1. FAO-1024-1998(O&M)

Reserved on: 11.05.2026
Pronounced on: 26.05.2026
Uploaded on:26.05.2026

The Oriental Insurance Company Limited

...Appellant

Versus

Talvinder Singh and others

.....Respondents

2. FAO-2658-2000(O&M)

Talwinder Singh

.....Appellant

Versus

Pawan Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Madhu Sharma, Advocate,
for the appellant in FAO-1024-1998
and respondent No.3 in FAO-2658-2000.

Mr. Keshav Pratap Singh, Advocate and
Mr. Bharat Singh, Advocate
for the appellants in FAO-2658-2000,
and respondents in FAO-1024-1998.

Mr. Ishan Singh Cooner, Advocate
for respondent Nos. 2 and 3 in FAO-1024-1998 and
for respondents Nos.1 and 2 in FAO-2658-2000.

AMARINDER SINGH GREWAL, J.

1. This order shall dispose of two appeals, i.e. FAO-1024-1998



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

and FAO-2658-2000, challenging the same Award, dated 24.03.1998 passed by the learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'the Tribunal') whereby a sum of Rs.7,80,800/- was granted on the injuries suffered by of appellant-claimant, a three old child, in FAO-2658-2000, in the motor vehicular accident dated 07.08.1997. FAO-1024-1998 has been preferred by the appellant-insurance company seeking setting aside of the said award, whereas, FAO-2658-2000 has been filled by the claimant seeking enhancement of the same. For the sake of convenience, the facts are being taken from FAO-2658-2000 titled as '*Talwinder Singh Vs. Pawan Kumar and others*'.

2. Succinctly, the facts of the case are that on 07.08.1997 at about 2:30 P.M., the claimant-appellant Talvinder Singh alias Kalu, aged about 3 years, alongwith his parents, was standing at Manav Chowk, Ambala City for boarding a bus to their village, when a car bearing registration No. CHK-9063 (hereinafter referred to as '*offending vehicle*'), being driven by respondent No.1 in a rash and negligent manner, swerved towards the extreme left side of the road and struck the minor claimant, as a result whereof both his thighs suffered fractures. The claimant was immediately shifted in the same car to the hospital of Dr. Ashok Sarwal, Orthopaedic Surgeon, Ambala City, where his left leg had to be amputated due to gangrene and plaster was applied on the right leg. Aggrieved thereby, the claimant filed a claim petition seeking compensation for the injuries suffered by him. Consequently, the learned Tribunal observed that the claimant had suffered 90% permanent disability and awarded a total



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

compensation of Rs.7,80,800/- alongwith interest @12% per annum from the date of petition till realization.

3. Learned counsel for the appellant in FAO-1024 of 1998 contended that the learned Tribunal gravely erred in fastening liability upon the appellant-Insurance Company despite the fact that no accident had taken place with the offending vehicle and the entire case was a concocted story set up in connivance with the owner and driver of the alleged offending vehicle. Further, it was contended that no FIR was lodged regarding the alleged accident and no independent witness from the place of occurrence was examined, despite the claimant's own witnesses admitting that several persons had gathered at the spot. Furthermore, learned counsel argued that the learned Tribunal wrongly discarded the report of RW-1, the Investigator appointed by the Insurance Company, who upon inquiry from several villagers had concluded that the claimant had in fact sustained injuries in an accident involving a tractor and not the insured car. Additionally, it was submitted that the learned Tribunal failed to appreciate that the owner and driver of the vehicle had colluded with the claimant in order to falsely implicate the insured vehicle and saddle the Insurance Company with liability. Moreover, he contended that the learned Tribunal ignored the aspect of contributory negligence on the part of the claimant's parents, who had failed to exercise due care and caution in supervising a minor child aged about three years. Subsequently, it was argued that the compensation awarded by the learned Tribunal under various heads was highly excessive, particularly the assessment of monthly income at



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

Rs.3,000/-, adoption of multiplier of 17, assessment of permanent disability at 90%, and the amounts awarded towards artificial limbs, attendant charges, medical expenses, pain and suffering, and loss of expectation of life. Lastly, learned counsel prayed that the impugned award being contrary to law and facts on record deserved to be set aside and the claim petition qua the appellant-Insurance Company be dismissed. Reliance has been placed on judgement rendered by Hon'ble Supreme Court in ***Anant v. Pratap 2018 (9) SCC 450, K.S. Muralidhar v. R. Subbulakhshmi 2024 INSC 886*** and judgement rendered by this court in ***Priyanka Bhutani v. Sukh Pal Singh and others FAO No.4202 of 2006 and Sandeep v.Satish and others Law Finder Doc Id #2073082***.

4. *Per contra*, learned counsel for the appellant in FAO-2658 of 2000 contended that the impugned award, was liable to be modified as the compensation awarded was wholly inadequate and contrary to the facts and evidence available on record. Further, it was contended that the learned Tribunal misread and misconstrued the pleadings and material evidence, thereby causing serious prejudice to the appellant and adopting a wholly conjectural approach while assessing compensation. Furthermore, learned counsel argued that though the learned Tribunal had rightly held under Issue No.1 that the accident occurred due to rash and negligent driving of respondent No.1, it failed to award just and lawful compensation commensurate with the grievous injuries suffered by the appellant, who was merely three years of age at the time of accident and had suffered 90% permanent disability on account of amputation of his left leg. Additionally,



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

it was submitted that the learned Tribunal grossly erred in awarding only Rs.30,000/- towards past and future medical expenses despite the evidence of the doctor that the appellant had incurred expenses between Rs.30,000/- to Rs.40,000/- on treatment, medicines, diet and hospitalization. Moreover, learned counsel contended that the compensation awarded under the non-pecuniary heads including pain and suffering, loss of amenities, loss of expectation of life and future prospects was highly inadequate considering that the appellant had been rendered permanently crippled for the rest of his life, thereby adversely affecting his education, employment opportunities, marriage prospects and overall enjoyment of life. Subsequently, it was submitted that the learned Tribunal wrongly assessed the future income of the appellant at Rs.3,000/- per month and applied a multiplier of only 17, whereas the appellant's earning capacity and life expectancy warranted a much higher assessment and application of a multiplier of at least 24. Learned counsel further submitted that the amount awarded towards artificial limbs and their maintenance was wholly unrealistic since the limbs were required to be replaced every 3-4 years and regular maintenance expenses would continue throughout the appellant's lifetime. Lastly, it was contended that the compensation awarded towards attendant charges was also on the lower side as the appellant would require lifelong assistance and, therefore, the compensation deserved substantial enhancement to the tune claimed in the petition along with appropriate interest.

5. I have heard learned counsel for the parties and examined the record, with their able assistance.



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

6. The principal grievance raised by the Insurance Company is with regard to the findings of the learned Tribunal on negligence and the quantum of compensation awarded, whereas the claimant seeks enhancement under various heads on account of the permanent disability suffered by him. Therefore, this Court shall examine the following questions:

- *whether the findings recorded by the learned Tribunal regarding the occurrence and involvement of the offending vehicle suffer from any perversity, and*
- *whether the compensation awarded under various heads calls for interference in the facts and circumstances of the present case.*

7. At the outset, it deserves to be noticed that proceedings under Section 166 of the Motor Vehicles Act are summary in nature and the Tribunal is not expected to adopt the strict standards of proof applicable to criminal trials. The parameters of “proof beyond reasonable doubt” cannot be imported into claim proceedings where the primary object is grant of just and fair compensation to victims of road accidents. The Hon’ble Supreme Court in ***Kusum Lata and others v. Satbir and others, 2011 (3) SCC 646 and Parmeshwari v. Amir Chand and others, 2011(1) SCR 1096*** has categorically held that strict rules of evidence are not to be applied in motor accident claim cases and absence of FIR by itself cannot be a ground to discard an otherwise genuine claim. The learned Tribunal was only required to examine whether, on the touchstone of preponderance of probabilities, the accident occurred and injuries resulted therefrom.



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

8. In the present case, the testimony of PW-2 Smt. Harbans Kaur, mother of the injured child, inspires complete confidence. She categorically deposed that on 07.08.1997, while she along with her husband and minor son was waiting at Manav Chowk, Ambala City, the offending car came from the Chandigarh side in a rash and negligent manner and struck the child, resulting in grievous injuries to both legs. She further stated that immediately after the accident, the driver himself shifted the child to the hospital for treatment. Her testimony remained consistent and nothing material could be elicited in cross-examination to discredit her version. Significantly, even respondents No.1 and 2, namely the driver and owner of the car, admitted the occurrence of the accident involving the insured vehicle in their written statement. Thus, the involvement of the vehicle stood admitted by the persons directly connected with it.

9. The Insurance Company heavily relied upon the testimony of RW-1 Prem Singh, Investigator, who allegedly conducted an inquiry and submitted report Ex.R2 stating that the child had suffered injuries in a tractor accident. His entire testimony was based upon alleged statements of certain villagers, none of whom were examined before the learned Tribunal. More importantly, the investigator admitted that he had even met the driver and owner of the vehicle but did not record their statements. This omission strikes at the very root of the credibility of the investigation.

10. The medical evidence fully corroborates the claimant's case. PW-1 Dr. Ashok Sarwal specifically deposed that the child was brought to the hospital immediately after the accident by Pawan Kumar, i.e.



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

respondent No.1 himself, with crush injuries and fracture injuries. The left leg had to be amputated due to gangrene and permanent disability to the extent of 90% was assessed. This crucial circumstance completely falsifies the insurer's theory of fabrication and collusion.

11. The present case portrays an extremely unfortunate instance where a minor child, merely about three years of age at the time of accident, suffered life-altering injuries on account of a motor vehicular accident caused due to the rash and negligent driving of the offending vehicle. The record reveals that the child not only suffered fractures on both thighs but ultimately underwent amputation of his left leg, resulting in permanent disability to a very high extent at such a tender age. The tragedy assumes greater magnitude when one considers that the victim had not even stepped into the formative years of life and yet was compelled to endure prolonged hospitalization, immense physical pain and permanent deprivation of the normal joys and amenities of childhood. The disability suffered by the claimant is not merely physical in nature but is bound to cast a long shadow upon every sphere of his future life including education, mobility, employment opportunities, social integration and overall quality of life.

12. It would be apposite to refer to the testimony of Dr. Ashok Sarwal (PW-1). The Doctor categorically deposed that the injured-claimant Talvinder Singh, aged about three years, was brought to his hospital on 07.08.1997 by Pawan Kumar with crush injuries on the left side and injuries on the right thigh. The Doctor stated that the child was in a serious



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

condition and was gasping at the time of admission with heart rate of 140 per minute. Further, emergency treatment was immediately started, oxygen inhalation and blood transfusion were administered and it was found that the left thigh of the patient was badly crushed and gangrene had set in. Consequently, amputation of the left thigh had to be performed on 08.08.1997. It was further stated that traction followed by plaster of Paris hip spica was applied on the right thigh. The claimant remained admitted in the hospital till 06.09.1997 and even thereafter continued to visit the clinic weekly and fortnightly till November, 1997. The Doctor further opined that the claimant had suffered permanent disability to the extent of 90% on account of amputation of left thigh along with united fracture of shaft femur of the right thigh and proved disability certificate Ex.P-1 in this regard. Even though Dr. Ashok Sarwal (PW-1) assessed the permanent disability of the claimant at 90%, however, it is clear that for all practical purposes, the functional disability suffered by the claimant deserves to be treated as 100%.

13. As per the principal laid down in ***Kajal v. Jagdish Chand and Others (2020) 4 SCC 413***, ***Master Ayush v. Branch Manager, Reliance General Insurance Company Limited and Another (2022) 7 SCC 738*** and recently in ***Baby Sakshi Greola v. Manzoor Ahmad Simon 2024 SCC Online SC 3692*** the compensation payable to the minor claimant is required to be recalculated. The learned Tribunal, while assessing the compensation, had taken the monthly income of the claimant as Rs.3,000/- per month on approximation basis by observing that in normal



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

circumstances the claimant, upon attaining majority, would have earned at least what a labourer was expected to earn. Keeping in view the peculiar facts and circumstances of the present case, this Court does not find any reason to interfere with the said assessment, particularly when the income assessed by the learned Tribunal is already on the higher side considering the year of accident i.e. 1997. However, in view of the law laid down by the Hon'ble Supreme Court in *Kajal's case(Supra)* and followed subsequently in *Ayush's case (Supra)*, while computing compensation under the head of loss of future income and earning capacity due to permanent disability, an addition of 40% towards future prospects is required to be made and multiplier of 18 is liable to be applied keeping in view the age of the claimant at the time of accident. Accordingly, in the present case, the compensation under this head would be Rs.9,07,200/- [3000 + (40% of 3000) x 12 x 18].

14. Dr. Ashok Sarwal (PW-1) further categorically stated that the claimant must have spent about Rs.30,000/- to Rs.40,000/- on his medical treatment, hospital charges, special diet and transportation. Considering the nature of injuries suffered by the claimant, the prolonged hospitalization, surgical intervention involving amputation and continued follow-up treatment, this Court deems it appropriate to take the higher figure as stated by the Doctor. Accordingly, a sum of Rs.40,000/- is awarded to the claimant towards past medical expenses, medicines, hospitalization, special diet and transportation charges.



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

15. Consistent with the approach adopted by the Hon'ble Supreme Court in *Kajal's case (Supra)* and followed subsequently in *Ayush's case (Supra)*, this Court deems it appropriate to reassess the compensation under the head of attendant charges by applying the multiplier method. Considering the grievous injuries suffered by the claimant, amputation of the left thigh at the tender age of three years and the lifelong assistance required by him, the amount awarded by the learned Tribunal by assessing attendant charges at Rs.500/- per month for a period of 15 years is found to be on the lower side. The minimum wages payable to an unskilled worker in the State of Punjab at the time of accident were Rs.1,500/- per month and, applying the multiplier of 18 keeping in view the age of the claimant, the compensation under this head is recalculated as $\text{Rs.1,500} \times 12 \times 18 = \text{Rs.3,24,000/-}$. Further, keeping in view the fact that the claimant had suffered amputation of the left thigh at a very tender age and would require artificial limb and its maintenance throughout his life, this Court deems it appropriate to enhance the compensation under the said head. Accordingly, a sum of Rs.1,00,000/- is awarded towards artificial limb and its maintenance as against Rs.70,000/- awarded by the learned Tribunal. Additionally, considering the severe pain and suffering undergone by the claimant, permanent disability suffered at the tender age of three years, loss of normal amenities of life and the lifelong trauma and inconvenience caused to him, this Court deems it appropriate to enhance the compensation under the non-pecuniary heads. Accordingly, a sum of Rs.1,00,000/- is



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

awarded to the claimant under the heads of pain, suffering and loss of amenities of life as against Rs.40,000/- awarded by the learned Tribunal.

16. Consequently, the compensation payable to the claimants in FAO-2658 of 2000 is required to be reassessed. The total compensation is thus recalculated at Rs.14,71,200/-, as against Rs.7,80,800/- awarded by the learned Tribunal. To the said extent, the award passed by the learned Tribunal in FAO-2658 of 2000 deserves to be modified and enhanced under the following heads:

<i>Compensation Heads</i>	<i>Amount Awarded</i>	<i>In Accordance With</i>
Monthly Income assessed by the learned Tribunal	Rs.3,000/- p.m.	Keeping in view the facts and circumstances of the present case
Future Prospects (40%)	Rs.3,000/- + Rs.1,200/- = Rs.4,200/-	<i>National Insurance Co. Ltd. v. Pranay Sethi (2017) 16 SCC 680</i>
Multiplier (18)	Rs.4,200 x 12 x 18 = Rs.9,07,200/-	<i>Kajal's case (supra), Ayush's case (supra), Baby Sakshi's case (supra)</i>
Functional Disability (100%)	Rs.9,07,200/-	Keeping in view the nature of permanent disability suffered by the claimant
Medical Expenses, Special Diet and Transportation	Rs.40,000/-	Based upon testimony of PW-1 Dr. Ashok Sarwal
Attendant Charges	Rs.1,500 x 12 x 18 = Rs.3,24,000/-	<i>Kajal's case (supra) and Ayush's case (supra)</i>
Artificial Limb and its Maintenance	Rs.1,00,000/-	Considering lifelong requirement of artificial limb
Pain, Suffering and Loss of Amenities	Rs.1,00,000/-	Considering permanent disability suffered at tender age
TOTAL COMPENSATION	Rs.14,71,200/-	



***FAO-1024-1998(O&M) and
FAO-2658-2000(O&M)***

17. The enhanced compensation in FAO-2658-2000, i.e. over and above the compensation awarded by the learned Tribunal, shall also carry interest @ 7.5% per annum from the date of filing of the claim petition till its realization, payable by respondent No.3-Insurance Company to the appellant-claimant. Hence FAO-2658-2000 is allowed in above terms, whereas, FAO-1024-1998 stands dismissed.

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

**(AMARINDER SINGH GREWAL)
JUDGE**

May 26, 2026
Kanchan/Sanchi

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No