2026:PHHC:024996

S. No.102

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

****

FAO No.1683 of 1999
Date of Decision:17.02.2026

Jaswant Rai (since deceased) through his LRs .....Appellants

Vs.

Balwinder Singh and others .....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Karan Singh Gill, Advocate for the appellants.
Mr. Ashwani Talwar, Sr. Advocate with Mr. Vipul Sehrawat, Advocate and Mr. Deepak Goyat, Advocate for respondent-NIA.

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Yashvir Singh Rathor, J. (Oral)

1. This appeal has been instituted against the Award dated 15.10.1998 for enhancement of compensation awarded in MACT case No.2 of 09.01.1993 decided by the MACT, Gurdaspur (**for short "Tribunal"**) on account of injuries suffered by him in a motor vehicular accident with a vehicle being driven by respondent No.1 in a rash and negligent manner which was owned by respondent No.2 and insured with respondent No.3.

2. I have heard learned counsel for the parties and have perused the material on record.

3. From the pleadings of parties, following issues were framed:-

> *"1. Whether Jaswant Rai – claimant received injuries due to rash and negligent act of driving of Balwinder Singh respondent No.1 by driving truck No.DL-14/7837 in the area of Sarna Railway Station near Petrol Pump of Bharat Petrol Service Station on 11.11.1992 at 9.45 a.m., OPA.*
>
> *2. Whether the claimant is entitled to claim compensation from all the respondents, if no, to what amount. OPA*
>
> *3. Relief."*

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

5. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,70,000/- as compensation to the claimant, on account of injuries suffered by him along with interest @ 12% per annum from the date of filing of claim petition till realization.

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

7. 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 occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending truck No. DL-IG-7837, owned by respondent No.2 and insured with respondent No.3 and all the respondents were held liable to pay compensation jointly & severally. No appeal or cross-objections have been filed by respondents, challenging the said findings and accordingly findings on issues No.1 & 3 are not required to be interfered with.

8. Coming to issue No.2, stand of petitioner is that he was working with Punjab State Electricity Board, Gurdaspur and was going on his duty on his scooter from Gurdaspur to Pathankot when the offending truck hit him from behind, resulting in multiple injuries and amputation of both his legs. To prove the injuries suffered by him, petitioner has examined AW3 Dr. D.B. Pathania, Medical Officer who deposed that on 11.11.1992, patient namely Jaswant Rai was admitted in the hospital and was medico legally examined on 15.11.1992. Patient had suffered following injuries on his person:-

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"1. Traumatic amputation of right lower limb in upper 3rd of thigh, muscles of thigh were crushed.

2. Compound fracture of the left temur in lower third alongwith tramumatic amputation just below the knee on left lower limb.

3. Multiple abrasions on the back of lower abdomen and arm of both sides."

He further deposed that the copy of MLR is Ex.A6.

9. AW4 Panna Lal Sharma, Pharmacist, Civil Hospital, Pathankot deposed that he has brought the indoor patient register of Jaswant Rai, who was admitted in Civil Hospital, Pathankot on 11.11.1992 vide CR No.3926-1996 with the history of road accident.

10. Petitioner stepped into the witness box as AW1 and deposed that he had suffered injuries and was taken to Civil Hospital, Pathankot and remained admitted there upto 14.01.1993. Both of his legs were amputated in Civil Hospital, Pathankot and the right leg was amputated below the knee. He was discharged from the hospital and he got his wounds dressed for two months at his residence. Thereafter, his leg was operated upon by Dr. Suresh Sharma and he could join his duties after 13-14 months. Thereafter, doctor of PSEB referred him to DMC, Ludhiana where he was admitted on 22.12.1994 for his treatment and was again operated upon. He remained admitted in DMC, Ludhiana for one and a half month and after discharge, used to visit the said hospital for his check-up. His leg was plastered and plaster was removed after 25 days.

11. AW2 Harish, Record Clerk from DMC Ludhiana has produced the treatment record of the patient and deposed that patient Jaswant Rai was admitted in DMC Hospital, Ludhiana on 18.10.1994 and discharged on 25.10.1994. He

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was admitted for operation of amputation of right and left knee and remained admitted in the hospital as an indoor patient. He tendered the receipts Ex.A3, Ex.A4 and Ex.A5 issued by the hospital.

12. Nothing favourable could be extracted during cross-examination of any of the afore-said witnesses to prove to the contrary. Respondents have also not led any evidence to rebut the evidence led by the petitioner with regard to injuries suffered by him and regarding amputation of his both the legs.

13. In addition to this, petitioner has also examined AW5 Dr. J.S. Bhinder, who deposed that on 13.01.1993, he was posted as Medical Officer, Civil Hospital, Pathankot and disability of the petitioner was assessed by him and the SMO on 13.01.1993 vide disability certificate Ex.A7. He deposed that petitioner has suffered 100% permanent disability due to loss of limbs.

14. As such, from the unrebutted evidence led by petitioner, it is established that petitioner had suffered multiple injuries in the accident and both his legs were amputated on account of injuries suffered by him in the said accident.

15. Petitioner has alleged that he had spent about Rs.70,000/- to Rs.80,000/- on his treatment from time to time. To prove this fact, he deposed that he had spent Rs.30,000/Rs.35,000/- on his treatment during the period of two months when he remained admitted in Civil Hospital, Pathankot. Thereafter, he was operated upon by Dr. Suresh Sharma, who charged Rs.6,000/- and he had also spent Rs.2,000/- on the medicines. He further stated that he had spent Rs.32,000/- at DMC, Ludhiana where he also remained admitted for one and a half month and was operated upon. The receipts issued by DMC, Hospital have been led in evidence as Ex.A3 to Ex.A5 by Harish Kumar, Record Keeper AW3.

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16. Learned Tribunal has not awarded any amount to the petitioner on account of expenses incurred on his treatment. AW2 Harish Kumar Record Keeper had led in evidence receipts Ex.A3 to Ex.A5 and a perusal of the same shows that a sum of Rs.9,000/- was paid at DMC Hospital against receipt Ex.A3, Rs.8,000/- against receipt Ex.A4. Another receipt is also lying on the record of the Tribunal vide which a sum of Rs.10,000/- was also paid at Dayanand Medical College and Hospital. In all, petitioner is proved to have spent Rs.27,000/- for his treatment at Dayanand Medical College and Hospital, Ludhiana. Besides this, petitioner had remained admitted in Civil Hospital, Pathankot as well and it appears that petitioner has not maintained or preserved the receipts of the medicines purchased by him. It can be presumed that some amount must have been spent in purchasing the medicines and some guess work has thus to be applied while assessing the expenses incurred on the treatment. From the receipts placed on file, it is established that petitioner had spent Rs.27,000/- on his treatment at DMC, Ludhiana and it can thus be presumed that petitioner must have spent some amount on purchasing medicines during his treatment and he is accordingly held entitled to a sum of **Rs.40,000/-** towards **Expenses incurred on the treatment.** Besides this, he is also held entitled to a sum of **Rs.25,000/-** for expenses likely to be incurred on **Future Treatment**.

17. Learned Tribunal after appreciating the evidence on file came to the conclusion that petitioner was an employee of Punjab State Electricity Board and as such, he has not suffered any loss of income on account of permanent disability suffered by him as he continued to be in service and he is thus not entitled to compensation on account of loss of income. Thereafter, compensation has been assessed under different heads as follows:-

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1.	Permanent Disability	Rs.1,00,000/-
2.	Loss of enjoyment of life, Pain and Sufferings, Mental Agony and Special Diet	Rs.50,000/-
3.	Attendant charges and future medical expenses	Rs.20,000/-
	Total:-	Rs.1,70,000/-

18. However, the compensation as awarded by the learned Tribunal is grossly inadequate and is against the settled principles with regard to grant of compensation in such type of injuries.

19. The principle that 'No amount of compensation can be considered as sufficient for the injuries suffered by victim in an accident but it should be just and equitable, is a well-established legal doctrine in Indian law, particularly under the Motor Vehicles Act. Courts have consistently held that while money cannot erase the pain, suffering, or trauma, it is the only legal means to provide restitution and restore the victim to his previous position as far as possible. Key aspects of this principle, as reiterated by the Hon'ble Supreme Court and other Courts from time to time, include assessment of just compensation. It is also well settled that while it is impossible to fully compensate for the loss of limb, life, or quality of life, the compensation must be 'Just', meaning thereby, that it should be fair, reasonable, and equitable based on the evidence and not merely a 'Windfall' or a 'Pittance'. It is also well settled that compensation should cover both pecuniary damages (actual medical expenses, loss of wages/income, loss of future earning capacity) as well as non-pecuniary damages (pain and suffering, loss of amenities, loss of expectation of life). The determination of non-pecuniary damages, such as pain and sufferings, cannot be calculated with mathematical precision, but must be

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based on a judicious approach considering the facts and circumstances of each case. The core objective is to put the injured/victim party in the same position he would have been in if the accident had not taken place, to the extent money can do so. This approach ensures that the law provides a realistic recompense for the trauma endured, rather than just providing nominal financial relief. The law relating to the grant of compensation in cases of injury leading to permanent disability is by now well settled. Hon'ble Supreme Court, in 2011 ACJ 1 titled ***Raj Kumar Vs. Ajay Kumar and another***, has considered the method by which loss of future earnings should be decided by the Tribunals and it has been held that when a victim suffers permanent disability, the future loss of earnings has to be assessed on the basis of functional disability i.e. the effect and impact of such permanent disability on his earning capacity. Percentage of economic loss, i.e., percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability and injured has to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. It has been further held that partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Hon'ble Supreme Court further elaborated that if a driver looses his hand in an accident and the percentage of permanent disability was 60%, but loss of future earning capacity would be

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2026.02.18 16:19
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100%. However, if a clerk in Government Office looses his arm, in that event, loss of earning capacity will not be 100% nor 60% but far less and there may not be any need to award any compensation under the head “loss of future earnings” if the claimant continues in government service, though he may be awarded compensation under the head “loss of amenities” as a consequence of losing his hand. 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 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).

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2026.02.18 16:19
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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.

20. Hon'ble Supreme Court in 2013(1) RCR (Civil) 312- **K. Suresh Vs. New India Assurance Company Ltd.,** has held that compensation can be granted for disability as well as for loss of future earnings for the first head relates to the impairment of a person's capacity while the other relates to the sphere of pain and sufferings and loss of enjoyment of life of the person himself. In 2011(4) RCR (Civil) 817 – **Govind Yadav Vs. New India Insurance Co. Ltd.**, it has also been held that if the victim of the accident suffers permanent disability then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss of earnings and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.

21. In the present case also, it is not in dispute that the petitioner was a permanent employee of Punjab State Electricity Board and he continued to be in service even after the accident and as such, he has not suffered any loss of income. However, the Tribunal has awarded him a sum of Rs.1 lakh only on account of permanent disability but the same is not adequate and is on lower side. The

RENU
2026.02.18 16:19
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petitioner has suffered amputation of both legs and in my opinion, he is entitled to a sum of **Rs.1,25,000/-** on account of **permanent disability** & loss of expectation of life.

22. A sum of Rs.50,000/- has been awarded to the petitioner for loss of enjoyment of life, pain and sufferings, for mental agony and special diet, which in my opinion is grossly inadequate. Petitioner is accordingly held entitled to a sum of **Rs.75,000/-** on account of **Pain and Sufferings** and **Rs.50,000/-** towards **Loss of Amenities.**

23. During the period of treatment, petitioner remained bed ridden and under treatment for about one year and during this period, he must have spent huge amount on **transportation, in engaging an attendant and on special diet** and he is thus held entitled to a sum of **Rs.60,000/-** under this head.

24. In addition to this, no amount has been given for **Purchase of Artificial Limbs** and petitioner is held entitled to a sum of **Rs.1,00,000/-** for purchasing two artificial legs.

25. The accident had taken place in November, 1992 and as per the death certificate of petitioner placed on file, petitioner died on 16.11.2014. The said certificate has been issued by Registrar, Births and Deaths, Chandigarh Administration, meaning thereby, petitioner lived for 22 years after the accident. During this period, the petitioner must have engaged an attendant to take care of him as he had lost both his limbs. Tribunal has awarded only a sum of

RENU
2026.02.18 16:19
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2026:PHHC:024996

Rs.20,000/- for employing assistance and for future medical expenses, which too is on lower side. Accordingly, petitioner is held entitled to **Attendant Charges @ Rs.1,000/- per month for the initial five years,** (Rs.1,000 X 12 X 5 = Rs.60,000/-) **i.e. from December, 1993 upto November, 1998, @Rs.1,500/- per month from December, 1998 upto November, 2003** (Rs.1,500 X 12 X 5 = Rs.90,000/-), **@Rs.1,800/- per month from December, 2003 to November, 2008** (Rs.1,800 X 12 X 5 = Rs.1,08,000/-) **and @ Rs.2,200/- per month for next five years** (Rs.2,200 X 12 X 5 = Rs.1,32,000/-) **and @Rs.2,500/- per month for last one year** (Rs.2,500 X 12 = Rs.30,000/-). Total compensation for engaging an attendant thus comes to Rs.4,20,000/-.

26. The total compensation payable to the appellant is accordingly assessed as under:-

S.No.	***Under Head***	***Compensation awarded by the Tribunal***	***Compensation awarded by High Court***
1.	***Expenses incurred on the treatment.***	***Nil***	***Rs.40,000/-***
2.	***Permanent Disability & loss of expectation of life.***	***Rs.1,00,000/-***	***Rs.1,25,000/-***
3.	***Pain and Sufferings (Loss of enjoyment of life, Pain and sufferings, mental agony and special diet)***	***Rs.50,000/-***	***Rs.75,000/-***
4.	***Loss of Amenities***	***Nil***	***Rs.50,000/-***
5.	***Special diet, on transportation and in engaging an attendant***	***Nil***	***Rs.60,000/-***
6.	***Purchase of Artificial Limbs***	***Nil***	***Rs.1,00,000/-***
7.	***Attendant Charges & Future Treatment (Attendant Charges and future Medical expenses)***	***Rs.20,000/-***	***Rs.4,20,000/- Rs.25,000/- (future treatment)***
	Total compensation	***Rs.1,70,000/-***	***Rs.8,95,000/-***

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27. As a result of afore-said discussion, the appeal in hand is partly allowed with cost and petitioner is held entitled to enhanced compensation of Rs.7,25,000/- (Rs.8,95,000 – Rs.1,70,000). The appellants are entitled to recover the same from respondents No.1 to 3 jointly and severally along with interest @ 9% per annum, from the date of filing of claim petition i.e. 09.01.1993 till realisation. The entire of compensation be paid to the legal heirs of deceased-appellant in equal shares.

28. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of direction 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.

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

(Yashvir Singh Rathor)
Judge

February 17, 2026
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Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No

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