

FAO-4319-2001 (O&M) -1-

2026:PHHC:065597



216 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4319-2001 (O&M)
Date of Decision: 29.04.2026

Rajinder Kumar

..... Appellant

Versis

Manoj Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Akshay Jain, Advocate for the appellant.

Mr. Suvir Dewan, Advocate for respondent No.3-
Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 18.07.2001 passed by MACT, Jind (**for short “Tribunal”**) for enhancement of compensation awarded in MACT Case No.123 of 17.12.1999 in a petition under Section 163-A of Motor Vehicles Act, 1988 vide which a sum of Rs.2,35,000/- has been awarded as compensation to the claimant/appellant along with interest 9% per annum due to injuries suffered by him in a motor vehicular accident on account of rock slide and a stone had hit vehicle bearing No.HP-31A-7492 (**for short ‘offending vehicle’**), driven by respondent No.1, 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 deceased Ram Narain, Subhash Chander alias Subhash Bahadur died and petitioner Rajinder sustained injuries in an accident arising out of the use of a motor vehicle Tata Sumo bearing No.HR-31A-7492 being driven by respondent No.1 Manoj Kumar, as alleged?OPP*
2. *If issue No.1 is proved, whether the petitioners are entitled to receive any compensation, if so, how much and from whom?OPP*
3. *Whether respondent No.1 was not having a valid and effective driving licence to drive Tata Sumo vehicle at the time of accident as alleged, if so to what effect? OPR.*
4. *Whether the vehicle in question was being driven in contravention of the terms and conditions of the insurance policy, if so to what effect?OPR.*
5. *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.2,35,000/- 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 respondent No.3.

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 in question had taken place due to use of vehicle and a stone had hit the offending vehicle. 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. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Registry and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned award.

8. 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 45% permanent disability and he has been awarded a total compensation of Rs.2,35,000/-, for medical expenses, permanent disability, transportation, loss of income, nutritious diet, pain and sufferings and attendant charges. Learned counsel further argued that adequate compensation has not been awarded under pecuniary and non-pecuniary heads. Learned counsel prayed that impugned award is thus liable to be set aside and appellant is entitled to enhanced amount of compensation. In support of his contentions, learned counsel for the appellant has relied upon 2014 (1) RCR (Civil) 914 **Sanjay Verma Vs. Haryana Roadways** and 2017 (16) SCC 680



National Insurance Co. Ltd Vs. Pranay Sethi and Others.

9. On the other hand, learned counsel for respondents 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.

10. As per version of claimant- Rajinder Kumar, he had suffered fractures including compound fractures of both bones of right leg besides head and chest injuries. He suffered 45% permanent disability on account of compound fracture in the right knee joint. The Tribunal assessed his monthly income to Rs.3,000/- per month and after deducting one third of the amount towards personal expenses, his yearly contribution was taken to be Rs.24,000/- and taking into consideration the 45% permanent disability, he was awarded a sum of Rs.1,50,000/- as compensation for loss of income by taking his annual loss of income to be Rs.10,000/- and by applying multiplier of 15.

11. However, the approach of the learned Tribunal is not in consonance with the settled law. No amount in injury cases could have been deducted for personal expenses. Likewise, claimant was 40 years of age and no future prospects have been added to the monthly income of the claimant.

12. As such, on account of permanent disability to the extent of 45% suffered by the claimant, his earning capabilities will be diminished. 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. The law is well settled that the compensation to be awarded for injuries suffered by victim in a motor vehicular accident should be just and equitable. Courts have consistently held that while money cannot erase the pain, suffering, or trauma but it is the only legal means to provide restitution and restore the victim to his previous position as far as possible for which 'just compensation' has to be assessed. 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'. The core objective is to put the injured/victim in the same position he would have been 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 normal relief.

14. Besides this, 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.

15. In the present case also, the disability suffered by the claimant has affected his right leg. As such, the disability suffered by him will certainly diminish his earning capability as he will not be able to do his job or routine work and lead his life in the same manner as he was leading prior to the accident.



16. In the present case, the accident had taken place in the year 1999 and the income of the claimant was assessed as Rs.3,000/- per month, which is appropriate but in view of law laid down in **Sanjay Verma's case (supra)** and **Pranay Sethi's case (supra)**, 40% amount has to be added to his monthly income towards future prospects which brings his monthly income to **Rs.4,200/- per month (Rs.3,000/- + Rs.1,200/-)**.

17. Claimant has suffered permanent disability to the extent of 45% and the monthly loss of income will thus come to **Rs.1,890/- (Rs.4,200/- X 45%)** and 'annual loss of income' will come out to **Rs.22,680/- per annum (i.e. Rs.1,890/- X 12)**.

18. The claimant was 40 years of age and in view of law laid down in **Pranay Sethi's case (supra)**, the multiplier of 15 has to be applied which takes the compensation to **Rs.3,40,200/- (Rs.22,680/- X 15)** on account of 'loss of income' due to permanent disability.

19. The claimant has been awarded a sum of **Rs.60,000/-** on account of 'expenses incurred on treatment' as per the medical bills produced on file and no interference in the same is called for.

20. A sum of Rs.7,000/- has been awarded for pain and sufferings. The claimant had suffered multiple fractures and he was operated upon. It must have taken a long time for the injuries to heal and during this period, claimant would not have been able to do any work but meager amount has been awarded under the head 'pain and sufferings'. It is a matter of common knowledge that pain component in such injuries is



enormous. The accident had taken place on 25.8.1999 and in view of severity of the injuries suffered by the claimant, he is held entitled to a sum of **Rs.25,000/-** as compensation on account of ‘**pain and sufferings**’.

21. It must have taken four months for the injuries to heal during which period, claimant would have remained bed ridden and would not have been able to do any work and he is accordingly held entitled to a sum of **Rs.12,000/- (Rs.3,000/- X 4)** on account of ‘**loss of income during the period of treatment**’.

22. Claimant has also been awarded a sum of Rs.6,000/- each for transportation and on account of special diet and in engaging an attendant which too is on lower side and he is held entitled to a sum of **Rs.20,000/-** for the ‘**expenses incurred on transportation, special diet and in engaging an attendant**’.

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

Sr. No.	Head	This Court (₹)
1.	Loss of Income	Rs.3,40,200/-
3.	Pain & suffering	Rs.25,000/-
5.	Loss of income during period of treatment	Rs.12,000/-
6.	Expenses incurred on transportation, special diet and in engaging an at-tendant	Rs.20,000/-
	Total	Rs.3,97,200/-
	Interest	9%



24. As a result of afore-said discussion, the present appeal is partly allowed with costs and the claimant is held entitled to enhanced compensation of **Rs.1,62,200/- (Rs.3,97,200/- - Rs.2,35,000/-)** over and above the compensation awarded by Tribunal, payable by respondent No.3 – Insurance Company, along with interest @ 9% per annum, from the date of filing of claim petition i.e. 5.10.1999, till realization.

25. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

29.4.2026
renu

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