IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(217) **FAO No.2131 of 2002 (O&M)**
Date of decision:30.04.2026

SANJEEV KUMAR ... APPELLANT

VERSUS

SUDHIR KUMAR GULATI AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Ashwani Arora, Advocate,
for Appellant.

Mr. Shubham Gupta, Advocate,
Mr. D.P. Gupta, Advocate for
respondent No.3/Insurance Company.

*****

VIRINDER AGGARWAL,J. (Oral)

1. The present appeal has been preferred by the appellant seeking enhancement of the compensation awarded vide award dated 10.10.2001 passed by the learned Motor Accident Claims Tribunal, Chandigarh, on account of the injuries sustained by Sanjeev Kumar, in a motor vehicular accident.

BACKGROUND FACTS

2. The brief facts of the case are that on 21.07.1999 at about 9:45 p.m., the appellant-claimant, Sanjeev Kumar, aged about 26 years, was driving his Maruti car bearing registration No. CH-01-X-7407 from Sector 8 towards his

residence in Sector 44-D, Chandigarh, after dropping a friend. When he reached the traffic light crossing of Sectors 8, 9, 17 and 18, an offending Maruti car bearing registration No. CH-01-B-3998, driven by respondent No.1, Sudhir Kumar Gulati, in a rash and negligent manner and at a high speed, came from the side of Sector 18 and struck against the appellant's vehicle. As a result of the said collision, the appellant sustained grievous injuries, including a fracture of the right forearm. Subsequently, the appellant filed a claim petition under Section 166 of the Motor Vehicles Act before the learned Motor Accident Claims Tribunal, Chandigarh. Upon appreciation of the evidence on record, the learned Tribunal awarded a sum of ₹25,000/- along with interest at the rate of 9% per annum, holding the respondents jointly and severally liable to pay the said compensation.

CONTENTIONS

3. Learned counsel for the appellant contended that the compensation awarded by the learned Tribunal is grossly inadequate and does not commensurate with the nature of injuries and suffering endured by the appellant. It was argued that the learned Tribunal failed to award compensation under various settled heads, including pain and suffering, loss of amenities, transportation, attendant charges and special diet, and instead granted a meagre lump sum of ₹25,000/-. It was further submitted that despite the appellant having suffered permanent disability to the extent of 10%, no compensation was awarded on that account. On these grounds, it was urged that the impugned award deserves to be enhanced to ensure grant of just and reasonable

compensation in accordance with law.

4. Per Contra, the learned counsel for the respondent No. 3, while supporting the impugned award, submitted that the learned Tribunal has appreciated the evidence in its correct perspective and has passed the award strictly in accordance with law. It was argued that the claim of injured appellant has been duly considered, and the amounts awarded under various heads are just, proper, and reasonable. It was further contended that no infirmity, perversity, or misreading of evidence can be attributed to the conclusions arrived at by the learned Tribunal so as to warrant interference by this Court in exercise of appellate jurisdiction.

OBSERVATIONS AND FINDINGS

5. I have heard learned counsel for the parties and perused the complete records. On due consideration of the findings recorded by the learned Tribunal, particularly on the issue of negligence and fastening of liability, I find no reason to take a different view. Those findings are accordingly affirmed. However, the core issue arising in this appeal pertains to the reassessment of the quantum of compensation.

6. For the purpose of reassessment of compensation, the primary issue that arises for consideration is the extent of functional disability and its consequential impact on the earning capacity of the appellant. In the present case, the appellant-claimant sustained a fracture of the right forearm. Initially, POP was applied at Government Medical College and Hospital, Sector 32, Chandigarh. Subsequently, owing to impaired functioning of his fingers, he

underwent surgical intervention under Dr. Jain at Muzaffarnagar. The medical evidence on record, particularly the testimony of Dr. Lalit Kaushal (PW-2), establishes that the appellant has suffered 10% permanent disability, as reflected in the disability certificate (Ex. P5). However, it is well settled that the percentage of permanent physical disability is not synonymous with the loss of earning capacity. What is required to be assessed is the functional disability, i.e., the extent to which the injury has affected the claimant's ability to earn his livelihood. In the present case, the evidence indicates that the disability has had a lasting and adverse impact on the appellant's efficiency in carrying on his business, which involves performing physical activities. The impairment of the right forearm and fingers would reasonably hinder dexterity, grip, and coordination, thereby affecting his work performance. Even otherwise, merely because the precise nature of the business carried on by the injured has not been specifically pleaded, it cannot be inferred that the disability would have no bearing on his earning capacity; rather, any occupation requiring normal use of the upper limb would be adversely affected by such impairment. Despite this material evidence, the learned Tribunal failed to undertake a proper assessment of the loss of future earning capacity in light of the functional disability and instead awarded a lump sum amount without applying the settled principles governing such determination. The approach adopted by the learned Tribunal, therefore, falls short of the standard required for awarding "just compensation" under the law.

7. Upon a holistic reappraisal of the evidence, this Court is of the

considered view that although the physical disability has been assessed at 10%, the same would have a direct bearing on the appellant's functional capacity, particularly in his vocation. In the absence of cogent evidence demonstrating a higher loss, the functional disability is reasonably assessed at 8% for the purpose of computation. It is well settled that it is the functional impact of the disability on the earning capacity and future prospects of the claimant which is determinative. In this regard, reliance may be placed on the judgment of the Hon'ble Supreme Court in ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***, wherein it has been authoritatively held that compensation towards loss of future earnings must correspond to the actual diminution in earning capacity resulting from the disability suffered.

8. In the present case, the injuries sustained by the appellant have a direct and substantial bearing on his future efficiency, earning capacity, and overall enjoyment of life, thereby entitling him to just and reasonable compensation towards loss of future earning capacity. The appellant claimed to be self-employed and produced an Income Tax Return marked as Mark 'A', which reflects an annual income of ₹42,500/-. His testimony on the aspect of income is clear, consistent, and has remained unrebutted, as the respondents neither led any evidence to the contrary nor put any effective challenge to the said assertion in cross-examination. As it is held in the case of ***Sebati Nath & Ors. v. Shriram General Insurance Company Ltd. (Civil Appeal arising out of SLP (C) No.26253 of 2025)***

> *8. We are inclined to interfere with the findings of the Courts below in assessing the income of the deceased at Rs.7,000/- per month as the*

same was not assessed correctly on the basis of the evidence on record. This Court in Chandra v. Mukesh Kumar Yadav1 , has held that "In the absence of documentary evidence on record, some guesswork is required to be done". Also, in the case of Prabhavathi v. Bangalore Metropolitan Transport Corpn2 ., this Court has held that:

"13. It is the settled law that under the Motor Vehicle Act, 1988 it is established that in compensation cases, the strict rules of evidence used in criminal trials do not apply. Instead, the standard of proof is based on the preponderance of probability. This Court in Sunita v. Rajasthan SRTC observed that:

"22. It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases."

The exposition came to be reiterated in Rajwati alias Rajjo v. United India Insurance Company Ltd., wherein it was observed that

"20. It is well settled that the Motor Vehicles Act, 1988 is a beneficial piece of legislation and as such, while dealing with compensation cases, once the actual occurrence of the accident has

> *been established, the Tribunal's role would be to award just and fair compensation. As held by this Court in Sunita (Supra) and Kusum Lata (Supra), strict rules of evidence as applicable in a criminal trial, are not applicable in motor accident compensation cases i.e., to say, "the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases."*
>
> *.......emphasis supplied*

9. It is well settled that proceedings under the Motor Vehicles Act, 1988 are summary in nature, and the determination of compensation is governed by the principle of preponderance of probabilities, and not by the strict standards of proof applicable to criminal trials. The Hon'ble Supreme Court has authoritatively held that where oral evidence regarding income and such evidence remains uncontroverted, the Tribunal is bound to accept the same on the touchstone of preponderance of probabilities, and the claim cannot be rejected merely for want of documentary proof. Applying the aforesaid principles to the facts of the present case, although the precise nature of the business carried on by the appellant has not been specifically pleaded and income from business may inherently fluctuate, the Income Tax Return (Mark 'A') coupled with the unrebutted oral testimony of the appellant provides a reasonable and reliable basis for assessment of his income. A hyper-technical approach in rejecting such evidence would defeat the beneficial object of the legislation. Accordingly, taking a pragmatic and balanced view, the annual income of the appellant is assessed at ₹42,500/-. The appellant was aged about

26 years at the time of the accident. Consequently, in view of the principles laid down by the Hon'ble Supreme Court in ***Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121 and National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680***, the loss of future income on account of permanent functional disability is required to be computed accordingly.

Particulars	**Re-assessed (₹)**
Monthly Income (8% Functional Disability)	284/-
Monthly Income with Future Prospects (40%)	398/- (284 + 114)
Annual Income	4,776/- (398 × 12)
Multiplier	17
Loss of Future Income	**81,192/- (4,776 × 17)**

10. Apart from loss of future earning capacity, the claimant is also entitled to just compensation under other pecuniary and non-pecuniary heads. The principles governing such assessment have been authoritatively laid down by the Hon'ble Supreme Court in ***Raj Kumar v. Ajay Kumar (supra)***. In the present case, from the evidence on record, including the treatment at GMCH Sector 32, operation at Muzaffarnagar, prescriptions and the appellant's deposition, it is evident that he underwent prolonged treatment and suffered grievous injuries resulting in 10% permanent disability with complications. Considering the nature of injuries, period of treatment, pain and suffering, and the long-term impact on the appellant's lifestyle and earning capacity, this Court is of the view that the lump sum compensation awarded by the learned Tribunal is on the lower side and warrants enhancement. Accordingly, the claimant is held entitled to the following amounts:

Particulars	Re-assessed (₹)
Loss of income during Hospitalisation and treatment	15,000/-
Medical expenses	**10,000/-**
Transportation	**5,000/-**
Special Diet	**10,000**
Loss of amenities	**10,000/-**
Attendant	**15,000/-**
Pain and suffering	**15,000/-**
Total	**₹80,000/-**

Total Compensation

11. Thus, the total compensation payable to the claimant is reassessed as under:

Particulars	Amount (₹)
Loss of Future Income	₹81,192/-
Other Heads	₹80,000/-
Total	**₹1,61,192/-**

12. In view of the above, the appeal is partly allowed. The impugned award dated 10.10.2001 is modified to the extent that the compensation payable to the appellant is enhanced from 25,000/- to ₹1,61,192/-. The enhanced amount shall carry interest at the rate of 7% per annum from the date of filing of the claim petition till realization. Except for the modification of the quantum

of compensation, all other findings recorded by the learned Tribunal, including those with regard to negligence, liability and mode of disbursement, shall stand affirmed.

13. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

30.04.2026
Poonam

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No