206 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2587-2002 (O&M)
Date of Decision: 07.04.2026

LABH SINGH

.... APPELLANT

VERSUS

SUBHASH CHANDER AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present*:* Mr. Paramveer Singh, Advocate
for the appellant.

Mr. Naveen Sharma, Advocate
for respondent No.1.

Mr. Karan Singla, Advocate
for respondent No.2.

Mr. Sandeep Suri, Advocate
for respondent No.3-National Insurance Company.

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YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 31.07.2001 passed by MACT, Ambala (**for short "Tribunal"**) for enhancement of compensation awarded in MACT Case No.87 of 23.05.1998 in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,97,060/- has been awarded as compensation to the claimant/appellant along with interest at the rate of 9% per annum due to injuries suffered by him in a motor vehicular accident on account of

rash and negligent driving by respondent No.1, while driving offending vehicle bearing No.HP-31-3561 (**for short 'offending vehicle'**), 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 the claimant had sustained injuries in an accident caused by Vehicle No.HP-31-3561 due to rash and negligent driving on the part of respondent No.1? OPP*
>
> *2. To what amount of compensation, if any, the claimant is entitled to and from whom?OPP*
>
> *3. Whether respondent No.3 is not liable to pay compensation, as alleged? OPR-3.*
>
> *4. 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.1,97,060/- 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 respondents No.1 to 3, jointly and severally.

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 the rash and negligent driving on the part of respondent No.1, while driving offending vehicle and respondents No.1 to 3 were held liable to pay compensation jointly and severally. 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 Branch 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 30% permanent disability and he has been awarded a total compensation of Rs.1,97,060/-, for medical expenses, permanent disability, transportation, loss of income, nutritious diet and attendant charges. Learned counsel further argued that no compensation has been awarded under the head of 'pain and sufferings', whereas on account of permanent disability suffered by him, the claimant will suffer 'loss of income' in future as well and 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,** 2009(6) SCC 121 **Sarla Verma and others Vs. Delhi Transport Corporation and Another** 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, he had suffered multiple grievous injuries including fracture of right leg at three places including fracture of knee joint and he remained under treatment for a long time and had spent Rs.60,000/- on his treatment, special diet, in engaging an attendant and on transportation. Claimant appeared as PW3 and deposed that his right leg was fractured and his knee joint was damaged. He was taken to Civil Hospital, Mullana from where he was referred to Civil Hospital, Ambala City where he remained admitted for two days. Further relevant statement of claimant is as under:-

> *" Operation on my right leg was conducted in Civil Hospital, Ambala and opined to amputate my right leg, therefore, I went to command Hospital Ambala, where I remained admitted for two months. Two operations were conducted by Dr. Mann. Patella of right knee was removed. External fixator was applied on my right leg for period of one and half month. After removal of external fixator plaster was applied for the period of seven-eight months. Infact plaster was applied for three times. Thereafter, I had been*

> *visiting Mann Hospital for dressing regularly. A plastic brace was applied for about 10-11 months after removal of plaster. During this period I was not able to stand or walk. I was totally confined to bed and use to move up to some distance with the help of crutches."*

11. Claimant has also examined PW1 Dr. Rajinder Mann, of Mann Orthopaedic Hospital, Ambala City, who deposed that claimant remained admitted in his hospital as a case of compound communited fracture of right patella (with fracture of right leg). He remained admitted in the hospital from 17.04.1998 to 01.06.1998 and was discharged with external fixator on his right leg. The right patella was removed and patient was put on antibiotics, calcium and pain killers. Even after discharge on 01.06.1998, the patient had attended his hospital in OPD several times and he proved the discharge card Ex.P1 and further deposed that patient was also given function brace on his right leg. He further stated that he had charged a sum of Rs.25,500/- from the patient including hospital charges and consultation charges. In addition to this, claimant has also led in evidence bills Ex.P4 to Ex.P45, which were tendered in evidence by the counsel for the claimant. However, the Tribunal ignored the cash memos Ex.P4 to Ex.P45 on the ground that the same have not been led in evidence during the examination of PW3 Labh Singh or during examination of PW1 Dr. Rajinder Mann. These bills have also not been countersigned by the treating doctor on whose prescription the medicines were allegedly purchased. Rather, Dr. Rajinder Mann PW1 while giving approximate charges taken by him has categorically stated that the said charges included expenses incurred on

medicines as well. Had these cash memos been put to Dr. Rajinder Mann PW1, the position would have become clear and transparent. It was further held that prescription slips of Dr. Rajinder Mann PW1 have also not been produced to establish that he had prescribed these medicines which have been purchased against bills Ex.P4 to Ex.P45 and learned Tribunal did not rely upon the medical bills Ex.P4 to Ex.P45. The reasoning given by the Tribunal, while rejecting these bills, does not appear to be erroneous and is supported by cogent reasons and there is thus no reason to take a contrary view. Accordingly, the award of sum of Rs.25,500/- towards expenses incurred on treatment is not liable to be interfered with.

12. The Tribunal has held that the claimant had suffered 30% permanent disability as per disability certificate Ex.P2, which has been proved by PW2 Dr. P.K. Nigam, Member of the Board, which assessed the disability. PW2 had further stated that the claimant would have difficulty in walking, running and sitting and will not be able to lift any weight. As such, on account of permanent disability to the extent of 30% suffered by the claimant, it will certainly diminish his earning capabilities and the avocation or profession he will pursue. 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. 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.

14. 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.

15. Regarding permanent disability and loss of income, claimant Labh Singh stated that he has suffered permanent disability and he feels pain in his right leg after walking for some distance and after standing for about half an hour. He was working as a carpenter and he also deals in sale and purchase of standing trees and used to earn Rs.6000/- to Rs.7000/- per month.

16. PW4 Harkesh Singh deposed that he had sold wood to be utilized by him in his avocation of a carpenter. The Tribunal on the basis of evidence led on file held his monthly income to be Rs.2,100/- per month. However, no evidence was led by the respondents to establish that the claimant was not working as a carpenter and testimony of claimant as well as PW4 Harkesh Singh in this regard has gone unrebutted.

17. Hon'ble Supreme Court while deciding Civil Appeal No.15021 of 2024 titled **Karamjit Singh Vs. Amandeep Singh and another** vide judgment dated 17.12.2024 has held that a carpenter has to be treated as a skilled person and it will be unfair to classify a carpenter

as an unskilled worker. Hon'ble Supreme Court in 2019 (5) RCR (Civil) 884, **Chameli Devi and others Vs. Jivrali Mian and others**, has assessed the monthly income of a carpenter to be Rs.5000/- per month in the year 2001 and it was further held that in such cases where deceased is engaged in such type of profession, claimants can only lead oral evidence.

18. In the present case, the accident had taken place in the year 1998 and it can be assumed that the claimant must be earning at least Rs.3,500/- per month while working as a carpenter. Learned Tribunal has thus gravely erred while assessing his monthly income to be Rs.2,100/- per month only, which is highly on lower side. Accordingly, income of claimant is taken as **Rs.3,500/-** per month.

19. Claimant while appearing as PW3 on 10.01.2001 stated his age to be 40 years and as such, he was around 40 years of age on the date of accident. Accordingly, 40% of amount has to be added to his monthly income towards future prospects in view of law laid down in **Sanjay Verma's case (supra)** and **Pranay Sethi's case (supra)** and after adding the same, his monthly income comes out to **Rs.4,900/- per month (Rs.3,500/- + Rs.1,400/-)**.

20. Claimant has suffered permanent disability to the extent of 30% and the monthly loss of income will thus come to **Rs.1,470/- (Rs.4,900/- X 30%)** and '**annual loss of income**' will come out to **Rs.17,640/- per annum (i.e. Rs.1,470/- X 12)**.

21. The claimant was 40 years of age and in view of law laid down in **Pranay Sethi's case (supra)** and **Sarla Verma's case (supra),** the multiplier of 15 has to be applied which takes the compensation to **Rs.2,64,600/- (Rs.17,640/- X 15)** on account of '**loss of income**' due to permanent disability.

22. The Tribunal has not awarded any compensation on account of pain and sufferings. The claimant had suffered fractures as well as permanent disability. It must have taken at least six months for the injuries to heal and during this period, claimant would not have been able to do any work but no compensation has been given under the head of 'pain and sufferings'. It is a matter of common knowledge that pain component in such injuries is enormous but Tribunal has gravely erred by not awarding compensation under the head 'pain and sufferings'. Taking into consideration the severity of the injuries suffered by the claimant, he is held entitled to a sum of **Rs.30,000/-** as compensation on account of '**pain and sufferings**'.

23. The Tribunal has awarded loss of income for 13 and a half months from 17.04.1998 to 03.03.2000 at the rate of Rs.2,100/- per month amounting to Rs.28,350/-. However, his income has been held to be Rs.3,500/- per month and accordingly, he is held entitled to a sum of **Rs.47,250/- (Rs.3,500/- X 13.5)** on account of '**loss of income during the period of treatment**'.

24. Claimant has also been awarded a sum of Rs.2,000/- for

transportation, which too is on lower side. The claimant was under treatment for about 13 months and huge amount must have been spent on transportation and he is accordingly held entitled to a sum of **Rs.10,000/-** for the **'expenses incurred on transportation'**.

25. However, the amount awarded for nutritious diet and in engaging the attendant is adequate and no interference in the same is called for.

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

Sr. No.	Head	Tribunal (₹)	This Court (₹)
1.	Medical Expenses	Rs.25,500/-	Rs.25,500/-
2.	Permanent disability	Rs.1,20,960/-	Rs.2,64,600/-
3.	Pain & suffering	—NIL—	Rs.30,000/-
4.	Transportation charges	Rs.2000/-	Rs.10,000/-
5.	Loss of income (treatment)	Rs.28,350/-	Rs.47,250/-
6.	Nutritious diet	Rs.9,450/-	Rs.9,450/-
7.	Attendant Charges	Rs.10,800/-	Rs.10,800/-
	Total	**Rs.1,97,060/-**	**Rs.3,97,600/-**
	Interest	**9%**	**9%**

27. 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.2,00,540/- (Rs.3,97,600/- - Rs.1,97,060/-) (rounded off to Rs.2,00,500/-)** over and above the compensation awarded by

Tribunal, payable by respondents No.1 to 3, jointly and severally, along with interest @ 9% per annum, from the date of filing of claim petition i.e. 23.05.1998, till realization.

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

(YASHVIR SINGH RATHOR)
JUDGE

07.04.2026
Priyanka Thakur

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