244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2762-2003(O&M)
Date of Decision: 18.05.2026

SATYAWAN .... APPELLANT

VERSUS

BALWAN & ORS .....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. K.S. Malik, Advocate for
Mr. S.K. Hooda, Advocate
for the appellant.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

Respondents No.1 and 2 ex parte
before the Tribunal.

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YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 06.09.2002 passed by MACT, Fatehabad (**for short "Tribunal"**) for enhancement of the compensation awarded in MACT Case No.32 of 1996/2000 in a petition under Section 166 of the Motor Vehicles Act, 1988 vide which a sum of Rs.2,17,800/- 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 rash and negligent driving on the part of respondent No.1 while driving offending vehicle bearing No.HR-46-8395 (**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 respondent No.1 was driving his truck No.HR-46-8395 in a rash and negligent manner as on 28.8.96 in the area of Bahadurgarh thereby caused injuries on the person of Satyawan? OPP*
>
> *2. Whether the petitioner is entitled for compensation if so to what amount? OPP*
>
> *3. Whether the petition is not maintainable on the grounds mentioned in the preliminary objections of the written statement? OPR*
>
> *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.2,17,800/- 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. However, it was held that the driver of the offending vehicle did not possess a valid and effective driving licence and in view of violation of terms and conditions of the insurance policy, Insurance Company was exonerated of its liability to indemnify the insured. However, it was ordered that respondent No.3-Insurance Company shall first of all make the payment of the awarded amount to the claimant and thereafter, it shall have a right to recover the same from respondent No.2-insured.

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 occurred due to the rash and negligent driving on the part of respondent No.1 while driving offending vehicle. No appeal or cross-objections have been filed by 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. 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. Learned counsel contended that income of the claimant has been assessed on lower side. No future prospects have been added to the income of the injured. The claimant had suffered 60% permanent disability due to paralysis of lower limb and shortening of leg with deformity in the foot. The claimant was 23 years of age but multiplier of 16 has been applied instead of 18 while assessing the compensation. Learned counsel next contended that the compensation has not been awarded under the pecuniary and non-pecuniary damages as per settled law and the impugned award is thus liable to be modified and enhanced amount of compensation be awarded. 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,**

2017 (16) SCC 680 **National Insurance Co. Ltd Vs. Pranay Sethi and Other**.

8. On the other hand, learned counsel for respondent No.3 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.

9. 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.

10. Coming to issue No.2, as per version of claimant, he had suffered multiple injuries in the accident as he was travelling in the cabin of the offending vehicle which had struck against a stationary Canter. He got entangled in the cabin and was extricated from the cabin in the

morning when the police arrived at the spot. As per his version, he has become permanently disabled. He was working as a cleaner in the same truck and used to get Rs.2,000/- per month as salary. The Tribunal after going through the evidence led on file has held that the claimant remained admitted in Medical College, Rohtak for one month. A rod was inserted in his leg and he was operated upon. He had suffered fracture of left lower limb and as such, it is established that claimant had suffered grievous injuries.

11. Learned Tribunal held that claimant had suffered a fracture in his lower limb and shortening of leg with deformity in foot and awarded him a sum of Rs.20,000/- towards pain and sufferings. However, in my considered opinion, the compensation under the head 'pain and sufferings' is grossly inadequate. It is a matter of common knowledge that a fracture in the leg takes a long time to heal and in view of severity of injuries, the claimant is held entitled to a sum of **Rs.40,000/-** towards '**pain and sufferings'**.

12. To prove the disability suffered by him, the claimant has examined PW1 Dr. J.S. Bhatia, Orthopaedic Surgeon, General Hospital, Hisar. He deposed that he had medico-legally examined the claimant on 15.11.1996 and had issued temporary disability certificate. He further stated that in such cases, the disability is likely to increase with the passage of time due to malunited fracture of left femur with ankylosis of left knee with Volkmann's ischemic Contracture (V.I.C.) of left lower limb. He tendered disability certificate Ex.P1, whereby the temporary disability of claimant was assessed as 40%. Thereafter, he was again

examined on 30.03.1998 and he deposed that on examination of the claimant, he assessed his disability to be 60% which is permanent in nature vide certificate Ex.P43.

13. PW3 Dr. D.L. Bansal has proved disability certificate Ex.P42. He stated that the claimant was examined by him along with other Members of the Board constituted by Civil Surgeon, Fatehabad and found that the claimant has suffered paralysis of left lower limb with shortening and deformity of foot and he was suffering from disability to the extent of 70%. As such, as per disability certificate Ex.P42, claimant has suffered 70% permanent disability with paralysis of left lower limb and shortening of leg with deformity in the foot. However, as per subsequent disability certificate dated 31.03.1999 Ex.P43, which has been proved by PW1 Dr. J.S. Bhatia, the claimant was suffering from 60% permanent disability and as such, the Tribunal relied upon the disability certificate dated 31.03.1999 Ex.P43. Accordingly, it is established from the disability certificates placed on file that claimant had suffered paralysis of left lower limb and shortening of leg with deformity in the foot and his permanent disability is thus taken as 60%. The claimant was 23 years of age and a cleaner of the truck and he will have to remain with this disability throughout his life and 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 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.

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. As per version of claimant, he was a cleaner in the same truck and was getting a salary of Rs.2,000/- per month. However, the Tribunal has ignored his testimony and held his monthly income to be Rs.1,500/- per month. The accident had taken place on 28.08.1996 and the assessment of his monthly salary to be Rs.1,500/- per month is thus not on the lower side, as labourers used to get around Rs.1,500/- per month, in the year 1996, which is reasonable and there is no reason to take a contrary view. Accordingly, the income of the claimant is taken as **Rs.1,500/- per month**.

16. The claimant was 23 years of age on the date of accident and as such, 40% of the 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.2,100/- per month (Rs.1,500/- + Rs.600/-)**.

17. Claimant has suffered permanent disability to the extent of 60% and the monthly loss of income will thus come to **Rs.1,260/- (Rs.2,100/- X 60%)** and annual loss of income will come out to **Rs.15,120/- (Rs.1,260/- X 12)**.

18. The claimant was 23 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 18 has to be applied instead of 16 as applied by the

Tribunal, which takes the compensation to **Rs.2,72,160/- (Rs.15,120/- X 18)** on account of '**loss of income**' due to permanent disability.

19. 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 and accordingly, he is held entitled to a sum of **Rs.9,000/- (Rs.1,500/- X 6)** on account of '**loss of income during the period of treatment**'. During this period of six months, he must have engaged an **attendant**, spent some amount on **transportation** and on **special diet**. Accordingly, claimant is held entitled to a sum of **Rs.16,000/-** under these heads.

20. The claimant has suffered paralysis of left lower limb along with fracture of the lower limb with shortening of leg and deformity in foot. Accordingly, claimant is held entitled to a sum of **Rs.20,000/-** on account of '**loss of amenities**'

21. The Tribunal after assessing the evidence led on file came to the conclusion that from the bills placed on file, it is established that claimant had spent Rs.25,000/- on his treatment towards medical expenses including expenses on special diet and transportation. However, he had led in evidence the bills Ex.P5 to Ex.P41 and Ex.P44 to Ex.P57, according to which he had spent Rs.18,220/- on the purchase of medicines and other equipments for the treatment. It is a matter of common knowledge that the family members generally do not preserve all the bills as their primary concern is to provide treatment to the injured. As such, some amount of guesswork has to be applied while assessing the expenses incurred on the treatment. Accordingly, it is held that the claimant must have spent about **Rs.20,000/-** on his treatment and he is

entitled to the same on account of **'medical expenses incurred during treatment'**. Claimant would also require expenses for future treatment as he has suffered partial paralysis along with shortening of leg and as such, he is also held entitled to a sum of **Rs.40,000/-** for **'future treatment'**.

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

Sr. No.	**Head of Compensation**	**Amount Awarded (₹)**
1.	Loss of income due to permanent disability	2,72,160/-
2.	Loss of income during treatment for period (6 months)	9,000/-
3.	Attendant charges, transportation & special diet	16,000/-
4.	Pain and sufferings	40,000/-
5.	Loss of amenities	20,000/-
6.	Medical expenses during treatment	20,000/-
7.	Future treatment	40,000/-
	Total Compensation	**4,17,160/-**
	Interest	**9%**

23. As a result of afore-said discussion, the present appeal is partly accepted with costs and the claimant is held entitled to enhanced compensation of **Rs.1,99,360/- (Rs.4,17,160/-** - **Rs.2,17,800/-**), which is rounded off to **Rs.1,99,500/-** over and above the compensation awarded by Tribunal along with interest @ 9% per annum, from the date of filing of claim petition i.e. 25.10.1996, till realization. Liability to pay the enhanced compensation shall be in the same terms as has been ordered by

the Tribunal. Since, driver of the offending vehicle did not possess a valid and effective driving licence, the Insurance Company shall first of all pay the enhanced compensation and it shall have a right to recover the same from the insured/owner along with interest @ 6% per annum, from the date of deposit till realization, without filing a separate suit.

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

18.05.2026
Vishal Vardhan

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