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

208

**FAO-1033-2005 (O&M)
Date of decision: 30.03.2026**

MOHD. HAANIF **....Appellant**

Versus

NAWAL KISHORE AND ORS. **...Respondents**

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Kunal Phogat, Advocate for the appellant.

Mr. Abhinav Singla, Advocate
for respondent No.4-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. The record of the present case was destroyed in a fire incident in the High Court Branch. Learned counsel for the appellants/claimants has placed on record copies of the grounds of appeal, memo of parties, and the Award, which are taken on record. The Registry is directed to tag the same at an appropriate place in the record.

2. This appeal has been instituted against the Award dated 11.12.2001 passed by MACT, Gurgaon (**for short "Tribunal"**) for enhancement of compensation awarded in MACT Case No.116 of 27.07.2000 in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.51,600/- has been awarded as compensation to the claimant/appellant alongwith interest at the rate of 9% per annum on account of injuries suffered by him in a motor vehicular accident which took place on 17.08.1999 on account of rash and negligent driving by respondent No.3-Khalil, while driving offending vehicle bearing No.HR-50-1314 **(for short 'offending vehicle')**, owned by respondent No.1, which was

insured with respondent No.4.

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

> *1. Whether deceased Azim Khan died and claimant Mohammad Hanif and sustained injuries in an accident caused by vehicle No.HR-50-1314 due to rash and negligent driving on the part of respondent No.2 as alleged? OPP.*
>
> *2. To what amount of compensation, if any, and from whom the claimants are entitled? OPP.*
>
> *3. Whether the vehicle was being driven by a person not holding a valid and effective driving licence? OPR3.*
>
> *4. Whether the vehicle was being driven in violation of terms and conditions of insurance policy. If so its effect? OPR3.*
>
> *5. Relief."*

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.51,600/- 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, 3 and 4, jointly and severally. However, Insurance Company was absolved of its liability to indemnify the insured on account of violation of terms and conditions of the insurance policy and it was given a right to recover the awarded amount from the insured/owner.

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 had occurred due to the rash

and negligent driving on the part of respondent No.3-Khalil while driving offending vehicle and respondents No.1, 3 and 4 have been held liable to pay compensation jointly and severally. 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.

8. 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.

9. 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 7.5% permanent disability and he has been awarded a total compensation of Rs.51,600/- for medicines, special diet, transportation, pain and sufferings, loss of earnings, loss of employment and enjoyment. Learned counsel further argued that on account of permanent disability suffered by him, the claimant will suffer 'loss of income' as well in future and adequate compensation has also not been awarded under pecuniary and non-pecuniary heads. Learned counsel prayed that impugned award is thus liable to be set aside/modified and appellant is entitled to enhanced amount of compensation.

10. On the other hand, learned counsel for respondent No.4 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.

11. 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.

12. 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.

13. As per version of claimant-Mohd. Hanif, he had suffered injuries in his right leg and had spent about Rs.30,000/- to Rs.35,000/- on his treatment. However, he has not placed on file any documentary proof regarding expenditure incurred on the treatment and learned Tribunal on the basis of evidence led on file, especially the fact that he had suffered 7.5% permanent disability in respect of mild restriction of movement in the right knee, awarded him a sum of Rs.10,000/- for medical expenses, special diet and transportation. However, the compensation under all the three heads has been assessed on the lower side. The claimant had suffered grievous injuries in his leg and as such, it can be presumed that he must have spent Rs.10,000/- on his treatment. In addition to this, claimant must have taken some nutritious diet and must have also spent some amount on his

transportation and accordingly he is also held entitled to a sum of Rs.5,000/- for special diet and a sum of Rs.5,000/- for transportation during the period of treatment.

14. For the grievous injuries suffered by him, only a sum of Rs.5,000/- has been awarded towards pain and sufferings. It is a matter of common knowledge that pain component in such injuries is enormous and taking into consideration the severity of the injuries, claimant is held entitled to a sum of Rs.10,000/- as compensation on account of pain and sufferings.

15. It must have taken at least three months for the injuries to heal and during this period, the claimant would not have been able to do any work and would have remained bedridden. The accident had taken place in the year 1999 and during those days, even the labourers used to earn around Rs.1500/- per month and accordingly, claimant is held entitled to a sum of Rs.4500/- for loss of income, during the period of treatment.

16. Taking into consideration the permanent disability to the extent of 7.5%, the Tribunal has come to the conclusion that claimant will suffer around Rs.100/- per month in his future income and taking into consideration the annual loss of income to be Rs.1200/- and after applying the multiplier of 18, a sum of Rs.21,600/- has been awarded on account of loss of future earnings. However, no future prospects have been applied and the said amount is thus also liable to be enhanced by 40% as claimant was 25 years of age in view of law laid down in 2014 (1) RCR (Civil) 914 ***Sanjay Verma Vs. Haryana Roadways*** and 2017(4) RCR (Civil) 1009 ***National Insurance Company Vs. Pranay Sethi and Ors.*** and after applying the same, the claimant is held entitled to a sum of Rs.30,240/- (

Rs.21,600/- + Rs.8,640/-) as compensation for future loss of income.

17. In addition to this, claimant has been awarded a sum of Rs.15,000/- on account of loss of employment and enjoyment of life i.e. loss of amenities and the compensation under the said head has been adequately awarded and there is no reason to interfere with same.

18. Resultantly, the compensation to be paid to claimant is assessed as under:-

Sr.	Head of Compensation	Amount (₹)
1.	Medical Expenses	Rs.10,000/-
2.	Special Diet	Rs.5,000 /-
3.	Transportation	Rs.5,000 /-
4.	Pain and Sufferings	Rs.10,000/-
5.	Loss of Income (3 months)	Rs.4,500/-
6.	Loss of Future Earnings (after applying multiplier of 18)	Rs.30,240/-
7.	Loss of Amenities / Enjoyment of Life	Rs.15,000 /-
8.	Total	Rs.79,740/-

19. 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.28,140/- (Rs.79,740/- - Rs.51,600/-) (rounded to Rs.28,000/-) over and above the compensation awarded by Tribunal, payable by respondents No.1, 3 and 4, jointly and severally, along with interest @ 9% per annum, from the date of filing of claim petition i.e. 27.07.2000, till realization. However, Insurance Company shall first satisfy the award and pay the enhanced compensation as already ordered by the Tribunal and thereafter, it shall have a right to recover the awarded amount from the owner alongwith interest @ 6% per annum from the date of deposit till realization without filing a separate suit.

20. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

30.03.2026
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No