



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

(227)

FAO No.1279 of 2005 (O&M)

Date of decision: 22.01.2026

KAVITA MINOR

... APPELLANT

VS.

JAGDISH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Raghav Bali, Advocate,
Mr. Pankaj Bali, Advocate for the appellant.

Mr. D.K. Dogra, Advocate
for respondent No.2/United India Insurance Company.

VIRINDER AGGARWAL,J.(Oral)

1. This Appeal is directed against the award dated 30.07.2004 passed by the Motor Accidents Claims Tribunal, Karnal, whereby the learned Tribunal awarded a compensation of ₹1,80,000/- along with interest at 9% per annum to the appellant/claimant on account of injuries sustained in a motor vehicular accident.

BACKGROUND FACTS

2. The facts leading to the present appeal, in brief are that on 04.07.2002, the injured appellant Kavita, a minor girl aged about 14 years, student of 7th standard was travelling as an occupant in a jeep bearing registration No. HR-06P-0226, owned and driven by respondent No.1 (Jagdish), proceeding from Asandh towards village Kutana along with her mother Shanti Devi and younger sister Suman. When the jeep reached near the bus stand of village Dupedi on the Asandh-Panipat road at about 1:45-2:00 PM, respondent No.1 allegedly drove the vehicle in a rash and negligent manner at high speed, lost



control, veered to the wrong side of the road and collided head-on with a tanker bearing No. HR-39-2140. As a direct result of the said accident, the appellant sustained multiple grievous injuries, most severely a crush injury to her left upper limb, necessitating mid-arm amputation (upper 1/3rd above the elbow). Immediately after the accident, the injured was shifted to Civil Hospital, Asandh, then referred to General Hospital, Karnal, and also treated at a private nursing home. A criminal case was registered vide FIR No.383 dated 05.07.2002 under Sections 279/337/338 IPC against respondent No.1. Consequently upon the accident, a claim petition came to be filed by the injured appellant under Section 166 of the Motor Vehicles Act before the learned Motor Accident Claims Tribunal, Karnal, seeking compensation under various heads.

3. Upon appreciation of the oral and documentary evidence adduced by the parties, the learned Tribunal returned a categorical finding that the accident occurred solely due to the rash and negligent driving of the offending jeep by respondent No.1. In arriving at this conclusion, reliance was placed upon the testimony of Shanti Devi (PW-4) the mother of the claimant, supported by her affidavit (Ex. P-3), the criminal record/challan submitted under Section 173 Cr.P.C. (Ex. P-5) proved through PW-3, the disability certificate (Ex. P-1) assessing 80–85% permanent disability qua the left upper limb, proved by Dr. J.K. Gulati (PW-1), the medical treatment record and bills proved by Dr. K.L. Sachdeva (PW-2), and the testimony of the claimant's father, Ram Mehar alias Rajinder (PW-5). The learned Tribunal further held that respondent No.1 was the admitted owner-cum-driver of the offending vehicle on the date of the accident and that the insurance policy, though originally issued in the name of



respondent No.3, stood deemed transferred in favour of respondent No.1 by operation of Section 157(1) of the Motor Vehicles Act. No breach of the terms and conditions of the insurance policy was established. Consequently, respondents No.1 and 2 were held jointly and severally liable to satisfy the award. While determining the quantum of compensation, the learned Tribunal awarded a sum of ₹1,60,000/- on account of injuries and permanent disability, ₹10,000/- towards medical expenses, special diet and transportation, and ₹10,000/- for pain and suffering, thus awarding a total compensation of ₹1,80,000/-. The awarded amount was directed to carry interest at the rate of 9% per annum from the date of filing of the claim petition till its realization.

CONTENTIONS

4. Learned counsel for the appellant contended that the compensation awarded by the learned Tribunal is grossly inadequate and contrary to the settled principles governing the determination of just compensation. It was argued that the learned Tribunal failed to award appropriate amounts under essential heads such as pain and suffering, loss of amenities of life, transportation expenses, attendant charges and special diet, and further erred in making no addition towards future prospects. It was further submitted that, despite the appellant having suffered 85% permanent disability, the learned Tribunal inadequately assessed the loss of earning capacity. On these grounds, enhancement of compensation was sought to ensure that the award is fair, just and reasonable.

5. Per Contra, the learned counsel for the respondent No. 2, 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

6. 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. The findings on those aspects, based on the unrebutted testimony of Shanti Devi (PW-4), contemporaneous criminal record and non-appearance of respondent No.1 as witness, thus call for no interference. Those findings are accordingly affirmed. However, the core issue arising in this appeal pertains to the reassessment of the quantum of compensation.

7. For the purpose of reassessment of compensation, the primary issue that arises for consideration is the extent of functional disability so as to compute the loss of future earning capacity. In the instant case, the appellant-claimant was a school-going girl, aged about 14 years and studying in the 7th standard at the time of the accident, as established from the testimony of her father, Ram Mehar alias Rajinder (PW-5), as well as the averments made in the claim petition. Prior to the accident, she was hale and hearty and pursuing her studies in a normal manner. As a result of the accident, the appellant suffered amputation of her left upper limb above the elbow, rendering her permanently



disabled and gravely impairing her ability to perform routine activities requiring the use of both hands, such as writing, dressing, personal care, household work and other activities integral to daily living, as also her prospective vocational pursuits. The disability certificate (Ex. P-1), issued by the duly constituted Medical Board and proved on record through Dr. J.K. Gulati (PW-4), certifies 85% permanent disability in relation to the left upper limb, and it was clarified in cross-examination that the said disability is not assessed qua the whole body. The evidence on record further demonstrates that the disability has had a deep and enduring impact on the appellant's life. Her father has categorically deposed that after the accident her educational progress suffered considerably, she was rendered handicapped due to the amputation, and her future prospects, including marriage, stand seriously jeopardised. The learned Tribunal did not undertake the adequate assessment of non-pecuniary damages and confined the award under the head of disability without rightly applying the settled criteria for determining functional disability and loss of future earning capacity.

8. Upon a holistic reappraisal of the evidence, this Court is of the considered view that the physical disability suffered by the appellant translates into a substantial functional disability, particularly keeping in view her young age and the bilateral-hand-dependent nature of most day-to-day and future activities. Having regard to the lifelong impact of the amputation on her self-care, educational and vocational opportunities, marriage prospects and social participation, the functional disability is reasonably assessed at 40%. It is well settled that the percentage of physical disability is not, by itself, determinative, rather, it is the functional impact of such disability on the earning capacity and



future prospects of the claimant that is decisive. 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.

9. In the present case, the amputation of the left upper limb has a catastrophic bearing on the appellant's future efficiency, earning potential, marriageability and overall enjoyment of life, thereby entitling her to substantial compensation towards loss of future earning capacity. The claimant being a minor student had no proven income at the time of the accident. However, the assessment of loss of income cannot proceed on the assumption that a minor is a non-earning person. Having regard to the law declared by the Hon'ble Supreme Court in ***Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari, 2025 INSC 1070; Kajal v. Jagdish Chand, (2020) 4 SCC 413; and Baby Sakshi Greola v. Manzoor Ahmad Simon, 2024 SCC OnLine SC 3692***, it is now well settled that in cases involving minor children, notional income must be assessed by adopting, at the very least, the minimum wages notified for a skilled worker prevailing in the State at the relevant time. Accordingly, considering the year of accident i.e. 2002, the notional monthly income of the appellant is required to be assessed at ₹3,000/- per month, being the minimum wages applicable to skilled labour during the relevant period. The age of the appellant, as borne out from the record, is about 14 years. Consequently, in the light 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 re-assessed as under:

Particulars	Awarded by Tribunal (₹)	Re-assessed (₹)
Monthly Income (40% Functional Disability)	x	1,200/- (40% of 3,000)
Monthly Income with Future Prospects (40%)	x	1,680/- (1,200 + 480)
Annual Income	10,000/-	20,160/- (1,680 × 12)
Multiplier (Age 14 years)	16	15
Loss of Future Income	1,60,000/-	3,02,400/- (20,160 × 15)

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, (2011) 1 SCC 343*, wherein it has been held that compensation in injury cases must adequately account for medical expenses, pain and suffering, loss of amenities, attendant charges, special diet, conveyance and future medical/prosthetic needs, depending upon the facts of each case. Thus, from the evidence on record and the medical bills (Ex.P-6 to P-12), treatment record and statements of Dr. K.L. Sachdeva (PW-2) and father (PW-5), the claimant remained admitted in hospital for about 5 days initially at Civil Hospital, Asandh, then G.H. Karnal and private nursing home, underwent amputation, incurred expenses including ₹5,100/- hospital charges (Ex.P-2), anaesthesia ₹550/- (Ex.P-3), medicines and other bills. She continues to face lifelong challenges including need for prosthetic support. The learned Tribunal awarded ₹10,000/- for medical/diet/transport and ₹10,000/- for pain and suffering. Considering the grievous nature of amputation of upper limb in a teenage girl, surgical



intervention, permanent disfigurement, pain, psychological trauma, bleak marriage prospects and lifelong impairment, the compensation awarded under these heads by the learned Tribunal is found to be on the lower side and deserves enhancement in view of the severity of suffering and lifelong consequences. Accordingly, the claimant is held entitled to the following amounts:

Particulars	Awarded by Tribunal (₹)	Re-assessed (₹)
Medical expenses	10,000	10,000/-
Transportation		5,000/-
Special Diet		10,000
Loss of amenities (Including effect on Marriage Prospects)	x	1,00,000/-
Attendant	x	15,000/-
Pain and suffering	10,000/-	20,000/-
Total	20,000/-	₹1,60,000/-

Total Compensation

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

Particulars	Amount (₹)
Loss of Future Income	₹3,02,400/-
Other Heads	₹1,60,000/-
Total	₹4,62,400/-

12. In view of the above, the appeal is partly allowed. The impugned award dated 30.07.2004 is modified to the extent that the compensation payable to the appellant is enhanced from ₹1,80,000/- to ₹4,62,400/-. 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

22.01.2026

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*