



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

**FAO-3256-2005 (O&M)
Date of Decision: 07.04.2026**

MAHABIR SINGH

..... APPELLANT

VERSUS

JAI PARKASH & ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Jitender Sherawat, Advocate
for the appellant.

Ms. Maninder Kaur, Advocate for respondent No.1.

Mr. Suvir Dewan, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 04.04.2005 passed by MACT, Rewari (**for short “Tribunal”**) for enhancement of compensation awarded in MACT Case No.45 of 2002 in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,47,600/- has been awarded as compensation to the claimant/appellant along with interest at the rate of 6% 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.UP-14-C-1365 (**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 petitioner sustained injuries in accident caused due to rash and negligent driving of Car No. UP-14-C1365 by respondent no.1 on 10.7.2001 as alleged? OPP.*
- 2. If issue No.1 is proved, what amount of compensation, the petitioner is entitled to get and if so from whom? OPP.*
- 3. Whether respondent no.1 was not holding valid driving licence on the date of accident? If so to what effect? 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.1,47,600/- as compensation to the claimant, on account of injuries suffered by him along with interest @ 6% per annum from the date of filing of claim petition till realization, payable by respondents No.1 to 3, jointly and severally. However, it was ordered that the first charge shall be on the Insurance Company to pay the amount of compensation.

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 and respondents No.1 to 3 were held liable to pay compensation jointly and severally. However, the first charge shall be on the Insurance Company to pay the amount of compensation. 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. 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 compensation has not been awarded for the pecuniary and non-pecuniary damages as per settled law and the impugned award is thus liable to be enhanced. 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 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 injuries including compound comminuted fracture of left leg. He was taken to Civil Hospital, Rewari, where he was medico-legally examined and treated. Thereafter, he was admitted in Shri Krishna Hospital where he remained as an indoor patient upto 19.07.2001 and was operated upon. He had spent Rs.60,000/- on his treatment, conveyance and on special diet. To prove this fact, claimant-Mahabir Singh examined himself as PW9. Besides this, he has also examined PW1 Dr. Chander Shekhar, Medical Officer, General Hospital, Rewari, who deposed that he had examined the patient and he was found to be suffering from fractures of right femur for injury No.1 and he tendered the report Ex.PA and photocopy of the x-ray report. As such, petitioner is proved to have suffered grievous injuries on account of accident suffered by him and thus, he is entitled to a compensation under the head of 'pain and sufferings'. It is a matter of common knowledge that pain component in such injuries is enormous and such injuries take a long time to heal. Accordingly, claimant is held entitled to sum of **Rs.40,000/-** as compensation on account of '**pain and sufferings**'.

11. To prove the disability suffered by him, claimant has examined PW8 Dr. Ashok Saini who deposed that the patient was examined by the Medical Board for assessment of the disability and after examination, his disability was assessed to be 36.7% on account of



malunion right femur with stiffness of right knee with shortening with partial loss of stability and he tendered the disability certificate Ex.PW8/A. No evidence to prove the contrary has been led by the respondents and as such, it is established that claimant had suffered permanent disability to the extent of 36.7%, which is rounded off to 37% on account of malunion right femur with stiffness of right knee, with shortening and partial loss of stability. The Tribunal, however, has not assessed the compensation by assessing the 'loss of income' due to permanent disability but awarded a lump sum compensation of Rs.36,700/- on account of permanent disability. However, the mode of assessment of compensation on account of permanent disability is not proper and in accordance with settled principles of law. The claimant was 45 years of age and a sub-contractor and he will have to remain with this disability throughout his life and it will certainly diminish his earning capabilities. 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.**

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.

12. 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.

13. The accident had taken place on 10.07.2001 and as per his version, he is a sub-contractor at Kund State Mine and was earning Rs.5,000/- per month. However no cogent evidence was led on record to establish his income to be Rs.5,000/- per month and in these circumstances, some amount of guesswork has to be applied while assessing the monthly income. Since the claimant was a sub-contractor at the Kund State Mines, it can be assumed that he must be earning at least Rs.3,000/- per month in the year 2001. Accordingly his monthly income is taken as **Rs.3,000/- per month**. Since, claimant was 45 years of age on the date of accident, 25% 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.3,750 per month (Rs.3,000/- + Rs.750/-)**.

14. Claimant has suffered permanent disability to the extent of 37% and the monthly loss of income will thus come to **Rs.1,387.5/- (Rs.3,750/- X 37%)** (which is rounded off to Rs.1,388/-) and annual loss of income will come out to **Rs.16,656/- per annum (i.e. Rs.1,388/- X 12)**.

15. The claimant was 45 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 14 has to be applied which takes the compensation to **Rs.2,33,184/- (Rs.16,656/- X 14)** on account of 'loss of income' due to



permanent disability.

16. It must have taken at least 3 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.3,000/- X 3)** on account of **‘loss of income during the period of treatment’**. During this period of 3 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.20,000/-** under these heads.

17. The claimant has suffered 37% of disability due to multiple injuries on his right leg and other body parts. Accordingly, the claimant is held entitled to a sum of **Rs.20,000/-** on account of **‘loss of amenities’**.

18. The amount of Rs.25,600/- awarded for expenses incurred on treatment is adequate as the same has been awarded on the basis of bills produced by the claimants and no interference in the same is thus called for.

19. The compensation to be awarded by this Court is assessed as under:-

Sr. No.	Head of Compensation	Amount Awarded (₹)
1.	Loss of future income/ permanent disability	2,33,184
2.	Loss of income during treatment for a period of 3 months	9,000
3.	Attendant charges, transportation & special diet	20,000
4.	Pain and sufferings	40,000
5.	Loss of amenities	20,000



6.	Expenses Incurred On Treatment	25,600
	Total Compensation	3,47,784
	Interest	9%

20. 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.2,00,184/- (Rs.3,47,784/- – Rs.1,47,600/-), which rounded off to Rs.2,00,000/-**, 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. 18.04.2002, till realization. However, the it shall be the responsibility of the Insurance Company to pay the amount of compensation first of all.

21. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

07.04.2026
Vishal Vardhan

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