

212 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-887-2005 (O&M)
Date of Decision: 26.02.2026

KABUL SINGH

..... APPELLANT

VERSUS

PREM CHAND AND ANR.

.....RESPONDENTS

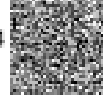
CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Brijender Kaushik, Advocate
for the appellant.

Mr. Aseem Aggarwal, Advocate
for respondent No.2-Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 14.05.2004 passed by MACT, Kurukshetra (**for short “Tribunal”**) for enhancement of compensation awarded in MACT Case No.88 of 2001 in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of ₹48,600/- 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 (owner-cum-driver) while driving offending vehicle, which was insured with respondent No.2.
2. From the pleadings of parties, issues were framed and relevant issues are as under:-



“1. Whether the accident in question took place on account of rash and negligent driving of Kabul Singh, respondent no 1, driver of motor cycle no CH-01-3954 or Prem Chand claimant-driver of motor-cycle no HR-07-C-1582 or of both? OPP

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- 3. Whether the claimant Kabul Singh claimant of M.A.CT case no.88 of 2001 suffered injuries and damage of motor-cycle no. CH-01-3954 belonging to claimant Kabul Singh, in this accident and is entitled to claim compensation on account of same. If so, to what extent and from whom?OPP*
- 4. Whether respondent Prem Chand is not holding a valid and effective driving licence at the time of accident? OPR*
- 5. 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 ₹48,600/- 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.

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-Prem Chand, owner-cum-driver of offending



vehicle No.HR-07-C-1582, which was insured with respondent No.2-National Insurance Company and both of them were 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.

7. The law is well settled that the compensation to be awarded for injuries suffered by victim in a motor vehicluar 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.

8. 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)**

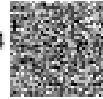
- (i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing expenditure. food and miscellaneous
- (ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:
 - (a) Loss of earning during the period of treatment;
 - (b) 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.

9. Coming to the issue No.3, case of claimant as deposed by him while appearing as PW4 is that he sustained injuries in his head, forehead, shoulder and other body parts. Initially, he was taken to PHC,



Ismailabad, thereafter, to L.N.J.P. Hospital, Kurukshetra and finally to PGI, Chandigarh, where he remained admitted and surgeries were performed.

10. To prove his case, claimant has examined PW5 Dr. Rajesh Chhabra, Assistan Professor, Department of Neuro Surgery PGI, Chandigarh, who produced the original treatment record. The relevant portion of the testimony of PW5 is as under:-

“ The patient was brought to emergency services in PGI, Chandigarh on 25.9.2000 with alleged history of road side accident on 24.9.2000. On examination, the patient was having nasal bleed but the patient was conscious and oriented. On investigations, it showed that there was memo of again said there was phenumocephalus (air in the brain). The patient was discharged on 26.9.2000. The patient was also having fracture frontal bone.

Again the patient come to O.P.D with history of nasal discharge for last 25 days on 7.11.2000 in emergency services. Further investigation were done which showed fracture right frontal bone with pheumocephalpus. In view of that surgery was planned, anterior cranial fossa repair was done using fascinate from thigh Post operatively patient remained alright and was discharged on 26.11.2000.



Nature of injury was grievous and dangerous to life.”

11. PW5 tendered the discharge certificate Ex.PW5/A as well as medical record Ex.PW5/B and out-patient ticket Ex.PW5/C. A perusal of the discharge certificate and treatment record shows that claimant was operated upon for fracture in frontal bone. There was also fracture in the skull base and bone loss in the frontal region. PW5 has stated that these injuries have ultimately led to deformity of the forehead and on account of fracture in the skull, the claimant may even lose his sense of smelling. As such, it is established from the evidence led on file that petitioner had suffered multiple fractures and he was operated upon for head injuries and sustained bone loss in the frontal region. However, the Tribunal has awarded only a sum of Rs.16,000/- on account of ‘pain and sufferings’ which in my opinion is grossly adequate. It is a matter of common knowledge that the pain component in such injuries is enormous and such injuries take a long time to heal. Accordingly, the claimant is held entitled to a sum of **Rs.35,000/-** on account of ‘**pain and sufferings.**’

12. As per bills Ex.P1 to Ex.P27 produced on record, claimant had spent a sum of Rs.17,007/- on his treatment. However, the Tribunal observed that sometime the bills are lost by the attendants and are not obtained from the chemist shops and awarded him a sum of Rs.17,500/- on account of ‘expenses incurred on treatment’. However, all these bills pertained to the medicines purchased at PGI, Chandigarh. The claimant was also admitted at PHC, Ismailabad and L.N.J.P. Hospital, Kurukshetra and as such, some amount of guesswork has to be applied while assessing

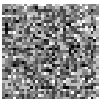


the compensation on account of expenses incurred on treatment as all the bills are not preserved by the family members and primary concern is to take care of the injured. Accordingly, the claimant is held entitled to a sum of **Rs.20,000/-** on account of '**expenses incurred on treatment**'.

13. The claimant had remained admitted at PGI, Chandigarh for one month. Initially, he was admitted at PGI, Chandigarh on 25.09.2000 to 26.09.2000 and from 07.11.2000 to 26.11.2000. As such, it must have taken at least six months for the injuries to heal as serious injuries were suffered including fractures in the skull and he was operated upon.

14. During this period of six months, the claimant would not have been able to do any work and must have suffered loss of income. The accident had taken place in the year September 2000. The Tribunal has assessed the monthly income of claimant to Rs.2,650/- and awarded compensation on account of loss of income for 3 months i.e. Rs.2,650/- X 3 = Rs.7,950/- (rounded off to Rs.8,000/-). However, he is entitled to compensation for '**loss of income**' for six months which comes to **Rs.16,000/-** i.e. Rs.2,650 X 6 = Rs.15,900/- (rounded off to Rs.16,000/-).

15. During the aforesaid period of six months, claimant must have been spent some amount on nutritious diet, in engaging an attendant and on transportation. The Tribunal has awarded to claimant Rs.2,400/- (Rs.800/- X 3) for nutritious diet, Rs.2,700/- (Rs.900/- X 3) towards 'attendant charges' and Rs.2,000/- towards 'transportation charges'. However, claimant is held entitled to enhanced compensation of **Rs.15,000/-** under the heads 'nutritious diet', 'engaging attendant' and 'transportation charges'.



16. The compensation awarded by Tribunal was as under:-

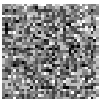
Sr. No.	Head of Compensation	Amount Awarded by Tribunal (₹)
1.	Pain and Sufferings	16,000
2.	Expenses Incurred on Treatment	17,500
3.	Loss of Income	8,000
4.	Nutritious Diet	2,400
5.	Attendant Charges	2,700
6.	Transportation Charges	2,000
	Total	48,600
	Interest	9%

17. The compensation assessed by this Court is as under:-

Sr. No.	Head of Compensation	Amount Assessed by this Court (₹)
1.	Pain and Sufferings	35,000
2.	Expenses Incurred on Treatment	20,000
3.	Loss of Income	16,000
4.	Nutritious Diet, Attendant & Transportation (Composite)	15,000
	Total	86,000
	Interest	9%

18. 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 ₹37,400/- (₹86,000/- - ₹48,600/-) over and above the compensation awarded by Tribunal, payable by respondents No.1 & 2, jointly and severally, along with interest @ 9% per annum, from the date of filing of claim petition i.e. 22.09.2001, till realization.

19. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

26.02.2026
Vishal Vardhan

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