S. No.105

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.651 of 2005
Date of Decision:12.03.2026

Arun Sharma .....**Appellant**

Vs.

Mehardeep and others .....**Respondents**

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Himanshu Sharma, Advocate for the appellant.

Mr. Saurav Gumbal, Advocate for Mr. Pardeep Goyal, Advocate for respondent No.3- Insurance Company.

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<u>Yashvir Singh Rathor, J. (Oral)</u>

1. This appeal has been instituted against the Award dated 08.11.2004 for enhancement of compensation awarded in MACT case No.103 of 25.07.2002 decided by the MACT, Chandigarh (**for short “Tribunal”**) on account of injuries suffered by appellant in a motor vehicular accident with a vehicle being driven by respondent No.1 in a rash and negligent manner which was owned by respondent No.2 and insured with respondent No.3.

2. I have heard learned counsel for the parties and have perused the material on record.

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

> *“1. Whether the claimant sustained multiple injuries in a motor vehicular accident which took place due to rash and negligent driving of respondent no.1 while he was driving vehicle no.HR-37-1367?OPP*

2. If issue no.1 is proved, to what amount of compensation the claimant is entitled to end from whom of the respondents? OPP

3. Whether respondent no.1 was not holding a valid driving licence, if so, its effect? OPR

3. Relief."s

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.2,17,500/- 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.

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 occurred on 22.05.2001 due to the rash and negligent driving on the part of respondent No.1 while driving the offending truck *no.HR-37-1367*, owned by respondent No.2 and insured with respondent No.3 and all the respondents have been held liable to pay compensation to claimant jointly & 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.

<u>Assessment of Compensation under Issue No.2</u>

8. For assessment of compensation, Courts have consistently held that while money cannot erase the pain, suffering, or trauma, it is the only legal means

to provide restitution and restore the victim to his previous position as far as possible. Key aspects of this principle, as reiterated by the Hon'ble Supreme Court and other Courts from time to time, include assessment of just compensation. 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'. It is also well settled that compensation should cover both pecuniary damages (actual medical expenses, loss of wages/income, loss of future earning capacity) as well as non-pecuniary damages (pain and suffering, loss of amenities, loss of expectation of life). The determination of non-pecuniary damages, such as pain and sufferings, cannot be calculated with mathematical precision, but must be based on a judicious approach considering the facts and circumstances of each case. The core objective is to put the injured/victim party in the same position he would have been in 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 nominal financial relief. The law relating to the grant of compensation in cases of injury leading to permanent disability is by now well settled. Hon'ble Supreme Court, in 2011 ACJ 1 titled ***Raj Kumar Vs. Ajay Kumar and another***, has considered the method by which loss of future earnings should be decided by the Tribunals and it has been held that when a victim suffers permanent disability, the future loss of earnings has to be assessed on the basis of functional disability i.e. the effect and impact of such permanent disability on his earning capacity. Percentage of economic loss, i.e., percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability and injured has to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. It has been further held that partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity. Hon'ble Supreme Court further elaborated that if a driver looses his hand in an accident and the percentage of permanent disability was 60%, but loss of future earning capacity would be 100%. However, if a clerk in Government Office looses his arm, in that event, loss of earning capacity will not be 100% nor 60% but far less and there may not be any need to award any compensation under the head "loss of future earnings" if the claimant continues in government service, though he may be awarded compensation under the head "loss of amenities" as a consequence of losing his hand. 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 food and miscellaneous expenditure.

(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.

(iii) Loss of amenities(and/or loss of prospects of marriage).

(iv) 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. Hon'ble Supreme Court in 2013(1) RCR (Civil) 312- **K. Suresh Vs. New India Assurance Company Ltd.,** has held that compensation can be granted for disability as well as for loss of future earnings for the first head relates to the impairment of a person's capacity while the other relates to the sphere of pain and sufferings and loss of enjoyment of life of the person himself. In 2011(4) RCR (Civil) 817 – **Govind Yadav Vs. New India Insurance Co. Ltd.**, it has also been held that if the victim of the accident suffers permanent disability then efforts should always be made to award adequate compensation not only for the physical

injury and treatment, but also for the loss of earnings and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.

10. In order to prove his case, claimant- Arun Sharma while appearing as PW4 deposed that six operations were performed on his left leg and same was later on amputated below knee. He deposed that he had spent about Rs.3 lakhs on his treatment, out of which a sum of Rs.43,000/- has been reimbursed to him by his employer. He further deposed that he was a Cricket player and was given job out of sports quota. He was to be awarded five increments out of which two increments of Rs.175/- had already been given to him but on account of amputation of his leg, he has not been granted three special increments. Raj Kumar, Senior Auditor of the Office of Accountant General, Punjab, while appearing as PW2 has corroborated the statement of claimant. He stated that during his service, five increments were to be given to the claimant out of which two increments had been given but due to the injuries suffered by him, he is not liable to earn remaining three increments and he will not be getting the benefit of these increments during his service. Learned Tribunal observed that it cannot be ignored that claimant is still in service and is drawing the emoluments admissible to him as per rules. It further observed that on 25.08.2023, Raj Kumar PW2 deposed that claimant is getting regular increments and all upto date increments have been granted to him and even special increments being a sports person have also been granted to him. However, his examination was deferred for want of some documents and when he appeared before the Tribunal on 11.12.2023, he gave some different version and Tribunal disbelieved him. Learned Tribunal came to conclusion that no amount of compensation is being awarded to the

claimant on account of loss of earning or future loss of earnings because it is not the case of claimant that he will not get any promotions on account of amputation of his leg.

11. The claimant had also led in evidence the bills Ex.P25 to Ex.P198 which were paid towards medical expenses but only the photocopies have been placed on file. Even the learned counsel for claimant admitted that the entire expenses incurred on the treatment vide these bills have been reimbursed by the employer and reimbursement in respect of these bills was thus rightly declined by the Tribunal. However, Tribunal awarded him Rs.32,400/- towards expenses incurred on the treatment on the basis of remaining bills which had been led in evidence. There is thus no reason to hold to the contrary. However, this Court cannot loose sight of the fact that the claimant had undergone amputation of his leg and some amount must be required for future treatment and he is accordingly held entitled to a sum of **Rs.10,000/-** for **future treatment**.

12. Claimant deposed that he had spent Rs.40,000/- for taking special diet but Tribunal has awarded him only a sum of Rs.10,000/- under the said head which in my opinion again is on lower side, it must have taken a long time for the injuries to heal during which period, claimant must have taken nourishment for speedy recovery and accordingly, he is held entitled to a sum of **Rs.20,000/-** on account of **Special Nourishment**.

13. Claimant alleged that he had spent Rs.10,000/- on transportation for going to the hospitals and he relied upon bills Ex.P17 to Ex.P19 issued by Raj Taxi Services but the same were disbelieved by the Tribunal and only a sum of Rs.5,000/- was awarded as compensation on account of conveyance charges. However, the same is grossly inadequate as petitioner must have visited the

hospitals on numerous occasions and must have spent some amount on transportation and he is accordingly held entitled to a sum of **Rs.10,000/-** on account of **transportation charges.**

14. Claimant alleged that he remained on bed for one and half years and he had engaged one servant namely Gurjant and he used to pay him Rs.2,000/- per month but no amount of compensation was awarded for employing the said Gurjant Singh but a lump sum amount of Rs.10,000/- was awarded for engaging an attendant. Since claimant remained bed ridden for more than one year, he must have engaged an attendant and accordingly he is held entitled to a sum of **Rs.20,000/-** for **engaging an attendant** during the period of treatment.

15. PW5 Dr. Aditya Aggarwal deposed that claimant will require an artificial limb which may require re-application after few years. PW6 Dr. V.J.S. Koran also proved the rough estimate Ex.P5 for an artificial limb to the tune of Rs.1,56,038/- and he further deposed that price can fluctuate with the passage of time. Tribunal observed that leg of the petitioner was amputated in March, 2001 and period of more than three years had elapsed but claimant has not purchased any artificial limb so far. The Tribunal also observed that the claimant must have undergone severe pain and sufferings as he had undergone three operations. His married life would also have been affected and he will also not be able to walk and will remain on crutches and artificial limb and taking into consideration all these facts, Tribunal awarded him a lump sum compensation of **Rs.1,50,000/-** besides **Rs.20,000/-** for **future conveyance charges**. In all, a sum of **Rs.2,17,500/-** was awarded as compensation. However, it is not in dispute that the petitioner was a permanent employee of the Office of Accountant General and he continued to be in service even after the accident and as such, he has not

suffered any loss of income. However, a lump sum compensation of Rs.1,50,000/- on account of **Pain and Sufferings, Permanent Disability & Loss of Amenities** was granted but the same is not adequate and is rather on the lower side. The claimant has suffered amputation of his left leg and in my considered opinion, he is entitled to a sum of **Rs.1,00,000/-** on account of **Permanent Disability** and **Loss of expectation of life**.

16. Petitioner underwent three surgeries, underwent the trauma of accident and ultimately his leg was amputated. Given the severity of injuries and prolonged treatment for around one year, he is held entitled to a sum of **Rs.75,000/-** on account of **Pain and Sufferings** besides **Rs.50,000/-** towards **Loss of Amenities**.

17. During pendency of the appeal, an application for additional evidence was moved which was allowed and matter was sent to the MACT, Chandigarh as claimant alleged that he had purchased prosthetic leg. The claimant led evidence to prove this fact and report has already been received from the Tribunal. PW7 Sanjay Kumar Technician, Deep Artificial Limb Centre, Chandigarh has been examined. He deposed that claimant Arun Sharma had approached the Deep Artificial Limb Centre for quotation of Prosthesis below knee whose right leg below knee was amputated and his photographs are Ex.PW7/2 and Ex.PW7/3 which show that his right leg below knee has been amputated. He deposed that Deep Artificial Limb Centre had issued quotation of artificial limb Ex.PW7/4 containing two pages dated 04.03.2023. Claimant Arun Sharma is using below knee prosthesis since the year 2014. This artificial limb has four components i.e. silicone gel (to avoid the pressure on knee muscles), leg rod (B.K. Assembly), Echelon foot with silicone liner and socket lock and pyramid clamp adapter T.T.

Pro etc. He deposed that life span of artificial limb is about 4-5 years & thereafter, same is required to be replaced and its present cost around Rs.8,31,000/-. He tendered copy of quotation dated 31.01.2024 Ex.PW7/5. He further deposed that maintenance expenses of the artificial limb are around Rs.40,000/- to Rs.50,000/- per year. The claimant has purchased the artificial limb for his amputated leg from their firm since 2014 and the rate of artificial limbs keep varying from time to time. He also tendered the old bills issued by the firm/ centre for purchase of silicone gel liners Ex.PW7/6 and Ex.PW7/7. During cross examination, he stated that there is no advice of the doctor with regard to fixation of artificial limb below knee. He admitted that vide quotation dated 04.03.2023 Ex.PW7/4, the price was Rs.7,80,000/- but same has not been purchased by the claimant. He admitted that service of artificial limb is free of cost but if any component is required to be replaced, then its cost depends upon its quality and cost and the same has to be paid by the purchaser. He denied the suggestion that the life span of the artificial limb is more than 15 years or that it is not required to be changed. He denied the suggestion that the cost of artificial limb is not Rs.8,31,000/- or that a sum of Rs.40,000/- or Rs.50,000/- is not required to be spent on its maintenance annually. However, despite lengthy cross-examination, nothing favourable could be extracted during his cross-examination and his stand has remained consistent throughout and there is no reason to disbelieve his testimony.

18. As per certificate Ex.PW7/4 issued by the Deep Artificial Limb Centre, the claimant is using an Endolite Below Knee Prosthesis since 2014 which has been worn out and requires replacement and as per quotation dated 04.03.2023, new prosthesis will cost around Rs.7,80,000/- and as per quotation

dated 31.01.2024 Ex.PW7/5, the cost of the prosthesis limb is Rs.8,31,000/-. As such, the previous artificial prosthesis got affixed by the claimant has outlived its life and a new prosthesis is required to be affixed which would cost around Rs.8,31,000/-. The previous bills Ex.PW7/6 and Ex.PW7/7 show that petitioner has spent Rs.29,800/- for purchasing silicone gel liner and AKDT 28.

19. Hon'ble Supreme Court in 2022 LiveLaw (SC) 1017 – **Mohd. Sabeer @ Shabir Hussain Vs. Regional Manager, U.P. State Road Transport Corporation,** while granting compensation for purchase of prosthesis limb has held as under:-

> **"COMPENSATION FOR THE PURCHASE AND MAINTENANCE OF THE PROSTHETIC LEG**
>
> **22.** The High Court has awarded a compensation of Rs.5,20,000/- for the prosthetic limb and Rs.50,000/- towards repair and maintenance of the same. The Appellant submits that the cost of the prosthetic limb itself is Rs. 2,60,000/- and the life of the prosthetic limb is only 5-6 years. The prosthetic limb also requires repair and maintenance after every 6 months to 1 year, and each repair costs between Rs.15,000 to Rs.20,000/-. This would mean that the prosthetic limb would last the Appellant for only 15 years under the current compensation. The Appellant at the time of the accident was aged 37 years and has a full life ahead. It has been clearly stated by this Court in the case of Anant Son of Sidheshwar Dukre (Supra) that the purpose of fair compensation is to restore the injured to the position he was in prior to the accident as best as possible. The relevant paragraph of the judgment is being extracted herein:
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> "In cases of motor accidents leading to injuries and disablements, it is a well settled principle that a person must not only be compensated for his physical injury, but also for the non-pecuniary losses which he has suffered due to the injury. The Claimant is entitled to be

compensated for his inability to lead a full life and enjoy those things and amenities which he would have enjoyed, but for the injuries."

"The purpose of compensation under the Motor Vehicles Act is to fully and adequately restore the aggrieved to the position prior to the accident."

23. As per the current compensation given for the prosthetic limb and its maintenance, it would last the Appellant for only 15 years, even if we were to assume that the limb would not need to be replaced after a few years. The Appellant was only 37 years at the time of the accident, and it would be reasonable to assume that he would live till he is 70 years old if not more. We are of the opinion that the Appellant must be compensated so that he is able to purchase three prosthetic limbs in his lifetime and is able to maintain the same at least till he has reached 70 years of age. For the Prosthetic limbs alone, the Appellant is to be awarded compensation of Rs. 7,80,000 and for maintenance of the same he is to be awarded an additional Rs. 5,00,000/-."

20. As such, the Hon'ble Supreme Court awarded compensation for purchase of prosthesis limbs by taking into consideration the fact that the life span of the limb is about 15 years and it requires to be maintained and lot of amount is spent for its maintenance. Hon'ble Supreme Court further held that it will be reasonable to assume that claimant – injured will live upto the age of 70 years if not more and the claimant should be compensated so that he is able to purchase three prosthesis limbs in his life time and is able to maintain the same till he reaches the age of 70 years. Hon'ble Supreme Court awarded compensation for purchase of prosthesis limbs to the extent of Rs.7,80,000/- and also awarded additional amount of Rs.5 lakhs for maintenance. In the present case also, the claimant had purchased the prosthesis limb of his own in the year 2014 whose bill has not been placed on file. Photographs Ex.PW7/2 & Ex.PW7/3 show that

prosthesis limb has been affixed in his right leg below the knee and as such, he must have spent about Rs.2.5 lakhs in the year 2014 in purchasing the said limb and about Rs.1.5 lakh on its maintenance till date. Claimant was 43 years of age at the time of accident as mentioned in the grounds of appeal. The accident had taken place in May, 2001 and now he is around 68 years of age and as such, he will require another prosthesis limb and accordingly, he is held entitled to a sum of Rs.8,30,000/- for purchasing a new limb besides Rs.2 lakhs for its future maintenance and accordingly, he is entitled to compensation of **Rs.14,30,000/-** on account of amount spent in purchasing a prosthesis limb and for purchasing another one and its maintenance.

21. In addition to this, the claimant had suffered amputation in the year 2001. He remained under treatment for one year i.e. upto the year 2002 and he had purchased the artificial prosthesis limb in 2014 and during this period of twelve years, he must have engaged an attendant and accordingly, he is held entitled to compensation for engaging an attendant since May, 2002 onwards @ Rs.2,000/- per month for a period of 12 years. Total compensation for **engaging an attendant** till he purchased prosthesis limb thus comes to **Rs.3,04,000/-**.

22. The total compensation payable to the appellant is accordingly assessed as under:-

S.No.	***Under Head***	***Compensation awarded by High Court***
1.	***Expenses incurred on the future treatment***	***Rs.10,000/-***
2.	***Special Nourishment***	***Rs.20,000/-***
3.	***Conveyance Charges***	***Rs.10,000/-***
4.	***Engaging of an Attendant during treatment***	***Rs.20,000/-***

5.	***Permanent Disability & loss of expectation of life.***	***Rs.1,00,000/-***
6.	***Pain and Sufferings***	***Rs.75,000/-***
7.	***Loss of Amenities***	***Rs.50,000/-***
8.	***Purchase of prosthesis limbs & its maintenance***	***Rs.14,30,000/-***
9.	***Attendant Charges since May, 2002 till 2014***	***Rs.3,04,000/- Rs.2,000/- x 12 x 12***
	Total compensation	***Rs.20,19,000/-***

23. As a result of afore-said discussion, the appeal in hand is partly allowed with cost and petitioner is held entitled to enhanced compensation of Rs.18,01,500/- (Rs.20,19,000/- – Rs.2,17,500/-). The appellant is entitled to recover the same from respondents No.1 to 3 jointly and severally. However, the claimant shall not be entitled to interest on the amount awarded for purchasing new prosthesis and its maintenance amounting to Rs.10,30,000/- and interest on the same shall be payable @ 9% per annum in case Insurance Company fails to pay the same within one month till realization. Likewise, appellant shall be entitled to interest @ 9% per annum on the amount of Rs.4 lakh awarded for purchasing a prosthesis limb from the year 2014 onwards till realisation and 9% interest on the remaining amount of compensation from the date of filing of claim petition till realization.

24. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of direction 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 misc. application (s), if any, shall also stand disposed of.

(Yashvir Singh Rathor)
Judge

March 12, 2026
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No