

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2849-2009 (O&M)
Date of decision : 20.01.2026

Vikramjit

...Appellant

Versus

Swaran Singh and others

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Ravinder Arora, Advocate,
and Mr. Neeraj Khanna, Advocate,
for the appellant.

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

HARPREET KAUR JEEWAN, J.

1. The appellant-injured, Vikramjit, has assailed the correctness of the Award dated 03.01.2009, passed by the Motor Accident Claims Tribunal, Hoshiarpur (*hereinafter referred to as 'the Tribunal'*), and sought enhancement of compensation awarded to him regarding the injuries suffered by him in a road-side accident.

2. As per the brief facts, on 29.08.2007, the appellant, along with Gurpreet Singh, was going from Haryana to Village Bhikhowal to pay obeisance in a Gurdwara Sahib on a motorcycle bearing No.PB-09-D-1859 (*for short, 'the motorcycle'*). Gurpreet Singh was driving the motorcycle, whereas the appellant was a pillion rider. At about 3.15 p.m., when they reached near Radha Swami Satsang Bhawan, Bhikhowal, the motorcycle was hit by a bus bearing registration No.PB-07-K-9879

(*hereinafter referred to as 'the bus'*). Resultantly, both the occupants of



the motorcycle fell on the ground; Gurpreet Singh died, and the appellant suffered multiple injuries. He was given first aid in the Civil Hospital, Hoshiarpur and thereafter, he was referred to Bharaj Life Care Hospital and Trauma Centre, Jalandhar Road, Hoshiarpur, where he remained admitted till 12.09.2007.

2.1 As per AW-1, Dr. Rachhpal Singh Bharaj, the injured was having history of fractures in the right femur, tibia, nasal bone & right radius. He was operated upon for interlocking nail of right femur and right tibia and was discharged on 12.09.2007. According to this witness, two more surgeries were required for removal of the implants and for that purpose, he would again require hospital admission. The injured was also recommended special protein diet.

2.2 As per the testimony of AW-4, Dr. Surinder Singh Dardi, Civil Hospital, Hoshiarpur, who was a member of the Board constituted to assess the disability, the appellant was found having 100% disability due to his right upper limb and right lower limb, and the disability was permanent in nature. Due to the disability, right upper limb of the patient had become useless, and he would require assistance for routine activities. He has also confirmed that interlocking nailing of the thigh may need second operation for its removal after the union is complete and such operation may be required within a period of one year. He proved the disability certificate as Ex.A47.

2.3 Regarding the accident, FIR No.95 dated 29.08.2007, under Sections 304-A, 279, 427, 337, 338 of the Indian Penal Code, 1860, was



registered at Police Station, Haryana, against the respondent No.1- Swaran Singh, driver of the bus.

2.4 The driver of the bus, owner of the bus and the insurance company contested the petition by filing separate written statements.

2.5 The Tribunal framed the issues and jointly decided the claim petitions filed on behalf of the LRs of Gurpreet Singh, since deceased and the injured-appellant.

2.6 The Tribunal awarded compensation to the tune of Rs.3,67,918/-.

2.7 Dissatisfied with the said amount of compensation, the present appeal has been preferred.

3. The learned counsel for the appellant contends that inadequate compensation has been awarded without following the principles of assessment of compensation in an injury case.

4. *Per contra*, learned counsel for the Insurance Company contends that compensation to the tune of Rs.2,00,000/- has been awarded on account of permanent disability, i.e. Rs.1,00,000/- towards disability and another Rs.1,00,000/- for effect of disability in future life and as such, the compensation awarded by the Tribunal is just and adequate.

5. I have considered the aforesaid contentions and perused the paper-book.

6. In the present case, the Tribunal has awarded compensation in the following manner:-



Medical Expenses	-	Rs.92,918/-
Towards permanent disability	-	Rs.1,00,000/-
Special Diet	-	Rs.15,000/-
Expenses	-	Rs.10,000/-
Loss of Marriage prospects	-	Rs.50,000/-
Towards disability for whole life	-	Rs.1,00,000/-
Total	-	<u>Rs.3,67,918/-</u>

7. The Tribunal has not assessed the compensation taking into consideration the fact of functional disability of the appellant. Even no compensation has been awarded towards pain & suffering, transportation charges and attendant charges. The compensation awarded towards special diet is meagre.

8. The principles for assessment of damages in an injury case examined in various decisions, have been summed up by Hon'ble Apex Court in *Baby Sakshi Greola v. Manzoor Ahmad Simon and another*, *2025 (1) RCR (Civil) 238*, as follows : -

“12. The assessment of damages in personal injury cases raises great difficulties. It is not easy to convert the physical and mental loss into monetary terms. There has to be a measure of calculated guesswork and conjecture. An assessment, as best as can, in the circumstances, should be made.

13. McGregor's Treatise on Damages, 14th Edition, Para 1157, referring to heads of damages in personal injury actions states:

“The person physically injured may recover both for his pecuniary losses and his non-pecuniary losses. Of these the pecuniary losses themselves comprise two separate items viz. the loss of earnings and other gains which the plaintiff would



have made had he not been injured and the medical and other expenses to which he is put as a result of the injury, and the courts have sub-divided the non-pecuniary losses into three categories viz. pain and suffering, loss of amenities of life and loss of expectation of life.”

14. In Concord of India Insurance Co. Ltd. v. Nirmala Devi [Concord of India Insurance Co. Ltd. v. Nirmala Devi, (1979) 4 SCC 365 : 1979 SCC (Cri) 996 : 1980 ACJ 55], this Court held : (SCC p. 366, para 2)

“2. ... the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales.”

15. In R.D. Hattangadi v. Pest Control (India) (P) Ltd. [R.D. Hattangadi v. Pest Control (India) (P) Ltd., (1995) 1 SCC 551 : 1995 SCC (Cri) 250], dealing with the different heads of compensation in injury cases this Court held thus : (SCC p. 556, para 9)

“9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant : (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include : (i) damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in the future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for loss of expectation of life i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

16. In Raj Kumar v. Ajay Kumar [Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343 : (2011) 1 SCC (Civ) 164 : (2011) 1 SCC (Cri) 1161], this



Court laid down the heads under which compensation is to be awarded for personal injuries : (SCC p. 348, para 6)

“6. The heads under which compensation is awarded in personal injury cases are the following:

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, 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.

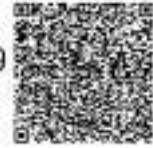
(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded only 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.”

17. In K. Suresh v. New India Assurance Co. Ltd. [K. Suresh v. New India Assurance Co. Ltd., (2012) 12 SCC 274 : (2013) 2 SCC (Civ) 279 : (2013) 4 SCC (Cri) 638], this Court held as follows : (SCC p. 276, para 2)

“2. ... There cannot be actual compensation for anguish of the heart or for mental tribulations. The quintessentiality lies in



the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. Therefore, Section 168 of the Motor Vehicles Act, 1988 (for brevity “the Act”) stipulates that there should be grant of “just compensation”. Thus, it becomes a challenge for a court of law to determine “just compensation” which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance.””

19. This Court, in the said case, thereafter, formulated various heads such as loss of earnings, expenses related to treatment, attendant charges, pain and suffering and loss of amenities, loss of marriage prospects, future medical treatment. Ultimately, this Court enhanced the compensation awarded by the High Court from Rs. 25,78,501/- to Rs.62,27,000/-.”

Permanent disability

9. As per the facts on record, the injured was 19 years of age at the time of the accident. As per medical evidence led by AW-1, the injured had suffered fractures in the right femur, tibia, nasal bone & right radius. Though the injured was operated upon, however, as per the testimony of AW-4-a member of the medical board, the disability is assessed as 100% due to injury on the right upper limb. The said disability is permanent and as per the categorical statement of AW-4, right upper limb of the patient had become useless and he would require assistance for routine activities.

10. For a young person of 19 years of age, suffering 100% permanent disability in his right upper limb and incapacitating a young person to seek help from someone for routine activities clearly indicate that the injured will not be able to do manual work with his right hand, as such, the functional disability can be determined as 80%. While



determining such functional disability, reference can also be made to the decision of the Hon'ble Apex Court in *Saalibai Vs. The Divisional Manager*, SLP (C) Nos.7667-7668 of 2023, decided on 11.02.2025, whereby, the following observations were made:-

“10. Coming to the percentage of disability, the certificate attached to Annexure P2 states that her injuries impair her routine physical work. The disability had been assessed as 81% by the Tribunal, who considered it just and proper to take 1/3rd of this percentage as loss of disability in paragraph 20 of the judgment. Considering the fact that the Claimant-Appellant is unable to carry out routine physical tasks, we assess her disability as 80%”

11. The Tribunal has only awarded a sum of Rs.1,00,000/- towards permanent disability and another sum of Rs.1,00,000/- has been awarded towards disability for whole life. Awarding of lumpsum compensation towards permanent disability is without any basis and cannot be accepted. The Hon'ble Apex Court in *Kajal Vs. Jagdish Chand and others, (2020) 4 SCC 413*, set aside the findings of the learned Tribunal as well as High Court whereby the compensation for assessing the future loss of income of an injured victim was assessed by treating his notional income. The minimum wages payable to a skilled workman were considered and it was held that the minimum amount which he would have earned on becoming a major is such minimum wages payable to a skilled workman. By applying the multiplier method, the compensation for loss of income in the case of an injured victim was worked out. The said method was further affirmed by Hon'ble Apex Court in a recent judgment in *Baby Sakshi Greola (supra)*.



12. In the present case, the accident took place on 29.08.2007. As per the notification No.ST/M.W./13687-825 dated 23.04.2007, issued by the State of Punjab, the minimum wages payable to a **Driver Light Vehicle** (skilled workman) is 2940/- per month, as such, compensation in account of loss of future income due to functional disability is to be assessed on the basis of the said monthly income.

Attendant charges

13. This Court in *National Insurance Co. Ltd. Vs. Harman Singh Dhanoa and others, FAO No.263 of 2014 with XOBJC-50-CII-2014, decided on 20.01.2025*, while determining the ‘attendant charges’, has observed as under:-

“For assessing the attendant charges reliance can be placed upon the judgment rendered by the Hon’ble Apex Court in case of “Kajal v. Jagdish Chand”, reported as (2020) 4 SCC 413, wherein it was held that in cases where attendant is required even after discharge from the hospital, multiplier method could be used for making the assessment. Relevant excerpt thereof is reproduced hereunder: -

“22. The attendant charges have been awarded by the High Court @ Rs. 2,500/- per month for 44 years, which works out to Rs. 13,20,000/-. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various factors are taken into consideration. When compensation is paid in lump sum, this Court has always followed the multiplier system. The multiplier system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges etc. This system was recognised by this Court in Gobald Motor Service Ltd. v. R.M.K. Veluswami, AIR 1962 Supreme Court 1. The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of

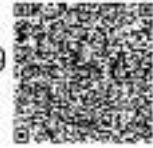


life. Out of all the various alternative methods, the multiplier method has been recognised as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of 'just compensation' within the meaning of the Act."

Similarly, the Hon'ble Apex Court in "Abhimanyu Partap Singh v. Namita Sekhon, reported as (2022) 8 SCC 489 while keeping in mind the nature of injuries and growing age of the injured granted two attendants for 12 hours each as he required all time attendants for his daily routine works. Relevant para No. 23 is reproduced herewith:-

"23. In the head of medical expenses, the MACT or the High Court has not awarded any compensation presumably because the mother of the claimant, who was minor at the time of accident, may have claimed the amount of medical expenses being an IAS officer. But now the claimant has become major, and looking to the nature of injuries, future medical expenses that includes the attendant charges, use of diapers due to loss of urination senses is required to be calculated including future medical expenses. The Tribunal awarded Rs 1,92,000 in the head of attendant charges @ Rs 1000 p.m. While the High Court proceeded on the premises that the rate of the attendant charges is variable after every five years, however, the Court calculated the amount @ Rs 2000 thereafter @ Rs 4000 p.m. for a period of 20 years and accordingly determined Rs 9,00,000 making enhancement of Rs 7,08,000 in the said head. As discussed, if we apply the multiplier method and in view of the judgment of Kajal, we accept the rate of attendant charges at Rs 5000 p.m. for 12 hours, looking to the nature of injuries and disability the claimant is required two attendants at least within 24 hours then the expenses in the head of attendant charges comes to Rs 10,000 p.m. If we apply the multiplier of 18, the amount comes to Rs 21,60,000."

14. In the present case, though AW-4 Dr. Surinder Singh, Member of the Medical Board to assess disability, has stated that due to the disability, right upper limb of the patient had become useless and he



would require assistance for routine activities, however, it is to be noticed that the injured is 19 years of age. He would be able to do some activities with his left hand. However, he would require some assistance for doing certain personal work which a person can only do with his right hand. As such, the injured would require the assistance of a part-time worker for his lifetime. In view of the ratio of the decision in **Harman Singh Dhanoa (supra)** and keeping in view the facts & circumstances of the case, a sum of Rs.3,000/- per month would be just and equitable compensation towards attendant charges. As such, by applying the multiplier of 18, the amount of compensation towards attendant charges would come to Rs.6,48,000/- (3,000/- X 12 X 18).

Other heads

15. The appellant-injured is also entitled for enhanced compensation towards **pain and sufferings, transportation charges and special diet** in view of the ratio of the decision in **Raj Kumar Vs. Ajay Kumar, (2011) 1 SCC 343**, which has been relied upon by the Hon'ble Apex Court in Baby Sakshi (supra).

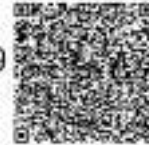
16. In view of the above discussion, and in view of the ratio of the decisions in **National Insurance Co. Ltd. V. Pranay Sethi (2017) 16 SCC 680, Kajal (supra), Sidram Vs. Divisional Manager, United India Insurance Ltd., (2023) 3 SCC 439, K.S. Muralidhar Vs. R. Subbulakshmi and another, 2024 SCC OnLine SC 3385** and **Raj Kumar (supra)**, the compensation is reworked as follows:-



Compensation Heads	Amount Awarded
Monthly Income	- Rs.2940/-
Yearly Income	- 2940 X 12 = Rs.35280/-
Future Prospects (Age is 19)	- 35280 + 40% = Rs.49,392/-
Multiplier (18)	- 49,392 X 18 = Rs.8,89,056/-
Permanent Disability (80%)	- 8,89,056/- X 80% = Rs.7,11,245/-
Loss of future income	- Rs.7,11,245/-
Medical Expenses	- Rs.92,918/-
Attendant Charges	- 3,000/- X 12 X 18 = Rs.6,48,000/-
Special Diet (15 days hospitalization, second surgery required for removal of nailing)	- Rs.30,000/-
Transportation	- Rs.15,000/-
Pain and Sufferings	- Rs.2,00,000/-
Loss of Marriage Prospects	- Rs.1,00,000/-
Total	- Rs.17,97,163/-

17. The amount in excess of the amount awarded by the Tribunal shall attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the main appeal.

18. In view of the decision by the Hon'ble Supreme Court in *Parminder Singh vs. Honey Goyal & Ors., 2025 INSC 361*, after calculation of the enhanced amount, the same shall be transferred by respondent No.3-Insurance Company in the Bank Accounts of the



claimant-appellant within a period of 06 weeks from today. The particulars of the bank account along with the requisite documents in support thereof shall be furnished by the claimant-appellant to respondent No.3-Insurance company within a period of two weeks from today and needful shall be done by respondent No.3-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

19. In view of the above discussion, present appeal is partly allowed and the Award passed by the Tribunal is modified accordingly.

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

20.01.2026

atulsethi

[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No