



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

131

FAO-3440-2024 (O&M)
Date of Decision: 29.01.2026

Mandeep Kumar

....Appellant

V/s

Vijay Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. J.P. Sharma, Advocate, for the appellant.

Mr. Harinder Kumar, Advocate, for respondent No.3.

VIKRAM AGGARWAL, J. (ORAL)

The instant appeal has been preferred by the appellant-claimant (Mandeep Kumar) seeking enhancement of compensation awarded vide Award dated 20.03.2024 passed by the Motor Accident Claims Tribunal, Narnaul (for short 'MACT').

2. The facts, as emanating from the paper book, are that the appellant instituted a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') seeking compensation of Rs.90 lakhs on account of injuries suffered by the appellant in a motor vehicular accident which took place on 18.07.2018.

3. The case of the appellant was that on 18.07.2018, he along with Samar Singh son of Babu Lal was going from village Mirzapur to Kanina on a motorcycle. The motorcycle was being driven by Samar Singh at a moderate speed in a cautious manner while the appellant was riding pillion. When they reached Village Sunderah near the Petrol Pump, a truck bearing Regn. No.HR-55-T-6155 (hereinafter referred to as "the offending vehicle") came at a high speed, in a rash and negligent manner and hit the motorcycle,

as a result of which, the appellant fell down on the road and sustained

multiple and grievous injuries on his person, whereas Samar Singh fell on the non-metalled berm of the road. The offending vehicle was being driven by respondent No.1 (Vijay Kumar), who fled from the spot leaving the offending vehicle behind. The accident was witnessed by Samar Singh and other villagers. The appellant was first taken to Government Hospital, Narnaul by the villagers, from where, he was referred to another hospital for further treatment. The appellant was then taken to Kailash Hospital, Behror and after one day, he was shifted to Fortis Hospital, Gurugram, where he remained admitted for several months.

4. FIR No.268, dated 24.07.2018 under Sections 279 and 337 IPC was registered at Police Station Kanina.

5. It was averred that the accident had taken place on account of the rash and negligent driving of the offending vehicle by respondent No.1. It was averred that at the time of the accident, the appellant was 18 years old and was engaged in imparting tuitions besides assisting his parents in agricultural and domestic work and was earning Rs.20,000/- per month. It was averred that in future, his income was likely to increase but on account of the injuries suffered in the accident, he became permanently disabled and his future earnings were severely impacted.

6. Respondent No.1 (driver of the offending vehicle) filed his separate written statement and denied the factum of the accident. It was averred that a false FIR was got registered by the appellant in collusion with the police.

7. Respondent No.2 (owner of the offending vehicle) did not appear despite service and was proceeded against ex parte.

8. Respondent No.3 (United India Insurance Company Ltd.) filed

its separate written statement and took its usual defences. The factum of the

accident was denied. It was averred that the registration number of the motorcycle was concealed.

9. From the pleadings of the parties, following issues were framed:

- “1. Whether claimant Mandeep Kumar, son of Rajesh Kumar, sustained injuries in a road accident, which took place on 18.07.2018 in the area of village Sunderah near Petrol Pump. P.S. Kanina due to rash and negligent driving of vehicle No.HR-55-T-6165 by respondent No.1?OPP*
- 2. If issue No.1 is proved in favour of claimants, whether claimant is entitled for compensation, if so, how much and from whom?*
- 3. Whether driver of the offending vehicle was not holding a valid driving licence at the time of accident, if so, its effect? OPR*
- 4. Relief.”*

10. Parties led their respective evidence.

11. On issue No.1, it was held that the accident had been caused on account of the rash and negligent driving of the offending vehicle by respondent No.1.

12. On issue No.2, i.e. quantum of compensation, the MACT awarded the following compensation:-

Income assessed as Rs.7200/- + Rs.2880/- per month		
Sr. No.	Heads	Amount in Rs.
1	Hospitalization/medicine/attendant	Rs.12,26,765
2	Loss of income/disability	Rs.10,88,640/-
3	Pain/Suffering/Marriage Prospects	Rs.2,00,000/-
4	Transportation	Rs.15,000/-
5	Special Diet	Rs.15,000/-
Total		Rs.25,45,405/-

13. Aggrieved by the grant of inadequate compensation, the present appeal was preferred.

14. I have heard learned counsel for the parties.

15. Learned counsel for the appellant submits that the MACT

personal expenses, whereas, being an injury case and notional income having been assessed, the same was not to be deducted. It has further been submitted that the age of the claimant was only 17 ½ years at the time of the accident and on account of the amputation, his marriage prospects have been ruined. He further submits that the appellant shall have to undergo pain and suffering for the whole of his life, which cannot be measured in monetary terms. Learned counsel submits that inadequate compensation qua attendant charges, marriage prospects and pain and suffering was granted. Further, no expenses were separately awarded for hiring an attendant. Under the circumstances, learned counsel submits that the compensation deserves to be suitably enhanced. Reference has been made to the judgment of the Hon'ble Apex Court in the case of ***Baby Sakshi Greola vs. Manzoor Ahmad Simon and another, 2024 SCC Online SC 3692*** and a judgment of this Court in the case of ***Karampreet Kaur vs. Kulwant Singh and others (FAO-3033-2019, decided on 11.11.2025)***.

16. *Per contra*, learned counsel for the respondent-insurance company has submitted that there is no illegality in the award passed by the MACT and there is no occasion to enhance the same. In fact, the wages for an unskilled worker were Rs.8497/- per month and not Rs.9000/- per month.

17. I have considered the submissions made by learned counsel for the parties.

18. In the case of ***Baby Sakshi Greola vs. Manzoor Ahmad Simon and another, 2024 SCC Online SC 3692***, the Hon'ble Apex Court was considering the issue of grant of compensation to a 12 years old girl on account of injuries suffered in a motor vehicular accident. Though, the facts in that case were different, the principles of assessment of damages in

of India would remain the same. The Hon'ble Apex Court examined the entire law on assessment of damages in personal injury cases. The said findings would be essential to be reproduced:-

“13. It was also stated by the mother of the appellant (PW-2), that she wanted to make her daughter a badminton player but all her hopes have now vanished due to the unfortunate accident. It was stated by her that the appellant was a brilliant student and had she not met with the accident, she would have got a job of at least Rs. 25,000-30,000/-per month, but as a result of the accident she has become a dull student.

14. It would also be appropriate to refer to the evidence of Dr. Monica Juneja (PW-3), who proved the Disability Certificate dated 10th January 2011. As per the said certificate, the appellant has suffered 75% disability, which is permanent in nature on account of moderate mental retardation. This disability is in relation to the whole body, which is non-progressive. It is stated in the certificate that this is a case of road traffic accident with Subarachnoid Haemorrhage with healed fracture femur left with moderate mental retardation which means she has an Intelligence Quotient of 41 and social Quotient of 43.

15. It is recorded in the testimony of Dr. Monica Juneja (PW-3) that, children with moderate mental retardation are generally able to learn skills up to the level of 2nd Standard/Class as adults and can work under close supervision only. Further, the appellant also has severe apathy and has no control over passage of her urine. Because of severe apathy, the appellant has no interest in playing or interacting with other children. The appellant would require very close supervision of an attendant for her day-to-day care. The appellant would also require admission in a special school or training by a special education teacher.

16. Dr. Monica Juneja (PW-3) has also stated that, due to all these problems, her marriage prospects may be affected. However, her possibility of procreation is not affected on account of mental retardation.

17. This Court, in the case of Kajal (supra), had an opportunity to consider a case with identical facts. In the said case, a girl (Kajal) aged 12 sustained brain injuries on account of an accident. The accident had very serious consequences on her. Kajal was examined for an assessment of her disability. It was assessed that, because of the head Injury, Kajal is left with very low IQ and severe weakness in all her four limbs, she suffers from severe hysteria and severe urinary incontinence. Her disability had been assessed as 100%.

18. *This Court, in the said case, referred to a number of cases where the principles for grant of compensation have been enunciated. Cases from foreign jurisdiction as well as cases of this Court were relied upon to extract the principles to be applied while assessing compensation. It would be apposite to refer to the following paragraphs of the said case:*

"8. In Phillips v. London & South Western Railway Co. [Phillips v. London & South Western Railway Co., [L.R.] 5 Q.B.D. 78 (CA)], Field, J., while emphasising that damages must be full and adequate, held thus: (QBD p. 79)

"... You cannot put the plaintiff back again into his original position, but you must bring your reasonable common sense to bear, and you must always recollect that this is the only occasion on which compensation can be given. The plaintiff can never sue again for it. You have, therefore, now to give him compensation once and for all. He has done no wrong, he has suffered a wrong at the hands of the defendants and you must take care to give him full fair compensation for that which he has suffered."

Besides, the Tribunals should always remember that the measures of damages in all these cases "should be such as to enable even a tortfeasor to say that he had amply atoned for his misadventure".

9. In Mediana, In re [Mediana, In re, [1900] A.C. 113 (HL)], Lord Halsbury held (AC pp. 116-17)

"... Of course the whole region of inquiry into damages is one of extreme difficulty. You very often cannot even lay down any principle upon which you can give damages; nevertheless, it is remitted to the jury, or those who stand in place of the jury, to consider what compensation in money shall be given for what is a wrongful act. Take the most familiar and ordinary case how is anybody to measure pain and suffering in moneys counted? Nobody can suggest that you can by any arithmetical calculation establish what is the exact amount of money which would represent such a thing as the pain and suffering which a person has undergone by reason of an accident. In truth, I think it would be very arguable to say that a person would be entitled to no damages for such things. What manly mind cares about pain and suffering that is past? But nevertheless the law recognises that as a topic upon which damages may be given."

10. The following observations of Lord Morris in his speech in H. West & Son Ltd. v. Shephard [H. West & Son Ltd. v. Shephard, [1964] A.C. 326 [1963] 2 WLR 1359 (HL)], are very pertinent: (AC p. 346)

"... Money may be awarded so that something tangible may be procured to replace something else of the like nature which has been destroyed or lost. But money cannot renew a physical frame that has been battered and shattered. All that Judges and courts can do is to award sums which must be regarded as giving reasonable compensation. In the process there must be the endeavour to secure some uniformity in the general method of approach. By common assent awards must be reasonable and must be assessed with moderation. Furthermore, it is eminently desirable that so far as possible comparable injuries should be compensated by comparable awards."

In the same case, Lord Devlin observed (at p. 357) that the proper approach to the problem was to adopt a test as to what contemporary society would deem to be a fair sum, such as would allow the wrongdoer to "hold up his head among his neighbours and say with their approval that he has done the fair thing?", which should be kept in mind by the court in determining compensation in personal injury cases.

11. Lord Denning while speaking for the Court of Appeal in Ward v. James [Ward v. James, [1966] 1 Q.B. 273: [1965] 2 WLR 455 : [1965] 1 All ER 563 (CA)], laid down the following three basic principles to be followed in such like cases: (QB pp. 299-300)

"First, assessibility: In cases of grave Injury, where the body is wrecked or the brain destroyed, it is very difficult to assess a fair compensation in money, so difficult that the award must basically be a conventional figure, derived from experience or from awards in comparable cases. Secondly, uniformity: There should be some measure of uniformity in awards so that similar decisions are given in similar cases; otherwise there will be great dissatisfaction in the community, and much criticism of the administration of justice. Thirdly, predictability: Parties should be able to predict with some measure of accuracy the sum which is likely to be awarded in a particular case, for by this means cases can be settled

peaceably and not brought to court, a thing very much to the public good."(emphasis in original)

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 subdivided 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 (1)

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 (1) 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)

(1) Expenses relating to treatment, hospitalisation, medicines, and miscellaneous transportation, nourishing expenditure. food,

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/-.

20. In another case titled Master Ayush (supra), this Court was called upon to adjudicate on an appeal filed by a 5-year-old victim of a road accident seeking enhancement of compensation awarded by the Tribunal.

21. In the said case, Ayush was left as a paraplegic patient as a result of the accident. He was examined by two doctors. He was not able to move both his legs and had complete sensory loss in the legs, urinary incontinence, bowel constipation and bed sore. Ayush was aged about 5 years on the date of the accident, hence, he lost his childhood and became dependant on other(s) for his routine work.

22. This Court, in the said case, relying on the decision of Kajal (supra) enhanced the compensation under the head of loss of future earnings due to permanent disability for life, medical expenses, future medical expenses, pain and suffering and loss of amenities, loss of marriage prospects, attendant charges and conveyance charges. This Court enhanced the compensation awarded to the appellant therein from Rs. 13,46,805/- to Rs. 49,93,000/-.

23. *Recently, this Court in the case of K.S. Muralidhar (supra) on an elaborate consideration of certain authorities (scholarly as also judicial) on the aspect of "pain and suffering" set out the contours. It would be relevant to refer to the following paragraphs of the said case:*

"14. In respect of 'pain and suffering' in cases where disability suffered is at 100%, we may notice a few decisions of this Court:-

14.1 In R.D Hattangadi v. Pest Control (India) (P) Ltd. It was observed:

"17. The claim under Sl. No. 16 for 'pain and suffering' and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs. 3,00,000 each under the two heads. The High Court has allowed Rs. 1,00,000 against the claims of Rs. 6,00,000. When compensation is to be awarded for 'pain and suffering' and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life. The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs. 1,50,000 in respect of claim for 'pain and suffering' and Rs. 1,50,000 in respect of loss of amenities of life. We direct payment of Rs. 3,00,000 (Rupees three lakhs only) against the claim of Rs. 6,00,000 under the heads "'pain and suffering" and "Loss of amenities of life".

(Emphasis Supplied)

14.2 This Judgment was recently referred to by this Court in Sidram v. United India Insurance Company Ltd. reference was also made to Karnataka SRTC v. Mahadeva Shetty (irrespective of the percentage of disability incurred, the observations are instructive), wherein it was observed:

"18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot

enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned."

14.3 In Kajal v. Jagdish Chand considering the facts of the case, i.e., 100% disability, child being bedridden for life, her mental age being that of a nine-month-old for life a vegetative existence, held that "even after taking a conservative view of the matter an amount payable for the 'pain and suffering' of this child should be at least Rs. 15,00,000/-."

14.4 In Ayush v. Reliance General Insurance relying on Kajal (supra) the amount awarded in 'pain and suffering' was enhanced to Rs. 10,00,000. The child who had suffered the accident was five years old and the Court noted in paragraph 2 that:

"As per the discharge certificate, the appellant is not able to move both his legs and had complete sensory loss in the legs, urinary incontinence, bowel constipation and bed sores. The appellant was aged about 5 years as on the date of the accident, hence has lost his childhood and is dependent on others for his routine work."

14.5 In Lalan (supra) cited by the claimant-appellant, the Tribunal awarded Rs. 30,000/- which was enhanced to Rs. 40,000/- by the High Court. Considering the fact that the appellant therein has suffered extensive brain injury awarded compensation under 'pain and suffering' to the tune of Rs.3,00,000/-."

19. The Hon'ble Apex Court then assessed the compensation under various heads. This Court also embarks upon the same exercise. The compensation under various heads is, therefore, assessed as under:-

a) **Loss of income/earning capacity as assessed by the MACT.**

The learned MACT assessed the income after adding future prospects and applying the multiplier as Rs.21,77,280/-. However, it deducted 50% on account of personal expenses and

assessed the loss of income at Rs.10,88,640/-. In the considered opinion of this Court, such a deduction was not required to be made in an injury case and where notional income was being assessed. The loss of income would therefore come to Rs. 21,77,280/-.

b) **Medical Expenses.**

The medical expenses were rightly assessed as Rs.11,86,765.

c) **Attendant Charges.**

Since the appellant underwent amputation of his leg from the femur, he would need an attendant throughout his life. As is evident from the Award, the minimum wages for an unskilled person at the relevant time were Rs.9,000/- per month. The annual charges for an attendant would, therefore, come to Rs.1,08,000/-. Applying a multiplier of '18', the attendant charges would come to Rs.19,44,000/-.

d) **Future medical expenses.**

Though no evidence was led to this effect, the appellant will need a prosthetic leg and may have to undergo various future treatments. This Court, therefore, deems it appropriate to award Rs.2 lakhs qua future medical expenses.

e) **Pain and suffering.**

No amount of compensation would be sufficient for the amount of pain and suffering that the young boy will have to undergo for the rest of his life. Accordingly, keeping in view the principles laid down in **Baby Sakshi Greola's** case (supra), the compensation qua pain and suffering is assessed as

Rs.15 lakhs.

f) **Marriage prospects.**

The marriage prospects of the appellant have been ruined on account of the accident. He lost his leg on account of the rash and negligent driving of the offending vehicle by its driver. Rash drivers do not understand the implications and consequences of their rash and negligent driving. Young and innocent lives are being snuffed out everyday on our roads. It is high time that we take strict measures against such offenders. Under the circumstances, the compensation on account of loss of marriage prospects is assessed as Rs.5 lakhs.

20. In view of the above, the compensation as assessed by this Court and that of the MACT is tabulated as under:-

Sr. No.	Heads	Assessed by the MACT	Enhanced by this Court
1.	Loss of income/earning capacity	Rs.10,88,640/- (after deduction @ 50%)	Rs.21,77,280/- (no deduction)
2.	Medical expenses	Rs.11,86,765/-	Rs.11,86,765/- (no change)
3.	Attendant Charges	(consolidated with other charges)	Rs.19,44,000/-
4.	Future Medical Expenses	No charges	Rs.2,00,000/-
5.	Pain and suffering	Rs.2,00,000/-	Rs.15,00,000/-
6.	Marriage Prospects	(consolidated with other charges)	Rs.5,00,000/-
Total		Rs.25,45,405/-	Rs.75,08,045/-

21. The total compensation as enhanced by this Court, therefore, comes to Rs.75,08,045/-. After deducting a sum of Rs.25,45,405/- as assessed by the MACT, the balance compensation comes to Rs.49,62,640/-.

learned MACT along with interest @ 7 per cent annually. The liability to pay the same would be as per the award.

22.
- The present appeal is accordingly disposed of.
- Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

January 29, 2026
vcgarg

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