IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1817-2011

Harish Kumar **......Appellant**

Vs.

Hoshiar Singh and ors. **......Respondents**

Date of Reserve: 18.02.2026
Date of Pronouncement:19.02.2026
Uploaded on:- 20.02.2026

Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

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

Mr. Sahej Mahajan, Advocate for
Mr. R.K. Bashamboo, Advocate
for respondent No. 3-Insurance Co.

* * *

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 22.07.2010 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, Jind (in short 'the Tribunal') for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.3,43,673/- along with interest @ 9% per annum on account of injuries sustained by the appellant/claimant in a motor vehicular accident, occurred on 08.06.2008.

2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of

the facts of the case is not required to be reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. The learned counsel for the appellant/claimant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and the compensation awarded to the appellant/claimant be enhanced, as per latest law.

4. *Per contra*, learned counsel for the respondent No.3-Insurance Company, however, vehemently argues on the lines of the award and contends that the amount of compensation as assessed by learned Tribunal, has rightly been granted to the appellant/claimant. Therefore, he prays for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

SETTLED LAW ON COMPENSATION

6. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

> ***General principles relating to compensation in injury cases***
> *5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the*

damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is 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. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).

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

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.

(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.*

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19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

20. The assessment of loss of future earnings is explained below with reference to the following

***Illustration 'A'** : The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

a) Annual income before the accident : Rs. 36,000/-.

b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5400/-.
c) Multiplier applicable with reference to age : 17
d) Loss of future earnings : (5400 x 17) : Rs. 91,800/-

Illustration 'B' *: The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :*

a) Annual income prior to the accident : Rs. 36,000/- .
b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.
c) Multiplier applicable with reference to age : 17
d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-

Illustration 'C' *: The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :*

a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-
b) Loss of future earning per annum
(70% of the expected annual income) : Rs. 42000/-
c) Multiplier applicable (25 years) : 18

d) Loss of future earnings : (42000 x 18)   : Rs. 7,56,000/-

[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

7. Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** **[(2017) 16 SCC 680]** has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

(A) Deduction of personal and living expenses to determine multiplicand;
(B) Selection of multiplier depending on age of deceased;
(C) Age of deceased on basis for applying multiplier;
(D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

> " *Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads."*

8. Hon'ble Supreme Court in the case of ***Erudhaya Priya Vs. State Express Tran. Corpn. Ltd.*** ***2020 ACJ 2159,*** has held as under:-

" 7. There are three aspects which are required to be examined by us:
(a) the application of multiplier of '17' instead of '18'*;*

The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi

Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

> *"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:*
>
> *(i) Pain, suffering and trauma resulting from the accident;*
> (ii) *Loss of income including future income;*
> *(iii) The inability of the victim to lead a normal life together with its amenities;*
> *(iv) Medical expenses including those that the victim may be required to undertake in future; and*
> *(v) Loss of expectation of life."*
>
> *[emphasis supplied]*

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

> *"**Nature of injury**:*
>
> *(i) compound fracture shaft left humerus*
> *(ii) fracture both bones left forearm*
> *(iii) compound fracture both bones right forearm*
> *(iv) fracture 3rd, 4th & 5th metacarpals right hand*
> *(v) subtrochanteric fracture right femur*
> *(vi) fracture shaft femur*
> *(vii) fracture both bones left leg*
>
> *We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court.*

Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish's case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

Heads	***Awarded***
Loss of earning power (Rs.14,648 x 12 x 31.1/100	*Rs. 9,81,978/-*
Future prospects (50 per cent addition)	*Rs.4,90,989/-*
Medical expenses including transport charges, nourishment, etc.	*Rs.18,46,864/-*
Loss of matrimonial prospects	*Rs.5,00,000/-*
Loss of comfort, loss of amenities and mental agony	*Rs.1,50,000/-*
Pain and suffering	*Rs.2,00,000/-*
Total	*Rs.41,69,831/-*

The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

9. A perusal of the award reveals that the appellant/claimant was stated to be a 22 years of age, which can be duly proved by the Ex P- 163 . A further perusal of the impugned award reveals that the claimant has specifically pleaded and deposed in his affidavit (Ex. PW7/A) that he was employed as a Sales Supervisor and was earning ₹6,000/- per month. The said fact was further supported by PW-5 Sh. Ajay Kumar, proprietor of M/s Nangal H.P. Centre.

10. Although no documentary evidence such as appointment letter or salary register was produced, the learned Tribunal erred in completely discarding the oral testimony of PW-5. And by persuming him as unskilled person, assessed the income of the claimant/appellant as Rs 3500 per month.

11. It is pertinent to note that the Hon'ble Supreme Court in ***KUBRABIBI & ORS. versus ORIENTAL INSURANCE CO LTD & ORS, 2023 SCC Online SC 1855*** has held.

> *"In a matter of the present nature where the compensation is sought and even in the absence of definite proof of the income, the social status of the deceased is to be kept in perspective where such persons are employed in unorganized sector and the notional income in any event is required to be taken into consideration."*

12. Furthermore this Court in number of judgments held that in cases where compensation is sought and there is no definite proof of income, particularly when the claimant belongs to the un-organised sector, the social status, nature of work, and overall circumstances of the case must be taken into consideration. Strict proof of income is not mandatory in such circumstances, and a reasonable notional income is required to be assessed.

13. Considering the nature of his avocation, his age, social and economic background, and the prevailing wages at the relevant time, this Court is of the considered opinion that the learned Tribunal erred in assessing the monthly income of the claimant/appellant at Rs.3,500/-, which appears to be on the lower side and not reflective of his actual earning capacity.

14. In view of the totality of the circumstances, the monthly income of the claimant/appellant is reasonably reassessed at Rs.5,000/- per month for the purpose of computation of just and fair compensation.

15. A further perusal of the record shows that the learned Tribunal has awarded the compensation on the lower side to the claimant under the heads of Pain and suffering, which is required to be enhanced.

16. It is trite that permanent disability suffered by an individual not only impairs his cognitive abilities and his physical facilities, but there are multiple non-quantifiable implications for the victim. Further, the very fact that healthy person turns into invalid being deprived of normal companionship and incapable of leading a productive life makes one suffer loss of dignity. As per the facts of the case the claimant suffered grievous injuries from the accident in question therefore he was operated for head injury and for fracture right tibia. The claimant/appellant was physically examined by PW-8 Dr Satish Kumar along with Dr Satyawan and Dr Arvind kumar and the doctor proved the disability certificate according to which the disability of the claimant/appellant was assessed at 15%. This fairly concludes the fact that the claimant/appellant has suffered immense amount of pain and agony due to the accident in question.

17. The Hon'ble Apex Court in the case of '***KS Muralidhar versus R Subbulakshmi and another 2024 INSC 886*** highlighted the intangible but

devastating consequence of pain and suffering. The relevant portion of the same is reproduce as under:-

> "*15. Keeping in view the above-referred judgments, the injuries suffered, the `pain and suffering' caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, award Rs.15,00,000/- under the head `pain and suffering', fully conscious of the fact that the prayer of the claimant-appellant for enhancement of compensation was by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded.*"

18. Therefore, in view of the above judgment and facts and circumstances of the present case, this Court deems it appropriate to grant compensation of **Two lakhs** under the heads of pain and suffering.

19. It is furthermore transpire from the record that learned Tribunal has rightly awarded sum of Rs.30,000/- for permanent disability. It is trite law that grant of compensation for loss of future income is a distinct head from the one under which compensation is granted for permanent disability. Reference at this stage can be made to judgment of Hon'ble the Supreme Court of India in a case of **Kavin vs. P. Sreemani Devi & Ors, 2025 INSC 1028.** The relevant portion of the same is reproduced as under:-

> *" 13. The Claims Tribunal further granted an amount of Rs. 3 lacs towards permanent disability suffered by the claimant. This was after taking into consideration the 100% disability suffered by the claimant. The High Court however set aside the grant of compensation under this head by observing that as compensation towards loss of income had been granted, further amount of Rs. 3 lacs towards permanent disability was not admissible. We do not find any whatsoever for this approach of the High Court. The grant of compensation for loss of future income is a distinct head from the one under which compensation is granted for permanent disability. In the light of the fact that the claimant suffered 100% permanent disability and was*

living in a vegetative state, the High Court was not justified in setting aside the grant of compensation under this head. In our view, considering the nature of disability suffered by the claimant, he would be entitled to amount of Rs. 5 lacs under this head.

20. Therefore, as referred in the above judgment, the learned Tribunal has rightly given Rs.30,000/- for disability to the claimant/appellant. Therefore, does not require the interference of this Court regarding the same.

21. The learned Tribunal has gravely erred while assessing the compensation of the claimant in as much as it has neither applied the appropriate multiplier nor added future prospects to the income of the claimant, which is contrary to the settled principles of law.

22. It is now well settled by the Hon'ble Supreme Court in **Pranay Sethi's case (supra)** that future prospects are to be added even in cases of self-employed or fixed salary persons. For a person below the age of 40 years, an addition of 40% towards future prospects is mandatory. The appropriate multiplier for a person aged 21–25 years is 18 as per settled law.

23. Furthermore, the amounts awarded by the learned Tribunal under the heads of transportation and special diet are on the lower side and also no amount has been awarded under the head of attendant charges, loss of amenities of life. Accordingly, the impugned award warrants interference and indulgence of this Court for appropriate enhancement of compensation.

RELIEF

24. In view of the above, the present appeal is allowed and award dated 22.07.2010 is modified. Accordingly, as per the settled principles of law as laid down by Hon'ble Supreme Court as mentioned above, the appellant-claimant is held entitled to the enhanced amount of compensation as calculated below:-

Sr. No.	Heads	Compensation Awarded
1	Income	Rs.5000/-
2	Loss of future prospects (40%)	Rs.2,000/- (40% of Rs.5000/-)
3	Annual Income	Rs.84,000/- (Rs.7000/- X 12)
4	Loss of future earning on account of 15% disability	Rs.12600/- (Rs.84000/- X 15%)
5	Multiplier of 18	Rs.2,26,800/- (Rs.12600X 18)
7	Pain and suffering	Rs.2,00,000/-
8	Attendant Charges	Rs.1,00,000/-
9	Transportation Charges	Rs.50,000/-
10.	Medical expenses	Rs.2,43,173/-
11	Loss of amenities of life	Rs.1,00,000/-
12.	Disability	Rs.30,000/-
13	Special Diet	Rs.50,000/-
	Total compensation awarded:-	**Rs.9,99,973/-** **rounded off to Rs.10,00,000/-)**
	Deduction:- Amount awarded by Tribunal	**Rs.3,43,673/-**
	Enhanced amount of compensation	**Rs.6,56,327/-** **(10,0,000- 3,43,673)**

26. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176*** and ***R.Valli and Others VS. Tamil Nandu State Transport Corporation (2022) 5 Supreme Court Cases 107***, the amount so calculated shall carry an interest @ 9% per annum (**excluding the period of delay of 09 days in filing the appeal)** from the date of filing of the claim petition, till the date of realization.

27. Respondent No.3-Insurance Company is directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest to the appellant-claimant.

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

19.02.2026 **(SUDEEPTI SHARMA)**
Gaurav Arora **JUDGE**

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No