



FAO-4881-2010

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

FAO-4881-2010 (O&M)

Dev Raj (since deceased) through his LR's**.....Appellant**

Vs.

Gurjant Singh and ors.**.....Respondents**

Date of Reserve: 17.04.2026

Date of Pronouncement: 27.04.2026

Uploaded on:-29.04.2026

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: Ms. Gurdeep Kaur, Advocate for
 Mr. P.K. Ganga and Mr. P.P.S.Duggal, Advocates
 for the appellants.

None for respondent Nos. 1 and 2.

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

SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 05.04.2010 passed by the learned Motor Accident Claims Tribunal, Sirsa (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 for enhancement of compensation granted to the claimant to the tune of Rs.1,57,000/- along with interest @ 8% per annum, on account of injury suffered by him in a Motor Vehicular Accident, occurred on 03.09.2007.

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 claimant (since deceased) has sustained injury in the accident due to which permanent disability of 9 % occurred. To prove the same, disability certificate (Ex P1) was placed on record, which was further proved by PW2-Ramesh Kumar, Orthopadic Surgeon, Member of Medical Board constituted by Civil Surgeon, Sirsa, who stated that the claimant (since deceased) has suffered overall disability of 9% on account of restriction on mobility, flexion at hip, restricted mobility of knee. He further stated that there is no possibility of decreasing the same due to age of claimant/appellant.

10. A further perusal of the award shows the claimant/appellant was stated to be working as Clerk/Munshi with Mr. Krishan Kumar Bishnoi, Advocate and was earning Rs.5,000/- per month. Furthermore, the learned Tribunal has assessed the loss of income of the claimant as **Rs.3000/- per month** without giving any cogent reasoning and finding, which is contrary to the settled law.

11. It is pertinent to mention here that Hon'ble Supreme Court in ***Kubra Bibi v. Oriental Insurance Co. Ltd., reported as 2023 (3) Apex Court Judgments (SC) 23***, has been held that in the absence of definite proof of income, the social status and nature of employment of the deceased are relevant considerations, and notional income must be reasonably assessed. The relevant extract reads as under:-

“In a matter of the present nature where the compensation is sought and even in 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. Therefore, by placing reliance upon the above referred to judgment and taking into consideration all the circumstances of the claimant (since deceased), the monthly income of the claimant (since deceased) is assessed as Rs.5000/-

13. Furthermore, learned Tribunal has gravely erred while assessing the compensation of the claimant (since deceased) as no multiplier was applied, which is contrary to the settled principles of law. Therefore, by considering the age of the claimant (since deceased) as 69 years as reflected from disability certificate (Ex P1), multiplier of 5 is to be applied, as per settled law.

14. Furthermore, the learned Tribunal has rightly granted the amount to the tune of Rs.75000/- towards medical expenses by rightly taking in to consideration the medical bills of the claimant (since deceased). Therefore, this does not require any interference by this Court.

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. 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."

17. Therefore, in view of the above judgment and facts and circumstances of the present case, this Court deems it appropriate to grant compensation of **Rs.1,00,000/-** under the heads of pain and suffering.

18. A further perusal of the award reveals that the learned Tribunal has awarded Rs.27,000/- to the appellant/claimant on account of his disability. This amount has rightly been granted by the learned Tribunal as a separate head from the loss of future income, therefore, this amount has rightly been awarded and no interference is warranted in this regard. Reliance on this question of law can be placed upon the judgment of Apex Court titled as **Kavin vs. P. Sreemani Devi, (SC) 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 basis 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.”

19. Furthermore, meager amount has been awarded by the learned Tribunal under the heads of special diet, transportation and attendant charges. Accordingly, the impugned award warrants interference and indulgence of this Court for appropriate enhancement of compensation.

RELIEF

20. In view of the above, the present appeal is allowed and award dated 05.04.2010 is modified. Accordingly, as per the settled principles of law as laid down by Hon’ble Supreme Court as mentioned above, the appellant-legal heirs of the claimant are held entitled to the enhanced amount of compensation as calculated below:-

Sr. No.	Heads	Compensation Awarded
1	Income	Rs.5,000/-
2	Annual Income	Rs.60000/- (Rs.5000 X 12)
3	Loss of future earning on account of 9% disability	Rs.5400/- (Rs.60000/- X 9%)
4	Multiplier of 7	Rs.27,000/- (Rs.5400X 5)
5	Medical Expenses	Rs.75,000/-
6	Hospitalization	Rs.12000/-
7	Pain and suffering	Rs.1,00,000/-
8	Transportation Charges	Rs.30,000/-
9	Disability	Rs.27,000/-
10	Special Diet	Rs.30,000/-
11	Attendant Charges	Rs.30,000/-
12	Total compensation awarded:-	Rs.3,31,000/-
	Deduction:- Amount awarded by Tribunal	Rs.1,57,000/-
	Enhanced amount of compensation	Rs.1,74,000/- (3,31,000- 1,57,000)



21. 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 Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107*, the legal heirs of the claimant are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

22. Respondent No. 3-Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The learned Tribunal is directed to disburse the enhanced amount of compensation along with interest in the account of legal heirs of the claimant. The legal heirs of the claimant are directed to furnish their bank account details to the Tribunal.

21. However, needless to say, respondent No. 3-Insurance Company is granted liberty to recover the said amount of compensation from respondent Nos. 1 and 2, as per award dated 05.04.2010.

22. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

27.04.2026

Gaurav Arora

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