2026:PHHC:022339

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2870-2011 (O&M)

ASHOK @ KALA ….**Appellant**

Vs.

VIRENDER AND OTHERS ….**Respondents**

1	*The date when the judgment was reserved*	*20.01.2026*
2	*The date when the judgment is pronounced*	*13.02.2026*
3	*The date when the judgment is uploaded on the website*	*13.02.2026*
4	*Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced*	*Full*
5	*The delay, if any, of the pronouncement of full judgment, and reasons thereof.*	*Not applicable*

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jasbir Mor, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No. 3/Insurance Company.

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HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to an award dated 06.12.2010, passed by the learned Motor Accident Claims Tribunal, Jind (for brevity, "the Tribunal"), whereby an amount of Rs. 5,85,925/- was

awarded as compensation to the appellant/claimant along with interest @ 9% per annum from the date of institution of claim petition till its actual realization, on account of injuries suffered by him in a vehicular accident, which occurred on 16.10.2008.

FACTS

2. The appellant, being injured filed a claim petition before the learned Tribunal praying for grant of compensation on account of injuries suffered by him in a motor vehicular accident which took place on 16.10.2008 while alleging rash and negligent driving of vehicle bearing registration No. HR-26-T-8799 being driven by respondent No. 1/driver.

3. After going through the claim petition and evaluating the evidence led by both the parties, learned Tribunal vide award dated 06.10.2010, arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No. 1 and awarded Rs. 5,85,925/- as compensation.

4. Being aggrieved against the aforesaid award dated 06.10.2010; the present appeal has been preferred by the appellant/claimant for enhancement of compensation. Facts as specified in the claim petition and the issue regarding negligence of the driver been recorded in favour of the appellant/claimant by the learned Tribunal being not in dispute, therefore, for the sake of brevity, those are not being repeated here.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT/CLAIMANT.

5. Learned counsel for the appellant/claimant assailed the aforementioned award while submitting that the amount awarded by the learned Tribunal was grossly meager and disproportionate to the nature

and extent of injuries sustained by the appellant/claimant. It was submitted that the Tribunal failed to appreciate the settled principles laid down by the Hon'ble Apex Court governing the assessment of just and fair compensation in injury cases. He further argued that the appellant/claimant suffered permanent disability to the extent of 70%, thereby rendering him incapable of performing his daily activities; therefore, the Tribunal ought to have granted adequate compensation towards loss of income by applying appropriate multiplier and taking into consideration the permanent and incapacitating nature of the disability. Accordingly, he prayed that the compensation awarded be suitably enhanced in accordance with the settled law so as to meet the ends of justice.

ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT NO.3/INSURANCE COMPANY.

6. Per contra, learned counsel for respondent No.3/Insurance Company vehemently contended that in the facts and circumstances of the case, the appellant was adequately compensated, thus, the present appeal was liable to be dismissed.

DISCUSSION

7. I have heard learned counsel for the parties and perused the paper-book of the case as well. I find force in the arguments advanced by learned Counsel for appellant/claimant.

8. Before determining the quantum of compensation, it is essential to draw guidance from the principles laid down in similar cases by the Hon'ble Apex Court. In ***"Raj Kumar vs. Ajay Kumar and Ors."*** reported

as ***(2011) 1 SCC 343*** the Court laid down the heads under which compensation is to be awarded for personal injuries.

> *"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, the compensation will 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".*

ON THE ASPECT OF ENHANCEMENT OF COMPENSATION ASSESSMENT UNDER "LOSS OF INCOME"

9. A perusal of the record reveals that the appellant/claimant was 24 years old at the time of the accident and stated to be earning Rs. 20,000/- per month as he was an agriculturist besides pursuing dairy farming. However, no documentary evidence was produced on record. Even otherwise, it stands duly proved that the appellant sustained grievous injuries in the accident, on account of which he remained hospitalized and

incapacitated for a considerable period, rendering him unable to attend his avocation. In such circumstances, the absence of documentary proof could not have been a ground to deny just compensation, particularly when the nature of injuries and period of treatment clearly establish loss of earning during the period of rehabilitation. In this situation observations made by the Hon'ble Apex Court in ***"Kubra Bibi vs. Oriental Insurance Co. Ltd.",*** reported as ***2023 (3) Apex Court Judgments (SC) 23,*** to the effect that in the absence of definite proof of 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 is required to be taken into consideration to help the cause of the appellant. Relevant para from this judgment is reproduced hereunder:-

> *"7. 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. The fact that the deceased had three dependents to be cared for and had claimed that he was working as a mechanic, the amount payable to an unskilled labour, cannot be the basis and in that circumstance when he was a skilled person, the daily income at Rs. 200 per day in any event could have been taken even if the income from jeep transport business was discarded for want of documents. More so in a circumstance, where the MACT had referred to the evidence available on record and then arrived at its conclusion, the re-appreciation of the evidence by the High Court is without being sensitive to nature of lis before it."*

9.1 Furthermore, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in stricto sensu is not required. The Hon'ble Supreme Court in case of ***"Chandra @ Chanda @***

Chandraram vs. Mukesh Kumar Yadav & Ors.”, reported as ***(2022) 1 SCC 198,*** held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

> *“…….In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month……”*

9.2 In view of the aforesaid discussion and also while keeping into account the facts and circumstances of the present case, this Court is of the considered opinion that the notional income of the appellant/claimant is assessed @ Rs. 4,528.2/- per month (Rs. 150.94 per day) rounded off to Rs. 4,530/-. Now as per the statement of Dr. Ram Kumar, Neuro Surgeon who appeared as PW-1, the appellant/claimant remained in hospital from 17.10.2008 to 23.11.2008 i.e. 37 days and as such loss of income suffered by him during the said period is assessed as Rs. 5,584.78/- (Rs. 150.94 x 37) which is rounded off to Rs. 5,585/-. Further, evidently the motor vehicular accident in the present case took place on 16.10.2008 and the appellant/claimant must have been bed-ridden for 8 months due to fractures of right frontal bone, lateral wall, of right orbit and right frontal contusion with surrounding edema as well as dislocation of right hip, after the accident. Thus, it would be safe to assume that the appellant suffered loss of income for 8 months due to reduced working capacity. Therefore, after considering facts and circumstances of the present case, loss of income for the said period is conservatively assessed @ Rs. 36,225.6/- (150.94 x 240) which is rounded off to 36,230/-. Furthermore, though, the appellant/claimant has suffered 70% disability which has been established by the statement of Dr. Reema Jain, Medical Officer, General Hospital, Hisar, yet it being a case of fractures of right frontal bone, lateral wall, of right orbit and right frontal contusion with surrounding edema as well as dislocation of right hip it would be just and fair if the future loss of income/functional disability is assessed @ 70%, keeping in view the nature of work being performed by the appellant, the resultant severe restriction on his mobility and earning capacity, and the settled principle that functional disability may differ from the medical disability depending upon the avocation of the injured. Additionally, the Hon'ble Supreme Court, in the case of ***"Pappu Deo Yadav v. Naresh Kumar"*** reported as ***2020 INSC 553*** held that in cases where a claimant suffers disability due to a motor vehicle accident, compensation may be awarded not only for the future loss of income but also towards future prospects.

9.3 A perusal of record shows that the age of appellant/claimant at the time of accident was 24 years. The computation of future prospects is to be done as per the law laid down by a Constitution Bench of the Hon'ble Supreme Court in ***"National Insurance Co. Ltd. v. Pranay Sethi"*** reported as ***(2017) 16 SCC 680*** para 59.3, which records the conclusion in this regard, reads as under:-

> *"59.3 While determining income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should read as actual salary less tax."*

9.4 In view of the above discussion, the appellant/claimant in addition to the loss of future earnings, shall also be entitled to compensation for loss of future prospects @ 40%. Therefore, the income of the appellant/claimant after adding future prospects be taken as Rs. 6,342/- (4,530 + 1,812) per month for the purpose of calculation of compensation. Accordingly, this Court finds that the compensation payable for the functional disability to the extent of 70% is assessed @ Rs. 9,58,910.4/- (6,432 x 12 x 18 x 70/100).

ASSESSMENT UNDER "MEDICAL EXPENSES/HOSPITALIZATION"

10. In the present case, the appellant/claimant suffered disability to the extent of 70%, which has been established by the statement of Dr. Reema Jain, Medical Officer, General Hospital, Hisar. The appellant/claimant has also stated that he had spent a sum of Rs. 4 lakhs approximately on treatment. Furthermore, the appellant/claimant has also proved on record medical bills Ex.PW7/A, Exs.P55 to Exs.P111, Exs.P113 to 155 Ex.P1 to Ex.P40, Exs.P156 to Exs.P222 and Exs.P243 to Exs.P245, which shows that the appellant/claimant had paid an amount of Rs.

3,76,420/- on his treatment. Therefore, keeping in mind the cost factor prevalent at the time of motor vehicular accident and the treatment besides need of medicines during rehabilitation period, the compensation under this head needs to be reassessed. The aforesaid view finds force from the fact that due to shock and mental agony on account of accident, a person cannot be presumed to be vigilant enough to collect all the bills for claim/reimbursement purposes, though, total bills proved are for Rs.3,76,420/- yet in the humble opinion of this Court, compensation under this head is assessed as Rs. 5,00,000/-.

ON THE ASPECT OF PAIN AND SUFFERINGS

11. For assessing just compensation under the head of pain and sufferings, reference may be drawn to the decision of the Hon'ble Supreme Court in ***K. Murlidhar vs. R. Subbulakshmi & Anr., 2024 INSC 886,*** wherein it was held that the award of compensation under non-pecuniary heads must be reasonable and commensurate with gravity of the injuries suffered; the extent of disability; the duration of hospitalization, and the mental and physical agony endured by the claimant. Relevant portion of the same is reproduced 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."*

11.1 In light of the settled legal position enunciated by the Hon'ble Supreme Court in ***Muralidhar's* case (supra),** and having due regard to the peculiar facts and circumstances of the present case, it is evident from the documentary evidence duly proved on record that the appellant/claimant sustained grievous injuries, namely fractures of right frontal bone, lateral wall, of right orbit and right frontal contusion with surrounding edema as well as dislocation of right hip. More than that, Dr. Reema Jain, Medical Officer, General Hospital, Hisar proved on record the disability, as per which, the appellant/claimant was found to be having 70% permanent disability. Thus, this Court is of the opinion that an amount of Rs. 5,00,000/- is awarded under the head of pain and sufferings.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

12. Admittedly, the injured was bed ridden for 8 months as he was suffering from fractures of right frontal bone, lateral wall, of right orbit and right frontal contusion with surrounding edema as well as dislocation of right hip and would have definitely gone for his post-operative care. However, learned Tribunal failed to grant adequate compensation under the head of special diet, conveyance charges and attendant charges. Therefore, compensation granted under these heads is reassessed @ Rs. 2,00,000/.

CONCLUSION

13. In view of what has been discussed hereinabove, the appellant/claimant shall be entitled for the grant of compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Loss of Income (Rs. 5,585+ Rs. 36,230 + Rs. 9,58,910.4)	Rs. 10,00,725.4/-
2.	Medical Expenses/Hospitalization	Rs. 5,00,000/-
3.	Compensation under other pecuniary head	Rs. 2,00,000/-
4.	Compensation under pain and sufferings	Rs. 5,00,000/-
	Total Compensation	**Rs. 22,00725.4/-**
	Amount Awarded by the Tribunal	**Rs. 5,85,925/-**
	Enhanced Amount	**Rs. 16,14,800.4/-**

14. In the view of the observations made by the Hon'ble Supreme Court in ***"Smt. Supe Dei and others vs. National Insurance Company Limited and other,*** reported as ***(2009) (4) SCC 513*** approved in a subsequent judgment titled as ***"Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443,*** the grant of interest @ 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization is justified. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

15. In view of the aforesaid modification, the present appeal stands disposed of.

16. Pending miscellaneous application(s), if any, shall also stand disposed of.

February 13, 2026 **(HARKESH MANUJA)**
sonika **JUDGE**

(i) Whether reasoned/speaking? Yes/No (ii) Whether reportable? Yes/No