(Pronouncement)

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

(1) FAO No. 4204 of 2011 (O&M)

Ritu

...Appellant

Versus

Bipan Kumar and others

...Respondents

(2) FAO No. 4206 of 2011 (O&M)

Shri Chander Parkash Bajaj and another

...Appellants

Versus

Bipan Kumar and others

...Respondents

AND

(3) FAO No. 4207 of 2011 (O&M)

Sunil Bajaj

...Appellant

Versus

Bipan Kumar and others

...Respondents

1	The date when the judgment was reserved	10.03.2026
2	The date when the judgment is pronounced	18.04.2026
3	The date when the judgment is uploaded on the website	18.04.2026
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

Argued By:- Mr. Piyush Aggarwal, Advocate for
Mr. Saurabh Garg, Advocate
for the appellant(s) (in all cases).

Mr. Himanshu Khanna, Advocate and
Mr. Tajender Khanna, Advocate
for the respondent(s)-Insurance Company.
(in FAO No. 4204 of 2011)

Mr. Nigam Bhardwaj, Advocate
for respondent No. 3-Insurance Company
(in FAO Nos. 4206 & 4207 of 2011)

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HARKESH MANUJA, J.

By way of this common judgment, the present three appeals, arising out of the Award dated 01.12.2010 passed by the learned Motor Accident Claims Tribunal, Panipat **(hereinafter referred to as "the Tribunal")**, are being disposed of. Vide the said Award, compensation of Rs. 23,200/- was granted to Ritu, Rs. 47,200/- to Sunil, and a sum of Rs. 4,55,000/- was awarded on account of the death of Smt. Parkash Rani. Since all the appeals emanate from the same accident and impugn the aforesaid Award, they are being adjudicated together.

[2] As sole issue for determination in the present appeals is confined to quantum of compensation awarded by the Tribunal, a detailed narration of facts of the case is not reproduced herein for the sake of brevity.

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

[3] Learned counsel for the appellants contended that the impugned Award suffered from serious infirmities. It was submitted that the income of the deceased was erroneously assessed at Rs. 5,000/- per month, despite cogent evidence on record demonstrating that the deceased was earning Rs. 16,000/- per month. He further argued that the learned Tribunal failed to grant just and reasonable compensation under the conventional heads, including loss of consortium, loss of estate, and appropriate funeral expenses. Additionally, it was contended that the amounts awarded towards medical expenses as well as pain and suffering were grossly inadequate and did not reflect the actual loss endured. Lastly, learned counsel submitted that the rate of interest awarded at 6% per annum was on the lower side and warranted enhancement.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT/INSURANCE COMPANY.

[4] Per contra, learned counsel representing the respondent/Insurance Company, neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts and circumstances of the present case, the compensation assessed by the learned Tribunal called for no interference.

DISCUSSION AND REASONING

[5] I have heard learned counsel for the parties and perused the paper-book of the case. I find substance in the arguments advanced by the learned counsel for the appellant(s)/claimant(s).

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[6] 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".*

ASSESSMENT UNDER "LOSS OF INCOME" (RITU)

[7] A perusal of the record reveals that the appellant/claimant was working as a teacher at Kidzee School, Samalkha. However, no documentary evidence was produced on record to prove the same. Even otherwise, it stands duly proved that the appellant sustained grievous injuries in the accident, on account of which she remained outdoor patient till 15.09.2009 and incapacitated for a considerable period, rendering her unable to attend her 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 established 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."*

[7.1] 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……"*

[7.2] 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. 4,500/- per month (Rs. 150 per day). Now, as per the record available, the appellant/claimant remained outdoor patient till 15.09.2009 i.e. 87 days. However, it cannot be presumed that she remained completely out of her avocation for the entire said period of nearly three months. At the same time, there is no cogent evidence on record to establish the exact number of days for which she was unable to attend her work. Nevertheless, having regard to the nature of injuries sustained by her, it would be reasonable to assume that she remained absent from her work for a period of 10 days. Accordingly, the loss of income suffered by her is assessed at Rs. 1,500/- (Rs. 150 × 10). Further, with regard to the claim for compensation under the head of *'loss of future income'*, in the absence of any cogent evidence establishing permanent disability suffered by the appellant/claimant, no amount is liable to be awarded under the said head.

ASSESSMENT UNDER "MEDICAL EXPENSES / HOSPITALIZATION"

[8] In the present case, appellant/claimant suffered head injury accompanied by loss of consciousness, cervical soft tissue injury, pain in right shoulder and left hand as well as soft tissue injuries. Even though the appellant could only produce few medical bills but keeping in mind the cost factor prevalent at the time of motor vehicular accident and the follow-up 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, thus, compensation under this head is assessed as Rs. 50,000/-.

ON THE ASPECT OF PAIN AND SUFFERINGS

[9] 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."*

[9.1] 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 head injury accompanied by loss of consciousness, cervical soft tissue injury, pain in right shoulder and left hand as well as soft tissue injuries. Thus, this Court is of the opinion that an amount of Rs.1,00,000/- is awarded under the head of pain and sufferings.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

[10] In view of the nature of injuries sustained by the appellant/claimant, particularly the head injury accompanied by loss of consciousness, cervical soft tissue injury, pain in right shoulder and left hand as well as soft tissue injuries, it can reasonably be inferred that she would have definitely gone for her post-operative care. Therefore, compensation granted under these heads is re-assessed @ Rs. 1,00,000/.

CONCLUSION

[11] 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	1,500.00
2.	Medical Expenses/Hospitalization	50,000.00
3.	Compensation under other pecuniary head	1,00,000.00
4.	Compensation under pain and sufferings	1,00,000.00
	Total Compensation	**2,51,500.00**
	Amount awarded by the Tribunal	**23,200.00**
	Enhanced Compensation	**2,28,300.00**

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ASSESSMENT UNDER "LOSS OF INCOME" (SUNIL BAJAJ)

[12] A perusal of the record indicates that the appellant/claimant asserted that he was employed as a Legal Manager with HDFC Bank; however, no documentary evidence has been adduced to substantiate the said assertion. Nevertheless, having regard to the facts and circumstances of the present case, this Court is of the considered view that the learned Tribunal rightly assessed the loss of income on the basis of the leave record placed on record as Ex. PW5/D and Ex. PW5/E, which reflect that the appellant remained on leave from 22.06.2009 to 25.06.2009 and again from 25.06.2009 to 04.07.2009. The said period, when computed, aggregates to 13 days during which the appellant remained absent from his duties.

It is further borne out from his affidavit that he claimed a loss of income amounting to Rs. 8,038/-. Accordingly, the learned Tribunal justly and reasonably assessed the loss of income at Rs. 8,100/-, which does not warrant any interference by this Court. Further, with regard to the claim for compensation under the head of *'loss of future income'*, in the absence of any cogent evidence establishing permanent disability suffered by the appellant/claimant, no amount is liable to be awarded under the said head.

ASSESSMENT UNDER "MEDICAL EXPENSES / HOSPITALIZATION"

[13] In the present case, appellant/claimant suffered dental injury involving fracture of tooth crown, oral/facial laceration (sutured wound) and post-traumatic dental damage requiring RCT. Even though the appellant could only produce few medical bills but keeping in mind the cost factor prevalent at the time of motor vehicular accident and the follow-up 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, thus, compensation under this head is assessed as Rs. 50,000/-.

ON THE ASPECT OF PAIN AND SUFFERINGS

[14] 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."*

[14.1] 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 dental injury involving fracture of tooth crown, oral/facial laceration (sutured wound) and post-traumatic dental damage requiring

RCT. Thus, this Court is of the opinion that an amount of Rs.1,00,000/- is awarded under the head of pain and sufferings.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

[15] In view of the nature of injuries sustained by the appellant/claimant, particularly dental injury involving fracture of tooth crown, oral/facial laceration (sutured wound) and post-traumatic dental damage requiring RCT, it can reasonably be inferred that he would have definitely gone for his post-operative care. Therefore, compensation granted under these heads is reassessed at the rate of Rs. 1,00,000/.

CONCLUSION

[16] 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	8,100.00
2.	Medical Expenses/Hospitalization	50,000.00
3.	Compensation under other pecuniary head	1,00,000.00
4.	Compensation under pain and sufferings	1,00,000.00
	Total Compensation	**2,58,100.00**
	Amount awarded by the Tribunal	**47,200.00**
	Enhanced Compensation	**2,10,900.00**

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QUESTION OF INCOME ASSESSED

[17] In the present case, as per the statement of Chander Parkash (husband of deceased) while deposing as PW-1, it was submitted that the deceased was doing tailoring work, thus earning Rs. 16,000/- per month, however, no documentary evidence to support the income of the deceased was placed before the Tribunal, except the National Trade Certificate issued by ITI, Panipat thus, learned Tribunal assessed the monthly income of deceased @ Rs. 5,000/- per month.

[17.1] In case of ***"Laxmidhar Nayak v. Jugal Kishore Behera"*** reported as ***(2018) 1 SCC 746,*** notional income of house wife-cum-agricultural labour, who died in the year 1991 was considered as Rs. 4,500/- per month. (Due to passage of so many years, there would be substantial hike in the minimum wages of ordinary labours).

[17.2] Even in the case of ***"National Insurance Co. Ltd. vs. Dhan Singh"*** reported as ***2019 (3) PLR 301,*** notional income of housewife was assessed @ Rs. 11,000/- per month by this Court while awarding compensation in relation to an accident dated 20.09.2017.

[17.3] Therefore, the notional income of house wife needs to be considered keeping in mind multifarious services rendered by her for the family; the expenses for cook service, maid servant service, housekeeping expenses and keeping in mind the savings accrued due to all these services. Even the invaluable emotional support and the contribution of house wife to her husband, children and in-laws, cannot be assessed in terms of money. Thus, keeping in mind the above considerations, notional income of the deceased as housewife-cum-seamstress could not be assessed less than Rs. 8,000/- per month against an accident which took place on 21.06.2009.

QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL AND LIVING EXPENSES.

[18] Further, relying upon decision rendered by co-ordinate bench of this Court in case of ***"Gurtej Singh Vs. Gurnaib Singh"*** bearing ***FAO No. 1093 of 2019,*** no deduction is liable to be made from notional income of housewife. Furthermore, future prospects are required to be added to a homemaker's notional income in view of the decision rendered by the Hon'ble Supreme Court in case of ***"Rajendra Singh and Ors. Vs. National Insurance Company Limited and Others"***, reported as ***2020 (3) RCR CIVIL 26,*** whereby it was held that in case of death of housewife claimants are liable to be granted such benefit. Relevant excerpt thereof is reproduced hereunder:-

> *"11. ……….If the deceased had survived, in view of observations in **Lata Wadhwa (supra),** her skills as a matured and skilled housewife in contributing to the welfare and care of the family and in the upbringing of the children would have only been enhanced by time and for which reason we hold that the appellants shall be entitled to future prospects……..."*

Therefore, as per the age of the deceased, who was around 50 years at the time of accident, 25% towards future prospects and multiplier of 13 is applied.

QUESTION OF ASSESSMENT UNDER CONVENTIONAL HEADS

[19] In view of judgment of Hon'ble Apex Court in ***Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr., (2009)6 SCC 121, National Insurance Company Co. Ltd. vs. Pranay Sethi & Ors. (2017) 16 SCC 680 and United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur"***, reported as ***(2021) 11 SCC 780,*** compensation awarded under conventional heads is also required to be reassessed. Accordingly, the claimants are entitled for Rs. 18,000/- as compensation under the head of funeral expenses and Rs. 18,000/- towards loss of estate. Loss of consortium is to be awarded to the tune of Rs. 96,000/- (Rs. 48,000 x 2) as appellants/claimants are entitled for spousal and parental consortium; but simultaneously, appellants/claimants are not entitled for compensation on account of loss of love and affection.

CONCLUSION

[20] In view of the discussion made hereinabove, the appellants/claimants shall be entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Annual Income of Deceased	96,000.00
2.	Add 25% future prospects	24,000.00
3.	Net Income (Rs. 96,000/- + Rs. 24,000/-)	1,20,000.00
4.	Multiplier of 13 as per age of 50 years	15,60,000.00

	(Rs. 1,20,000 x 13)	
5.	Funeral Expenses	18,000.00
6.	Loss of Estate	18,000.00
7.	Loss of Consortium (Rs. 48,000 x 2)	96,000.00
	Total Compensation	**16,92,000.00**
	Amount Awarded by the Tribunal	**4,55,000.00**
	Enhanced Amount	**12,37,000.00**

Accordingly, the appellants/claimants shall be entitled to receive above enhanced compensation in the proportion already determined by the learned Tribunal.

[21] The grant of interest @ 6% per annum is not equitable and just in 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,*** thus, the interest is enhanced to 9% per annum on the amount of compensation awarded from the date of institution of claim petition till its realization. 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.

[22] In view of the aforesaid modification, the present appeals stand **disposed of**.

[23] Pending miscellaneous application(s), if any, shall also stand(s) disposed off.

April 18, 2026 **(HARKESH MANUJA)**
'dk kamra' **JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No

DINESH KUMAR
2026.04.18 14:14
I attest to the accuracy and
integrity of this document