IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.334 of 2012 (O&M)

ASHWANI BEDI …Appellant

Vs

SHAMSHAD ALI AND ORS. …Respondents

1	The date when the judgment was reserved	29.01.2026
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. Ashwani Arora, Advocate
for the appellant.

Mr. Abhinav Singla, Advocate
for respondent No.3/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 12.10.2011, passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib (for brevity, "the Tribunal"), whereby an amount of Rs.6,20,200/- was awarded as compensation to the appellant/claimant along with interest @ 7.5% 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 07.06.2008.

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 07.06.2008 while alleging rash and negligent driving of vehicle bearing registration No.PB-23-D-1297 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 12.10.2011, arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No. 1 and awarded Rs.6,20,200/- as compensation to the appellant/claimant.

[4]. Being aggrieved against the aforesaid award dated 12.10.2011; 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.

ARGUMENTS 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. I find force in the arguments advanced by learned Counsel for the appellant.

[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:*
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> ***Pecuniary damages (Special damages)***
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> *(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.*
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> *(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:*
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> *(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 21 years old at the time of the accident and earning Rs.3,300/- per month by working at Oswal Nahar Factory, Dholewal Chowk, Ludhiana. The learned Tribunal rightly assessed the monthly income of the appellant/claimant @ Rs.3,300/- per month, in consonance with the statement of appellant/claimant. The said assessment is based on cogent and reliable evidence and does not suffer from any infirmity or perversity. Therefore, this Court finds no ground to interfere with the determination of the monthly income as recorded by the learned Tribunal.

[9.1]. Now, as per the statement of Dr. Dharam Singh, Junior Resident, Department of Orthopedics, PGI, Chandigarh who appeared as PW-3, the appellant/claimant remained in hospital from 07.06.2008 to 09.07.2008 and was again admitted at Grewal Hospital, Ludhiana on 13.09.2009 till 17.09.2009 which was proved on record by the statement of Dr. Gurdeep Singh who appeared as PW-4. Thus, the loss of income suffered by the appellant/claimant during the said period is assessed as Rs. 3,960/- (110 x 36). Further, evidently, the motor vehicular accident in the present case took place on 07.06.2008 and the appellant/claimant must have been bed-ridden for 1 year 3 months approximately due to amputation of left leg, after the accident. Thus, it would be safe to assume that the appellant suffered loss of income for 1 year 3 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.52,250/- (110 x 475). Furthermore, though, the appellant/claimant suffered 70% disability, yet it being a case of amputation of left leg 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.

[9.2]. A perusal of record shows that the age of appellant/claimant at the time of accident was 21 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."*

[9.3]. 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. 4,620/- (3,300 + 1,320) 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. 6,98,544/- (4,620 x 12 x 18 x 70/100).

<u>ASSESSMENT UNDER "MEDICAL EXPENSES/HOSPITALIZATION</u>

[10]. In the present case, the appellant/claimant suffered disability to the extent of 70%, which has been established from the disability certificate proved on record as Ex.P3 by Dr. Purshotam Dass, Medical Officer, Civil Hospital, Fatehgarh Sahib who appeared as PW-2. Furthermore, the appellant/claimant has also proved on record medical bills and receipts as Ex.P5 to Ex.P77, which shows that the appellant/claimant had spent an amount of Rs.87,000/- 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.87,000/- yet in

the humble opinion of this Court, compensation under this head is assessed as Rs.2,00,000/-.

Learned Tribunal failed to award any compensation on account of artificial prosthetic limb. The Hon'ble Supreme Court in case of ***"G Vivek v. National Insurance Co. Ltd. & Anr."*** reported as ***2023 ACJ 585*** held that lifespan of artificial prosthetic limb can be assessed as 5 years and, in that case, considering the age of injured being 15-16 years awarded compensation for 05 replacements of the artificial prosthetic limb. Relevant paragraphs thereof are reproduced hereunder:-

> *"11. In our view, the Tribunal was justified in awarding a sum of Rs. 20,00,000/- towards cost of new prosthesis at the rate of Rs. 5,00,000/- to be changed four times in five years. In other words, the Tribunal awarded this cost component only for 20 years despite the fact that Appellant was hardly of the age of 15-16 years old at the time when the Award was passed.*
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> ********
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> *13. Having held so, the appellant is indeed entitled to Rs. 26,00,000/- towards cost and maintenance of prosthesis and that being so, the compensation amount stands increased from 5,00,000/- (as awarded by the High Court) to Rs. 26,00,000/- and excluding a sum of Rs. 5,00,000/- awarded by the High Court towards cost of prosthesis, totaling to Rs. 71,00,000/-."*

Therefore, in the present case, considering the fact that appellant was 21 years of age at the relevant time and relying on the cost price of artificial prosthetic limb assessed in ***G Vivek's case (supra),*** this Court in its humble opinion, awards Rs.26,00,000/- for purchasing 05 replacements of artificial prosthetic limb and maintenance. [5 x 5,00,000 (for prosthetic limb) + 1,00,000/- (for periodic maintenance)].

<u>ON THE ASPECT OF PAIN AND SUFFERINGS</u>

[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 ***<u>K. Murlidhar vs. R. Subbulakshmi & Anr., 2024 INSC 886,</u>*** 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 ***<u>Muralidhar's</u>*** 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, including amputation of left leg just below the knee. More than that, Dr. Purshotam Dass, Medical Officer, Civil Hospital, Fatehgarh Sahib who appeared as PW-2, proved on record the disability certificate (Ex.P3), 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 1 year and 3 months approximately as he was suffering from amputation of left leg and would have definitely gone for his post-operative care. However, the 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. 3,960+ Rs. 52,250 + Rs. 6,98,544)	Rs.7,54,754/-
2.	Medical Expenses/Hospitalization (2,00,000 + 26,00,000)	Rs.28,00,000/-
3.	Compensation under other pecuniary head	Rs.2,00,000/-
4.	Compensation under pain and sufferings	Rs.5,00,000/-
	Total Compensation	**Rs.42,54,754/-**
	Amount Awarded by the Tribunal	**Rs 6,20,200/-**
	Enhanced Amount	**Rs.36,34,554/-**

[14]. The grant of interest @ 7.5% 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 to the claimants 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.

[15]. Accordingly, appeal filed at the instance of appellants/claimants is disposed of with the aforesaid modification of the award passed by the learned Tribunal. Pending miscellaneous applications(s) if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

February 13, 2026
Atik

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