



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

FAO-4454-2012 (O&M)
Date of Decision: January 29, 2026

Fariyad

...Appellant

VERSUS

Ashok Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Sandeep Arora, Advocate
for the appellant.

Ms.Malika Dhillon, Advocate for
Mr.S.S.Sidhu, Advocate
for respondent No.3.

ARCHANA PURI, J.

The appellant-claimant (minor) through his father-natural guardian, has filed the present appeal to seek enhancement of the compensation awarded by learned Motor Accident Claims Tribunal, on account of injuries sustained by him, in a motor vehicular accident.

Suffice to consider that the accident had taken place on 01.02.2010. On appraisal of the evidence, learned Tribunal concluded about the accident to have taken place, on account of rash and negligent driving of jeep bearing registration No.RJ-18GA-1444. It was held by learned Tribunal that the appellant-claimant had sustained injuries in the accident in question. He was 14 years old, at the relevant time and was student of 8th class. On account of the accident, he had sustained head injuries and had remained admitted in the hospital from 01.02.2010 to 17.02.2010. He



remained unconscious, while admitted in the hospital and was also on a ventilator, for a period of five days. He was diagnosed to be case of right parietal compound depressed fracture with contusions and left parietal S.D.H., on which account, operation was performed.

At first instance, the disability of the appellant-claimant was assessed as 60% temporary and an opinion was given to be re-assessed after one year and thereupon, the disability was re-assessed after one year and the disability was assessed to be 50% permanent. Considering the disability to be relating to left side of the body, it was held by learned Tribunal that inference could be drawn that the claimant could work from right side of the body and on this account, permanent disability of the whole of the body was scaled down to 30% and Rs.50,000/- was awarded under the head of loss of amenities. The earnings of claimant was assessed as Rs.15,000/- per month and on account of disability, taking it to be 30%, the compensation was worked upon as Rs.80,000/-. Thus, in total, the compensation awarded was Rs.3,45,000/-. For the convenience, at first glance, the requisition compensation is reproduced in tabular form, as under:-

Medical expenses	Rs.1,57,000/-
Special diet	Rs.3,000/-
Attendant charges	Rs.10,000/-
Transportation	Rs.3,000/-
Loss of earning during hospitalization	Rs.2000/-
Pain and suffering	Rs.40,000/-
Loss of amenities	Rs.50,000/-
Loss of future earnings	Rs.80,000/-
Total	Rs.3,45,000/-

The liability was fastened upon the respondents, jointly and severally.

However, the ‘**work on**’ of the compensation aforesaid, do call



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for re-determination, as various counts, essential to be taken note of, while making assessment of compensation in injury case, have been given amiss.

Anyways, before proceeding further, it is necessary to take into consideration that the Motor Vehicles Act is in the nature of social welfare legislation and its provisions make it clear that the compensation should be '**justly**' determined.

Thus, it goes without saying that in matters of determination of compensation, the Tribunals/Courts are statutorily bound with the responsibility of fixing 'just' compensation. It is obviously true that determination of 'just' compensation, cannot be equated to bonanza, but at the same time, it ought not to be a niggardly amount. The concept of '**just compensation**' obviously suggest an application of fair and equitable principles and reasonable approach, on the part of Tribunals/Courts. However, the measures have to be applied proportionately. The Courts should be mindful of the fact that though, the physical disability may be on the lesser count, but the functional disability, on account of injury sustained, can be on a higher side.

The extent of economic loss, arising from a disability, may not be measured in proportions, to the extent of permanent disability. In this regard, suffice to make reference to the decision rendered by the Hon'ble Supreme Court in *Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343*. It is the functional disability, which ought to be taken into consideration.

Adverting to the case in hand, so far as, age of appellant-claimant and his being student of 8th class, at the relevant time, is concerned, the same stands amply established from the evidence, brought on record.

AW-3 Capt. Sohan Lal Khanna, Principal, New Dashmesh Public

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School, on the basis of the record brought by him, has deposed about Fariyad to be the student of 8th class, in their school. Sham Lal, father of the appellant-claimant stepped into witness box as AW-2. In his affidavit, he categorically deposed about the age of his son and being student of 8th class, at the relevant time and also about the injuries suffered by him. Therein, he categorically stated that his son had become permanently disabled, due to right parietal compound depressed fracture with contusions and left parietal S.D.H. and operation: excision of depressed fragments and evacuation of contusions and his disability will affect throughout his life career. He has also stated about the hospitalization of the appellant-claimant and also about the expenditure incurred on his treatment.

Even, Dr.Gopal Sharma of Apex Superspeciality Hospital, Nawanshahr, where the appellant was got admitted, after being given first aid, has categorically deposed about the admission of Fariyad in his hospital on 01.02.2010, with the history of road side accident, in an unconscious state and was diagnosed as a case of right parietal compound depressed fracture with contusions and left parietal S.D.H. He was operated upon for the same immediately and further, patient made gradual improvement and was weaned off ventilator after five days and regained consciousness by two weeks and he was discharged on 17.02.2010. He proved the detail of the discharge summary, which is Ex.A27 and the same also reflects about the kind of injuries sustained, as stated aforesaid and the treatment extended. He also proved the bill of the expenditure Ex.A28 and the same is to the extent of Rs.1,30,000/-.

AW-5 Dr.Rajesh Mehta, Medical Officer, has deposed about being member of the board of doctors, who had examined Fariyad, for the



assessment of the disability and he has also categorically deposed about the appellant to be a case of road side accident with left Hemiparesis, as a sequel of head injury right parietal compound fracture with contusions with S.D.H. and the disability was assessed to be 60%, which was temporary in nature and the same was to be re-assessed after one year. He proved the disability certificate Ex.A29. He also categorically stated that due to disability, the patient cannot run, walk fast, but he can walk slowly and due to left side weakness, he may face difficulties, while climbing up the bus or doing other routine works. From left side, patient may not lift the heavy objects.

Furthermore, AW-6 Dr.J.S.Dhami, MS Ortho, who was one of the members of the board of doctors, who had subsequently examined Fariyad on 11.04.2012, has also deposed about the disability having been assessed as permanent disability to the extent of 50%, due to old case head injury with left sided Hemiparesis and he proved the disability certificate Ex.A42. Also, the said witness has stated that the appellant-claimant has a weakness of left side of body, due to which, he will feel difficulty in walking and doing work.

From the aforesaid evidence, it stands amply established that the appellant-claimant had suffered serious multiple injuries, resulted into permanent disability to the extent of 50%. However, two disability certificates have been proved on record. First disability certificate Ex.A29 relates to the temporary disability, which was assessed to be 60% and also, the patient was advised to have re-assessment after a period one year. The needful was done on 11.04.2012 and disability certificate relating to the same has also been proved, which is Ex.A42, wherein, the disability was assessed to be permanent, to the extent of 50%.

However, learned Tribunal considering the disability to have been



suffered on the left side of the body, had observed about the capability of the appellant-claimant to work with right side of his body and therefore, the disability of the whole body was assessed to be 30%. The finding so recorded by learned Tribunal is palpably erroneous.

It is pertinent to mention that the appellant, as evident from the medical record produced in evidence, had suffered from left Hemiparesis. It means weakness of the left side of the body, which typically stems from the damage to the right side of the brain or brain stem. There can be various reasons, like stroke, traumatic brain injury, tumor etc., which may be the cause of this ailment. One of the reasons for such kind of ailment is also head trauma from the accident.

In the case in hand, in the medical record, it is coming forth about the appellant-claimant to have suffered road side accident, on which account, he had injury of such kind. Taking it to be so, there is muscle weakness or partial paralysis of the left side of the body, caused by damage on the right side of the brain. Obviously, such kind of injury, made the appellant crippled person and the disability is also not likely to be recovered, being permanent. No doubt, it is one side of the body, which is affected, but however, the impact of the same, is to be taken into consideration. This condition, is bound to completely devastate the body functionality of the appellant. This condition can never be reversed, both physically and mentally, as existing prior to the accident in question and therefore, the appellant-claimant, can never be self-reliant and gainfully employed. This impaired condition of the appellant, definitely has a serious effect of his chances of settlement in life. The permanent disability suffered by him, not only impaired his cognitive abilities and his physical facilities, but there are

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other quantifiable implications for the victim.

The appellant-claimant was 14 years old and student of 8th class, at the relevant time and on account of his left side of the body, having been paralysed, definitely, certain options of career building, as such, which require highest level of physical fitness, more particularly, the defence services, is bound to have become restricted. Not only this, even various other fields of career, which require a person to remain active and mobile, also to great extent, have been shut for the appellant. At the maximum, to earn a livelihood, he could only do some desk work, which can also be not of a very high grade. Otherwise also, the body functionality is bound to be affected, even though, the right side, as such, may not be having any impact of the paralysis.

In the given circumstances, considering the impact of the injuries in question, the loss of functionality of the body, which ought to restrict the settlement chances of a child, who was a student of 8th class, at the relevant time and who was bound to have good choice of career, in his further life, in modest estimate, the extent of disability, in the minimum, can be taken as 50% only and that too, as permanent.

Even though, the loss of earnings have been assessed by learned Tribunal, while taking the earnings as Rs.15000/- per annum by learned Tribunal, but however, it is on a lower side. In the minimum, taking into consideration the minimum wages, prevalent at the relevant time, in modest estimate, in view of the appellant-claimant being student of 8th class, his earnings are taken as Rs.4000/- per month. To the said amount, addition on the count of 'future prospects' has to be made to the extent of 40%, which is Rs.1600/- and thus, the earnings of claimant are taken



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Rs.4000+1600=Rs.5600/- per month, annual whereof, comes to be Rs.67,200/-. The appropriate multiplier, to be applied is '18' and also multiplying the same with 50% of permanent disability and dividing the same by 100, as per standard multiplier process, on account of the same, the loss is assessed as **Rs.67,200x18x50/100=Rs.6,04,800/-**.

Considering the period of hospitalization as aforesaid and the kind of injuries sustained, definitely, the appellant-claimant must have been put on **special rich diet**, for the healing process and on this count also, amount of Rs.3,000/- awarded by learned Tribunal is enhanced to **Rs.30,000/-**.

During the period of hospitalization and some time thereafter, on account of injuries sustained, many trips must have been made to the hospitals. Also, the appellant-claimant must require such trips to be made in future also. Considering the same, on the count of 'transportation charges', amount awarded to the extent of Rs.10,000/- stands enhanced to **Rs.20,000/-**.

On account of 'attendant charges', an amount of Rs.10,000/- was awarded, for a period of four months. However, this amount is also on lesser side. It has to be kept in mind that the disability suffered by appellant-claimant is Hemiparesis, which had an impact on the left side of the body, which became weak and thus, the appellant shall be unable to perform, even everyday activities, with much difficulty and is bound to require constant support, even for the confined life, which he has been forced to lead. On account of this crippling condition, the appellant is bound to be looked after by a bye-stander/attendant for some of the activities, which a normal person conducts in routine. Consequently, bearing in mind, the need for 'assisted living', it is necessary to add expenses of services of an attendant for the



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appellant.

Even though, it is submitted that no material, as such, has been produced by the appellant, on account of expenditure incurred for the services of the attendant and it is argued that no further claim is merited under this head, but however, this submission is not tenable. Considering the extent of disability suffered, besides the family members, the appellant-claimant, ought to have been looked after by one attendant throughout. Even if, the appellant-claimant was being looked after only by his family members, then also, it should be noted that they could perform the role of care-giver, only by diverting their own time, from any form of gainful employment, which could have generated income.

Considering the same, to quantify the expenses of attendant, while making a conservative estimate, Rs.1000/- per month is the bare minimum. Taking it to be so, the annual expenses are worked upon as Rs.12,000/- and thus, by applying the multiplier of '18', an amount of Rs.12000x18=**Rs.2,16,000/-**, is awarded, on the count of 'attendant charges'.

After the accident, apart from having become a crippled person, to a great extent, the appellant-claimant, who was of young age, must have passed through a very traumatic state of mind, considering the restricted 'assisted living', which he was required to live in future and also, his chances of settlement in life to have been jeopardized, apart from the physical wreck befallen upon him. Considering the same, on the count of 'pain and suffering', the amount compensation awarded by learned Tribunal stands enhanced to **Rs.50,000/-** from Rs.40,000/-.

Besides the aforesaid, obviously on account of 50% of the body having become immobile, the impact of the same on marriage prospects is



bound to be there. The field of choice of life partner has to be compromised to a great extent. Thus, on the count of ‘**loss of marriage prospects**’, another amount of **Rs.2,00,000/-** is awarded.

Furthermore, learned Tribunal had appropriately granted an amount of **Rs.1,57,000/-**, towards ‘**medical expenses**’.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant-Fariyad, is re-computed in tabular form, as herein given:-

Loss on account of disability	Rs.6,04,800/-
Special diet	Rs.30,000/-
Transportation	Rs.20,000/-
Attendant charges	Rs.2,16,000/-
Pain and suffering	Rs.50,000/-
Loss of marriage prospects	Rs.2,00,000/-
Medical expenses	Rs.1,57,000/-
Total	Rs.12,77,800/-

As such, the compensation, so awarded by learned Tribunal, stands enhanced from **Rs.3,45,000/-** to **Rs.12,77,800/-**. On the enhanced amount of compensation i.e. $Rs.12,77,800-3,45,000=Rs.9,32,800/-$, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

Accordingly, the impugned Award dated 08.06.2012 stands modified, to the extent, as indicated aforesaid. With the above observations, the present appeal stands allowed.

January 29, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No