2026:PHHC:079873

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 3236 of 2013

GURPREET SINGH ….Appellant

Vs.

SHAMSHER SINGH @ SHERA AND OTHERS ….Respondents

1	*The date when the judgment was reserved*	*23.03.2026*
2	*The date when the judgment is pronounced*	*21.05.2026*
3	*The date when the judgment is uploaded on the website*	*22.05.2026*
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. Vinay Kumar Gupta, Advocate
for the appellant.

Mr. Gopal Mittal, 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 the Award dated 19.02.2013 passed by the learned Motor Accident Claims Tribunal, Faridkot (for short, "the Tribunal"), whereby compensation to the tune of Rs. 1,49,000/- was awarded in favour of the appellant along with interest @

6% per annum from the date of filing of claim petition till its realization on account of injuries suffered by him in a motor vehicular accident.

2. The appellant seeks enhancement of compensation on the ground that the learned Tribunal awarded wholly inadequate compensation and failed to assess the claim in accordance with the settled principles governing determination of compensation under Section 166 of the Motor Vehicles Act, 1988.

3. At the outset, it deserves notice that though the claim petition was stated to have been filed under Section 163-A of the Motor Vehicles Act, the learned Tribunal framed issues regarding rash and negligent driving and proceeded to adjudicate negligence on the part of respondent No.1-driver. The evidence was also led by the parties on the aspect of negligence. Once the matter was tried on the touchstone of fault liability and findings were recorded regarding rash and negligent driving of the offending vehicle, the claim necessarily assumes the character of a petition under Section 166 of the Act. Mere incorrect nomenclature or mention of a provision would not defeat the substantive rights of the claimant. The proceedings are, thus, treated and construed as one under Section 166 of the Motor Vehicles Act, 1988.

4. As sole issue for determination in 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.

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

5. Learned counsel for the appellant contended that the learned Tribunal gravely erred in awarding compensation only towards medical bills and completely ignored the settled heads under which compensation was required to be awarded in an injury case under Section 166 of the Act. It was submitted that the appellant remained hospitalized for a considerable period, underwent prolonged treatment, suffered fractures of vital parts of the body and had to engage an attendant and incur transportation expenses for treatment at Chandigarh. He further contended that no amount has been awarded towards pain and suffering, special diet, attendant charges, transportation expenses, loss of income during treatment period, loss of amenities of life and future prospects arising out of disability and trauma suffered by the appellant, therefore, he prayed that the award of the Tribunal be suitably modified in accordance with law.

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

6. Per contra, learned counsel representing the respondent No. 3/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

7. 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/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".*

ASSESSMENT UNDER "LOSS OF INCOME"

9. A perusal of the record reveals that the appellant/claimant was working as a white-wash labourer. However, no documentary evidence was produced on record to prove the same. The learned Tribunal failed to assess the monthly income of the appellant in order to determine loss of income suffered by him during the period of treatment and recovery. It is a matter of common knowledge that a labourer engaged in white-wash and allied manual work earns his livelihood through physical exertion and, once incapacitated on account of grievous injuries, is rendered unable to pursue such avocation for a considerable period. Even in the absence of documentary proof of income, the income of the injured is required to be assessed on the basis of minimum wages and surrounding circumstances. In this situation observations made by the Hon'ble Apex Court in ***"Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors."***, reported as ***(2022) 1 SCC 198,*** to the effect 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……"*

9.1 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. 7,500/- per month (Rs. 250 per day). Now, as per the record available, the appellant remained admitted in GGS Medical College, Faridkot till 27.01.2012. Thereafter, he again got admitted in PGI Chandigarh for the period from 19.12.2012 to 27.12.2012. Thus, the appellant/claimant remained hospitalized for a total period of 31 days, and as such loss of income suffered by him during the said period is assessed as Rs. 7,750 (Rs. 250 x 31). Further, evidently the motor vehicular accident in the present case took place on 06.01.2012 and the appellant/claimant must have been bed-ridden for 3 months due to fracture of right leg and left hip joint, after the accident. Thus, it would be safe to assume that the appellant suffered loss of income for 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. 22,500/- (330 x 90). 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"

10. In the present case, appellant/claimant suffered fracture of right leg and left hip joint. Even though the appellant could produce bills amounting to Rs. 1,48,644/- only 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. 2,00,000/-.

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 fracture of right leg and left hip joint. Thus, this Court is of the opinion that an amount of Rs. 2,00,000/- is awarded under the head of pain and sufferings.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

12. In view of the nature of injuries sustained by the appellant/claimant, particularly the fracture of right leg and left hip joint and consequent surgical intervention followed by prolonged post-operative care, it can reasonably be inferred that he remained confined to bed for a period of about 3 months 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. 1,00,000/.

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. 7,750+ Rs. 22,500)	30,250/-
2.	Medical Expenses/Hospitalization	2,00,000/-
3.	Compensation under other pecuniary head	1,00,000/-
4.	Compensation under pain and sufferings	2,00,000/-
	Total Compensation	**5,30,250/-**
	Amount Awarded by the Tribunal	**1,49,000/-**
	Enhanced Compensation	**3,81,250/-**

14. 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 re-assessed 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. In view of the aforesaid modification, the present appeals stand disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

May 21, 2026 **(HARKESH MANUJA)**
sonika **JUDGE**

(i) Whether reasoned/speaking? Yes

(ii) Whether reportable? Yes