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

FAO-2359-2015 (O&M)

Urmila Devi **......Appellant**

Vs.

Lokesh Kumar and ors. **......Respondents**

**Date of Reserve: 07.04.2026
Date of Pronouncement: 08.04.2026
Uploaded on:-09.04.2026**

***Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes***

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vipul Sharma, Advocate
for the appellant.

Mr. Saurabh Bhardwaj, Advocate
for respondent No. 1.

None for respondent No. 2.

Mr. D.S. Adalakha, Advocate
for respondent No. 3-Insurance Co.

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<u>SUDEEPTI SHARMA J.</u>

1. The present appeal has been preferred against the award dated 16.08.2014 passed by the learned Motor Accident Claims Tribunal, Panchkula (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 for enhancement of compensation granted to the claimant to the tune of Rs.25,000/- along with interest @ 7.5% per annum, on account of injury suffered by her in a Motor Vehicular Accident, occurred on 09.11.2011.

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2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced and is skipped herein for the sake of brevity.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

3. The learned counsel for the appellant/claimant contends that the compensation awarded by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the present appeal be allowed and the compensation awarded to the appellant/claimant be enhanced, as per latest law.

4. *Per contra*, learned counsel for the respondents, however, vehemently argues on the lines of the award and contends that the amount of compensation as assessed by learned Tribunal, has rightly been granted to the appellant/claimant. Therefore, they pray for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

SETTLED LAW ON COMPENSATION

6. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

> ***General principles relating to compensation in injury cases***
> *5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation*

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or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).

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, that compensation will be 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.

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19. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

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(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.

20. The assessment of loss of future earnings is explained below with reference to the following

Illustration 'A' *: The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

a) Annual income before the accident : Rs. 36,000/-.
b) Loss of future earning per annum
(15% of the prior annual income) : Rs. 5400/-.
c) Multiplier applicable with reference to age : 17
d) Loss of future earnings : (5400 x 17) : Rs. 91,800/-

Illustration 'B' *: The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :*

a) Annual income prior to the accident : Rs. 36,000/- .
b) Loss of future earning per annum
(75% of the prior annual income) : Rs. 27000/-.
c) Multiplier applicable with reference to age : 17
d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-

Illustration 'C' *: The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future earning capacity was also assessed as 70%. The calculation of compensation will be as follows :*

a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-
b) Loss of future earning per annum
(70% of the expected annual income) : Rs. 42000/-
c) Multiplier applicable (25 years) : 18

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d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-
[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

7. Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** **[(2017) 16 SCC 680]** has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

(A) Deduction of personal and living expenses to determine multiplicand;
(B) Selection of multiplier depending on age of deceased;
(C) Age of deceased on basis for applying multiplier;
(D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

> " *Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads."*

8. Hon'ble Supreme Court in the case of ***Erudhaya Priya Vs. State Express Tran. Corpn. Ltd.*** ***2020 ACJ 2159,*** has held as under:-

> *" 7. There are three aspects which are required to be examined by us:*
> ***(a) the application of multiplier of '17' instead of '18'****;*
> *The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age*

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group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.

The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.

(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:

> *"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:*
>
> *(i) Pain, suffering and trauma resulting from the accident;*
> (ii) *Loss of income including future income;*
> *(iii) The inability of the victim to lead a normal life together with its amenities;*
> *(iv) Medical expenses including those that the victim may be required to undertake in future; and*
> *(v) Loss of expectation of life."*
>
> *[emphasis supplied]*

The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well established to quantify the loss of income as a result of death or permanent disability suffered in an accident.

In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:

> *"**Nature of injury**:*
>
> *(i) compound fracture shaft left humerus*
> *(ii) fracture both bones left forearm*
> *(iii) compound fracture both bones right forearm*
> *(iv) fracture 3rd, 4th & 5th metacarpals right hand*
> *(v) subtrochanteric fracture right femur*
> *(vi) fracture shaft femur*
> *(vii) fracture both bones left leg*
>
> *We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and*

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the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.

We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.

(c) The third and the last aspect is the interest rate claimed as 12%

In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish's case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.

CONCLUSION

8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:

Heads	***Awarded***
Loss of earning power (Rs.14,648 x 12 x 31.1/100	*Rs. 9,81,978/-*
Future prospects (50 per cent addition)	*Rs.4,90,989/-*
Medical expenses including transport charges, nourishment, etc.	*Rs.18,46,864/-*
Loss of matrimonial prospects	*Rs.5,00,000/-*
Loss of comfort, loss of amenities and mental agony	*Rs.1,50,000/-*
Pain and suffering	*Rs.2,00,000/-*
Total	*Rs.41,69,831/-*

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The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.

9. A perusal of the impugned award reveals that the learned Tribunal has erred in law in not computing the loss of earning capacity on account of disability solely on the ground that the claimant is a housewife and not engaged in any formal income-generating activity. Such a finding is manifestly untenable and contrary to the settled legal position as enunciated by the Hon'ble Supreme Court as well as by this Court in a catena of judgments.

10. The Hon'ble Supreme Court has, on multiple occasions, unequivocally recognized the economic value of the services rendered by a homemaker, observing that the contribution of a housewife is invaluable and that the cost of outsourcing such services would be substantial. The notional income of a homemaker, therefore, cannot be disregarded while assessing compensation, particularly in cases involving disability affecting her functional capacity. Therefore, this Court deems it appropriate and necessary to assess the income of the claimant/appellant for the purpose of determining just and reasonable compensation, including the loss of earning capacity arising out of the disability sustained.

11. Reference at this stage can be made to decision of this Court in ***FAO-1292-2006, titled as 'Jasbir Singh and another Vs. Surjit Singh and others', decided on 22.03.2018*** while assessing the notional income of the housewife has held as under:-

"In FAO No. 218 of 2014, a co-ordinate Bench of this Court, while relying upon the principles laid down in ***Lata Wadhwa***

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and others v. State of Bihar and others 2001(4) RCR(Civil) 673)*, made the following observations:-*

> *"Learned counsel for the appellant has argued that even while noticing that the income of a skilled worker in 2012 was approximately Rs.8000/- the Tribunal has wrongly assessed the income of the deceased as Rs.9000/-. As per him once the notional income had been taken a deduction had to be made for personal expenses. This argument is flawed. In Lata Wadhwa and others v. State of Bihar and others reported as 2001(4) RCR (Civil) 673 (where the accident had taken place in 1981) the Hon'ble Supreme Court evaluated the contribution of a house wife at Rs.3000/-per month. The accident in the present case took place after 23 years. In my considered opinion to tag a house wife as a 'skilled worker' alone does not do complete justice to her multifarious role as a home manager. Keeping in view the lapse of 23 years between the accident in the case of Lata Wadhwa and the present accident and my conclusion that a house wife is something more than a mere skilled worker it would not be unreasonable to estimate the contribution of the deceased in the present case at a higher figure. On the whole I see no reason for reducing the quantum."*

7. I find sufficient reason to follow the judgment in FAO No. 218 of 2014, particularly as I am informed that the Special Leave Petition (SLP) filed against the order in this case has been dismissed by the Hon'ble Supreme Court. Similarly, the SLP filed in the other case cited by the appellants has also met the same fate. Consequently, these orders have attained finality, leaving no scope for further dispute regarding their binding nature.

8. It is imperative to acknowledge the multifaceted role of a housewife as a homemaker. Her contributions extend beyond

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measurable economic parameters, encompassing household management, child care, emotional support, and the upkeep of familial stability. These services, though often unrecognized in monetary terms, are invaluable to the functioning and well-being of a household. In assessing compensation, the court must factor in this indispensable contribution, which would otherwise necessitate considerable expenditure if outsourced. In view of the above, it is just and reasonable to determine the monthly income of the deceased Charanjit Kaur, housewife at Rs.9,000/- per month, therefore, the award requires interference by the Court."

12. In view of the above judgments, this Court deems it fit to assess the income of the claimant/appellant as ***Rs.10,000/- per month***.

13. A further perusal of the award reveals that the learned Tribunal has erred in not adding any amount towards future prospects to the income of the claimant/appellant. Therefore, as per the settled law on compensation **40%** is to be added as future prospects. Furthermore, the learned Tribunal has erred in not applying the multiplier, therefore, as per the settled law on compensation and considering the age of the claimant/appellant as 52 years, multiplier of 11 would be applicable.

14. A further perusal of the award reveals that the learned Tribunal has erred in assessing the disability of the claimant/appellant at only 15% qua a particular limb and erred in not calculating her functional disability after giving due weight to her diminished capacity after the accident. Due to the said injuries, the claimant/appellant shall be unable to perform any physical work as she was bed ridden involving walking, standing, or prolonged movement throughout his lifetime. In addition to this, the Court is well aware of the fact that how a family

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faced hurdles daily house hold works. The responsibility of a household is solely performed by the housewife, therefore, her contribution is invaluable.

15. It is a settled principle of law that while determining compensation, the functional disability and its impact on the victim's earning capacity must be given due weight, rather than mechanically reducing the percentage of medical disability. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Rahul Ganpatrao Sable v. National Insurance Co. Ltd. 2023(9) scale 970***, wherein, the Apex Court held that in cases where the nature of the disability effectively incapacitates a person from pursuing any meaningful employment, the functional disability must be evaluated in terms of the resultant loss of earning capacity, and not merely on the basis of medical assessment. The relevant portion of the judgment is reproduced as under:

> *"14. The five injuries which are permanent in nature apparently make him unfit for any employment even though the disability may be 60% or 85%. The compression fractures of seven cervical vertebra resulting into Paraplegia and further loss of bladder function make it absolutely impossible for a person to work and be gainfully employed. Considering the nature of disability, loss of income, is, thus, held to be 100% and not 50% as held by the High Court."*

16. Therefore, in order to serve the ends of justice, the functional disability of the claimant/appellant deserves to be assessed at **15%**, and the compensation ought to be recalculated accordingly.

17. Further perusal of the award shows that meager amount is granted by the learned Tribunal under the heads of pain and suffering, transportation, and special diet. Furthermore, no amount was granted by the learned Tribunal for loss

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of amenities of life and medical expenses for future treatment. Therefore, the award requires indulgence of this Court.

RELIEF

18. In view of the above, the present appeal is ***allowed*** and award dated 16.08.2014 is modified. Accordingly, as per the settled principles of law as laid down by Hon'ble Supreme Court as mentioned above, the legal representatives of the claimant is held entitled to the enhanced amount of compensation as calculated below:-

Sr. No.	***Heads***	***Compensation Awarded***
1	*Income*	*Rs.10,000/-*
2	*Loss of future prospects (10%)*	*Rs.1000/-* *(10% of Rs.10000/-)*
3	*Annual Income*	*Rs.1,32,000/-* *(Rs.11000/- X 12)*
4	*Loss of future earning on account of 15% disability*	*Rs.19,800/-* *(Rs.1,32,000 /- X 15%)*
5	*Multiplier of 11*	*Rs.2,17,800/-* *(Rs.19,800/-X 11)*
6	*Pain and suffering*	*Rs.2,00,000/-*
7	*Attendant Charges*	*Rs.20,000/-*
8	*Transportation Charges*	*Rs.50,000/-*
9	*Loss of amenities of life*	*Rs.1,00,000/-*
10	*Special Diet*	*Rs.50,000/-*
11	*Medical expenses for future treatment*	*Rs.1,00,000/-*
12	***Total compensation awarded:-***	***Rs.7,37,800/-***
13	***Deduction:-*** *Amount awarded by Tribunal*	***Rs.25,000/-***
	Enhanced amount of compensation	***Rs.7,12,800/-*** ***(6,37,800- 25,000)***

19. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma 2019 ACJ 3176***

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and ***R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107***, the amount so calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

20. Respondent No.3-Insurance Company is directed to deposit the enhanced amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The learned Tribunal is directed to disburse the enhanced amount of compensation along with interest to the claimant.

21. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

08.04.2026
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No

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