



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

FAO-4721-2013 (O&M)

Date of Decision: February 18, 2026

Piara Singh through LRs

...Appellant

VERSUS

Avtar Singh and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Ms.Ekta Thakur, Ms.Kulwinder Kaur,
Ms.Pawandeep Kaur and Ms.Kajal, Advocates
for the appellant.

Ms.Puneeta Sethi and Mr.Y.S.Thakur, Advocates
for respondent No.3.

ARCHANA PURI, J.

The appellant-claimant 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 02.08.2007. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place, on account of rash and negligent driving of truck bearing registration No.HR-38G-0174, driven by respondent No.1-Avtar Singh. Furthermore, learned Tribunal had also observed that Piara Singh had sustained injuries, in the accident in



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question. On the basis of the evidence, brought on record, it was held that appellant-claimant Piara Singh was serving as Driver in CTU, Chandigarh.

While in the witness box, Piara Singh had stated about the detail of the injuries sustained by him. PW-5 Dr. Aditya Aggarwal, Addl. Professor, Department of Orthopaedics, PGIMER, Chandigarh, also stated about the injuries sustained by the claimant, in the accident in question. He deposed that the claimant had suffered fracture supracondylar femur of left side open, fracture both bone leg left open grade III, sub-trochanteric fracture right thigh and injury left foot and he was operated for these injuries in the form of debridement and external fixation for fracture both bone leg and open reduction and internal fixation for fracture supracondylar femur on 03.09.2007. The claimant was discharged on 05.09.2007, with advice to come for follow up in Orthopaedics OPD, at regular intervals, from time to time.

This witness further stated that the claimant was seen frequently in the OPD and he was seen on 12.05.2010, when he came for dressing. Discharge slip has been proved as Ex.P5/A and Ex.PW4/B is the disability certificate signed by the said witness and others members of the Board.

Perusal of the disability certificate Ex.PW4/B reveals about locomotor disability @ bilateral lower limbs and diagnose to be fracture S/C femur (L) open Gd.I. # BB Leg (L) Open Gd.IIIA ST II ® foot thigh & left foot. The physical/mental disability was 60% of (L) Lower Limb 18% of ® of Lower Limb. The condition was stated to be non-progressive, not likely to improve.

Thus, from the aforesaid medical evidence, brought on record, it is established that appellant-claimant suffered three fractures, which led to



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60% disability of the left lower limb and 18% of the right lower limb. Also, from the medical record, it is evident that the appellant-claimant, remained admitted in PGI from 02.08.2007 to 05.09.2007 and he was advised follow up treatment and as per PW-5 Dr.Aditya Aggarwal, the claimant had been frequently coming to the Orthopaedics OPD and he was last seen on 12.05.2010.

Taking into consideration the aforesaid evidence and also considering the principle, vis-a-vis, grant of compensation in injury case, as held in *Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343*, learned Tribunal had made assessment of the compensation. It was held that the appellant-claimant was working as Driver in CTU, Chandigarh. But however, after the accident, he was working as Chowkidar and therefore, performing light work of Chowkidar. In the light of the same, it was held by learned Tribunal that, there is no evidence that on account of disablement and change of duty as Chowkidar, the salary of the appellant-claimant has been reduced. Rather, learned Tribunal considered Ex.PW1/B i.e. claimant's salary slip for the month of March 2012, wherein, while working as Driver, he drew a salary of Rs.27,903/-. The only loss, in terms of income, which the claimant had suffered was held to be, on account of overtime allowance, which was earlier drawn by him, as per the overtime bills Ex.PW1/C to Ex.PW2/H.

Considering the same and also taking into consideration the fact of appellant-claimant to be doing the duty of Chowkidar, after sustaining of the injuries, the loss of earnings of overtime allowance was assessed by the Tribunal as 7%. Taking it to be so and the considering the salary certificate of the appellant-claimant, for the month of March 2012 and also considering



the salary record pertaining to the claimant, for the months 3/2006 to 2/2007, the total salary drawn by the claimant was held to be approximately Rs.11,000/-. As per Ex.PW2/H, it was held that in July 2007, immediately preceding the accident, the total salary was Rs.10,434/-. Taking it to be so, as Rs.10,434/-, the loss was assessed, as given in tabular form in paragraph No.26 of the impugned Award, which is reproduced, as herein given:-

Annual income before the accident Rs.10434x12	Rs.125208/-
Loss of future earning per annum (7% of the prior annual income)	Rs.8764/-
Multiplier with reference to age (which was 46 years on the date of accident)	13
Loss of future earning	Rs.113939/-

Besides the aforesaid, for the period of leave from 02.08.2007 to 16.11.2007, 17.11.2007 to 16.12.2007 and 19.12.2007 to 28.10.2010 i.e. for the total period of 1170 days, as per medical certificates Ex.P6 to Ex.P30, it was held that the appellant-claimant had utilized his leave for the purpose of his treatment and for the entire period, the compensation awarded was Rs.4,06,926/-. It has been further held by learned Tribunal that no medical bills, as such, have been produced to establish about the expenses incurred on the treatment of the appellant.

Furthermore, on the counts of ‘transportation’ and ‘special diet’, an amount of Rs.10,000/- was awarded, on each count. On the count of ‘pain and suffering’, another amount of Rs.50,000/- was awarded. Thus, in total, the compensation was awarded to the extent of Rs.5,90,865/-. The liability of the respondents was held to be joint and several.

However, the ‘work on’ of the compensation as aforesaid, do call for re-computation.



It is pertinent to mention that though, there is no rule of absolute certainty to make assessment of the impact of injuries, but however, the metric for consideration is just and fair compensation. In this regard, beneficial reference is made to *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, wherein, the Hon'ble Supreme Court held that the '**just**' compensation is adequate compensation and the Award must be just that-'**no less and no more**'. Time and again, it has been held by the Courts that the money awarded, can hardly redress the actual sufferings of the injured victim (who is deprived of the normal amenities of life and suffers unease of being a burden on others). However, the Courts can make a genuine attempt to help restore the self-dignity of such claimant, by awarding '**just compensation**'.

An attempt should always be made to provide a realistic recompense, having regard to the realities of life, both in terms of assessment of the extent of disability and its impact, including the income generating capacity and not only that, even the impact of the accident on his life, on account of his physical disability. 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 also be on 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 apt observations made by the Hon'ble Supreme Court in *Raj Kumar's case (supra)*, wherein, the aspect of functional disability to be taken in case of permanent disability was elucidated. The test for determining the effect of permanent disability, on future earning capacity involves the following three steps, as was laid down



in ***Raj Kumar's case (supra)*** and reiterated in ***Chanappa Nagappa Muchalagoda vs. Divisional Manager, New India Insurance Company Limited, 2020 (1) SCC 796***, as herein given:-

“13. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent disability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or (ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions, so that he continues to earn or can continue to earn his livelihood.”

It shall also be appropriate to make reference to ***Erudhaya Priya vs. State Express Transport Corporation, 2020 ACJ 2159***, wherein, reference was made to the settled principles, set out in ***Jagdish Vs. Mohan and others, 2018 (4) SCC 571*** and it was observed as herein given:-

“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]”



Now, advertng to the case in hand, undisputedly, the appellant-claimant was working as Driver in CTU, Chandigarh, at the time of sustaining of the injuries. The factum of injuries sustained and the extent of disability, as evident from the disability certificate, proved as Ex.PW4/B is also established. Also, it stands established that the appellant-claimant, on account of injuries sustained, was posted as Chowkidar and he is receiving salary, at par. May it be so, even then, the extent of the disability, taken on account of loss of overtime, is on lesser side. One must always keep in mind that a person, who has driving skills, always remain in demand in the society. The kind of vocation followed by the appellant-claimant, ought to be considered and appraised, in the light of the demand, for such kind of skilled workers. Keeping in mind the enormous growth of vehicle population and demand for good drivers, all time in the society and also considering the oral evidence, brought on record, the loss, as a result of disability, as such, cannot be worked upon as 7%, only on account of loss of overtime, done by the claimant.

The chances of growth of the appellant-claimant, have been hampered, on account of injuries sustained in the accident in question. No doubt, he is receiving salary, while working on the post of Chowkidar, may it be so, but however, being skilled worker, he was bound to remain in demand, even after his retirement and on account of injuries sustained, his chances of earnings, in the post-retiral period, by working as driver privately, stands marred. This aspect also has to be taken into consideration. Otherwise also, the appellant-claimant had become a crippled person and on account of injuries sustained, he is bound to be deprived of various amenities of life.



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No doubt, he must have adept the skill of self reliance, to some extent, but even then, there are many routine works, which may not be done by a person of his own, more particularly, considering the age of the appellant-claimant. Anyhow, on account of disability, the appellant-claimant became dependent upon others, more particularly, relating to driving of any vehicle, to ease his life and perform various household duties. This aspect, as such, cannot be overlooked.

Thus, taking into consideration all the aforesaid circumstances, facts and the impact of the injuries, not only on the earnings of the appellant-claimant, while he is in job and also, in his post-retiral life and also about the loss of amenities, on account of these injuries, the loss on the count of 'disability', as such, in modest estimate, is taken as 20%.

Considering the same and also, while considering the salary of appellant-claimant to be Rs.10,434/- per month, annual whereof is Rs.1,25,208/-, the loss, on the count of disability to the extent of 20%, is worked upon as $\text{Rs.1,25,208} \times \frac{20}{100} = \text{Rs.25,041.6}$, which is now rounded off as Rs.25,042/-. Considering the age of the appellant-claimant, appropriate multiplier to be applied is '13' and while applying the same, the loss is assessed as $\text{Rs.25,042} \times 13 = \text{Rs.3,25,546/-}$.

Even, the extent of leave availed by the appellant-claimant, during the course of his treatment, has been appropriately considered to the extent of 1170 days, on the basis of the certificates Ex.P6 to Ex.P30 and for the said period, he has been awarded compensation, to the extent of Rs.4,06,926/-. No doubt, the leave available with an employee, is for his own utilization, but however, it has to be taken into consideration that had the appellant-claimant, not met with the accident, he would have used the



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leave for some good purpose and with the passage of time, it would have become more valuable and considering the same, the value of leave, so availed, should be enhanced to some extent and in addition to the amount already awarded, another amount of **Rs.50,000/-** is awarded, on the count of leave availed, as the value of the leave also would have increased with the passage of time.

During the period of his treatment, which is evidently made out from the documents, brought on record and the extent of treatment undertaken, more particularly, considering the statement of PW-5 Dr.Aditya Aggarwal that the appellant-claimant had been frequently coming to the PGI Orthopaedics OPD and he was last seen on 12.05.2010. Thus, it is evident that for the period of approximately three years, the appellant-claimant was going for follow up treatment. Taking it to be so, the amount of Rs.10,000/- awarded, on the count of 'transportation charges' is on lesser side and the same, as such, is enhanced to **Rs.50,000/-**.

Considering 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.10,000/- awarded by learned Tribunal stands enhanced to **Rs.20,000/-**.

Further, learned Tribunal had erroneously not granted compensation, on the count of 'attendant charges'. Taking into consideration the kind of injuries sustained by the appellant-claimant and the kind of 'assisted living', he was forced to live, for some period of time, till he adept to the skill of self-reliance, to some extent, he must have been looked after by a bystander or a family member. Even if, no attendant as such, was engaged, but it is quite obvious that he would have been looked after by his family



member, who would have taken care of him by diverting their time from the gainful employment for some period of time and thus, on the count of ‘attendant charges’, an amount of **Rs.30,000/-** is awarded.

Looking at the injuries sustained, even the compensation is granted on the count of ‘pain and suffering’. However, the amount of Rs.50,000/-, awarded on this count is meagre. Soon after the accident, on account of injuries sustained, the appellant-claimant had become crippled, on account of injuries sustained and definitely, he must have passed through a very traumatic state of mind, considering his career having jeopardised, apart from the physical ailment. Thus, considering the same, the compensation awarded on the count of ‘pain and suffering’ stands enhanced to **Rs.1,50,000/-**.

Considering the same, the compensation payable to appellant-claimant-Paira Singh, on account of injuries sustained by him, is re-computed, as herein given:-

Loss on count of disability	:	Rs.3,25,546/-
Loss of leave	:	Rs.4,56,926/-
(Rs.4,06,926/- awarded by Tribunal + Rs.50,000/- as now awarded)		
Transportation charges	:	Rs.50,000/-
Special diet	:	Rs.20,000/-
Attendant charges	:	Rs.30,000/-
Pain and suffering	:	Rs.1,50,000/-
Total	:	Rs.10,32,472/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.10,32,472-5,90,865=Rs.4,41,607/-**. On the enhanced amount of compensation i.e. **Rs.4,41,607/-**, 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



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realization of the enhanced amount of compensation.

Accordingly, the impugned Award dated 04.07.2013 stands modified, to the extent, as indicated aforesaid. With the above observations, the present appeal stands allowed.

February 18, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No