IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-5798-2013 (O&M)

KULVINDER SINGH **......Appellant**

Vs.

JIVAN LAL AND ORS. **......Respondents**

Reserved on: 21.05.2026
Pronounced on: 22.05.2026
Uploaded on: 22.05.2026

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. Nitesh Jhajhria, Advocate
for Mr. Akshay Sharma, Advocate
for the appellant.

Service upon respondents No.1 and 2 were exempted vide order dated 29.10.2018.

Mr. V.K. Garg, Advocate
for respondent No.3-Insurance Company.

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SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 05.07.2013 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, SAS Nagar, Mohali (in short 'the Tribunal') for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.4,96,000/- along with 6 % interest on account of injuries sustained by the appellant/claimant – Kulvinder Singh in a motor vehicular accident, occurred on 23.11.2009.

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 respondent No.3-Insurance Company, however, vehemently argues on the lines of the award and contends that the amount of compensation as assessed by Ld. Tribunal, has rightly been granted to the appellant/claimant. Therefore, he prays 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*

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.

(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

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

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 *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/-*

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 claimant-Kulvinder Singh was 9 years of age at the time of the accident. The learned Tribunal has erred in awarding lump sum amount for his injury and not calculating the loss of income as per the settled law on compensation, therefore, this Court deems it fit to re-calculate the same.

10. For assessing the income of the appellant/claimant, reliance can be placed upon the recent pronouncement ***Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari, 2025 INSC 1070***, wherein, it has been categorically held that a minor child who dies or suffers permanent disability in a motor vehicle accident cannot be equated with a non-earning individual merely because the child was not engaged in gainful employment at the time of the accident. The Court has further clarified that, in such cases, the computation of compensation under the head "loss of income" must be undertaken by adopting at the very least the minimum wages prescribed for a skilled workman as notified for the relevant period in the State where the cause of action arises. The relevant extract from the aforesaid judgment is reproduced as under:-

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated

principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non- earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in ***Kajal v. Jagdish Chand and Ors., and Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.****"*

11. Therefore, income of claimant/appellant is assessed as **Rs.3,800/-**, keeping in view the minimum wages for skilled labour at the time of accident.

12. A further perusal of the award reveals that the learned Tribunal erred in awarding amount of Rs.50,000/- towards future prospects. However, considering the age of the claimant (9 years) **40%** is to be added as future prospects. Moreover, no multiplier was applied by the learned Tribunal. In view of the age of the minor, the appropriate multiplier of **18** is liable to be applied.

13. A further perusal of the record shows that the learned Tribunal has erred in granting compensation under the head of Pain and suffering on lower side.

14. It is trite that permanent disability suffered by an individual not only impairs his cognitive abilities and his physical facilities, but there are multiple

non-quantifiable implications for the victim. Further, the very fact that healthy person turns into invalid being deprived of normal companionship and incapable of leading a productive life makes one suffer loss of dignity.

15. As borne out from the record, the appellant/claimant has suffered grievous injuries on his person. The injury includes head injury with E1, V2, M2-3, multiple rib fractures, right side along with right thorax, fracture of the right humerus, fracture of left femur, fracture of tibia and fibula right. In addition to it, surgery of brain (Craniotomy) was conducted on 29.11.2009. Due to the said injury, the claimant was admitted in the hospitals for prolonged period of time. Furthermore, due to the accident his eye sight was reduced and rod was inserted into his left thigh and right leg. In addition to this, disability certificate Ex.PW2/A was produced, which shows the disability incurred by him as 50%. The disability certificate was proved by Dr. Rakesh Kumar (PW-2), who categorically deposed that the disability can be increased with the passage of time and required to be reassessed again after 5 years. Furthermore, he stated that there are lesser chances of any improvement in disability as suffered by the claimant/appellant due to accident in question. This fairly concludes the fact that the appellant/claimant has suffered immense amount of pain and agony due to the accident in question.

16. The Hon'ble Apex Court in the case of '***KS Muralidhar versus R Subbulakshmi and another 2024 INSC 886*** highlighted the intangible but devastating consequence of pain and suffering. The relevant portion of the same is reproduce 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."

17. Therefore, in view of the above judgment and facts and circumstances of the present case, this Court deems it appropriate to grant compensation of **8 lakhs** under the heads of pain and suffering.

18. A further perusal of the award shows that the learned tribunal erred in awarding meager amount of compensation under the head of 'loss of marriage prospects', despite the claimant being only 9 years old at the time of the accident and having his entire life before him. The learned Tribunal failed to consider the impact of injury on his ability to marry, find a life partner, and enjoy normal matrimonial prospects. The Hon'ble the Supreme Court, in its decision in ***Rahul Ganpat Rao Sable versus National Insurance Company, 2023 (3) RCR (Civil) 574*** squarely addresses this omission and recognizes that such non-pecuniary loss arising from permanent disability including loss of marriage prospects deserves just compensation.

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

"Loss of Marriage prospects:

20. No compensation has been awarded under the above head. Considering the nature of injuries duly approved and certified, the appellant would be entitled to compensation under loss of marriage prospects. Again, relying upon the judgment of this

Court in the case of Chaus Tausif Almiya (supra), we award afixed compensation of Rs.3 lakhs under the said head.In view of the above, this Court in the interest of justice is awarding 50000 under the conventional head of 'loss of marriage prospects."

20. Therefore, in accordance with the above referred to judgment and considering the peculiar facts and circumstances of this case, this Court deems it fit to award **Rs.5,00,000/-** under the head of loss of marriage prospects.

21. A further perusal of the award reveals that the learned Tribunal has awarded Rs.1,00,000/- to the claimant on account of his disability. This amount has rightly been granted by the learned Tribunal as a separate head from the loss of future income, therefore, this amount has rightly been awarded and no interference is warranted in this regard. Reliance at this stage can be placed upon the judgment of Apex Court titled as *Kavin vs. P. Sreemani Devi, (SC) 2025 INSC 1028*. The relevant portion of the same is reproduced as under:-

> *"13. The Claims Tribunal further granted an amount of Rs. 3 lacs towards permanent disability suffered by the claimant. This was after taking into consideration the 100% disability suffered by the claimant. The High Court however set aside the grant of compensation under this head by observing that as compensation towards loss of income had been granted, further amount of Rs. 3 lacs towards permanent disability was not admissible. We do not find any basis whatsoever for this approach of the High Court.* ***The grant of compensation for loss of future income is a distinct head from the one under which compensation is granted for permanent disability.*** *In the light of the fact that the claimant suffered 100% permanent disability and was living in a vegetative state, the High Court was not justified in setting aside the grant of compensation*

under this head. In our view, considering the nature of disability suffered by the claimant, he would be entitled to amount of Rs. 5 lacs under this head."

22. A further perusal of the award reveals that no amount was granted under the heads of transportation, future medical expenses and loss of amenities of life. Furthermore, the amount awarded under the heads of attendant charges, special diet are on the lower side. Therefore, the award requires indulgence of this Court.

RELIEF

23. In view of the above, the present appeal is ***allowed*** and award dated 05.07.2013 is modified. Accordingly, as per the settled principles of law as laid down by Hon'ble Supreme Court as mentioned above, the appellant-claimant is held entitled to the enhanced amount of compensation as calculated below:-

Sr. No.	***Heads***	***Compensation Awarded***
1	*Income*	*Rs.3,800/-*
2	*Loss of future prospects (40%)*	*Rs.1,520/-* *(40% of Rs.3800/-)*
3	*Annual Income*	*Rs.63,840/-* *(Rs.5320/- X 12)*
4	*Loss of future earning on account of 50% disability*	*Rs.31,920/-* *(Rs. 63,840/- X 50%)*
5	*Multiplier of 18*	*Rs.5,74,560/-* *(Rs. 31,920/-X 18)*
6	*Medical expenses*	*Rs.2,86,126/-*
7	*Pain and suffering*	*Rs.8,00,000/-*
8	*Attendant Charges*	*Rs.2,00,000/-*
9	*Transportation Charges*	*Rs.30,000/-*
10	*Loss of amenities of life + loss of marriage prospects*	*Rs.6,00,000/-*
11	*Special Diet*	*Rs.70,000/-*
12	*Future medical expenses*	*Rs.50,000/-*
13	*Disability*	*Rs.1,00,000/-*
14	***Total compensation awarded:-***	***Rs.27,10,686/-***
15	***Deduction:-*** *Amount awarded by Tribunal*	***Rs.4,96,000/-***
16	***Enhanced amount of compensation***	***Rs.22,14,686/-*** ***(27,10,686 - 4,96,000)***

24. 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*** 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.

25. Consequently, 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 Tribunal is directed to disburse the enhanced amount of compensation along with interest to the appellant-claimant. The appellant-claimant is directed to furnish her bank account details to the Tribunal.

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

22.05.2026 **(SUDEEPTI SHARMA)**
Ayub/Saahil **JUDGE**

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