

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-3803-2015 (O&M) &
XOBJC-176-CII-2015
NATIONAL INSURANCE COMPANY LTD.

....Appellant

Vs.

BAL CHAND (SINCE DECEASED) THROUGH HIS LR_s AND OTHERS

....Respondents

Reserved on : 08.04.2026
Pronounced on: 23.04.2026
Uploaded on : 27.04.2026

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. Rajneesh Malhotra, Advocate
for the appellant-Insurance Company.

Mr. Gaurav Sharma, Advocate
for cross-objectors/respondent No.1(i) & (ii).

Mr. Sandeep Berwal, Advocate
for respondent No.2.

Respondent No.3 was proceeded against ex parte
vide order dated 03.11.2015.

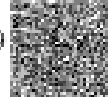
Mr. D.K. Dogra, Advocate
for respondent No.-4-Insurance Company.

* * * *

SUDEEPTI SHARMA, J.

FAO-3803-2015 (O&M)

1. The present appeal has been preferred against award dated 02.01.2015 passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') in the claim petition filed under Section 166 of the

**FAO-3803-2015 (O&M) &
XOBJC-176-CII-2015****-2-**

Motor Vehicles Act, 1988, wherein, the appellant/insurance company was held liable to pay the compensation to the claimants/respondent Nos.1 to 3 to the tune of Rs.18,81,404/- along with interest @7.5%, on the ground of quantum of compensation to be on higher side.

XOBJC-176-CII-2015

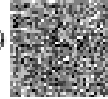
2. The present cross-objections have been preferred by cross-objector/legal heirs of claimant-Bal Chand against the award dated 02.01.2015 passed by the learned Motor Accident Claims Tribunal, Chandigarh in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, for enhancement of compensation, granted to Bal Chand (since deceased) to the tune of Rs.18,81,404/- along with interest @7.5% per annum on account of injuries suffered by Bal Chand (since deceased) in the accident.

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the cross-objectors/legal heirs of the claimant are arising out of the same award dated 02.01.2015 passed by the learned Tribunal, therefore, **FAO-3803-2015** and **XOBJC-176-CII-2015** are decided vide this common judgment.

4 As sole issue for determination in the present appeal/cross-objection 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 here for the sake of brevity.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

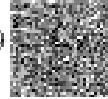
5. Learned counsel for the appellant–Insurance Company submits that the compensation awarded by the learned Motor Accident Claims Tribunal is excessive and not in consonance with the evidence on record. He further



contends that the learned Tribunal has erred in awarding sum of ₹18,01,404/- towards loss of future income without due appreciation of the fact that the claimant (since deceased) was in permanent employment and continued to draw salary even after the accident. He further contends that the evidence reveals that the claimant was earning ₹18,196/- per month at the time of the accident, which subsequently increased to ₹29,064/-, thereby demonstrating the absence of any actual loss of earning capacity. On this premise, it is urged that the amount awarded under the head of loss of future income is unsustainable and liable to be set aside, and consequently, the overall compensation deserves to be reduced. The appellant, therefore, prays for allowing the present appeal.

6. Per contra, learned counsel appearing on behalf of the claimant–cross-objector submits that the compensation awarded by the Tribunal is, in fact, inadequate. He further contends that the Tribunal has rightly granted compensation towards loss of future earning capacity, as the injuries sustained in the accident have adversely impacted the claimant’s functional efficiency and future prospects, notwithstanding the continuation of employment. He further contends that the amount awarded under the heads of pain and suffering, loss of amenities, and other non-pecuniary damages is meagre and does not reflect just and reasonable compensation in light of the nature and extent of injuries suffered. Accordingly, it is prayed that the appeal filed by the Insurance Company be dismissed and the cross-objections filed by the claimant be allowed, with suitable enhancement of the compensation.

7. I have heard learned counsel for the parties and perused the whole record of this case.



SETTLED LAW ON COMPENSATION

8. 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 :

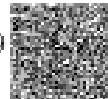
- (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.
- (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage 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/-*

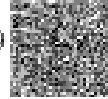
[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].

9. 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.”

10. 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'.

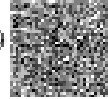
(b) Loss of earning capacity of the appellant with permanent disability of 31.1%

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.

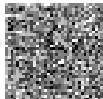
We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment 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,

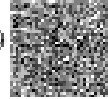


as set out in para 5 of the synopsis, would have to be adopted as follows:

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

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.

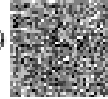
11. A perusal of the award shows that the contention raised by the appellant–Insurance Company, to the effect that no loss of future income has been suffered by the claimant (since deceased), is devoid of merit and contrary to the evidence available on record.
12. It clearly transpires from the record that the injured (since deceased) had sustained grievous injuries, including Traumatic brain injury accompanied by right hemiparesis (moderate) and mild ataxia, besides fractures to the shoulder and ribs. The nature of these injuries, particularly the neurological impairment, is of a serious and lasting character, directly impacting the functional abilities of the claimant (since deceased).
13. Further, the disability certificate (Exhibit PW4/A), duly proved by PW-4 Dr. Arvind Malhotra, Associate Professor, Department of Surgery,



Government Medical College and Hospital, Sector 32, Chandigarh, establishes that the injured suffered 75% permanent physical disability in relation to the whole body. The said witness has categorically deposed that, owing to the aforesaid disability, the claimant (since deceased) would not be able to perform his daily job in the same manner as prior to the accident. Such uncontroverted medical evidence leaves little scope for doubt that the disability was not merely physical in nature but had a direct bearing on the earning capacity and functional efficiency of the claimant.

14. In this backdrop, the learned Tribunal has rightly treated the assessed permanent disability as functional disability for the purposes of determining loss of earning capacity. The learned Tribunal has also correctly appreciated that even if the claimant (since deceased) continued in service, the impact of such severe disability would inevitably diminish his efficiency, restrict his working capacity, and adversely affect his future prospects. The concept of “loss of future income” is not confined to actual cessation of salary but extends to impairment of earning capacity and reduction in the ability to effectively discharge professional duties.

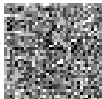
15. Reference in this regard may be made to the judgment of the Hon’ble Supreme Court in ***United India Insurance Co. Ltd. v. Joginder Pal, 2023(1) TAC 705***, wherein it has been held that assessment of functional disability and its effect on earning capacity is of paramount consideration, and compensation under the head of loss of future income is justified where the disability adversely impacts the claimant’s ability to work, even if there is no immediate loss of employment. The relevant portion of the same is reproduced as under:-



“4. The learned counsel for the appellant would strenuously contend that the High Court has committed an error in enhancing the compensation by awarding amount under the head of 'loss of earning capacity' since the respondent who was admittedly a Government employee had not lost his job nor was there any reduction in earning. In that view, though he was entitled to compensation under the other heads the compensation as presently awarded under the head of loss of earning capacity is not justified and is to be reduced in the contention.

5. The learned counsel for the respondent would however, seek to sustain the judgment passed by the High Court. It is contended that though he was an employee, the better prospects of getting another employment or the promotion from the very post where he was working at the time of accident was denied to the respondent due to the injuries suffered and the respondent not being able to show his efficiency in the work was not considered for higher responsibility, thereby progression was denied.

8. Therefore, if all these aspects of the matter are kept in view to arrive at the conclusion, we are convinced that the High Court in the facts and circumstance of this case was justified in its conclusion. Hence, to that extent the judgment dated 04.11.2015 passed by the High Court on the quantum of compensation does not call for interference. However, we are of the view that the interest awarded from the date of the claim at 9% on the enhanced portion would not be justified. The same is modified and we hold that the compensation enhanced by the High Court is payable with 6% interest from the date of the judgment of the High Court in respect of the enhanced portion. The balance amount payable shall be deposited before the MACT by the Insurance company within a period of 6 weeks from the date of receipt of a copy of this



judgment whereupon the amount shall be disbursed to the appellant(s)/claimant(s).”

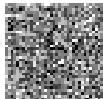
16. In view of the aforesaid discussion and the settled legal position, this Court finds that the learned Tribunal has adopted a just and reasonable approach in awarding compensation under the head of loss of future income. The findings recorded in this regard are well-supported by the medical evidence on record and do not suffer from any perversity or illegality so as to warrant interference by this Court.

17. A further perusal of the award reveals that meager amount is granted by the learned Tribunal under the heads of pain and suffering, special diet, transportation and loss of amenities of life and no amount is awarded for future prospects. Therefore, the award requires indulgence of this Court.

RELIEF

18. In view of the above, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objections filed by the cross-objectors/legal heirs of claimant-Bal Chand are **allowed**. The award dated 02.01.2015 is modified accordingly. The cross-objectors/legal heirs of claimant-Bal Chand are held entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1	Income	Rs.18,196/-
2	Loss of future prospects (15%)	Rs.2,730/- (15% of Rs.18,196/-)
3	Annual Income	Rs.2,50,992/- (Rs.20,916/- X 12)
4	Loss of future earning on account of 75% disability	Rs.1,88,244/- (Rs.2,50,992 X 75%)
5	Multiplier of 11	Rs.20,70,684/- (Rs.1,88,244/-X 11)



6	<i>Pain and suffering</i>	<i>Rs.5,00,000/-</i>
7	<i>Attendant Charges</i>	<i>Rs.50,000/-</i>
8	<i>Transportation Charges</i>	<i>Rs.50,000/-</i>
9	<i>Special Diet</i>	<i>Rs.50,000/-</i>
10	<i>Loss of Amenities</i>	<i>Rs.50,000/-</i>
11	Total compensation awarded:-	Rs.27,70,684/-
12	Deduction:- <i>Amount awarded by Tribunal</i>	Rs.18,81,404/-
	Enhanced amount of compensation	Rs.8,89,280/- (27,70,684- 18,81,404)

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

20. Appellant-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 legal heirs of the claimant-Bal Chand in equal rates. The legal heirs of late Sh. Bal Chand are directed to provide their bank details to the learned Tribunal.

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

27.04.2026

(SUDEEPTI SHARMA)
JUDGE

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