IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i) FAO-4695-2018 (O&M)

Royal Sundram Alliance Assurance Company Limited

...Appellant

VERSUS

Om Parkash and another

...Respondents

(ii) FAO-5221-2018 (O&M)

Om Parkash

...Appellant

VERSUS

Madhu R. and others

...Respondents

Date of Decision: February 02, 2026

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.D.K.Prajapati, Advocate
for the appellant (in FAO-4695-2018) and
for respondent No.3 (in FAO-5221-2018).

Mr.Raman Chawla, Advocate
for respondent No.1(in FAO-4695-2018) and
for the appellant (in FAO-5221-2018).

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ARCHANA PURI, J.

These are two rival appeals filed, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of injuries sustained by Om Parkash, in a motor vehicular accident, which took place on 28.12.2008.

FAO-4695-2018 has been filed by appellant-Royal Sundram Alliance Insurance Company Limited, thereby, seeking reduction of the compensation awarded by learned Tribunal, whereas, **FAO-5221-2018** has been filed by the appellant-claimant Om Parkash, thereby, seeking enhancement of the compensation.

For the convenience of discussion, the parties are referred to as making appearance before learned Tribunal.

Suffice to consider that the accident had taken place on 28.12.2008. On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident to have taken place, due to rash and negligent driving of truck bearing registration No.KA-01B-9728, driven by respondent No.1-Madhu R. and the same resulted into injuries on the person of Om Parkash, as well as his companions, namely, Rakesh Bagga and Subhash. The injuries proved fatal for Rakesh Bagga.

Further, learned Tribunal also observed that Om Parkash had sustained multiple injuries on his person. He remained admitted in Raman Munjal Hospital and PGIMS, Rohtak and the period of his hospitalizaion was proved by PW-2 Raje Ram, who deposed that the patient remained admitted in the hospital from 28.12.2008 to 10.01.2009, 12.01.2009 to 13.03.2009 and from 24.07.2009 to 10.08.2009. Also, it was observed that the treatment is still going on and he has not been cured so far. PW-5 Dr.Manish Sheoran, proved the disability certificate Ex.PW5/A and deposed that Om Parkash had suffered permanent disability to the extent of 100%, on account of united fracture of sacrum with pubicrami with pubic diathesis with malunited fracture for right tibea with stiffness of right knee joint. On the basis of the medical bills Mark A1 to Mark A157, to the extent of Rs.1,12,248/-, learned Tribunal had awarded lumpsum amount of Rs.1,15,000/-. Further, taking into the consideration the claimant to be working as driver, on the basis of the driving licence, coming on record and his age to be 42 years, learned Tribunal, had worked upon the compensation, in tabular form in paragraph No.26 of the Award, which is reproduced, as herein given:-

Sr.No.	Nature	Amount
1.	Medical expenses	Rs.1,15,000/-
2.	Pain and sufferings	Rs.50,000/-
3.	Attendant charges	Rs.20,000/-
4.	Special diet	Rs.15,000/-
5.	Transportation expenses	Rs.30,000/-
6.	Loss of income during treatment	Rs.25,000/-
7.	Loss of income due to permanent disability	Rs.11,76,000/-
	Total	**Rs.14,31,000/-**

The liability fastened upon the respondent was, joint and several.

The extent of compensation is now under challenge in both the appeals.

The 'work on' of the compensation aforesaid, definitely calls 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**'.

Suffice to consider the aspect of functional disability to be taken in case of permanent disability, as elucidated in ***Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343***, wherein, it was observed, as herein given:-

"13. 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.”

On this count, how the compensation is to be worked upon, which affects the functional disability, has been considered by the Courts, time and again. In ***Jagdish Vs. Mohan and others, 2018 (4) SCC 571***, the Hon’ble Supreme Court, while considering the case of a carpenter, who had sustained injuries and lost his both hands, had worked upon the total disability as 90% and thereupon, enhancement was made.

In ***Sri Anthony Alias Anthony Swamy vs. Managing Director, KSRTC, 2020(2) RCR (Civil) 846***, the Hon’ble Supreme Court, considered the inadequacy of the compensation, as asserted by the injured, on account of injuries sustained, in a motor vehicular accident. At first instance, considering the amputation of left leg of the injured, the physical disability of the lower limb was assessed as 75%, which was about 37.5% of the whole body. However, in appeal, the Hon’ble High Court had assessed the disability as 25% of the whole body only. However, Hon’ble Supreme Court, while considering the injured to be working as manual labourer, for which, he required use of both of his hands, made an observation that the accident had left injured with one useless hand, which will severely affect his ability to perform work as coolie or any other work. It was also observed therein, that it has to be kept in mind, that the appellant is to do manual work for the rest of his life, without full use of his hand and this is bound to affect the quality of his work and also his ability to find work, considering his disability. Thus, while computing loss of future income, the disability was taken as 68% and thereupon, the compensation was re-determined.

Even, in ***Sarnam Singh vs. Shriram General Insurance Co.***

Ltd. & Ors, 2023 LiveLaw (SC) 498, the Hon'ble Supreme Court had made reference to ***Mohan Soni vs. Ram Avtar Tomar and others, 2012 (2) SCC 267***, wherein, the injured was working as cart puller. As a result of the accident, his left leg was amputated. His disability was assessed as 60%. The Tribunal assessed the compensation, taking the loss of earning as 50%, on the theory that he can do some other work while sitting. Also, it was observed that this finding was not disturbed by the High Court, regarding the loss of income, on account of disability. However, considering the injured to be 55 years of age and that it may be difficult for him to find a job, it was observed that in fact, any physical disability, resulting from the accident, has to be judged with reference to the nature of the work being performed by the person, who suffered disability. The same injury suffered by two persons, may affect them in different ways. Loss of leg by a farmer or a rickshaw puller may be end of the road, so far as his earning capacity is concerned. Whereas, in case of the persons engaged in some kind of desk work in office, loss of leg may have lesser effect. The Court enhanced the loss of earning capacity from 50% to 90%.

Applying the aforesaid principle, in the case under consideration in ***Sarnam's case (supra)***, while taking into consideration the injured to be working as gunman, on account of amputation of right leg, above knee, he was terminated. His age was 50 years and 5 months, at the time of accident. Considering the same, the Hon'ble Court held that learned Tribunal was right in assessing the loss of earning capacity of the appellant as 100% and assessed the compensation accordingly.

In the backdrop of the aforesaid case law, it is pertinent to mention that each case of victim of accident, has to be considered, keeping in view the nature and kind of injuries, as well as other circumstances, such like, socio-economic conditions of the victim as well as kind of job, he was doing and the impact of injury, on his source of livelihood.

Now, reverting to the case in hand, it is required to take note of the fact that it is categoric claim of the claimant that he was working as driver. Even, driving licence of the appellant-claimant, as such, has come on record. It has been categorically observed by learned Tribunal, on perusal of the driving licence of the claimant that he was authorised to drive 'heavy motor vehicle'. From the perusal of the driving licence, which is coming on record, it is evident that the driving licence, authorised the holder i.e. Om Parkash, to driving 'LMV and HMV'. It was renewed from time to time. It also contains the renewal of said driving licence from 15.02.2008 to 13.01.2011. The period of validity, as such, reflected in the driving licence, also covers the date of accident.

Considering the driving licence, as such, coming on record, as well as affidavit tendered in evidence by Om Parkash, wherein, he categorically stated that he was a driver for the last more than 20 years, the conclusion drawn by learned Tribunal, about the claimant to be working as driver is appropriate. Considering him to be so and also taking his age to be 42 years, at the relevant time, the income of the claimant was assessed as skilled labourer as Rs.7000/- per month and the compensation was worked upon.

Now, it is submitted by learned counsel for the insurance company that, at the relevant time, as per Haryana State Government notification, the minimum wages for skilled worker were near about

Rs.3500/- per month and therefore, the compensation, ought to have been worked upon, while considering the earnings of Om Parkash as Rs.3500/- per month and thus, taking it to be so, the compensation, on account of disability, which is taken as 100%, then also, the compensation was required to be worked upon as Rs.42000/- per annum and while applying the multiplier of '14', the compensation was to be worked upon as Rs.5,88,000/-, instead of Rs.11,76,000/-, as done by learned Tribunal.

However, the aforesaid submission is bereft of merits. While taking into consideration the claimant to be in possession of 'HMV' driving licence and his having categorically stated that he was working as driver for the last 20 years, which assertion, as such, has not been controverted in the cross-examination, he is appropriately considered as a professional driver. No doubt, earnings have been taken as Rs.7000/- per month, which is above the prevalent minimum wages, at the relevant time, but however, it is pertinent to mention that it is never required that the minimum tier of wages, ought to be taken into consideration. The kind of vocation followed by the claimant, ought to be considered and appraised, in the light of demand for such kind of skilled workers. Keeping in mind the enormous growth of vehicle population and the demand for good drivers, all the time in the society and also, considering the oral evidence, brought on record, the income of the claimant has been appropriately considered as Rs.7000/- per month, for the purposes of loss of dependency and the same, as such, does not call for any change, by increasing or decreasing the extent. Considering the age of the claimant to be 42 years, which is not disputed, the multiplier of '14' as such, has been appropriately applied.

So far as the disability suffered by the claimant is concerned, suffice to make reference to the testimony of PW-5 Dr.Manish Sheoran, Ortho Surgeon of the General Hospital, who was member of the board of doctors, who assessed the disability of Om Parkash. He has categorically stated that they assessed 100% disability, on account of united fracture of sacrum with pubicrami with pubic diathesis with malunited fracture for right tibea with stiffness of right knee joint. On physical examination, there is paresis of both lower limbs with bladder and bowel involvement. He proved the disability certificate, which is Ex.PW5/A. The disability certificate categorically states about the disability to be permanent in nature and to the extent of 100%.

It is specifically coming in the disability certificate and categorically also stated by the doctor, who made the assessment of the disability, who was member of board of doctors, who made the assessment of the disability, that the claimant suffered from paresis. Paresis is a condition characterized by mild to moderate muscle weakness, representing an incomplete or partial paralysis, rather than a total loss of motor function. Considering the same, definitely, there is muscle weakness of the both the lower limbs, which also had an impact on involvement of bladder and bowel, meaning thereby, the claimant, as such, had limited movement of his lower limbs.

Though, learned counsel for the insurance company has submitted that it was disability only of the limb and not of the whole body, but however, the aforesaid submission is bereft of merits. As already observed aforesaid, the claimant was a professional driver, at the time of accident. It also has to be taken into consideration that this was the means of livelihood for the claimant himself as well as his family.

In the light of the same, when strength of his lower limbs has considerably reduced, it led to his crippling condition and considering the same, the disability has been worked upon as 100% by the board of doctors. Therefore, considering the same and also taking into consideration the vocation followed by the claimant, definitely, the claimant, as such, will never be in a position again, to follow his vocation, which was the sole source of his livelihood.

Therefore, the impact of the injury, as such, upon the profession of the claimant, on his source of livelihood, as such, has to be considered and on this account, there is definitely 100% functional disability, which has also been appropriately considered by learned Tribunal.

Taking it to be so, for the purpose of re-computation, the earnings of the claimant are taken as Rs.7000/- per month. As per ***National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009***, addition to the extent of 25%, ought to be made, on account of 'future prospects' and thus, the total earnings comes to be Rs.7000+1750=Rs.8750/- per month, annual whereof, comes to be Rs.1,05,000/-.

In consonance with the ***Sarla Verma's case (supra)***, the appropriate multiplier to be applied is '14' as applied by the Tribunal and also multiplying the same with 100% of disability and dividing the same by 100, as per standard multiplier process, on account of the same, the loss is assessed as **Rs.1,05,000x14x100/100=Rs.14,70,000/-**.

From the evidence on record, it is evident that the claimant remained admitted in the hospital for three times i.e. from 28.12.2008 to 10.01.2009, 12.01.2009 to 13.03.2009 and from 24.07.2009 to 10.08.2009, as deposed by PW-2 Raje Ram. He had also undergone three operations. Considering the same and also taking into consideration that entire world of the claimant having devastated, on account of the injury sustained in the accident in question, which was a life altering event, wherein, he also lost his source of earning, definitely, the claimant must have passed through a traumatic state of mind, during the process of treatment as well as thereafter, more particularly, considering the paresis of lower limb with bladder and bowel movement. Thus, compensation awarded on the count of 'pain and suffering' to the extent of Rs.50,000/-, is too less an amount and the same, as such, stands enhanced to **Rs.2,00,000/-**.

Looking at the kind of injuries sustained by the claimant, all the time, he must have required constant help to lead assisted living. Even if, the claimant is being looked after by his family members, then also, it should be noted that they could perform the role of care-giver, only by diverting their own time, from any form of gainful employment, which could have generated income. Rather, their resources and strength are bound to be stressed by the need to provide full time care to the claimant. For the claimant to constantly rely on them for stimulation and support, is also destined to cause emotional, physical and financial fatigue, for the family members. Considering the same, to quantify the expenses for the attendant, while making a conservative estimate, Rs.3,000/- per month, is bare minimum. Taking it to be so, the annual expenses are worked upon as Rs.36,000/- and thus, applying the multiplier of '14', the compensation, on the count of '**attendant charges**' comes to be **Rs.5,04,000/-**.

During the period of hospitalization and some time thereafter, the claimant must have spent some amount on transportation, while making 'to and fro' trips to the hospital. Several rounds must have been made to the hospital for taking care of the claimant, more particularly, considering the number of times, he remained admitted in the hospital and had undergone operations. He may also, many a times, require future trips to the hospital, on account of paresis of his lower limbs. Considering the same, the compensation on the count of 'transportation charges' stands enhanced from Rs.30,000/- to **Rs.50,000/-**.

Obviously, during the period of treatment and some time thereafter, the appellant-claimant must have been put on special rich diet, for the healing process, more particularly, even after the active treatment having extended to him, the claimant must be taking the diet, to cut short the calorie intake, to avoid obesity, which may further hamper crippling condition, faced by him, after the accident. On this count also, the compensation is enhanced to **Rs.50,000/-**.

It should be noted that on the basis of medical bills Mark A1 to Mark A157, amounting to Rs.1,12,248/-, learned Tribunal had appropriately granted an amount of **Rs.1,15,000/-**, towards '**medical expenses**'. But however, considering the paresis, so suffered by the claimant, obviously he may require to undergo physio sessions, time and again. Further also, the claimant is bound to lead inactive life, on which account, there may arise medical issues also, which need to be addressed from time to time. Considering the same, on the count of 'future medical expenses', an amount of **Rs.1,00,000/-** is awarded.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant-Om Parkash, is re-computed, as herein given:-

1.	**Loss of earnings**	**Rs.14,70,000/-**
2.	**Pain and suffering**	**Rs.2,00,000/-**
3.	**Attendant charges**	**Rs.5,04,000/-**
4.	**Transportation charges**	**Rs.50,000/-**
5.	**Special diet**	**Rs.50,000/-**
6.	**Medical expenses**	**Rs.1,15,000/-**
7.	**Future medical expenses**	**Rs.1,00,000/-**
	Total	**Rs.24,89,000/-**

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.24,89,000-14,31,000=Rs.10,58,000/-**.

Learned counsel for the insurance company also asserted that the interest awarded by learned Tribunal, is on higher side i.e. 9% per annum and it also calls for reduction. However, the submission so made, is not tenable. Considering the prevalent rate of interest, at the time of accident and soon thereafter, the interest granted on awarded amount is appropriate. However, on the enhanced amount of compensation, i.e. **Rs.10,58,000/-**, claimant-Om Parkash shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation.

Accordingly, the impugned Award dated 15.03.2017 stands modified, to the extent, as indicated aforesaid.

With the above observations, the appeal filed by appellant-Royal Sundram Alliance Insurance Company Limited i.e. **FAO-4695-2018** stands dismissed, whereas, appeal filed by the claimant-Om Parkash i.e. **FAO-5221-2018** stands allowed.

February 02, 2026 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**