IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-8659-2014 (O&M)

TARLOK KUMAR ......Appellant

Vs.

SATPAL AND ORS. ......Respondents

Reserved on: 01.04.2026
Pronounced on : 17.04.2026
Uploaded on: 23.04.2026

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. Nitish Garg, Advocate
for the appellant.

Mr. Kanish Jindal, Advocate
Mr. Shivaly Singla, Advocate
for respondent No.1.

Mr. R.C. Kapoor, Advocate
for respondent No.2-Insurance Company.

Service upon respondent No.3 was exempted
vide order dated 15.03.2016.

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SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 05.07.2014 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (in short '1988 Act'), by the learned Motor Accident Claims Tribunal, Bathinda (in short 'the Tribunal') for enhancement of compensation, granted to the appellant/claimant to the tune of Rs.4,25,000/- along with interest @ 9 % per annum on account of injuries sustained by the appellant/claimant – Tarlok Kumar in a motor vehicular accident, occurred on 22.04.2013.

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

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

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

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

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

SETTLED LAW ON COMPENSATION

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

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

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 award reveals that the appellant/claimant was stated to be 45 years old at the time of the accident. However, learned Tribunal has not applied the multiplier system in calculating the compensation. Furthermore, the learned Tribunal erred in not calculating loss of earning due to the disability. Therefore, this Court deems it fit to assess income on the basis of Schedule II of the Motor Vehicles Act, 1988, which comes to Rs.3,300/- per month.

10. A further perusal of the award reveals that the claimant/appellant had suffered multiple injuries and fractures in the accident on his person, to substantiate the same certificate Ex.C-1 was placed on record , which shows the permanent disability of 30%, furthermore CW-1 Dr. Minakshi Garg, Eye Surgeon, Civil Hospital, Bathinda has been examined, who proved the disability certificate of the appellant/claimant.

11. Furthermore, learned Tribunal has rightly taken into consideration the medical bills of the claimant/appellant and rightly awarded the compensation to the tune of Rs.03,47,192/- by placing reliance upon ***Oriental Insurance Company Ltd. Vs. Gurdev Singh and Others, 2013(2) RCR(Civil) 611***. Therefore, no interference of this Court is required under this regard.

12. This Court further put reliance on the judgment of this Court in Gurdev Singh's case (supra), in which this Court has held that the Court can go beyond the Schedule II of the Motor Vehicles Act, 1988 to provide the just and needful compensation to the claimant/appellant. The relevant paras of the same are reproduced as under:-

"15. There is still another reason as to why the provisions of 2nd Schedule may prove to be inadequate in certain situations, while assessing fair compensation in injury cases. For example, a person suffers a head injury in a motor vehicular accident and as a result of such injury, he losses effective control over his legs and/or hands though strictly speaking, there is no disability in the legs or hands of the claimant. In such a situation, reference to the Schedule of the Workmen Compensation Act for assessing the loss of earning capacity/disability will prove to be futile in as much as the Schedule of said Act does not mention head injury at all. In such a situation, is the claimant left with no remedy even though he has suffered grievous injuries in the accident? Obviously, law cannot and should not fail a genuine claimant and hence, judicial interpretation assumes utmost significance.

16. Accordingly, even in cases filed under section 163A of the Motor Vehicle Act, where the claimant has been injured e.g. amputation of leg in the present case, the Courts can go beyond the pre-set limit of L 15000 for medical expenses imposed by 2nd schedule. Medical expenses would not only be restricted to immediate and urgent medical attention as such an interpretation would be restrictive/retroactive and not in consonance with the spirit of the welfare legislation. Medical expenses must include, keeping in mind the nature of injury suffered, provision for all such expenses as have to be reasonably incurred or can be expected to be incurred to enable the injured claimant to stand back on his feet and lead a normal life, wherein, he can not only go about his daily personal routine but also lead a productive life so as to be able to support himself and/or his dependent family members financially, physically as well as psychologically. Suffice to say that such a right of the injured claimant is a right to live with

> *dignity, a right which is implicit in Article 21 of the Constitution of India."*

13. A further perusal of the award reveals that no amount has been awarded towards future prospects, which is contrary to the judgment of Apex Court. With regard to grant of future prospects in a claim petition filed under Section 163-A of the Motor Vehicles Act, 1988, reference can be made to the judgment of the Apex Court ***Mohd. Sabeer @ Shabir Hussain vs. Regional Manager, U.P. State Road Transport Corporation, 2023 (1) R.C.R (Civil) 349*** wherein Hon'ble the Supreme Court has held as under:-

> *"18. It is a well settled position of law that in cases of permanent disablement caused by a motor accident, the claimant is entitled to not just future loss of income, but also future prospects. It has been reiterated by this Court in multiple instances that "just compensation" must be interpreted in such a manner as to place the claimant in the same position as he was before the accident took place."*

14. In view of the above judgment, future prospects of 40% is to be made while calculating the compensation.

15. A further perusal of the record shows that the learned Tribunal has awarded the compensation on the lower side to the claimant under the heads of pain and suffering, which is required to be enhanced.

16. 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. As per the facts of the case the claimant suffered multiple and grievous injuries on his person. Due to the accident, the appellant/claimant has suffered various injuries and fractures due to which permanent disability on the right eye of 30% has occurred for which disability certificate (Ex.C-1) was placed on record. Furthermore, (CW-1) Dr. Minakshi Garg, Eye Surgeon, Civil Hospital, Bathinda was also examined to prove the disability certificate. This fairly concludes the fact that the claimant have suffered immense amount of pain and agony due to the accident in question.

17. 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.*"

18. Therefore, in view of the above judgment and facts and circumstances of the present case, this Court deems it appropriate to grant compensation of **1 lakh** under the heads of pain and suffering.

19. A further perusal of the award reveals that learned Tribunal has awarded meager amount under the heads of special diet and transportation charges and attendant charges. Therefore, the award requires indulgence of this Court.

RELIEF

20. In view of the above, the present appeal is ***allowed*** and award dated 05.07.2014 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.3,300/-
2	Loss of future prospects (40%)	Rs.1,320/- (40% of Rs.3300/-)
3	Annual Income	Rs.55,440/- (Rs.4620/- X 12)
4	Loss of future earning on account of 30% permanent disability	Rs.16,632/- (Rs.55,440/- X 30%)
5	Multiplier of 15	Rs.2,49,480/- (Rs. 16,632 /-X 15)
6	Medical Expenses	Rs.3,47,192/-
7	Pain and suffering	Rs.1,00,000/-
8	Attendant Charges	Rs.30,000/-
9	Transportation Charges	Rs.20,000/-
10	Special Diet	Rs.20,000/-
11	**Total compensation awarded:-**	**Rs.7,66,672/-**

12	**Deduction:-** Amount awarded by Tribunal	**Rs.4,25,000/-**
13	**Enhanced amount of compensation**	**Rs.3,41,672/-** **(7,66,672 – 4,25,000)**

21. 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.

22. Respondent No.2-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.

23. Respondent No.2-Insurance Company is hereby directed to disburse the current scheduled fee to Mr. R.C. Kapoor, Advocate, within a period of 20 days from the date of receipt of the copy of this judgment, in view of the order dated 18.07.2024 passed in FAO No.1682 of 2007 by this Court.

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

17.04.2026 **(SUDEEPTI SHARMA)**
Ayub/Saahil **JUDGE**

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