



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

**(i) FAO-5021-2014 (O&M)**

Simranjit Singh

...Appellant

VERSUS

Raghubir Singh and another

...Respondents

**(ii) FAO-1538-2015 (O&M)**

New India Assurance Company Limited

...Appellant

VERSUS

Simranjit Singh and another

...Respondents

**Date of Decision: April 05, 2025**

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Ashwani Arora, Advocate  
for the appellant (in FAO-5021-2014) and  
for respondent No.1 (in FAO-1538-2015).

Mr.Gaurav Jangra, Advocate  
for respondent No.1 (in FAO-5021-2014) and  
for respondent No.2 (in FAO-1538-2015).

Mr.Vinod Gupta, Advocate  
for the appellant (in FAO-1538-2015) and  
for respondent No.2 (in FAO-5021-2014).

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**ARCHANA PURI, J.**

These are two appeals filed by claimant-Simranjit Singh as well

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as New India Assurance Company Limited, thereby, assailing the Award passed by learned Motor Accident Claims Tribunal, whereby, compensation was granted to Simranjit Singh, on account of injuries sustained, in a motor vehicular accident.

On appraisal of the evidence, brought on record, it was held by learned Tribunal that accident had taken place on 14.06.2011, on account of rash and negligent driving of Alto car bearing registration No.PB-23J-4171, driven by Raghbir Singh, who was impleaded as respondent No.1 before learned Tribunal, in the capacity of being driver-cum-owner of the aforesaid car. Further, it was held that Simranjit Singh had sustained injuries in the accident in question, which resulted into amputation of his right arm.

Thereupon, learned Tribunal, while considering the earnings of claimant-Simranjit Singh as Rs.1500/- per month, annual whereof comes to be Rs.18,000/-, had applied the multiplier of '18' and worked upon the compensation as Rs.3,24,000/-. Besides the same, another amount of Rs.15,000/- was granted towards sufferings and trauma and another amount of Rs.5,000/- was granted, on the count of 'loss of amenities and enjoyment of life'. Further, an amount of Rs.2,67,548/- was granted, towards medical bills. Thus, in total, the compensation to the extent of Rs.6,11,548/- was granted. Learned Tribunal also ordered about the realization of the aforesaid extent of compensation from respondent No.2 i.e. insurance company, who is the insurer of the offending car.

Being aggrieved, claimant-Simranjit Singh has filed the appeal for seeking enhancement of the compensation, whereas, the insurance company has filed the appeal for seeking recovery rights.



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

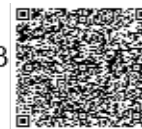
Suffice to consider that the accident taken place on 14.06.2011. It is the pleaded case of claimant-Simranjit Singh that he was 18 years old, at the time of accident and he was working as Generator Operator with Sukhvir Singh Electrical Shop, Khanna Road, Amloh, Fatehgarh Sahib. In his affidavit Ex.PW1/A, the claimant has categorically deposed to this effect. Besides deposing about manner of taking place of the accident and imputing rashness and negligence, on the part of respondent No.1-Raghbir Singh, he had further deposed about details of the injuries suffered by him and the treatment undergone by him. He further deposed that he remained admitted in PGI from 14.06.2011 to 26.06.2011 and right arm was amputated.

Even, the claimant examined Dr.Jaideep Singh Chahal, who proved the disability certificate Ex.C15. PW-3 Vijay Kumar, who is employee of Endolite, has proved the invoice of prosthetic limb relating to Simranjit Singh. The medical bills have also been produced in evidence, the detail whereof, has been given by learned Tribunal, in paragraph No.9 of the Award, which are to the extent of Rs.2,67,548/-.

Be it noted that respondent No.1-Raghbir Singh, driver-cum-owner, has not filed any appeal. It is the insurance company, which has filed the appeal to challenge the liability fastened upon it, to pay the compensation awarded by learned Tribunal.

In this backdrop, the 'work on' of the compensation aforesaid, do call for re-determination.

Before proceeding further, it shall be appropriate to make



beneficial reference to decision rendered in *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**'. The plea of the victim suffering from a cruel twist of fate, when asking for some more, is not extravagant, but it is for seeking appropriate recompense, to negotiate with the unforeseeable and the fortuitous twists, in his impaired life. Therefore, while the money awarded by Courts can hardly redress the actual sufferings of the injured victim (who is deprived of the normal amenities of life and suffers the unease of being a burden on others), the Courts can make a genuine attempt to help restore the self-dignity of such claimant, by awarding '**just compensation**'.

In this backdrop, reference is also made to *Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343*, wherein, the Hon'ble Supreme Court, had lucidly set out the principles for grant of compensation in cases of permanent physical functional disability as follows:-

*“10. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future earnings would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, the percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will*



*result in award of either too low or too high a compensation.*

*11. What requires to be assessed by the Tribunal is the effect of the permanent disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that the percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation. (See for example, the decisions of this Court in **Arvind Kumar Mishra v. New India Assurance Co. Ltd. and Yadava Kumar v. National Insurance Co.Ltd.**)*

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

*14. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred per cent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under*



*the head of “loss of future earnings”, if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not be found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity.*

As to how the compensation, in case where permanent disability of the injured affects his functional disability is to be assessed, has been considered by the Courts, time and again. The reference in this regard is made to decision rendered in ***Jagdish Vs. Mohan and others, 2018 (4) SCC 571***, wherein, the Hon’ble Supreme Court, was considering the case of a carpenter, who had sustained injuries and lost both his hands. Therein, considering the serious disability suffered by him, on account of loss of both his hands, it was observed by the Court, has herein given:-

*“.....For a person engaged in manual activities, it requires no stretch of imagination to understand that loss of hands is a complete deprivation of the ability to earn. Nothing, at least in the facts of this case, can restore lost hands. But the measure of compensation must reflect a genuine attempt of law to restore the dignity of the being. Our yardsticks of compensation should not be so abysmal as to lead one to question whether our law values human life. If it does, as it must, it must provide a realistic recompense for the pain of loss and the trauma of suffering. Awards of compensation are not law's doles. In a discourse of rights, they constitute entitlements under law. Our conversations about law must shift from a paternalistic subordination of the individual to an assertion of enforceable rights as intrinsic to human dignity.”*



Considering the facts of the case, the disability, which was worked upon as '90%', was taken to be total disability by the Hon'ble Supreme Court 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 the motor vehicular accident. The left leg of the injured was amputated and it was observed that physical disability of the lower limb was assessed as 75%, which was about 37.5% of the whole body. In appeal, the disability was assessed by the Hon'ble High Court 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, had made an observation that the accident had left the injured with one useless hand, which will severely affect his ability to perform work as a coolie or any other manual work. While awarding compensation, it was observed, 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 left 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 permanent disability was assessed as 60%. The Tribunal assessed the compensation, taking the loss of earning at 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 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 also observed that in fact, any physical disability, resulting from an 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 different persons may affect them in different ways. Loss of leg by a farmer or a rickshaw puller may be end of the road as 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 his right leg, above knee, he was terminated. Considering his age to be 50 years and 5 months, at the time of accident, 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 this backdrop, now reverting to the case in hand. It is specific version of the appellant-claimant that he was 18 years old, at the time of accident. Even though, he has categorically deposed about himself to be working as Generator Operator, but no evidence, as such, has come on

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record, to dispute about the vocation followed by him. He claimed that he was earning Rs.4500/- per month, but however, learned Tribunal, without any reasoning, had taken the earnings of the claimant as Rs.1500/- per month. Looking at the kind of vocation followed by Simranjit Singh, it is quite obvious that no documentary evidence is bound to be come to establish his employment. Anyhow, he is a skilled worker. Considering the same, there is no reason to reduce the extent of earnings, as asserted by the claimant. As such, his income is bound to be taken as Rs.4500/- per month.

Considering the age of the claimant and also the impact of amputation of right arm, it is quite obvious that he may not be able to continue his job as Generator Operator. Otherwise also, in the maximum, considering the socio economic condition of the claimant, he is bound to indulge into manual labour only. With the right hand loss, the field of doing labour also, is bound to be very restrictive. He could only indulge in vocation, where physical presence to supervise etc. is required, but however, considering the social economic background also, again this field is going to give him very little choice to follow this kind of work also.

Considering the same and loss of future income, the functional disability can conveniently, as such, is taken to be 80%. However, no deduction on the count of 'personal expenses' ought to be made, as the appellant is survivor in the accident with severe injuries, resulting into permanent disability. In this regard, beneficial reference is made to decision rendered in *Rahul Ganpatrao Sable vs. Laxman Maruti Jadhav (Dead) through LRs and others, 2023(3) RCR (Civil) 573.*

That being so, the 'work on' of the compensation, do call for re-



determination.

To the aforesaid earnings of Rs.4500/-, addition of 40%, on the count of 'future prospects' ought to be made, as per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, and thus, the total earnings comes to be Rs.4500+1800=Rs.6300/- per month, annual whereof, comes to be Rs.75,600/-.

In consonance with the *Sarla Verma's case (supra)*, the appropriate multiplier to be applied is '18' and also multiplying the same with 80% of disability and dividing the same by 100, as per standard multiplier process, on account of the same, the loss is assessed as **Rs.75,600x18x80/100=Rs.10,88,640/-**.

It should be noted that medical bills and the expenditure incurred on purchase of medicines have been proved. Considering the same, learned Tribunal had appropriately granted an amount of **Rs.2,67,548/-**, towards '**medical expenses**'.

Since, the claimant had suffered amputation of right arm, he is bound to go in for the artificial limb. In his affidavit Ex.PW1/A, he had stated about having ordered for the artificial right arm, the cost whereof is Rs.2,52,000/- and the copy of the bill is Ex.C16. Even, Vijay Kumar has been examined as PW-3, who is employee of Endolite and he proved the invoice, which is to the extent of Rs.2,52,000/-, which is included in the amount of medical bills, as worked upon aforesaid.

However, considering the age of the claimant and keeping in view the average life of the prosthetic limb and the cost of the same, he may require the change of prosthetic limb from time to time. In modest estimate and



considering the number of limbs required to be changed, during the average life-span, on the count of 'prosthetic need', this Court deems it fit to grant an amount of **Rs.15,00,000/-**.

Looking at the kind of injuries sustained by the appellant-claimant and amputation, undergone by him, all the time, he must have required constant help, to lead 'assisted living', till he adept himself. Even then, many a times, he will be bound to take assistance of others to carry on with his disability. Considering the same, on the count of 'attendant charges', an amount of **Rs.2,00,000/-** is granted.

During the period of his hospitalization, several rounds, must have been made to the hospital for taking care of the claimant and after discharge also, many trips must have been required to be made to the hospital. The claimant may also require such trips to be made, while affixation and taking care of the prosthetic limb. Considering the same, the compensation on the count of 'transportation' is granted to the extent of **Rs.30,000/-**.

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. On this count also, the compensation is enhanced to **Rs.30,000/-**.

The appellant-claimant, on account of the injuries sustained, apart from becoming physically invalid, must have passed through a very traumatic state of mind, while considering his future to have been jeopardised, on account of amputation of right arm. Considering this invalidity suffered by the appellant, on the count of 'pain and suffering', the



compensation of **Rs.1,00,000/-** is granted.

Considering the disability, so suffered, it is quite obvious, the marriage prospects of the appellant-claimant had also become very restricted and on this count, he is entitled to be compensated and therefore, on the count of '**loss of marriage prospects**', compensation is granted to the extent of **Rs.2,00,000/-**.

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

1.	<b>Loss of earnings</b>	<b>Rs.10,88,640/-</b>
2.	<b>Medical Bills</b>	<b>Rs.2,67,548/-</b>
3.	<b>Future prosthetic need</b>	<b>Rs.15,00,000/-</b>
4.	<b>Attendant charges</b>	<b>Rs.2,00,000/-</b>
5.	<b>Transportation charges</b>	<b>Rs.30,000/-</b>
6.	<b>Special diet</b>	<b>Rs.30,000/-</b>
7.	<b>Pain and suffering</b>	<b>Rs.1,00,000/-</b>
8.	<b>Loss of marriage prospects</b>	<b>Rs.2,00,000/-</b>
	<b>Total</b>	<b>Rs.34,16,188/-</b>

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.34,16,188-6,11,548=Rs.28,04,640/-**. On the enhanced amount of compensation, i.e. **Rs.28,04,640/-**, claimant-Simranjit Singh 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.

It is pertinent to mention that respondent No.1-Raghubir Singh, as such, has not stepped into witness box. It is the insurance company, who had filed the appeal, to question the liability fastened upon it. In this regard,



it is significant to note that insurance company has examined RW-1 Hakam Singh, Junior Assistant, Transport Office, Fatehgarh Sahib, who had proved the driving licence of Raghbir Singh-respondent No.1-driver-cum-owner of the Alto car, involved in the accident. He had proved the relevant entry of recital of issuance of the driving licence relating to Raghbir Singh, which is Ex.R1. Close perusal of the same reveals that the date of birth of Raghbir Singh is mentioned as 30.12.1986 and the period of validity of driving licence is 13.07.2011 to 12.07.2031. The accident in question had taken place on 14.06.2011, meaning thereby, the driving licence was issued after the taking place of the accident on 14.06.2011. Even, Ex.R1, further contains a note, with regard to the same being the page of driving licence issue register, for the period 13.07.2011 onwards. This clearly reflects that the driving licence register contains the entry, which co-relate to the date of issuance of the driving licence. As such, the driving licence was issued, after taking place of the accident.

In fact, the insurance policy has been proved as Ex.R2, which mentions about the persons/classes of persons, entitled to drive and therein, it is categorically mentioned as “***Any person including the insured provided that a person driving holds an effective driving licence at the time of the accident and is not disqualified from holding or obtaining such a licence. Provided also that the person holding an effective Learners Licence may also drive the vehicle and that such a person satisfies the requirement of Rule 3 of the Central Motor Vehicles Rules, 1989.***”

In view of the aforesaid recitals, it stands amply established that owner



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was not holding the driving licence, at the time of accident and therefore, there is violation of terms and conditions of the insurance policy. On this account, even though, the insurance company, at first instance, can be made liable to pay the amount of compensation, as now worked upon, to claimant-Simranjit Singh, but however, the insurance company is also entitled to recover the said amount from driver-cum-owner of Alto car bearing registration No.PB-23J-4171 i.e. respondent No.1-Raghibir Singh, in accordance with law.

Accordingly, the impugned Award dated 13.09.2013 stands modified, to the extent, as indicated aforesaid.

With the above observations, both the appeals i.e. **FAO-5021-2014** and **FAO-1538-2015** stand allowed.

**April 05, 2025**  
Vgulati

**(ARCHANA PURI)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**Yes/No**