



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

226

FAO-857-2016

Date of decision :15.09.2025

PARDEEP KUMAR

... APPELLANT

VERSUS

SHIV KUMAR & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sandeep Thakran, Advocate
for the appellant.

Mr. Ankur Gupta, Advocate
for respondent No. 3-Insurance Company.

PARMOD GOYAL, J. (ORAL)

1. Appellant-injured is aggrieved by insufficiency of compensation awarded to him vide award dated 15.12.2015 passed by Motor Accident Claims Tribunal, Bhiwani (hereinafter referred as 'Tribunal') for injuries suffered by him in accident dated 23.02.2012.

2. Following compensation was awarded to the claimant:

(i)	Annual loss suffered by petitioner Pardeep Kumar at the rate of 1200 per month	Rs. 1200×12=14,400
(ii)	Loss of earning capacity after applying Multiplier accordance with age of the deceased, who was in the age group of 15 to 25 years at the time of accident as per <u>Sarla Verma's case</u>	Rs. 14,400×18=2,59,200/-
(iii)	Medical expenses	Rs. 35,561/-
(iv)	Expenditure incurred on transportation	Rs. 10,000/-



(v)	Compensation on account of pain suffering and mental agony	Rs.1,00,000/-
(6)	Special diet	Rs. 25,000/-
The total amount of compensation		Rs. 4,29,761/-

3. Learned counsel for the appellant is primarily aggrieved by the Tribunal's quantification of functional disability at 40%, whereas permanent disability, on account of amputation of the appellant's right leg, was stated to be 80%.

4. Learned counsel for the appellant has also challenged the notional income of Rs. 3,000/- per month as determined by the learned Tribunal, and has prayed that the income of the deceased be assessed either as per the income pleaded by the claimant or in accordance with the minimum wages fixed by the Deputy Commissioner (DC rates). He has further challenged the award of compensation on the grounds of non-award of future prospects, future loss of amenities, loss of life expectancy and future earning capacity to the injured, who was a young person aged 21 years at the time of the accident. A prayer has also been made for grant of compensation towards future medical expenses on account of cost of artificial limb.

5. On the other hand, learned counsel for the Insurance Company supported the award passed by the learned Tribunal and asserted that there is no scope for any enhancement, as the Tribunal has duly considered all relevant aspects and awarded just and reasonable compensation accordingly.

6. On consideration of the respective arguments, I find that, insofar as the monthly income of the claimant is concerned, the same has been assessed by the learned Tribunal considering the minimum wages payable to an unskilled



worker. According to the claimant, he was a student and was also imparting private tuitions, thereby earning Rs. 20,000/- per month. However, perusal of evidence led on behalf of the claimant goes to show that except for oral assertions to this effect, no documentary or corroborative evidence has been produced to establish that he was indeed imparting tuitions or earning the said amount. The learned Tribunal has, therefore, rightly disregarded the oral assertions of the claimant and has appropriately treated him as an able-bodied person who must have been earning some income, considered him unskilled worker earning minimum wages.

7. Therefore, learned Tribunal has rightly taken the petitioner as an unskilled worker. It had accordingly determined his notional income at Rs. 3,000/- per month, being the minimum wages applicable for the year 2012 as nominal income of the injured.

8. The argument advanced by learned counsel for the appellant that the Tribunal ought to have applied the Deputy Commissioner (DC) rates instead of the minimum wages cannot be accepted. Minimum wages are fixed as minimum amount payable by all private employers to their employees. The argument of learned Counsel for the claimant that the appellant-claimant is entitled to wages equivalent to the Deputy Commissioner (DC) rates cannot be accepted as DC rates are applicable primarily to contractual or temporary employment under the Government. Since the Government is a model employer in a welfare state, it pays wages higher than payable under private employment to safeguard the interests of its employees. Accordingly, different wage rates are fixed for different categories of employment.

9. In the present case, it is undisputed that the claimant-appellant was not employed by the State but was privately employed. Therefore, the minimum



wages applicable to an unskilled worker must be taken as the income of the injured. Both counsels agree that the minimum wages payable to an unskilled worker in the year 2012 were fixed at Rs. 4,847/-. Accordingly, the same is taken as the income of the claimant-appellant.

10. The claimant was 21 years old at the time of the accident and is therefore entitled to 40% towards future prospects and multiplier of 18. The primary issue in the present case is whether the learned Tribunal has rightly assessed functional disability at 40%, despite 80% permanent disability resulting from the amputation of the right leg. Permanent disability refers to the actual loss of a limb or function of a particular body part, whereas functional disability relates to the loss of earning capacity due to such impairment. There is no straitjacket formula to determine functional disability once permanent disability has been established. The assessment of functional disability depends on the nature of the work the claimant was undertaking, as well as his capacity to earn income based on the nature of that work and disability suffered.

11. There can be cases where permanent disability is assessed on account of spinal injury as 40%, however, on account of said injury person is bedridden. In such cases, the functional disability may exceed the percentage of permanent disability. There may be cases where disability was qua one limb and overall function disability may be less than assessed permanent disability. In the present case, the claimant has suffered amputation of his right leg, and the permanent disability has been assessed at 80% with respect to the lower limb. Considering the claimant to be an unskilled worker, the overall loss of earning capacity must be viewed in the context of the nature of his work and nature of disability. Therefore, it is evident that his capacity to earn has been substantially compromised.



12. The learned Tribunal erred in assessing the functional disability at only 40%. In the facts and circumstances of case, the functional disability is assessed to extent of 50% for determining loss of earning capacity on account of permanent disability.

13. The appellant-claimant was a young man of 21 years at the time of the accident, and as a result of the amputation of his leg, his marriage prospects and overall quality of life have been adversely affected. Accordingly, the appellant-claimant is entitled to compensation of Rs. 50,000/- for loss of future future amenities & life expectancy earning capacity and Rs. 50,000/- for loss of future / marriage prospects. Compensation awarded by the Tribunal for medical expenses already incurred, transportation, special diet, and pain and suffering is justified and is accordingly upheld.

14. In addition to the above, the petitioner is entitled to compensation for loss of income during the period of treatment. Accordingly, an amount of Rs. 15,000/- is awarded, considering that the petitioner must have remained out of work for approximately three months during his treatment. Although there is no evidence on record regarding future medical expenses, however, it is an admitted fact that the claimant has suffered amputation of the right leg. Taking into account the nature of the injuries and the amputation, it is evident that the petitioner will require an artificial limb in the future. Therefore, the petitioner is granted compensation of Rs. 2,00,000/- towards the cost of an artificial limb.

15. Appellant shall be entitled to compensation as determined in following table:

Notional income of injured	Rs. 4,847/- per month (minimum wages applicable to an unskilled worker).	Rs. 4,847/- per month
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Future prospects	40% (Rs. 1,938+4,847)	Rs. 6,785/-
Multiplier	18	18
Total income	Rs. 6,785x18x12	Rs. 14,65,732/-
Loss of income on account of 50% functional disability	Rs. 14,65,732/2	Rs. 7,32,866/-
Loss of future marriage prospects		Rs. 50,000/-
Loss of future amenities and life expectancy		Rs. 50,000/-
Loss of income		Rs. 15,000/-
Future medical expenses/cost of an artificial limb		Rs. 2,00,000/-
Medical expenses	Rs. 35,561/- (as awarded by Tribunal)	Rs. 35,561/-
Transportation charges	Rs. 10,000/- (as awarded by Tribunal)	Rs. 10,000/-
Pain and suffering	Rs. 1,00,000/- (as awarded by the Tribunal)	Rs. 1,00,000/-
Special diet	Rs. 25,000/- (as awarded by the Tribunal)	Rs. 25,000/-
Amount of compensation awarded by Tribunal	Rs. 4,29,761/-	
Compensation awarded in appeal		Rs. 12,18,427/-
Enhanced compensation	Rs. 20,53,716/- (awarded in appeal)- Rs. 4,29,761/- (award passed by Tribunal)	Rs. 7,88,666/-

16. Disposed of accordingly.

15.09.2025
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned Yes
Whether reportable Yes/No