

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****203****FAO-2249-2015 (O&M) and  
XOBJC-167-CII-2016  
Date of Decision : 03.03.2025**

Shri Ram General Insurance Co Ltd

....Appellant

**VERSUS**

Maninderjit Singh and Others

....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Tajender K. Joshi, Advocate for the appellant.

Mr. Abhimanyu Kalsy, Advocate for  
Mr. Ankur Gupta, Advocate  
for cross-objector/respondent No.1.**ALKA SARIN, J. (Oral)**

1. This order shall dispose off the above captioned appeal filed by the Insurance Company against the impugned award dated 09.12.2014 whereby compensation to the tune of Rs.10,97,702/- was awarded by the Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as the 'Tribunal') in favour of the claimant-respondent No.1 herein as well as the Cross objections being XOBJC-167-CII-2016 filed by the claimant respondent No.1 herein for enhancement of the said compensation.

2. The parties are referred to as the Insurance Company, claimant, driver and owner hereinafter for the sake of clarity.

3. The brief facts relevant to the present *lis* are that on 21.01.2013 the claimant alongwith his uncle, namely, Pradeep Singh was going from Samrala to village Dhilwan. The claimant was going ahead of his uncle on a

scooter bearing registration No.PB-10AF-4133. When they reached near Pirmary School, Otalna, on Samrala-Khanna Road, a Tipper bearing registration No.PB-12M-8879 (hereinafter referred to as the 'offending vehicle') was lying stationary on the road without any signal or indication and in order to save himself from the impact of a Bolero, which was coming from Khanna side, the claimant struck against the offending vehicle as a result of which he sustained serious injuries. The claimant was taken to Civil Hospital, Samrala from where he was shifted to Apollo Hospital, Ludhiana, where he remained admitted. It was averred in the claim petition that the claimant was studying in Nankana Sahib Public School, Samrala in class 10+2 and was hale and hearty prior to the accident and that due to the accident he became disabled and his face got disfigured due to which his marriage and future prospects have been diminished.

4. On notice the driver of the offending vehicle appeared and filed his written statement taking preliminary objections qua the maintainability of the claim petition against him averring therein that he was not the driver of the offending vehicle and that the alleged accident never took place. Owner of the offending vehicle also appeared and raised various preliminary objections. He denied the accident and stated that the offending vehicle was fully insured with the Insurance Company and had valid RC, Insurance, fitness certificate and route permit.

5. Insurance Company filed its written statement and took various preliminary objections that the claim petition was not maintainable as no such accident ever took place with the offending vehicle. It was stated in the

written statement that the accident took place due to the sole negligence of the claimant and that too with some other vehicle.

6. On the basis of the pleadings of the parties the following issues were framed :

1. Whether claimant suffered injury in an accident, occurred on 21.01.2013 by respondent Harpreet Singh, while driving the offending vehicle i.e. Truck Tipper bearing No.PB-12M-8879 in rash and negligent manner ? OPP
2. Whether the claimant is entitled to compensation? If so, to what amount and from whom ? OPP
3. Whether the claim petition against respondents is not maintainable ? OPR
4. Whether the claim petition is bad for non-joinder and mis-joinder of necessary parties ? OPR
5. Relief.

7. The Tribunal held the joint and several liability of the driver, owner of the offending vehicle and the Insurance Company to pay the following compensation :

<b>Sr. No.</b>	<b>Heads</b>	<b>Compensation Awarded</b>
1	Monthly income assessed	Rs.10,000/-
2	Loss of income due to disability of 31%	Rs.38,709/-
3	Compensation after multiplier of 18 is applied	[Rs.38,709 x 18] = Rs.6,96,762/-
4	Loss of future prospects	Rs.25,000/-
5	Loss of marriage prospects	Rs.50,000/-

6	Pain and suffering	Rs.50,000/-
7	Loss of amenities	Rs.10,000/-
8	Loss of expectation of life	Rs.25,000/-
9	Medical bills	[Rs.3,41,177 + 26,040 + 33,733] = Rs.4,00,950/-
	<b>Total Compensation</b>	<b>Rs.12,57,412 /- (wrongly typed as Rs.10,97,702)</b>
	<b>Interest</b>	<b>6% per annum</b>

8. Learned counsel for the Insurance Company has contended that it was a case of contributory negligence as the offending vehicle was stationary while it was struck against from behind by the claimant. It is further the contention that income of the claimant as assessed by the Tribunal is on the higher side.

9. Learned counsel for the claimant (cross-objector) has contended that the compensation awarded by the Tribunal is on the lower side inasmuch the compensation awarded under the non-pecuniary heads i.e. loss of future prospects, loss of amenities and marriage prospects, pain and suffering also on the lower side. It is further the contention that no amount has been awarded towards special diet and transportation charges. Learned counsel for the claimant would further contend that there was no contributory negligence on the part of the claimant.

10. Heard.

11. In the present case, as per PW2 Dr. Jaswinder Singh, Medical Officer, Civil Hospital, Samrala, the claimant suffered permanent disability of whole body to the extent of 31% and this witness has proved on record the disability certificate of the claimant as Ex.P2/1. There is no contrary

evidence to falsify the statement of PW2 Dr. Jaswinder Singh. Accordingly, the disability of the claimant has rightly been assessed by the Tribunal to the extent of 31% and the same is maintained.

12. The argument of learned counsel for the Insurance Company that it was a case of contributory negligence deserves to be rejected inasmuch as in the present case the offending vehicle was admittedly stationary on the road and the claimant in order to save himself from the impact of an oncoming Bolero, struck against the offending vehicle from behind which was parked on the road without any indicator or signal. There is no evidence on record indicating that the claimant contributed to the happening of the accident as alleged by the Insurance Company. Even in this regard no suggestion was put to the claimant and thus in the absence of any direct or corroborative evidence on record, the claimant cannot be held liable for contributory negligence.

13. Admittedly, the claimant was a student of 10+2 and was aged about 17 years at the time of accident. The Tribunal has assessed his income as Rs.10,000/- per month. Hon'ble Supreme Court in case of of **Kajal Vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27]** while assessing the income of a minor aged 12 who had suffered 100% disability had assessed the income of the child as per the minimum wages payable to a skilled worker as prevailing at the time of the accident. Their Lordships in para 20 of the said judgment had held as under :

*“20. Both the courts below have held that since the girl was a young child of 12 years only notional income of*

*Rs.15,000/- per annum can be taken into consideration. We do not think this is a proper way of assessing the future loss of income. This young girl after studying could have worked and would have earned much more than Rs.15,000/- per annum. Each case has to be decided on its own evidence but taking notional income to be Rs.15,000/- per annum is not at all justified. The appellant has placed before us material to show that the minimum wages payable to a skilled workman is Rs.4846/- per month. In our opinion this would be the minimum amount which she would have earned on becoming a major. Adding 40% for the future prospects, it works to be Rs.6784.40/ - per month, i.e., 81,412.80 per annum. Applying the multiplier of 18 it works out to Rs.14,65,430.40, which is rounded off to Rs.14,66,000/-.”*

Their Lordships had applied 40% towards future prospects and a multiplier of 18.

14. Similarly in the case of **Baby Sakshi Greola Vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]** where the incident related to a 7 years' old child who met with an accident in the year 2009, the Court had once again assessed the income of the minor child who had suffered injuries as per the minimum wages applicable to a skilled worker. In para 29 of the said judgment it was held as under :

*“29. This Court in the case of Kajal (supra) has held that taking notional income is not the correct approach. Instead, the minimum wages payable to a skilled workman in the concerned State has to be taken into consideration because, that would be the minimum amount which she would have earned on becoming a major. In this case, the minimum wage payable to a skilled workman in the State of Delhi at the time of the accident, i.e., 2nd June 2009, was Rs.4,358/- per month.”*

Their Lordships had in the said case also as in the case of **Kajal** (supra) added 40% towards future prospects and applied a multiplier of 18.

15. Taking a cue from the two afore-referred judgments, in the present case the claimant, who was about 17 years of age and was a 10+2 student at the time of accident in the year 2013, this Court deems it appropriate to assess the income as per the minimum wages for a skilled worker, which were Rs.8,404/- per month. Keeping in view the nature of disability, which is of whole body to the extent of 31%, the Tribunal has rightly applied a multiplier method in the present case, however, in the opinion of this Court has erroneously awarded a lump sum amount of Rs.25,000/- towards loss of future prospects, which ought to have been 40% in view of the above referred law.

16. Further, the amount awarded towards loss of amenities and marriage prospects, in the opinion of this Court is on the lower side and the same is enhanced to **Rs.5,00,000/-**. The amount of Rs.50,000/- awarded

towards pain and suffering is also on the lower side keeping in view the disability of the claimant and the same is enhanced to **Rs.1,50,000/-**. The Tribunal has not awarded any amount towards 'special diet' and hence, this Court deems it appropriate to grant an amount of **Rs.25,000/-** towards special diet. The Tribunal has not awarded any amount towards transportation charges and hence, the claimant is awarded an amount of **Rs.10,000/-** towards transportation charges. The amount of Rs.4,00,950/- awarded by the Tribunal towards medical bills is maintained. Accordingly, the reworked compensation is as under :

<b>Sr. No.</b>	<b>Heads</b>	<b>Compensation Awarded</b>
1	Monthly income	Rs.8,404/-
2	Loss of income due to 31% disability	[Rs.8,404 x 5,796] = Rs.2,605/-
3	Annual income	[Rs.2,605 x 12] = 31,260/-
4	Future prospects @ 40%	[Rs.31,260 + 12,504] = Rs.43,764/-
5	Loss of income after applying multiplier '18'	[Rs.43,764 x 18] = Rs.7,87,752/-
6	Loss of amenities and marriage prospects	Rs.5,00,000/-
7	Pain and suffering	Rs.1,50,000/-
8	Special Diet	Rs.25,000/-
9	Transportation charges	Rs.10,000/-
10	Medical expenses	Rs.4,00,950/-
	<b>Total Compensation</b>	<b>Rs. 18,73,702/-</b>

17. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 6% per annum from the date of filing of the claim petition till the realization of the entire amount.

18. In view of the above discussion, impugned award passed by the Tribunal is modified and the appeal filed by the Insurance Company as well as the cross-objections filed by the claimant stand disposed off. Pending applications, if any, also stand disposed off.

03.03.2025  
jk

**( ALKA SARIN )  
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO