



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

FAO-335-2000 (O&M)

Date of decision: 29.09.2025

Rajinder Kumar (since deceased) through his Lrs

..Appellant

Versus

Des Raj and others

..Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr.Raghubir P Tejpal, Advocate for the appellant

Ms. Jasleen Kaur, Advocate for

Mr. Sandeep Singh, Advocate for respondent no.2

Mr. R.C.Gupta, Advocate for respondent no.3

MANDEEP PANNU, J.

1. This is claimant/injured's appeal against the award dated 27.08.1998 passed by the Motor Accident Claims Tribunal, Panipat, (hereinafter referred to as 'Tribunal') with a prayer to modify the amount of compensation. The Tribunal has awarded compensation of Rs.2,66,300/- on account of injuries sustained by him, in a vehicular accident, which took place on 20.04.1994. There is no dispute with regard to the correctness of the findings recorded by the Tribunal regarding injuries sustained by the claimant/injured in the aforesaid vehicular accident. Hence, the only issue is with regard to quantum of compensation.



2. Since the factum of the accident is not in dispute, therefore, for the sake of brevity, the facts, as recorded by the Tribunal, in the impugned award, are not being reproduced herein.

3. The compensation awarded by the Tribunal is tabulated as under:-

Sr. No.	Heads	Compensation awarded
1.	Monthly Income	1200/-
2.	Annual income $1200 \times 12 = 14,400$	14,400/-
3.	Multiplier $14400 \times 16 =$	2,30,400/-
4.	Functional disability 80% $2,30,400 \times 70\% = 1,61,280/-$ rounded off to 1,61,300/-	1,61,300/-
5.	Medical bills	1,00,000/-
6.	Pain & suffering	5,000/-
	Total	Rs. 2,66,300/-

4. Learned counsel for the claimants-appellants submits that there is no dispute regarding assessment of income as well as application of multiplier by the Tribunal, however, it has failed to grant escalation in income on account of future prospects, as well as assessing functional disability of the claimant, considering the fact that he being a driver, who has lost his both legs in accident has become 100% disable so far as his earnings is concerned.

5. Per contra, learned counsel for respondent No.3- Insurance Company has vehemently argued that sufficient amount



towards compensation has already been awarded by the Tribunal and there is no scope for enhancement.

6. Since there is no dispute with regard to income assessed by the Tribunal, the same is maintained.

7. Now, let us examine the extent of disability suffered by the claimant/injured. He has been issued disability certificate Ex.PW6/1, by Dr. Ashok Sarwal, Assistant Professor, Post Graduate Institute of Medical Education and Research, Chandigarh, indicating amputation (Lt.) side, BB Leg (Rt.) Gr.III, compound both LL and medial malleolus (Rt.) and accordingly, evaluating his physical disability to the extent of 80%.

8. It is well settled law that Courts should not adopt stereotypical or myopic approach in such matters rather case should be decided taking into consideration realities of life, both in assessment of extent of disabilities and compensation under various heads. In medical sense, permanent disability might be on lower side, however, its impact on earning capacity as well as basic amenities of life has been to kept in mind while assessing compensation for such loss. Reliance in this regard can be placed on judgment of the Hon'ble the Supreme Court in the case of **Pappu Deo Yadav vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** wherein it has been held as under :

“12. In view of the above decisive rulings of this court, the High Court clearly erred in holding that compensation for loss of future prospects could not be awarded. In addition to loss of future earnings



(based on a determination of the income at the time of accident), the appellant is also entitled to compensation for loss of future prospects, @ 40% (following the Pranay Sethi principle).

13. *The factual narrative discloses that the appellant, a 20-year-old data entry operator (who had studied up to 12th standard) incurred permanent disability, i.e. loss of his right hand (which was amputated). The disability was assessed to be 89%. However, the tribunal and the High Court re-assessed the disability to be only 45%, on the assumption that the assessment for compensation was to be on a different basis, as the injury entailed loss of only one arm. This approach, in the opinion of this court, is completely mechanical and entirely ignores realities. Whilst it is true that assessment of injury of one limb or to one part may not entail permanent injury to the whole body, the inquiry which the court has to conduct is the resultant loss which the injury entails to the earning or income generating capacity of the claimant. Thus, loss of one leg to someone carrying on a vocation such as driving or something that entails walking or constant mobility, results in severe income generating impairment or its extinguishment altogether. Likewise, for one involved in a job like a carpenter or hairdresser, or machinist, and an experienced one at that, loss of an arm, (more so a functional arm) leads to near extinction of income generation. If the age of the victim is beyond 40, the scope of rehabilitation too diminishes. These individual factors are of*



crucial importance which are to be borne in mind while determining the extent of permanent disablement, for the purpose of assessment of loss of earning capacity.”

9. Reliance can also be placed on judgment of the Hon’ble Supreme Court in **Arvind Kumar Mishra vs. New India Assurance Co. Ltd. (2010) 10 SCC 254**, wherein following observations have been made:-

“9. We do not intend to review in detail state of authorities in relation to assessment of all damages for personal injury. Suffice it to say that the basis of assessment of all damages for personal injury is compensation. **The whole idea is to put the claimant in the same position as he was insofar as money can. Perfect compensation is hardly possible but one has to keep in mind that the victim has done no wrong; he has suffered at the hands of wrongdoer and the court must take care to give him full and fair compensation for that he had suffered.**

10. **In some cases for personal injury, the claim could be in respect of lifetime’s earnings lost because, though, he will live, he cannot earn his living.** In others, the claim may be made for partial loss of earnings. **Each case has to be considered in the light of its own facts and at the end, one must ask whether the sum awarded is a fair and reasonable sum.** The conventional basis of assessing compensation in personal injury cases and that is now recognised mode as to the proper



measure of compensation is taking an appropriate multiplier of an appropriate multiplicand.

10. In view of aforesaid observations of the Hon'ble Supreme Court in **Pappu Deo Yadav's and Arvind Kumar Mishra's cases (supra)**, this Court has no hesitation to hold that the functional disability suffered by the claimant is to the extent of 100%.

11. Furthermore, in view of law laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, the claimant/injured will also be entitled to future prospects. He was 40 years old at the time of accident. Therefore, he is held entitled to future prospects at rate of 25% (25% of 1200 = 300, monthly income = 1200+300 =1500) and in view of **Sarla Verma vs. Delhi Transport Corporation and Another (2009) 6 SCC 121**, multiplier of 15 will be applied. The claimant/injured remained under treatment for a period of 4 months. Therefore, he is held entitled to Rs.6000/- (1500x4 = 6000) towards loss of income for this period. Amount of Rs. 5,000/- awarded under Head 'Pain & Suffering' is highly inadequate and the same is enhanced to Rs.1,00,000/-. An amount of Rs.20,000/- each is awarded under Head 'Special Diet' and 'Transportation'. He is also held entitled to Rs.1,00,000/- for loss of enjoyment of life and amenities.

12. Accordingly, the compensation is re-assessed as under :

Sr.No.	Heads	Compensation awarded
1.	Monthly Income	1200/-
2.	Future prospects @ 25%	1500/-



	$1200 \times 25\% = 300/-$	$[1200 + 300 = 1500]$
3.	Annual income $1500 \times 12 = 18000/-$	18000/-
4.	Multiplier 15 $15 \times 18000 = 2,70,000/-$	2,70,000/-
5.	Functional disability @ 100% $2,70,000 \times 100\% = 2,70,000/-$	2,70,000/-
6.	Loss of income during period of treatment i.e 4 months $1500 \times 4 = 6000$	6,000/-
7.	Medical bills	1,00,000/-
8.	Special diet	20,000/-
9.	Transportation charges	20,000/-
10.	Pain & suffering	1,00,000/-
11.	Loss of enjoyment of life and amenities	1,00,000/-
	Total Compensation	Rs.6,16,000/-

13. The claimant/injured shall be entitled to difference in amount of compensation alongwith interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realization. Rest of the award needs no modification.

14. Accordingly, the appeal stands partly allowed.

15. All the pending miscellaneous applications, if any, are also disposed of.

(MANDEEP PANNU)
JUDGE

29.09.2025

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No