



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

**FAO-8293-2017 (O&M)
DATE OF DECISION : 09.09.2025**

SURENDER

... APPELLANT

V/S

PAWAN KUMAR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Gurasis Singh, Advocate for
 Mr. Saurabh Dalal, Advocate for the appellant.

 Mr. Yashveer Kharb, Advocate for respondent No.1.

 Ms. Mansi Verma, Advocate for
 Mr. Rajneesh Malhotra, Advocate for respondent No.3.

PARMOD GOYAL, J. (ORAL)

CM-27273-CII-2017

For the reasons stated in the application, the application for placing on record the additional evidence is allowed. Annexure A-1 and A-2 are taken on record, subject to all just exceptions.

Main case

Present appeal has been preferred by injured-claimant being aggrieved by the impugned award dated 15.05.2017 passed by the learned Motor Accidents Claims Tribunal, Rohtak (hereinafter referred to as 'Tribunal') vide which the claimant was awarded Rs.15,68,000/- compensation on account of injuries suffered by him in accident dated 28.07.2016 by rash and negligent driving of respondent no.1 while driving



the offending car bearing registration no. HR-05-AL-4550. Following compensation was awarded by learned Tribunal under various heads :

Nature	Amount
For loss of earning capacity	Rs. 12,96,000/-
Medical expenses	Rs. 1,81,909/-
Pain and sufferings	Rs. 20,000/-
Loss of income	Rs. 30,000/-
Expenses on attendant, special diet, transportation etc.	Rs. 20,000/-
Other treatment charges	Rs. 20,000/-
Total	Rs. 15,68,000/-

2. Learned counsel for appellant has argued that while calculating loss of earning capacity, the Tribunal has erred in taking monthly income of the appellant to be Rs.10,000/- instead of Rs.12,000/- as made out from salary certificate Ex.P15, that no future prospects were awarded while calculating loss of earning capacity. It is also asserted that appellant was given lesser compensation against various heads and was not awarded any compensation for future loss of amenities, future prospects, life expectancy and future medical expenses. Admittedly, in the accident, appellant had suffered grievous injuries resulting into amputation of his leg twice. It is also proved on record that appellant-claimant had suffered 80% disability qua his legs and his functional disability was assessed by learned Tribunal to be 60%.

3. On consideration, I find that no exception can be taken with the conclusion drawn by learned Tribunal with regards to monthly income of the appellant, multiplier of 18 and assessment of functional disability to the



extent of 60% can be taken. The total disability qua legs was found to be 80%. Amputation of leg goes to show that claimant-appellant's capacity to earn livelihood would be seriously compromised and, therefore, functional disability to the extent of 60% cannot be held to be excessive.

4. In the totality of circumstances, especially in view of nature of disability and vocation of claimant, the claimant must have lost earning capacity to the extent of 60% i.e. functional disability. Appellant-claimant being aged about 23 years at the time of accident, therefore, he is entitled to 40% addition to his income towards future prospects. The income of the appellant was taken as Rs.10,000/- adding 40% towards future prospects would make his total earning capacity to be Rs. 14,000/- p.m. (Rs. 14,000/- p.m. X 12 = Rs.1,68,000/-) per month. After applying multiplier of 18, the total dependency would come to Rs.30,24,000/-. In view of the 60% functional disability, the loss of earning capacity would come to Rs.18,14,400/-. Accordingly, claimant-appellant is entitled to compensation of Rs.18,14,400/- towards loss of earning capacity. The learned Tribunal has granted sufficient amount towards medical expenses as Rs. 1,81,909/- as well as towards loss of income during treatment i.e. Rs.30,000/- and Rs.20,000/- towards attendant charges, special diet, transportation. No interference is required under said heads. However, I find merit in the contention raised on behalf of the appellant that amount of Rs.20,000/- is not just compensation for pain and sufferings undergone by the appellant. Appellant/claimant had undergone immense pain and sufferings and had also undergone multiple surgeries resulting in amputation of his leg twice.



5. Accordingly, keeping in view grievous nature of injuries and treatment undergone by appellant/claimant, appellant shall be entitled to compensation of Rs.1,00,000/- towards pain and sufferings. The learned Tribunal has also failed to award any compensation towards future amenities of life, loss of future prospects and loss of expectancy of life. Appellant has suffered disability to the extent of 80% which had resulted into 60% loss of earning capacity. Amputation of leg has resulted in serious loss to the appellant in the shape of loss of amenities and loss of future prospects specially marriage prospects. Accordingly, the appellant shall be entitled to compensation of Rs. 1,50,000/- for loss of future amenities, loss of future prospects and for loss of life expectancy. Appellant shall also be entitled to compensation on medical expenses incurred and proved on record during the pendency of the present appeal. Accordingly, appellant is granted compensation for additional medical expenses to the extent of Rs.45,000/-, which shall include Rs.20,000/- granted by learned Tribunal on account of pain and sufferings. It is made clear that appellant shall not be entitled to Rs.20,000/- additional amount granted as pain and sufferings during surgery as consolidated amount of Rs. 1,00,000/- has already been awarded by this Court under the head pain and sufferings. Appellant is accordingly, entitled to Rs.7,28,309/- as compensation over and above the compensation of Rs. 15,68,000/- awarded by the learned Tribunal as under:-

Income of injured	Rs. 10,000/- per month	Rs. 10,000/- per annum
Future prospects	40% (10,000+4,000/-)	Rs.14,000/- per month
Multiplier	18	18



Total loss of dependency	14,000 x 18 x 12	Rs.30,24,000/-
Loss of earning capacity due to Functional Disability	60% (30,24,000 x60/100)	Rs.18,14,400/-
Pain and suffering		Rs. 1,00,000/-
Medical Expenses	Rs. 1,81,909/- (granted by Tribunal)	Rs. 1,81,909/-
Attendant, Special diet & Transportation expenses etc.	Rs. 20,000/- (granted by Tribunal)	Rs. 20,000/-
loss of future amenities, future prospects, expectancy of life	-	Rs. 1,50,000/-
loss of income during treatment	Rs. 30,000/- (granted by Tribunal)	Rs. 30,000/-
Total compensation awarded to the claimant/injured in appeal	Rs. 22,96,309/-	Rs. 22,96,309/-
Total compensation awarded by the Tribunal	Rs. 15,68,000/-	Rs. 15,68,000/-
Enhanced amount of compensation	(Rs. 22,96,309/- (awarded in appeal) – Rs.15,68,000/- (awarded by Tribunal)	Rs. 7,28,309/-

6. Let the enhanced amount be also paid by respondent No.3- Insurance Company to the claimant-appellant along with interest @ 7.5% p.a. from the date of filing of the claim petition till its realisation.

7. Appeal is, accordingly, allowed in above terms. Pending miscellaneous application(s), if any, shall also stand disposed of.

09.09.2025

Janki

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No