

2025:PHHC:138088



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

FAO-4071-2008 (O&M)

Date of Decision: September 30, 2025

Subhash Chand

...Appellant

VERSUS

Hansraj and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.J.P.Sharma, Advocate
for the appellant.

Mr.Mohan Singla, Advocate
for respondent No.3.

ARCHANA PURI, J.

The appellant-claimant has filed the present appeal, thereby, questioning the adequacy of the compensation awarded to him by learned Motor Accident Claims Tribunal, on account of injuries sustained by him, in a motor vehicular accident.

So far as, factum and manner of taking place of the accident as well as liability fastened upon the driver, owner and insurer, is concerned, suffice to consider that the same has not been challenged by the driver, owner as well as insurer of the offending vehicle. In these circumstances, there is no necessity to further dwell on these aspects.

Undisputedly, the accident had taken place on 13.01.2006. From the evidence, brought on record, it stands established that appellant-

claimant had sustained injuries, in the said accident. To so substantiate his claim, Subhash Chand himself stepped into witness box as PW-8. He has categorically deposed about the detail of the injuries sustained by him and also with regard to his admission in hospital as well as operations undergone by him. PW-4 Dr.T.S.Bagri, Medical Officer, General Hospital, Bhiwani, deposed about having medico-legally examined Subhash Chand, when he was posted at Narnaul, on 13.01.2006, with history of road side accident and having found two injuries. He proved the MLR report Ex.P42.

PW-2 Dr.Dinesh Sharma, Pooja Hospital, has also deposed about admission of Subhash Chand, in their hospital on 13.01.2006, as a case of road side accident. The x-ray reveals fracture shaft femur left side middle 1/3rd. He also deposed that operation was conducted and interlocked nailing was done on 13.01.2006. An amount of Rs.15,630/- was charged vide Ex.P3 and patient was discharged on 30.01.2006. The discharge summary is Ex.P2. Furthermore, he also deposed that subsequently on 15.11.2006, the patient was again admitted and operated and the nail was removed. He proved the discharge summary Ex.P6 and the bill receipt of Rs.7400/- Ex.P7. He further deposed that for last follow up, the patient had come on 23.01.2007. Besides the same, various receipts/bills, with regard to the treatment undergone were proved.

Another material witness examined by the claimant is Dr.Dinesh Podar, Medical Officer, G.H. Narnaul, who was member of the board, who examined the claimant for assessment of the disability and he was found to be suffering from permanent disability to the extent of 7%, on account of range of motion of left knee joint reduced by 10% with superficial complication (pain and tenderness at fracture site and muscle wasting thigh).

The disability certificate is Ex.P44.

Also, from the testimony of PW-6 Omparkash, Clerk, Office of Superintending Engineer, it is evident that Subhash Chand was working as regular Peon in that office. The leave was sanctioned to him vide order Ex.P45 and Ex.P46 is the copy of pay roll. He also deposed that Subhash Chand remained on leave without pay for 248 days w.e.f. 18.04.2006 to 21.12.2006. Various other bills were also proved.

Considering the aforesaid evidence and also taking into consideration the fact of monthly emoluments of the claimant to be Rs.6684/- and deduction, on account of GPF as well as GIS was made. For without pay leave of 248 days, the compensation was assessed as Rs.50,000/-. Also, in cross-examination, the appellant-claimant had stated that he had not got any reimbursement of the medical expenses from his department. Thus, considering the aforesaid evidence, learned Tribunal had made assessment of the compensation, which is reproduced in tabular form:-

i)	Compensation for expenses of treatment including hospitalization, investigations, medicines conveyances and special diet	Rs.1,00,000.00
ii)	Compensation for pain and suffering	Rs.20,000.00
iii)	Compensation for loss of income on account of leave without pay	Rs.50,000.00
iv)	Compensation for permanent disability resulting in loss of enjoyment of life	Rs.30,000.00
	Total	Rs.2,00,000.00

The liability of respondents No.1 to 3 was held to be joint and several, to pay the aforesaid compensation together with interest @7.5% from the date of petition till realisation of award amount.

Being aggrieved, the appellant-claimant has filed the present

appeal for seeking enhancement of compensation.

Be it noted that, as observed in the earlier portion of the judgment, none of the respondents, upon whom, the liability was fastened, have filed any appeal.

Furthermore, it is pertinent to mention that during the pendency of the appeal, an application was also filed to lead additional evidence, vis-a-vis, treatment undergone by the appellant-claimant in the post-Award period. The said application was allowed and the case was remitted to the successor of the concerned Tribunal to record the evidence, by way of additional evidence and furnish fresh report, with regard to the appraisal of the same. The needful was done by the concerned Tribunal and the report has been received.

Before the Tribunal again, as many as four witnesses were examined. PW-9 Rajeev Dave, Record Keeper, Santokhba Durlabh Ji Hospital, Jaipur, PW-10 Dinesh Kumar Yadav, Record Keeper, Balaji Cure and Care Hospital, Jaipur, PW-11 Vikash Kumar Saini, Record Keeper, Dhanwantri Life Care Pvt. Ltd. Jaipur and PW-12 Naresh Kumar, Accountant, Raj Hospital & Fracture Clinic, Singhana. All the four witnesses had brought the record, with regard to the treatment undergone by the appellant-claimant and proved various bills. Even, Subhash Chand and his counsel, also tendered into evidence, medical record Ex.P151 to Ex.P279 and medical bills Ex.P288 to Ex.P319.

On the contrary, respondents did not lead any evidence and their evidence was concluded.

After hearing counsel for the parties, learned Tribunal, of its own, in exercise of power under Section 165 of the Indian Evidence Act, had

called Dr.Hoshiyar Singh, Medical Officer, Orthopaedic Surgeon, General Hospital, who had inspected the record and provided assistance to the Tribunal. The statement of said doctor was recorded, wherein, he had stated about having examined the medical record produced by the appellant-claimant and also examined the patient. He further stated that the claimant was suffering from chronic Osteomyelitis of left femur (bone infection) and that the medical documents produced on record, relates to the above-sated disease.

It was in this context, considering the evidence on record and taking into consideration various bills, which have been detailed in paragraph No.8 of the report, learned Tribunal considered total of the said bills, which was to the extent of Rs.5,57,170/-.

Perusal of the injury report proved as Ex.P42 reveals about the appellant-claimant to have suffered two grievous injuries. His left femur bone was fractured. Even, he was examined by Medical Officer, called upon by the Tribunal. Also, it was observed by the Tribunal that health of the appellant-claimant was not good and he was feeling trouble while walking and on this account, it was taken that the appellant-claimant is still under treatment, on account of sustaining of injuries, in the accident in question.

Considering the said report and also taking into consideration the kind of evidence, brought on record, it is settled law that the Courts should Award 'just' compensation to the person, who had suffered injuries in a motor vehicular accident. At this juncture, it shall be appropriate to make reference to *Erudhaya Priya vs. State Express Transport Corporation, 2020 ACJ 2159*, wherein, reference was made to the settled principles, set out in *Jagdish Vs. Mohan and others, 2018 (4) SCC 571* and

it was observed as herein given:-

“8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:

- (i) Pain, suffering and trauma resulting from the accident;*
- (ii) Loss of income including future income;*
- (iii) The inability of the victim to lead a normal life together with its amenities;*
- (iv) Medical expenses including those that the victim may be required to undertake in future; and*
- (v) Loss of expectation of life.”*

[emphasis supplied]”

Though, time and again, it has been held that multiplier method was logically sound and legally well established, to quantify the loss of income, as a result of death or permanent disability suffered in the accident, but however, in the case in hand, the disability was assessed by the board of doctors on 01.03.2007, wherein, considering it to be old case of fracture left femur and finding ROM of (L) knee joint reduced by 10% with superficial complication, pain and tenderness at the fracture site and muscle wasting thigh, the disability was assessed as 7%.

However, it is pertinent to mention that it was thereafter, the appellant-claimant's has been found to be a case of chronic Osteomyelitis of left femur (bone infection) and relating to the same, exploration and debridement of left thigh was also done, in the post-Award period. Though, no doctor, as such, has been examined by the appellant, in pursuance of the application for additional evidence, having been allowed, but suffice to consider the statement of Dr.Hoshiyar Singh, wherein, he opined about the

appellant-claimant to be suffering from chronic Osteomyelitis of left femur (bone infection) and that the medical documents proved, relates to this disease.

From the evidence adduced, in the additional evidence, also it stand substantiated that the appellant-claimant suffered fracture left femur upper end in January 2006 and he was treated in the hospital, wherein intermedullary nail was put in his left femur. Later, patient developed infection and passed puss from the stitch side. This rod was removed one year back. Further also, it was opined it be a case of chronic Osteomyelitis. This is the infection, which is curable with prompt and proper treatment, but in some cases, it can become chronic and potentially returning even after treatment.

It is so evident from the evidence brought on record about the said treatment having undergone by the claimant, time and again. Exploration and debridement of left thigh was done. Suffice to consider the discharge summary Ex.P95 of Santokba Durlabhji Memorial Hospital and Research Institute, which states about admission and treatment of the appellant-claimant, in the said hospital and the surgery undergone by him. It was chronic Osteomyelitis case. In the given circumstances, this infection is established to be outcome of the injuries sustained by the appellant-claimant, in the accident in question and this infection re-occurred, even in the post-Award period.

Considering the aforesaid and the bills, which have been proved in evidence, by way of examination of witnesses, which stand duly connected with the appellant-claimant and the kind of treatment undergone by him, the same ought to be taken into consideration.

Though 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 should always make a genuine attempt to help restore the self-dignity of such claimant, by awarding '**just compensation**'. Keeping the same in mind, advertent to the case in hand, it is pertinent to mention that learned Tribunal, while doing 'work on' of the compensation, had though taken into account the various bills, but had granted lumpsum amount, with regard to the expenses incurred on the treatment as well as conveyance and special diet to the extent of Rs.1,00,000/-. However, there ought to be bifurcation of the expenditure incurred on the treatment as well as expenditure incurred for the use of conveyance 'to and fro'. The fact remains that the appellant being the resident of Narnaul, had also undergone treatment from various hospitals including the one situated in Jaipur and therefore, huge amount must have been spent by the appellant on transportation and he must have been put on special diet for healing process. Therefore, these counts have to be considered separately for the assessment of the compensation.

The permanent disability was assessed as 7%, on account of restriction in the movement of the left leg. Considering the same and also taking into consideration the loss of enjoyment of life, the amount granted on this count is **Rs.30,000/-**, which is fair enough. The compensation on the count of 'loss of income', on account of leave without pay for a period of 248 days, has been appropriately awarded as **Rs.50,000/-**. But anyhow, certain counts, have been given amiss and most important of the same is the attendant charges.

Taking into consideration the kind of injuries sustained by the

appellant-claimant, it is quite obvious, he must have been looked after, by his family also, who would have taken care of him by diverting their time from the gainful employment for some period of time, as there was need for ‘assisted’ living. Further also, there was bound to be need for ‘assisted’ living, at least for some period of time in future, till the appellant-claimant, could adept himself to be self-reliant. Thus, the appellant-claimant ought to be compensated on this count.

Besides the aforesaid, it is pertinent to mention that learned Tribunal had not taken into consideration the need for future medical treatment. But anyhow, relating to the same, by virtue of additional evidence, brought on record, medical bills have been proved to the extent of **Rs.5,57,170/-**, which ought to be taken into consideration.

Considering the bills, proved in evidence led before learned Tribunal, the total whereof comes to be Rs.49,609/-, are rounded off as **Rs.50,000/-**.

Considering the duration of the treatment undergone by the appellant-claimant, on account of the injuries sustained in the accident in question and subsequently having faced the chronic infection, he must have passed through a very traumatic state of mind. Considering the same, on the count of ‘pain and suffering’, the compensation awarded by learned Tribunal is also on lesser side and thus, stands enhanced to **Rs.2,00,000/-**.

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

Medical bills	Rs.50,000/- proved before Tribunal + Rs.5,57,170/- proved by virtue of additional evidence Total Rs.6,07,170/-
Loss of enjoyment of life	Rs.30,000/-

Loss of income of 248 days without pay leave	Rs.50,000/-
Attendant Charges	Rs.50,000/-
Transportation	Rs.40,000/-
Special diet	Rs.40,000/-
Pain and suffering	Rs.2,00,000/-
Total	Rs.10,17,170/-

As such, the enhanced compensation, after the deduction of compensation awarded by the Tribunal comes to be **Rs.10,17,170-2,00,000=Rs.8,17,170/-**. On the enhanced amount of the compensation i.e. **Rs.8,17,170/-**, the appellant-claimant 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.

Accordingly, the impugned Award dated 23.05.2008 stands modified, to the extent, as indicated aforesaid. The residue terms of the Award, as ordered by learned Tribunal, shall remain the same.

September 30, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No