

2025:PHHC:118255



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

**FAO-6255-2010 (O&M)  
Reserved on: 07.08.2025  
Decided on: 02.09.2025**

**RAM SWAROOP @ MAHENDER**

**....Appellant**

**VS.**

**JASWANT & ORS.**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**

Present:- Mr. Kuldeep Khandelwal, Advocate  
for the appellant.

None for respondent No.1.

Service qua respondent No. 2 stands dispensed with  
vide order dated 21.05.2013.

Mr. Vinod Chaudhary, Advocate  
for respondent No. 3-Oriental Insurance Co. Ltd.

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**HARKESH MANUJA, J.**

[1]. By way of present appeal, challenge has been laid to an award dated 03.03.2010 passed by the learned Motor Accident Claims Tribunal, Sirsa (*for brevity, "the Tribunal"*), whereby an amount of Rs. 4,04,000/- was awarded as compensation to the appellant/claimant along with interest @ 7.5% per annum.

**Brief Facts**

[2]. Brief facts of the case are that the appellant/claimant along with other co-passengers were travelling from village Dungrana to village Suchan Kotli for

making video film and photography of a marriage party in Jeep bearing registration No. HR-57/1942, being driven by respondent No. 1 (now deceased) while they collided with a camel cart, resulting into the accident in question. The appellant/claimant being the sufferer of the said accident, wherein he sustained multiple grievous injuries, filed a claim petition which was partly allowed by the learned Tribunal vide impugned order dated 03.03.2010 granting a sum of Rs. 4,04,000/- as compensation along with interest @ 7.5% per annum from the date of filing of claim petition, till its realization.

[2.1] With regard to the liabilities, learned Tribunal held that the respondents were liable to pay the compensation amount jointly and severally.

[3]. Learned Tribunal, after appraisal of evidence on record, held that the accident in question was caused by the use of the offending Jeep bearing No.HR-57/1942, which at the relevant time was being driven by respondent No. 1-driver (since deceased), when it collided with a camel cart; and assessed the income of the appellant/claimant @ Rs. 3200/- per month and after deducting 1/3<sup>rd</sup> towards personal expenses, awarded the compensation in the following manner:-

S.No.	Heads of Claim	Amount (in Rs.)
1.	Monthly Income	3200/-
2.	Deduction (1/3 <sup>rd</sup> )	2132/-
3.	Annual Income	25,584/-
4.	Multiplier (15)	3,83,760/-
5.	Grievous Injuries	5,000/-
6.	Medical Expenses	15,000/-
7.	<b>Total</b>	<b>4,03,760/-</b>
8.	<b>Round Off</b>	<b>4,04,000/-</b>

[4]. It is the said award dated 03.03.2010 which has been challenged by way of present appeal.

### **Arguments**

[5]. Learned counsel for the appellant/claimant assailed the aforesaid award while submitting that the compensation assessed by the learned Tribunal was on the lower side. It was further submitted that the appellant/claimant suffered 100% disability in the accident in question and the learned Tribunal erred in assessing the compensation on lower side as no amount was awarded for special diet, future medical expenses, attendant charges and pain and suffering. He also contended that the learned Tribunal also erred while applying 1/3<sup>rd</sup> deduction on account of personal expenses as in the present case, the appellant is alive. Therefore, he prayed that the present appeal be allowed and compensation be enhanced, as per latest law.

[6]. Per contra, learned counsel for the respondent/ Insurance Company, however, vehemently argued on the lines of the award and contended that in the facts and circumstances of the case, the appellant/claimant was rightly compensated and, thus the present appeal was liable to be dismissed.

[7]. I have heard learned counsel for the parties and perused the paper-book of the appeal as well. I find force in the arguments advanced by learned counsel for the appellant/claimant.

### **Discussion**

[8]. Before determining the quantum of compensation to be awarded, it is essential to draw guidance from the principles laid down in similar cases by the Hon'ble Apex Court in **Raj Kumar vs. Ajay Kumar and Ors.** reported as **(2011) 1**

SCC 343, the Court laid down the heads under which compensation is to be awarded for personal injuries.

*“6. The heads under which compensation is awarded in personal injury cases are the following:*

*Pecuniary damages (Special damages)*

- (i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.*
- (ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:*
  - (a) Loss of earning during the period of treatment;*
  - (b) Loss of future earnings on account of permanent disability.*
- (iii) Future medical expenses.*

*Non-pecuniary damages (General Damages)*

- (iv) Damages for pain, suffering and trauma as a consequence of the injuries.*
- (v) Loss of amenities (and/or loss of prospects of marriage).*
- (vi) Loss of expectation of life (shortening of normal longevity).*

*In routine personal injury cases, compensation will be awarded only under heads (i), (ii) (a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, the compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life”.*

### **Loss of Future Income**

[9]. A perusal of the record reveals that the appellant/claimant was 32 years of age at the time of accident and was earning Rs. 3200/- per month while working as a photographer as proved by the appellant/claimant as well as equated

with that of a casual labourer. The Learned Tribunal rightly assessed the income of the appellant/claimant, thus, in the considered opinion of this Court this issue calls for no interference. However, the deduction of 1/3<sup>rd</sup> on account of personal expenses is set aside as in the present case, the appellant/claimant is alive and the principle of deduction is to be applied in case of death caused due the accident.

### **Compensation for Pain and Sufferings**

[10]. For assessing just compensation under the head of pain and suffering, reference may be drawn to the decision of the Hon'ble Supreme Court in **K. Murlidhar vs. R. Subbulakshmi & Anr., 2024 INSC 886**, wherein the Hon'ble Apex Court held that the award of compensation under non-pecuniary heads must be reasonable and commensurate with gravity of the injuries suffered, the extent of disability, the duration of hospitalization, and the mental and physical agony endured by the claimant. Relevant portion of the same is reproduced as under:-

*“15. Keeping in view the above-referred judgments, the injuries suffered, the ‘pain and suffering’ caused, and the life-long nature of the disability afflicted upon the claimant-appellant, and the statement of the Doctor as reproduced above, we find the request of the claimant-appellant to be justified and as such, award Rs. 15,00,000/- under the head ‘pain and suffering’, fully conscious of the fact that the prayer of the claimant-appellant for enhancement of compensation was by a sum of Rs. 10,00,000/-, we find the compensation to be just, fair and reasonable at the amount so awarded.”*

[11]. Further reliance can be made to the judgment of the Hon'ble Apex Court in **Baby Sakshi Greola v. Manzoor Ahmad Simon & Ors., 2025 (I) RCR (Civil) 238**, where the injured victim was a 7 year old female child who had sustained grievous injuries. The learned Tribunal had initially awarded a sum of

Rs. 50,000/- towards pain and suffering. This was enhanced to Rs. 12,00,000/- by the High Court, and ultimately, the Hon'ble Apex Court further enhanced the compensation to Rs. 15,00,000/-, recognizing the profound physical and emotional trauma suffered by the minor.

[12]. In view of the settled law laid down by the Hon'ble Apex Court in Murlidhar's case (supra) and taking into account the peculiar facts and circumstances of the case, especially when as per the deposition of PW-2, the appellant was operated upon for 'left *hydropnrmothora* and fracture dorsal spine'. Furthermore, upon examination of appellant by PW-3, Dr. Hanuman Parshad, along with the report of the duly constituted Medical Board on 17.11.2008, it was found that the injured had '*Post Traumatic Paraplegia*'. As per PW-3, such injury is permanent in nature and the appellant would not be able to pass urine, faecal matter or even stand without assistance, therefore, this Court is of the opinion that an amount of Rs. 15,00,000/- is just and fair compensation to be awarded under the head of pain and suffering.

### Attendant Charges

[13]. So far as attendant charges are concerned, the Hon'ble Apex Court in Kajal's case (supra) held that to determine the attendant charges, Multiplier system should be applied. Relevant paragraph of the aforesaid judgment is culled out hereunder:-

*“22. The attendant charges have been awarded by the High Court at the rate of Rs. 2,500 per month for 44 years, which works out to Rs. 13,20,000. Unfortunately, this system is not a proper system. Multiplier system is used to balance out various factors. When compensation is awarded in lump sum, various facts are taken into consideration. When compensation is paid in*

*lump sum, this Court has always followed the multiplier system. The multiplier is system should be followed not only for determining the compensation on account of loss of income but also for determining the attendant charges etc. This system was recognized by this Court in **Gobald Motor Service Ktd. Vs. R.M.K Veluswami, 1958-65 ACJ 179 (SC)**. The multiplier system factors in the inflation rate, the rate of interest payable on the lump sum award, the longevity of the claimant, and also other issues such as the uncertainties of life. Out of all the various alternative methods, the multiplier method has been recognized as the most realistic and reasonable method. It ensures better justice between the parties and thus results in award of 'just compensation' within the meaning of the Act.*

23. xxxx

24. xxxx

25. *Having held so, we are clearly of the view that the basic amount taken for determining attendant charges is very much on the lower side. We must remember that this little girl is severely suffering from incontinence meaning that she does not have control over her bodily functions like passing urine and faeces. As she grows old, she will not be able to handle her periods. She requires an attendant virtually 24 hours a day. She requires an attendant who though may not be medically trained but must be capable of handling a child who is bedridden. She would require an attendant who would ensure that she does not suffer from bed sores. The claimant has placed before us a notification of the State of Haryana of the year 2010, wherein the wages for skilled labourer is L 4,846/- per month. We, therefore, assess the cost of one attendant at L 5,000/- and she will require two attendants which works out to L 10,000/- per month, which comes to L 1,20,000/- per annum, and using the multiplier of 18 it works out to L 21,60,000/- for attendant charges for her entire life. This takes care of all the pecuniary damages."*

[14]. Taking into consideration the ratio laid down in the aforesaid judgment and the peculiar facts and circumstances of the present case including the extent of disability and the foreseeable requirement of life long assistance, it would be just, fair and reasonable to award a lump sum amount of Rs. 10,80,000/- towards attendant charges as a pragmatic and compensatory measure.

### **Future Medical Treatment**

[15]. As has been referred to hereinabove, on account of injuries and the medical condition of the appellant, he would have to be under the supervision of a full-time skilled attendant. Further, Dr. Hanuman Parshad (PW-3) has proved disability certificate that shows 100% disability of the appellant/claimant. He has also opined that the appellant/claimant has post traumatic paraplegia and was permanent in nature due to which he will not be able to perform his daily routine activities. Faced with such a situation, the family of appellant/claimant must be financially equipped to deal with the medical conditions, current and potential. It would, therefore, be appropriate to grant compensation under this head to Rs. 5,00,000/-.

### **Conclusion**

[16]. In view of the discussion made herein above, the present appeal is allowed and the award dated 03.03.2010 is modified accordingly. The appellant/claimant is held entitled for grant of compensation in the following manner:-

<b>S.No.</b>	<b>Heads of Claim</b>	<b>Amount (in Rs.)</b>
1.	Monthly Income	3,200/-
2.	Future Prospects (40% of 3200)	1,280/-

3.	Annul Income (4480 x 12)	53,760/-
4.	Loss of Future earning 100%	53,760/-
5.	Multiplier	16
6.	Loss of future earning per annum (53,760 x 16)	8,60,160/-
7.	Medical Expenses and Future medical expenses	5,00,000/-
8.	Pain and suffering	15,00,000/-
9.	Transportation Charges	50,000/-
10.	Attendant Charges	10,80,000/-
11.	Special diet	1,00,000/-
12.	<b>Total Compensation</b>	<b>40,90,160/-</b>
13.	<b>Amount Awarded by the Tribunal</b>	<b>4,04,000/-</b>
14.	<b>Enhanced Compensation</b>	<b>36,86,160/-</b>

[17]. The grant of compensation @ 7.5% per annum is not just in view of the facts and circumstances of the present case, rather as per the observation made by the Hon'ble Supreme Court in case of *Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513* approved in a subsequent judgment passed in the case of *Puttamma and others Vs. K.L. Naryana Reddy and another, 2014 (1) RCR (Civil) 443*, the interest is enhanced to 9% on the amount of compensation awarded to the claimant from the date of

institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimant/appellant shall be deducted from the enhanced compensation.

[18]. Accordingly, the appeal for enhancement filed at the instance of claimant/appellant is disposed of in view of the aforesaid modification of the award passed by the learned Tribunal.

[19]. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(HARKESH MANUJA)**  
**JUDGE**

**September 02, 2025**  
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**Whether speaking/reasoned: Yes/No**  
**Whether reportable: Yes/No**