



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

106

FAO-4365-2017 (O&M)

Date of Decision : 05.03.2025

KAPIL CHOPRA AND ANR

.... Appellants

VERSUS

SURJIT SINGH AND ORS.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rakesh Chopra, Advocate and
Mr. Jashan Chopra, Advocate for the appellants.

Mr. Ishan Cooner, Advocate for respondent No.1.

Mr. D.P. Gupta, Advocate for respondent No.3.

ALKA SARIN, J. (ORAL)

1. Present appeal has been preferred by the claimant-appellants impugning the award dated 06.01.2016 passed by the Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'the Tribunal') whereby an amount of ₹19,87,662 had been awarded in favour of claimant-appellant No.1 and claim petition qua claimant-appellant No.2 was dismissed.

2. Since the facts, as recorded in the impugned award passed by the Tribunal, are not in dispute, the same are not being reproduced herein for the sake of brevity.

3. At the outset learned counsel for the claimant-appellants states that he does not wish to press the present appeal qua claimant-appellant No.2.

4. In view thereof, the present appeal is dismissed as not pressed qua claimant-appellant No.2.

5. The Tribunal in the present case had awarded the following compensation in favour of claimant-appellant No.1 :

Sr. No.	Heads	Compensation Awarded
1.	Annual income	₹1,20,000
2.	Multiplier '14'	[₹1,20,000 x 14] = ₹16,80,000
3.	Medical bills/expenses	₹2,07,662
4.	Pain, suffering and trauma	₹50,000
5.	Loss of amenities	₹50,000
	Total Compensation	₹19,87,662
	Interest	@ 9% per annum

6. Learned counsel for claimant-appellant No.1 would contend that claimant-appellant No.1 had suffered serious injuries in the accident in question rendering him disabled to the extent of 100% and that the compensation awarded by the Tribunal under the pecuniary and non-pecuniary heads is on the lower side and is not in accordance with the law laid down by the Hon'ble Supreme Court in **Raj Kumar vs. Ajay Kumar [(2011) 1 SCC 343]**; **Jagdish vs. Mohan & Ors. [2018 (2) RCR (Civil) 308]** and **Pappu Deo Yadav vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]**. Learned counsel for claimant-appellant No.1 has further relied upon a judgment of the Hon'ble Supreme Court in the case of **Abhimanyu Partap Singh vs. Namita Sekhon & Anr. [2022 (3) R.C.R. (Civil) 557]** to contend that the attendant charges ought to have been granted for life keeping in view the extent of disability suffered by claimant-appellant No.1

herein. Learned counsel has thus prayed for enhancing the compensation on all the heads.

7. *Per contra*, learned counsel for respondent No.3-Insurance Company has vehemently contended that sufficient amount of compensation had already been awarded and there is no scope of any further enhancement.

8. Heard.

9. In the present case, Dr. Rajesh Chhabara, Assistant Professor, Department of Neurosurgery, PGI, Chandigarh and Member of the Board consisting of Chairman and Convener was examined as CW-1, who testified that claimant-appellant No.1 herein was aged about 43 years at the time of accident and due to the accident in question he had suffered 100% disability. This witness further proved on record the disability certificate of claimant-appellant No.1 as Ex.C-1. It has further been testified by this witness that the disability suffered by claimant-appellant No.1 is qua the whole body and is permanent in nature.

10. In the case of **Raj Kumar** (supra) the Hon'ble Supreme Court had held as under :

“General principles relating to compensation in injury cases :

5. *The provision of the Motor Vehicles Act, 1988 (‘the Act’ for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object*

of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C. K. Subramonia Iyer vs. T. Kunhikuttan Nair - AIR 1970 Supreme Court 376, R.D. Hattangadi vs. Pest Control (India) Ltd. (1995) 1 SCC 551 and Baker vs. Willoughby, (1970 AC 467).

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

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalisation, 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, that 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.”

Then again in the case of **Jagdish** (supra) their Lordships of the Apex Court have held as under :

“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.”*

In Sri Laxman @ Laxman Mourya v. Divisional Manager, Oriental Insurance Co. Ltd. [2012(1) RCR (Civil) 509: 2011 (12) SCALE 658] the Court held :

“The ratio of the above noted judgments is that if the victim of an accident suffers permanent or temporary disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the pain, suffering and

trauma caused due to accident, loss of earnings and victim's inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident."

In K. Suresh v. New India Assurance Company Ltd. 2013(1) R.C.R.(Civil) 312: (2012)12 SCC 274, this Court adverted to the earlier judgments in Ramesh Chandra v. Randhir Singh (1990) 3 SCC 723 and B. Kothandapani v. Tamil Nadu State Transport Corporation Limited 2011(3) R.C.R.(Civil) 206 : (2011) 6 SCC 420. The Court held that compensation can be granted for disability as well as for loss of future earnings for the first head relates to the impairment of a person's capacity while the other relates to the sphere of pain and suffering and loss of enjoyment of life by the person himself.

In Govind Yadav v. New India Insurance Company Limited, 2011(4) R.C.R.(Civil) 817 : (2011) 10 SCC 683, this Court adverted to the earlier decisions in R.D. Hattangadi v. Pest Control (India) (Pvt) Ltd. (1995) 1 SCC 551, Nizam's Institute of Medical Sciences v. Prasanth S. Dhananka 2009(3) R.C.R.(Civil) 174 : (2009) 6 SCC 1, Reshma Kumari v. Madam Mohan, 2009(3) R.C.R.(Civil) 908 : (2009) 13 SCC 422, Arvind

Kumar Mishra v. New India Assurance Company Limited, 2010(4) R.C.R.(Civil) 917 : (2010) 10 SCC 254, and Raj Kumar v. Ajay Kumar, 2011(2) R.C.R.(Civil) 101 : (2011) 1 SCC 343 and held thus:

“18. In our view, the principles laid down in Arvind Kumar Mishra v. New India Assurance Co. Ltd. and Raj Kumar v. Ajay Kumar must be followed by all the Tribunals and the High Courts in determining the quantum of compensation payable to the victims of accident, who are disabled either permanently or temporarily. If the victim of the accident suffers permanent disability, then efforts should always be made to award adequate compensation not only for the physical injury and treatment, but also for the loss of earning and his inability to lead a normal life and enjoy amenities, which he would have enjoyed but for the disability caused due to the accident.” (Id at page 693)”

These principles were reiterated in a judgment of this Court in Subulaxmi v. MD Tamil Nadu State Transport Corporation, 2012(4) R.C.R.(Civil) 945 : Civil Appeal No. 7750 of 2012, decided on 1 November 2012

delivered by one of us, Justice Dipak Misra (as the learned Chief Justice then was).”

11. The Tribunal in the present case had not made any addition towards loss of future prospects. The Hon’ble the Supreme Court in the case of **Pappu Deo Yadav’s** case (supra) has 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.”

12. Thus, claimant-appellant No.1 is entitled to @ 25% addition towards loss of future prospects. Since there is no challenge to the income @ ₹10,000 per month and the multiplier of ‘14’ as applied by the Tribunal, the same are accordingly maintained.

13. Vide the impugned award no amount had been awarded by the Tribunal towards attendant charges. The Supreme Court in the case of **Abhimanyu Partap Singh** (*supra*) had assessed the attendant charges for

the injured who was totally confined to bed as ₹5,000 per month for whole life, calculating the compensation applying a multiplier of '18'. Keeping in view the nature of the disability and the condition of claimant-appellant No.1 after the accident, he would require two attendants a day and the minimum wages prevailing at the time of the accident i.e in the year 2012 were ₹5,200 per month. Hence, claimant-appellant No.1, who is totally confined to bed, would be entitled to an amount of ₹5,200 per month each for two attendants i.e. ₹17,47,200 [$₹5,200 \times 2 \times 12 \times 14$ (multiplier)] towards attendant charges.

14. The amount of ₹50,000 awarded under the head pain, suffering and trauma is enhanced to ₹10,00,000. The amount of ₹50,000 awarded towards loss of amenities is enhanced to ₹2,00,000. The Tribunal had not awarded any amount towards special diet and transportation charges. This Court deems it appropriate to award an amount of ₹2,00,000 towards special diet and ₹1,50,000 towards transportation charges. The Tribunal had not awarded any amount towards future medical expenses. Keeping in view the condition and the disability of claimant-appellant No.1, he would require medical treatment for the rest of his life and therefore this Court deems it appropriate to award an amount of ₹10,00,000 towards future medical expenses. The medical expenses of ₹2,07,662 as awarded by the Tribunal are maintained.

15. Accordingly, the reworked compensation qua claimant-appellant No.1 is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly income	₹10,000
2	Annual Income	[₹10,000 x 12] = ₹1,20,000
3	Future prospects @ 25%	[₹1,20,000 + 30,000] = ₹1,50,000
4	Loss of income after applying multiplier '14'	[₹1,50,000 x 14] = ₹21,00,000
5	Pain and suffering	₹10,00,000
6	Special Diet	₹2,00,000
7	Transportation charges	₹1,50,000
8	Loss of Amenities of life	₹2,00,000
9	Future medical expenses	₹10,00,000
10	Attendant Charges	[₹5,200 x 2 x 12 x 14] = ₹17,47,200
11	Medical Bills	₹2,07,662
12	Total Compensation	₹66,04,862

16. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 9% per annum from the date of filing of the claim petition till the realization of the entire amount. However, claimant-appellant No.1 shall not be entitled to any interest for the period of delay in filing the present appeal.

17. In view of the above discussion, the impugned award qua the claimant-appellant No.1 is modified and the appeal qua him stands allowed. Pending applications, if any, also stand disposed off.

05.03.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No