



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

268

**FAO-3280-2022 (O&M)
Date of Decision : 03.04.2025**

RIYAZUDDIN

.... Appellant

VERSUS

IQBAL SINGH AND ORS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Digvijay, Advocate for
Mr. Ashish Gupta, Advocate
for the appellant.

None for respondents No.1 and 2 despite service.

Mr. Lalit Garg, Advocate
for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as 'the Tribunal') vide award dated 22.04.2022.
2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.
3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Hospitalization/Medical bills	₹34,578
2.	Loss of future income due to permanent disability	₹9,18,000
3.	Loss of amenities of life/prospects of marriage	₹1,00,000
4.	Pain and suffering	₹60,000
5.	Transportation	₹15,000
6.	Special diet	₹15,000
	Total Compensation	₹11,42,578
	Interest	@ 7.5% per annum

4. Learned counsel for the claimant-appellant (injured) would contend that the claimant-appellant was working as a Senior Assistant in Flipkart Company, Binola through Manpower Supply Company, namely, M/s Adhaan Solution Pvt. Ltd. and was getting a salary of ₹8,500 per month. It is further the contention of the learned counsel that on account of the accident, the claimant-appellant sustained multiple injuries including fractures on his right thigh, right leg and dislocation of his right shoulder. The claimant-appellant also suffered acute subarachnoid hemorrhage in right frontoparietal contralateral sulcus and that he was taken to SHKM Government Medical College and Hospital, Nalhar from where he was referred to Safdarjung Hospital, Delhi. The Medical Board had assessed his disability to the extent of 90%. However, the Tribunal while awarding the compensation, had assessed the bodily disability of the claimant-appellant @ 50%. It is further the contention that the amounts awarded under the non-pecuniary heads i.e. loss of amenities of life/marriage prospects, pain and suffering,

transportation and special diet, are on the lower side and that no amount had been awarded towards attendant charges.

5. *Per contra*, learned counsel for respondent No.3-Insurance Company would contend that the disability of 90% is on account of complete paralysis of right upper limb and hence the bodily disability had rightly been assessed as 50% by the Tribunal. It is further the contention that sufficient amount had already been awarded as compensation in the present case and that there is no scope of any enhancement.

6. Heard.

7. In the present case Dr. Sidharth Goel, SHKM Government Medical College and Hospital, Nalhar had stepped into the witness box as PW-2 and had stated that as per the disability certificate, the Medical Board had assessed the claimant-appellant (injured) to be suffering from permanent functional disability of 90% on account of complete paralysis of right upper limb. It has further been stated by the said witness that the claimant-appellant remained admitted in the Hospital on 15.06.2018 and again on 17.06.2018 to 29.06.2018 and was operated upon on 24.06.2018. Further, the said witness deposed as under :

'According to the exhibits already on Court file, patient was treated in a hospital by me on 15.06.2018 and again on 17.06.2018 to 29.06.2018 for fixtatore of right feamor and tibia. Patient had sustained fracture shaft of feamor right side, open (compound great three A) fracture both bone right leg and brachial plexus injury right side as

per Ex.P-6. Patient had sustained head injury on right frontoparietal contrical sulct and was referred to higher institute for treatment. Original disability certificate is Ex.P-8. Patient had complete loss of limb’.

A perusal of the above statement reveals that on account of multiple injuries, the claimant-appellant had suffered fixtatore of right feamor and tibia, fracture shaft of feamor right side, fracture of both bone right leg and brachial plexus injury on right side and had to be referred to Safdarjung Hospital, Delhi. Due to the paralysis suffered by him of the right upper limb, the claimant-appellant is unable to use his right arm which is a dominant arm. It has come in the cross-examination of the said Doctor (PW-2) that the claimant-appellant will have difficulty and inability to work with his right arm in future as well. The nature of work would definitely be affected because of the permanent disability suffered by the claimant-appellant. In view thereof, this Court deems it appropriate to assess the bodily disability as 70%.

8. Since there is no challenge laid to the income of ₹8,500 as assessed, multiplier of ‘18’ as applied and the medical bills amounting to ₹34,578 as awarded by the Tribunal, the same are maintained.

9. Further no addition was made towards future prospects by the Tribunal. The Hon’ble the Supreme Court in the case of **Pappu Deo Yadav vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]** 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.”

Accordingly, in view of the law laid down in **Pappu Deo Yadav’s** case (supra), the claimant-appellant is entitled to @ 40% addition towards loss of future prospects. The claimant-appellant remained admitted in hospital initially on 15.06.2018 and thereafter from 17.06.2018 to 29.06.2018 and was operated upon on 24.06.2018. During the said period, the claimant-appellant would have certainly required an attendant. The minimum wages prevailing at the time of the accident i.e. in the year 2018 were ₹8,541 per month. Accordingly, the claimant-appellant is held entitled to attendant charges for a period of one month i.e. ₹8,541.

10. So far as the amounts awarded under the non-pecuniary heads i.e. loss of amenities of life/marriage prospects, pain and suffering, transportation and special diet, are concerned, this Court is of the opinion that the same are on the lower side. In the case of **Raj Kumar vs. Ajay Kumar [(2011) 1 SCC 343]** 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 vs. Mohan & Ors. [2018 (2)**

RCR (Civil) 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.”*

11. Accordingly, in view of the law laid down in the case of **Raj Kumar** (supra) and **Jagdish** (supra), the amount of ₹60,000 awarded under the head pain and suffering is enhanced to ₹2,50,000; the amount of ₹1,00,000 awarded towards loss of amenities/marriage prospects is enhanced to ₹5,00,000 and the amounts of ₹15,000 each awarded towards transportation and special diet are enhanced to ₹25,000 each.

12. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹8,500
2.	Annual income	[₹8,500 x 12] = ₹1,02,000
3.	Loss of annual income on account of 70% bodily disability	[₹1,02,000 x 70%] = ₹71,400
4.	Future prospects @ 40%	[₹71,400 + ₹28,560] = ₹99,960
5.	Multiplier '18'	[₹99,960 x 18] = ₹17,99,280
6.	Loss of amenities of life/prospects of marriage	₹5,00,000
7.	Pain and suffering	₹2,50,000
8.	Transportation	₹25,000
9.	Special diet	₹25,000
10.	Attendant charges	₹8,541
11.	Medical bills	₹34,578
	Total compensation	₹26,42,399

13. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

14. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors.** [2025 INSC 361], Civil Appeal No.4299 of 2025 arising out of SLP (C) No.4484 of 2020 decided

on 18.03.2025], after calculation of the enhanced amount, the same be transferred by respondent No.3-Insurance Company in the bank account of the claimant-appellant within a period of six weeks from today. The particulars of the bank account along with the requisite documents in support thereof shall be furnished by the claimant-appellant to respondent No.3-Insurance company within a period of two weeks from today and needful shall be done by respondent No.3-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

15. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

03.04.2025
Aman Jain

(ALKA SARIN)
JUDGE

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