



FAO NO.4610 OF 2008 (O&M)

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

FAO No.4610 of 2008 (O&M)

ALAM

...Appellant

Vs

RAJASTHAN STATE ROAD TRANSPORT COPR. & ANR....Respondents

1	The date when the judgment was reserved	16.03.2026
2	The date when the judgment is pronounced	27.03.2026
3	The date when the judgment is uploaded on the website	27.03.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable

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

Present: Mr. Kunal Phogat, Advocate for
Mr. Ashish Gupta, Advocate
for the appellant.

None for the respondents.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 07.05.2008, passed by the learned Motor Accident Claims Tribunal, Gurgaon (for brevity, "the Tribunal"), whereby an amount of Rs.95,000/- was awarded as compensation to the appellant/claimant along with interest @ 7.5% per annum from the date of filing of claim petition till its actual realization, on account of injuries suffered by him in a motor vehicular accident, which occurred on 22.11.2005.

FACTS

[2]. The appellant, being injured filed a claim petition before the learned Tribunal praying for grant of compensation on account of injuries suffered by him

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in a motor vehicular accident which took place on 22.11.2005 while alleging rash and negligent driving of vehicle bearing registration No.RJ-05-P-1281 being driven by respondent No. 2/driver.

[3]. After going through the claim petition and evaluating the evidence led by both the parties, learned Tribunal vide award dated 07.05.2008; arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No. 2 and awarded Rs.95,000/- as compensation.

[4]. Being aggrieved of the aforesaid award dated 07.05.2008; the present appeal came to be preferred by the appellant/claimant for enhancement of compensation. Facts as specified in the claim petition and the issue regarding negligence of the driver been recorded in favour of the appellant/claimant by the learned Tribunal being not in dispute, therefore, for the sake of brevity, those are not being repeated here.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT/CLAIMANT.

[5]. Learned counsel for the appellant/claimant assailed the impugned award on the ground that the compensation granted by the learned Tribunal was grossly inadequate and disproportionate to the nature and extent of injuries sustained. It was contended that the ld. Tribunal failed to apply the settled principles governing award of just compensation, particularly inasmuch as the appellant suffered 25% permanent disability due to restricted movement of the left shoulder arising from a malunited clavicle fracture, along with head injury resulting in recurrent loss of consciousness and mental impairment. Further, it was contended that the sum of Rs.50,000/- awarded towards disability was wholly insufficient and that the ld. Tribunal erred in not awarding appropriate compensation under the heads of medical expenses, loss of income, and future



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earning capacity by applying a suitable multiplier; accordingly, enhancement of compensation to Rs.10,00,000/- was prayed for.

[6]. Since, there is no representation on behalf of the respondents despite service, however considering the fact that, as per the findings recorded by the learned Tribunal, the respondents have been held jointly and severally liable to pay the compensation, the matter was heard on merits.

[7]. I have heard learned counsel for the appellant and perused the paper-book of the case. I find force in the arguments advanced by learned Counsel for the appellant.

[8]. Before determining the quantum of compensation, 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)



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(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 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”.

ON THE ASPECT OF ENHANCEMENT OF COMPENSATION ASSESSMENT UNDER “LOSS OF INCOME”

[9]. In the present case, as per the claim petition, the claimant/appellant was about 40 years of age at the time of the accident and was stated to be working as a labourer earning approximately ₹3,000/- per month; however, no cogent oral or documentary evidence was adduced in support thereof. Nonetheless, it stands duly established that the appellant sustained grievous injuries in the accident, remained hospitalized, and was incapacitated for a considerable period, thereby losing his earning capacity during such time. In these circumstances, mere absence of documentary proof cannot be a ground to deny just compensation, particularly when the nature of injuries and period of treatment clearly indicate loss of income. Furthermore, the nature of proceedings in Motor Accident Claims, being summary in nature, evidence in *stricto sensu* is not required. In this regard, the Hon’ble Supreme Court in case of **“Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors.”**, reported as **(2022) 1 SCC 198**, held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork



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is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

“.....In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month.....”

[9.1]. The aforementioned view was reiterated by the Hon’ble Supreme Court in the case of **Jakir Hussein v. Sabir and others** reported as **2015(2) R.C.R (Civil)141**. Relevant excerpt is reproduced herein below:

"the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage, as per the State government notification alone may at times fail to meet the requirements that are needed to maintain the basic quality of life since it is not inclusive of factors of cost of living index."

[10]. Accordingly, keeping in view the minimum wages prevailing in Haryana in 2005, and considering the rising cost of living and the likelihood of additional earnings beyond bare minimum wages even for unskilled labour in the unorganized sector, this Court deems it just and appropriate to assess the monthly income of the claimant at Rs 4,000/- (i.e. Rs.133.33/- per day).

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[11]. A perusal of the record reveals that immediately after the accident the appellant/claimant was taken to CHC, Ferozepur Jhirka, thereafter to AI Afia Hospital, Mandikhera and was subsequently shifted to Solanki Hospital, Alwar where he remained admitted from 22.11.2005 to 23.11.2005 (Ex.P10). He was thereafter referred to SMS Medical College and Hospital, Jaipur where he remained admitted from 24.11.2005 to 30.11.2005 (Ex. P-20) i.e. 7 days. Accordingly, the loss of income suffered by him during the said period is assessed at Rs.933.33/- (Rs. 133.33 x 7), which is rounded off to Rs. 935/-.

[12]. As per the testimony of Dr. Santosh Jain, Medical Officer in CHC, Ferozepur Jhirka (PW-6), who had medico legally examined the appellant/claimant on 22.11.2005, found following injuries vide MLR (Ex. PW6/A):

1. Lacerated wound of size 2cmx $\frac{1}{2}$ x $\frac{1}{2}$ cm on the lateral angle of right eye lid. Fresh bleeding from the wound was present.
2. Bleeding from both nostrils at the time of examination
3. Complaint of chest pain. Advised X-ray
4. Bleeding from the left ear.”

[12.1]. Further, Dr. Krishan Kumar, Medical Officer, CHC, Ferozepur Jhirka(PW-2), conducted X-ray examination of the claimant and found fracture of left clavicle of the claimant.

[12.2]. As per the discharge summary (Ex. P20) issued by SMS Medical College and Hospital, Jaipur the appellant/claimant was diagnosed with chest injury and severe head injury with haemorrhagic contusion (right temporo-parietal region) causing midline shift.

[12.3]. In view of the aforesaid injuries and the fact that the accident occurred on 22.11.2005, it can reasonably be inferred that the appellant/claimant remained



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bed-ridden for a period of about six months, resulting in loss of earning capacity during that period. Accordingly, the loss of income is conservatively assessed at ₹24,000/- (₹4,000 × 6).

[12.4]. Even further, Dr Mohd. Farrukh, Orthopaedic Surgeon, G.H., Mandikhera, Mewat (PW-7) deposed that on 13.12.2006, the claimant was examined by a medical board which assessed 25% permanent disability due to moderate to severe restriction of movement of the left shoulder following mal-united fracture of the left clavicle. The disability certificate (Ex.P-18) has been placed on record. Considering that the disability pertains to a particular limb, and having regard to the nature of work performed by the claimant, the resulting restriction on his mobility and earning capacity, and the settled principle that functional disability may vary from medical disability depending upon the avocation of the injured, it would be just and appropriate to assess the functional disability at 20% for the purpose of computing future loss of income.

[12.5]. Additionally, the Hon'ble Supreme Court, in the case of "Pappu Deo Yadav v. Naresh Kumar" reported as 2020 INSC 553 held that in cases where a claimant suffers disability due to a motor vehicle accident, compensation may be awarded not only for the future loss of income but also towards future prospects. In the present case, as per the claim petition, the claimant/appellant at the time of accident was 40 years of age, the same was even corroborated from the copy of ration card brought on record. The computation of future prospects is to be done as per the law laid down by a Constitution Bench of the Hon'ble Supreme Court in "National Insurance Co. Ltd. v. Pranay Sethi" reported as (2017) 16 SCC 680 para no. 59.3, which records the conclusion in this regard, reads as under:-

"59.3 While determining income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased



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had a permanent job and was below the age of 40 years should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should read as actual salary less tax.”

[12.6]. In view of the above discussion, the appellant/claimant in addition to the loss of future earnings, shall also be entitled to compensation for loss of future prospects @ 30%. Therefore, the income of the appellant/claimant after adding future prospects be taken as Rs. 5200/- (4,000 + 1,200) per month for the purpose of calculation of compensation. Accordingly, this Court finds that the compensation payable for the functional disability to the extent of 20% is assessed @ Rs.1,87,200/- (5,200 x 12 x 15 x 20/100).

ASSESSMENT UNDER “MEDICAL EXPENSES/HOSPITALIZATION

[13]. In the present case, the appellant/claimant suffered permanent disability to the extent of 25%, as established from the disability certificate proved on record as Ex. P18 and also from examination-in-chief of Dr Mohd Farrukh (PW-7). Further Hamid Hussain, son of claimant/appellant while deposing as PW-5, categorically stated that approximately ₹60,000/- was incurred towards treatment of his father, and in support thereof proved medical bills (Ex. P11 to Ex.P16, Ex.P23, Ex.P25 to Ex.P27, Ex.P30 and Ex.P31 to Ex.P53). The learned Tribunal, upon noticing certain discrepancies in some of the bills, restricted the compensation under this head to ₹20,000/-. However, such reduction appears to be unduly restrictive, particularly when the factum of treatment and expenditure stands duly established on record. It is well settled that in cases of injury, a pragmatic approach is to be adopted while assessing medical expenses, as a claimant cannot be expected to preserve each and every bill during the course of treatment and recovery. Considering the nature of injuries, the treatment



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undertaken, and the likelihood of incidental and follow-up expenses, the compensation awarded by the Tribunal warrants reassessment. Accordingly, a sum of ₹60,000/- is held to be just and reasonable under this head.

ON THE ASPECT OF PAIN AND SUFFERINGS

[14]. For assessing just compensation under the head of pain and sufferings, reference may be drawn to the decision of the Hon'ble Supreme Court in **K. Murlidhar vs. R. Subbulakshmi &Anr., 2024 INSC 886**, wherein it was 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.”

[15]. In the light of the settled legal position enunciated by the Hon'ble Supreme Court in **Muralidhar's case (supra)**, and having due regard to the peculiar facts and circumstances of the present case, it stands duly established from the documentary evidence on record that the appellant/claimant sustained grievous injuries including a fracture on the left clavicle(Ex. P9 X-ray report), chest injury and severe head injury with haemorrhagic contusion (right temporo-parietal region) causing midline shift (Ex.P-20 Discharge summary of SMS Medical



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College and Hospital Jaipur). Even further, Dr. Mohd. Farrukh, Orthopaedic Surgeon, G.H., Mandikhera, Mewat (PW-7) proved on record disability certificate (Ex.P-18) as per which appellant/ claimant was found to be having 25% permanent disability. Thus, in the humble opinion of this Court, an amount of Rs.4,00,000/- would constitute just and reasonable compensation under the head of pain and suffering.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

[16]. In the present case, considering the nature of injuries suffered by the claimant/appellant, the period of immobilization/bed-rest (i.e. 6 months approximately) and the requirement of post-operative care, it is evident that the claimant would have incurred substantial expenditure towards special diet, conveyance, and attendant charges. However, the learned Tribunal has failed to award just and reasonable compensation under these heads. Accordingly, compensation under the aforesaid heads is reassessed and enhanced to a consolidated sum of ₹1,00,000/-.

CONCLUSION

[17]. In view of what has been discussed hereinabove, the appellant/claimant shall be entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Loss of Income (Rs.935+ Rs. 24,000 + Rs. 1,87,200)	Rs. 2,12,135/-
2.	Medical Expenses/Hospitalization	Rs. 60,000/-
3.	Compensation under other pecuniary head	Rs. 1,00,000/-



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4.	Compensation under pain and sufferings	Rs. 4,00,000/-
	Total Compensation	Rs. 7,72,135/-
	Amount Awarded by the Tribunal	Rs. 95,000/-
	Enhanced Amount	Rs. 6,77,135/-

[18]. The grant of interest @ 7.5% per annum is not equitable and just in view of the observations made by the Hon'ble Supreme Court in "Smt. Supe Dei and others vs. National Insurance Company Limited and other, reported as (2009) (4) SCC 513 approved in a subsequent judgment titled as "Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443, thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimant from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

[19]. Accordingly, appeal filed at the instance of appellants/claimants is disposed of with the aforesaid modification of the award passed by the learned Tribunal. The liability to satisfy the award shall remain the same as determined by the learned Tribunal..

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

(HARKESH MANUJA)
JUDGE

March 27, 2026

Atik

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No