IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.2001 of 2024 (O&M)

SANJIV KUMAR **...Appellant**

Vs

KRISHAN KUMAR AND ORS. **...Respondents**

1	The date when the judgment was reserved	21.04.2026
2	The date when the judgment is pronounced	02.06.2026
3	The date when the judgment is uploaded on the website	02.06.2026
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. Shiv Kumar Rana, Advocate
for the appellant.

Mr. Sanjiv Kodan, Advocate
for respondent No.3-Insurance Company.

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HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to the Award dated 31.01.2024 passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, "the Tribunal"), whereby compensation to the tune of Rs.5,54,017/- was awarded in favour of the appellant along with interest @ 7% per annum from the date of filing of claim petition till its realization on account of injuries suffered by him in a motor vehicular accident.

2. As sole issue for determination in present appeals is confined to quantum of compensation awarded by the Tribunal, a detailed narration of facts of the case is not reproduced herein for the sake of brevity.

ARGUMENTS ON BHELAF OF LEARNED COUNSEL FOR THE APPELLANT/CLAIMANT

3. Learned counsel for the appellant contended that the claimant remained admitted in Swastik Hospital, Karnal from 20.08.2020 to 08.09.2020; underwent major neurosurgical intervention; remained in coma for a considerable period; one portion of skull bone was removed and preserved in the abdominal region and was required to be re-fixed through a future surgery. It was argued that despite such grave injuries, the Tribunal awarded a meager amount of ₹60,000/- under all non-pecuniary heads collectively and further awarded inadequate amounts towards attendant charges, special diet and future treatment.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No.3/INSURANCE COMPANY.

4. Per contra, learned counsel representing the respondent No. 3/Insurance Company, neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts and circumstances of the present case, the compensation assessed by the learned Tribunal called for no interference.

DISCUSSION AND REASONING

5. I have heard learned counsel for the parties and perused the paper-book of the case. I find substance in the arguments advanced by the learned counsel for the appellant/claimant.

6. 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)*
>
> *(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".*

ASSESSMENT UNDER "LOSS OF INCOME"

7. It is the case of the appellant/claimant that he was employed at Narendra Emporium, Pundri besides running his dairy farm. However, no documentary evidence was produced on record to prove the same. The learned Tribunal failed to assess the monthly income of the appellant in order to determine loss of income suffered by him during the period of treatment and recovery. Even in the absence of documentary proof of earnings, the Tribunal ought to have assessed the income of the appellant on the basis of the minimum wages prevalent at the relevant time, particularly when there was no evidence to suggest that he was unemployed. In this situation observations made by the Hon'ble Apex Court in ***"Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors."***, reported as ***(2022) 1 SCC 198,*** to the effect 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 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......"*

7.1. In view of the aforesaid discussion and also while keeping into account the facts and circumstances of the present case, this Court is of the considered opinion that the notional income of the appellant/claimant is assessed @ Rs. 9,450/- per month (Rs. 315 per day). Now, as per the record available the appellant remained hospitalized from 20.08.2020 to 08.09.2020 and continued to undergo treatment thereafter. Thus, the appellant remained hospitalized for a total period of 20 days, and as such loss of income suffered by him during the said period is assessed as Rs. 6,300/- (Rs. 315 x 20). Further, it is evident that the motor vehicular accident occurred on 20.08.2020 and the appellant/claimant suffered serious head injuries requiring neurosurgical intervention. The medical evidence on record reveals that a portion of his skull bone was surgically removed and preserved for subsequent re-fixation. Having regard to the nature and severity of the injuries, the period of hospitalization and the prolonged recovery necessarily associated with such treatment, it would be reasonable to conclude that the appellant remained incapacitated and unable to effectively pursue his vocation for at least 4 months following the accident. Consequently, the loss of income suffered by the appellant deserves to be assessed for a period of 4 months on account of his diminished working capacity during the treatment and recuperation period. Therefore, after considering facts and circumstances of the present case, loss of income for the said period is conservatively assessed @ Rs. 37,800/- (315 x 120). Further, with regard to the claim for compensation under the head of *'loss of future income'*, in the absence of any cogent evidence establishing permanent disability suffered by the appellant/claimant, no amount is liable to be awarded under the said head.

ASSESSMENT UNDER "MEDICAL EXPENSES/HOSPITALIZATION"

8. In the present case, appellant/claimant suffered serious head injuries requiring neurosurgical intervention. The medical evidence on record reveals that a portion of his skull bone was surgically removed and preserved for subsequent re-fixation. Even though the appellant could produce bills amounting to Rs.

4,14,000/- only but keeping in mind the cost factor prevalent at the time of motor vehicular accident and the follow-up treatment besides need of medicines during rehabilitation period, the compensation under this head needs to be reassessed. The aforesaid view finds force from the fact that due to shock and mental agony on account of accident, a person cannot be presumed to be vigilant enough to collect all the bills for claim/reimbursement purposes, thus, compensation under this head is assessed as Rs.7,00,000/-.

ON THE ASPECT OF PAIN AND SUFFERINGS

9. 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."*

9.1 In 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 is evident from the documentary evidence duly proved on record that the appellant/claimant sustained serious head injuries requiring neurosurgical intervention. The medical evidence on record reveals that a portion of his skull bone was surgically removed and preserved for subsequent re-fixation. Thus, this Court is of the opinion that an amount of Rs.3,00,000/- is awarded under the head of pain and sufferings.

9.2 The medical evidence on record clearly establishes that the appellant/claimant sustained grievous head injuries in the motor vehicular accident, necessitating neurosurgical intervention. The treatment records reveal that a portion of his skull bone had to be surgically removed and preserved for subsequent re-fixation, reflecting the grave nature of the trauma suffered by him. Such injuries would not only have caused prolonged pain, suffering and mental agony, but also resulted in facial disfigurement and an adverse impact on his appearance, self-esteem and quality of life. Facial disfigurement is a permanent consequence that the claimant is required to endure throughout his life and, therefore, deserves to be compensated independently. Considering the severity of the injuries, the invasive surgical procedures undertaken and the lasting effect of the facial disfigurement, this Court deems it just and reasonable to award a sum of Rs 2,00,000/- towards facial disfigurement.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

10. In view of the nature of injuries sustained by the appellant/claimant, particularly serious head injuries requiring neurosurgical intervention followed by prolonged post-operative care, it can reasonably be inferred that he remained confined to bed for a period of about 4 months and would have definitely gone for his post-operative care. However, learned Tribunal failed to grant adequate compensation under the head of special diet, conveyance charges and attendant charges. Therefore, compensation granted under these heads is reassessed @ Rs. 4,00,000/.

CONCLUSION

11. 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. 6,300+ Rs. 37,800)	44,100/-
2.	Medical Expenses/Hospitalization	7,00,000/-
3.	Compensation under other pecuniary head	4,00,000/-
4.	Compensation under pain and sufferings	3,00,000/-
5.	Compensation for facial disfigurement	2,00,000/-
	Total Compensation	**16,44,100/-**
	Amount Awarded by the Tribunal	**5,54,017/-**
	Enhanced Compensation	**10,90,083/-**

12. The grant of interest @ 7% 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 re-assessed 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.

13. In view of the aforesaid modification, the present appeal stand disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARKESH MANUJA)
JUDGE

June 02, 2026
Atik

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No