2026:PHHC:136219

(Pronouncement)

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

FAO No. 4168 of 2011 (O&M)

Gurdip Singh

...Appellant

Versus

Hansa Singh and others

...Respondents

1	The date when the judgment was reserved	25.08.2026
2	The date when the judgment is pronounced	22.09.2026
3	The date when the judgment is uploaded on the website	23.09.2026
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

Argued By:- Mr. Rishab Gupta, Advocate
for the appellant.

Mr. Vikas Mohan Gupta, Advocate with
Ms. Tanvi Aggarwal, Advocate
for respondent No. 3-Insurance Company.

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HARKESH MANUJA, J.

By way of the present appeal filed under Section 173 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the claimant-appellant has laid challenge to the award dated 14.01.2011 passed by the learned Motor Accident Claims Tribunal, Bathinda **(hereinafter referred to as 'the Tribunal')**, whereby compensation of Rs. 2,80,210/- was awarded in favour of the appellant. The Tribunal directed the respondents to deposit the awarded amount within a period of two months from the date of the award, failing which the amount of compensation was directed to carry interest @ 9% per annum from the date of filing of the claim petition till realization.

[2] The appellant sought enhancement of compensation on the ground that the learned Tribunal awarded wholly inadequate compensation and failed to assess the claim in accordance with the settled principles governing determination of compensation under Section 166 of the Motor Vehicles Act, 1988.

[3] As sole issue for determination in present appeal 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.

[4] Learned counsel for the appellant submitted that the learned Tribunal discarded the disability certificate on hyper-technical grounds. It was submitted that the certificate was issued by a Medical Officer (Psychiatry) of Civil Hospital, Bathinda; there was no evidence to suggest that the same was false or fabricated and the treating neurosurgeon proved the relevant medical record showing serious head injury. He further submitted that the learned Tribunal itself accepted the mental incapacity of the appellant while permitting the claim petition to be prosecuted through his next friend, but failed to give effect to the same finding while considering the issue of disability. He also contended that the appellant was working as a driver and earning Rs.8,000/- per month; that the disability suffered by him rendered him functionally 100% disabled; and that he was also entitled to compensation towards attendant charges, special diet, conveyance and future treatment. Learned counsel further sought interest @ 18% per annum from the date of accident.

[5] 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.

[6] I have heard learned counsel for the parties and gone through the paper-book.

[7] 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"

[8] As regards income, the appellant claimed that he was working as a driver with New Guru Kashi Bus Service and earning Rs.8,000/- per month. However, no employer or record keeper was examined and no driving licence entitling him to drive a heavy passenger vehicle was produced. On the other hand, the hospital record describes him as a labourer, though the pre-anaesthetic record mentions his occupation as driver.

The recital of occupation made before hospital authorities cannot, by itself, be treated as conclusive proof of income. The appellant was, however, admittedly of working age and was engaged in manual work. 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……"*

[8.1] 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. 4,500/- per month (Rs. 150 per day) as on the date of accident. Now, as per the record available, The appellant was initially taken to Civil Hospital, Maur Mandi and thereafter referred to Dayanand Medical College and Hospital, Ludhiana (for short, 'DMC&H'), where he remained admitted from 29.03.2009 to 21.04.2009 and again from 03.06.2009 to 13.06.2009. He underwent various surgical procedures, including surgery for the head injury and another procedure by the Plastic Surgery Department. Thus, the appellant/claimant remained hospitalized for a total period of 36 days, and as such loss of income suffered by him during the said period is assessed as Rs. 5,400 (Rs. 150 x 36). Further, evidently the motor vehicular accident in the present case took place on 29.03.2009 and the appellant/claimant has not recovered completely and continues to remain dependent upon his wife. This fact also stands substantiated from the disability certificate (Ex.C-28), which records that the appellant/claimant is suffering from mild mental retardation. Even in the absence of substantial locomotor disability, the mental and cognitive deficits suffered by the appellant/claimant have a profound bearing on his ability to lead a normal life and to effectively engage in gainful employment. The nature of such disability, being permanent and debilitating, renders the appellant/claimant incapable of performing his avocation in the manner he did prior to the accident. Accordingly, this Court assesses the functional disability of the appellant/claimant as 75%, as the same is in consonance with the settled principles governing assessment of functional disability vis-à-vis earning capacity. 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.

[8.2] A perusal of record shows that the age of appellant/claimant at the time of accident was 44 years of age. 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 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 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."*

[8.3] 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. 5,850 (4,500 + 1,350) 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 75% is assessed @ Rs. 7,37,100/- (5,850 x 12 x 14 x 75/100).

ASSESSMENT UNDER "MEDICAL EXPENSES/FUTURE MEDICAL EXPENSES/HOSPITALIZATION"

[9] In the present case, the appellant/claimant suffered disability to the extent of 50%, which stands duly established from the disability certificate (Ex.C-28). Furthermore, the appellant/claimant has also proved on record medical bills and receipts as Ex.C1 to Ex.C25, reflecting that an amount of Rs. 1,62,100/- was incurred towards his treatment. He has also proved bills Ex.C-29 to C-152 regarding the purchase of medicines from the chemists at Ludhiana, the amount in respect of which comes to Rs. 62,106/-. However, keeping in mind the cost factor prevalent at the time of motor vehicular accident and the 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, though, total bills proved are for 2,24,206/- yet in the humble opinion of this Court, compensation under this head is assessed as Rs. 2,50,000/-.

ON THE ASPECT OF PAIN AND SUFFERINGS

[10] 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."*

[10.1] 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 grievous injuries, including head injury. Thus, this Court is of the opinion that an amount of Rs. 5,00,000/- is awarded under the head of pain and sufferings.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

[11] In view of the nature of injuries sustained by the appellant/claimant, particularly the head injury followed by prolonged post-operative care, it is evident that the appellant/claimant is still under continuous medical supervision and is necessarily required to undergo regular follow-up and post-operative care. However, the learned Tribunal failed to grant adequate compensation under the heads of special diet, conveyance charges and attendant charges. Accordingly, the compensation under these heads is assessed @ Rs. 5,00,000/-, which is considered just and reasonable in the facts and circumstances of the present case.

CONCLUSION

[12] 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.7,37,100 + Rs. 5,400)	7,42,500/-
2.	Medical Expenses / Hospitalization	2,50,000/-
3.	Compensation under other pecuniary head	5,00,000/-
4.	Compensation under pain and sufferings	5,00,000/-
	Total Compensation	**19,92,500/-**

	Amount Awarded by the Tribunal	**2,80,210/-**
	Enhanced Amount	**17,12,290/-**

[13] In view of the discussion hereinabove, the present appeal is allowed and the compensation awarded by the learned Tribunal is enhanced from **Rs. 2,80,210/- to Rs. 19,92,500/-**. The appellant/claimant shall be entitled to the enhanced compensation of **Rs. 17,12,290/-**, after adjustment of the amount already awarded by the learned Tribunal. The total compensation shall carry **interest @ 9% per annum from the date of filing of the claim petition till realization**. The respondents shall deposit the enhanced amount along with the applicable interest within a period of **two months** from the date of receipt of a certified copy of this judgment. **In case of failure to deposit the amount within the stipulated period, the outstanding amount shall thereafter carry interest @ 12% per annum till realization.** The amount, if any, already deposited by the respondents shall be duly adjusted.

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

September 22, 2026 **(HARKESH MANUJA)**
'dk kamra' **JUDGE**

Whether Speaking / Reasoned :	Yes	No
Whether Reportable :	Yes	No