



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

Date of Decision : 28-11-2025

1. FAO-4001-2009 (O&M)
SUDESHAppellant
VERSUS
AMIT@KALA AND ORS.Respondent(s)

And

2. FAO-3999-2009 (O&M)
SUDESH AND ANR.Appellants
VERSUS
AMIT@KALA AND ORS.Respondent(s)

3. FAO-4000-2009 (O&M)
BALJINDER KUMARAppellant
VERSUS
AMIT@KALA AND ORS.Respondent(s)

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Ashit Malik, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for the respondent No.3-Insurance Company.

HARPREET KAUR JEEWAN, J. (Oral)

1. Present are the bunch of three appeals, the details of which are mentioned in the heading, involving a common question of law in the context of common set of facts and thus, they are being decided by a common order.

2. As per brief facts, on 27.07.2007, Baljinder Kumar along with Rajinder Singh (driver), Ram Kumar and Deepak Kumar (deceased) were travelling in a Maruti Car bearing registration No.HR-34D-0068 (hereinafter referred to as, “the Car”). At about 7:30 p.m. when the car reached near DIMIT College, Kurukshetra, Dhand Road, the car struck in a tractor trolley bearing registration No.UP-22H-1370 as the tractor trolley was being driven in a zig-zag manner in negligent way. The occupants of the car sustained injuries. Initially, they were shifted to LNJP Hospital, Kurukshetra for treatment. Ultimately, Ram Kumar and Deepak Kumar died and Baljinder Kumar sustained multiple injuries.

3. The legal representatives of Ram Kumar and Deepak Kumar (deceased) filed separate claim petitions and injured-Baljinder Singh also filed separate claim against the respondent Nos.1 and 2 (owner and driver of the tractor-trolley); the driver and owner of the car contested the petition and filed joint written statements whereas, the Insurance Company i.e. respondent No.3 filed separate written statement and also contested the claims.

4. Following issues were framed, which are as follows:-

1. *Whether the accident in question resulting into injuries to Baljinder Kumar and death of Deepak Kumar and Ram Kumar took place on 27.08.2007 was because of rash and negligent driving of Amit @ Kala, respondent No.1, while driving tractor-trolley No. UP-22H-1370, if so, its effect?*
OPP.

2. *If issue No.1 is proved in affirmative, whether the claimant of all the three claim petitions are entitled to receive any compensation, if so, how much and from whom? OPP.*
3. *Whether the claim petitions are not maintainable in the present form? OPR.*
4. *Whether respondent No.1 was not having a valid and effective driving licence, if so its effect? UPR-3 and 6*
5. *Relief.”*

5. The Tribunal held that there was contributory negligence on the part of the driver of the car-Rajinder Singh as well and also held the driver of the tractor-trolley responsible for the accident while making following observations:-

“19. XXX....in the case in hand it has come in the cross-examination of PW3 that accident had taken place at 7.30 PM and width of road was 15 to 20 feet. There was no other vehicle except the above tractor-trolley and car on the road. Even PW3 has noticed that tractor-trolley from a distance of 25-30 feet. More so it is matter of common knowledge that the speed of tractor-trolley cannot be more than 40/50 KMPH and even if the driver of tractor-trolley applied brakes all of a sudden, the vehicle which is coming from back side certainly can be controlled by its driver by applied brakes on a road have been 15/20 feet width. At the most this accident can be caused because of contributory negligence on the part of Rajinder Singh while driving car bearing NO. HR-34D-0068 and respondent No.1 Amit while driving tractor-trolley bearing No. UP-12H-1370.

20. Applying the same principle of law in the present state of facts this Tribunal of the considered view that the accident had taken place on 27.07.2007 involving car No. HR-34D-0068 and tractor trolley No. UP-22H-1370 was result of contributory negligence and Rajinder Kumar as well as Amit had contributed equally for causing this accident.”

6. Considering the age, income and other attending circumstances, the legal representatives of Ram Kumar (deceased) were held entitled to the compensation to the tune of Rs.1,97,000/- (Rs. One Lac Ninety Seven Thousand only) (by deducting 50% on account of contributory negligence on account of the driver of the car) whereas; the legal representatives of the deceased-Deepak Kumar were held entitled to compensation to the tune of ₹ 1,00,000/- (₹ One Lac only) by deducting 50% on account of contributory negligence on account of the driver of the car and the injured Baljinder Kumar was held entitled to a sum of ₹ 20,000/- as compensation.

ISSUE OF NEGLIGENCE

7. Learned counsel for the appellant(s) while referring to the facts on record contends that it was at the most a case of composite negligence and not the contributory negligence on the part of the driver of Car and as such, the findings of the Tribunal in this regard are liable to be reversed. Reliance has been placed upon the decision of the Hon'ble Apex Court in ***“A.P.S.R.T.C and anr. Vs. K. Hemalatha and ors., 2008 (3) RCR (Civil) 589.***

8. Learned counsel for the respondent No.3-Insurance Company contends that the driver of the car has not been impleaded as the respondent

by the claimants as such, the insurer of the tractor-trolley cannot be fastened with 100% liability.

9. In order to rebut the aforesaid contentions, learned counsel for the appellants submitted that the claimants cannot be non-suited for non-impleading the owner of both the vehicles/tort feasters. Reliance has been placed upon the decision of Hon'ble Apex Court in **Meenu Mittal and others v. Satish Kumar Meena and others Civil Appeal No.3810 of 2025** decided on 18.03.2025 and **Khenyei v. New India Assurance Company Limited** (2015) 9 Supreme Court cases 273.

10. I have considered the aforesaid submissions and perused the paperbook.

11. As per the facts of the case, neither the injured nor any of the deceased was driving the Car at the time of accident. They were merely travelling in the Car, which was being driven by Rajinder Singh. It is the case of the claimants that Rajinder Singh was driving the car at the time of the accident whereas Ram Kumar, Deepak Kumar since deceased and Baljinder Kumar injured were occupants of the car. Even FIR has been registered on the same lines as pleaded by the claimants and there is no contradictory evidence led by the opposite parties. Baljinder Kumar injured is a sole eye witness. He has appeared as PW3. Though the learned Tribunal has relied upon his testimony and recorded in para. 10 of the award that the tractor trolley was going ahead of the car. The tractor trolley was being driven in a zig-zag manner and the driver of the tractor trolley suddenly applied brakes. The driver of the car was in the process of overtaking the tractor after giving indication of headlights but the tractor trolley suddenly

turned his vehicle towards the middle of the road and applied brakes resulting into the accident. However, despite observing the said eye witness account, the learned Tribunal has held that Rajinder Singh driver of the car was also responsible for contributory negligence.

12. The said findings have been recorded by the Tribunal ignoring the difference in the concept of, “Contributory Negligence” and “Composite Negligence” which has been explained by Hon’ble Apex Court in **A.P.S.R.T.C. and another v. K. Hemalatha and others** 2008 (3) RCR (Civil) 589 whereby it was held that in an accident involving two or more vehicles, where a third party (other than the driver and/or owners of the vehicle involved) claims damages for the loss and injuries, it is a case of composite negligence. The composite negligence has also been explained and the observations of the Hon’ble Apex Court are as under : -

“9. In an accident involving two or more vehicles, where a third party (other than the drivers and/or owners of the vehicles involved) claims damages for loss or injuries, it is said that compensation is payable in respect of the composite negligence of the drivers of those vehicles. But in respect of such an accident, if the claim is by one of the drivers himself for personal injuries, or by the legal heirs of one of the drivers for loss on account of his death, or by the owner of one of the vehicles in respect of damages to his vehicle, then the issue that arises is not about the composite negligence of all the drivers, but about the contributory negligence of the driver concerned.

10. 'Composite negligence' refers to the negligence on the part of two or more persons.

Where a person is injured as a result of negligence on the part of two or more wrong doers, it is said that the person was injured on account of the composite negligence of those wrong-doers. In such a case, each wrong doer, is jointly and severally liable to the injured for payment of the entire damages and the injured person has the choice of proceeding against all or any of them. In such a case, the injured need not establish the extent of responsibility of each wrong-doer separately, nor is it necessary for the court to determine the extent of liability of each wrong-doer separately. On the other hand where a person suffers injury, partly due to the negligence on the part of another person or persons, and partly as a result of his own negligence, then the negligence on the part of the injured which contributed to the accident is referred to as his contributory negligence. Where the injured is guilty of some negligence, his claim for damages is not defeated merely by reason of the negligence on his part but the damages recoverable by him in respect of the injuries stands reduced in proportion to his contributory negligence.” (emphasis supplied)

13. In view of the facts of the present case that the driver of the vehicle has not claimed compensation, it is only the occupants of the vehicle who have claimed compensation, as such, the injured and the deceased cannot be held liable for contributory negligence.

14. Now the question arises as to whether on account of non suing the driver of the car, can the claimants be non-suited? Hon’ble Apex Court in **Khenyei’s** case (supra) while dealing with the case of composite negligence, held that the plaintiff is entitled to sue both or any one of the

joint tort feasons; and summed up the principles in case of joint tort feasons

as under : -

(i) In the case of composite negligence, plaintiff/claimant is entitled to sue both or any one of the joint tort feasons and to recover the entire compensation as liability of joint tort feasons is joint and several.

(ii) In the case of composite negligence, apportionment of compensation between two tort feasons vis a vis the plaintiff/claimant is not permissible. He can recover at his option whole damages from any of them.

(iii) In case all the joint tort feasons have been impleaded and evidence is sufficient, it is open to the court/tribunal to determine inter se extent of composite negligence of the drivers. However, determination of the extent of negligence between the joint tort feasons is only for the purpose of their inter se liability so that one may recover the sum from the other after making whole of payment to the plaintiff/claimant to the extent it has satisfied the liability of the other. In case both of them have been impleaded and the apportionment/ extent of their negligence has been determined by the court/tribunal, in main case one joint tort feason can recover the amount from the other in the execution proceedings.

(iv) It would not be appropriate for the court/tribunal to determine the extent of composite negligence of the drivers of two vehicles in the absence of impleadment of other joint tort feasons. In such a case, impleaded joint tort feason should be left, in

case he so desires, to sue the other joint tort feaser in independent proceedings after passing of the decree or award.”

15. Similarly, Hon’ble Apex Court in **Meenu Mittal and others’s** case (supra) has held that in case of composite negligence, the claimants are entitled to recover the entire compensation amount from one tort feasers without impleading other tort feasers.

16. In view of the ratio of the aforesaid decisions and the facts of the present case, the appellants-claimants cannot be non-suited merely on the ground of non-impleading the driver of the vehicle in which they were travelling as one of the respondents.

17. In view of the above discussion, it is held that the findings of the learned Tribunal that it is a case of contributory negligence are erroneous and liable to be set aside. It is a case of composite negligence and the compensation is to be paid by the respondent insurance company of the tractor trolley. However, needless to say that it shall be open for the respondent insurance company to recover the same in accordance with law from other joint tort feasers.

QUANTUM OF COMPENSATION

FAO-3999-2009 (DEATH OF RAM KUMAR)

18. The Tribunal has awarded the compensation regarding the death of Ram Kumar as per following calculations : -

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹ 3,000/-
2.	Annual income	[₹ 3,000 x 12] = ₹ 36,000/-
3.	Deduction 1/3 rd	[₹ 36,000 – ₹ 12,000] = ₹ 24,000/-
5.	Multiplier of ‘16’	[₹ 24,000/- x 16] = ₹ 3,84,000/-
6.	Funeral expenses	₹ 2500/-

7.	Loss of estate	₹ 2,000/-
8.	Loss of consortium (spousal, filial and parental)	[₹ 5,000/-
	Total Compensation calculated	₹ 3,93,500/- rounded as ₹ 3,94,000/-
	Total Compensation awarded	₹ 50% of ₹ 3,93,500/- = ₹ 1,96,750/-
		Interest @ 9% per annum from the date of filing of the petition till realization.

19. There is no dispute about the findings regarding the age of deceased-Ram Kumar which has been determined by the learned Tribunal as 38 years at the time of his death. Appellant-Sudesh is widow of Ram Kumar and Smt. Ram Piari is mother of Ram Kumar (deceased). Learned Tribunal has considered the monthly income of the deceased as ₹ 3,000/-.

20. Learned counsel for the appellant contends that at the relevant time, minimum wages were ₹ 3510/- of unskilled labourer and income of the deceased should have been considered as such. It is further contended that future prospects has not been considered and even the statutory compensation has not been awarded. Relying upon the decision of the Hon'ble Apex Court in **National Insurance Company Limited v. Pranay Sethi and others**, (2017) 16 SCC 680, **Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others**, (2018) 18 SCC 130 and **N. Jayasree and others v. Cholamandalam M.S. General Insurance Company Limited**, 2021 (4) RCR (Civil) 642, it is contended that the adequate compensation has not been awarded.

21. *Per contra*, Mr. Neeraj Khanna, learned counsel appearing for the insurance company contends that the learned Tribunal has rightly considered the evidence on record while awarding the compensation.

22. I have considered the aforesaid contentions.

23. As per the notification No.3/42/83-3 Lab. dated 27.6.2007 issued by Labour Department, Haryana under the Minimum Wages Act, 1948, for an unskilled worker in 2007, ₹ 3510/- has been fixed as monthly minimum wages.

24. The compensation needs to be reworked as the future prospectus have not been added. Multiplier of 15 should have been applied instead of 16 and the compensation towards conventional heads have not been properly awarded. Accordingly, the reworked compensation is as under : -

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹ 3,510/-
2.	Annual income	[₹ 3,510 x 12] = ₹ 42,120/-
3.	Deduction 1/3 rd	[₹ 42,120 – ₹ 14,040] = ₹ 28,080/-
4.	Future prospects @ 40%	[₹ 28,080 + ₹ 11,232] = ₹ 39,312/-
5.	Multiplier of '15'	[₹ 39,312/- x 15] = ₹ 5,89,680/-
6.	Funeral expenses	₹ 18,000/-
7.	Loss of estate	₹ 18,000/-
8.	Loss of consortium – (Spousal and parental)	[₹ 48,000/- x 2] = ₹ 96,000/-
	Total Compensation	₹ 7,21,680/-
	Interest @ 7.5% per annum	On excess amount

FAO-4001-2009 (DEATH OF DEEPAK KUMAR)

25. Counsel for the appellants contends that the deceased was 15 years of age. The age is not disputed but meagre compensation of ₹ 1 lakh has been awarded in lump sum. Reliance has been placed upon the decision of Hon'ble Apex Court in **Kajal v. Jagdish Chand and others** (2020) 4 SCC 413. In the said case, age of the victim was 12 years. Hon'ble Apex Court discarded the method of treating notional income of the minor victim and considered the minimum wages payable to a skilled worker and worked

out the compensation. Reliance has also been placed upon the decision of Hon'ble Apex Court in **Baby Sakshi Greola v. Manzoor Ahmad Simon and another**, 2025 (1) RCR (Civil) 238 whereby the Hon'ble Apex Court held that in the case of a minor victim, taking notional income is not a correct approach. The minimum wages payable to a skilled worker has to be taken into consideration because that would be the minimum amount which a victim would have earned on becoming a major.

26. *Per contra*, counsel for the insurance company contends that the compensation has been rightly awarded by the learned Tribunal keeping in view the age of the victim.

27. I have considered the aforesaid contentions.

28. The age of the victim as 15 years is not disputed. The amount of compensation as ₹ 1 lakh awarded by the learned Tribunal is without any basis. Hon'ble Apex Court in **Kajal's** case (supra) set aside the findings of the learned Tribunal as well as High Court whereby the compensation for assessing the future loss of income of an injured victim was assessed by treating his notional income. The minimum wages payable to a skilled workman were considered and it was held that the minimum amount which he would have earned on becoming a major is such minimum wages payable to a skilled workman. By applying the multiplier method, the compensation for loss of income in the case of an injured victim was worked out. The said method was further affirmed by Hon'ble Apex Court in a recent judgment in **Baby Sakshi Greola's** case (supra).

29. The decision in **Baby Sakshi Greola's** case (supra) has been followed by Hon'ble Apex Court in **Karuna Parmar v. Prakash Sinha and**

others 2025 INSC 1244 while calculating the compensation of a deceased minor child. In the said case, the parents got injured but minor daughter aged 6 years died in a motor vehicular accident. The Tribunal awarded compensation by calculating her prospective annual income. The Hon'ble Apex Court followed the decision in **Baby Sakshi Greola's** case (supra) whereby it was held that taking notional income is not the correct approach. Instead, the minimum wages payable to a skilled man in the concerned State has to be taken into consideration because that would be the minimum amount which she would have earned on becoming a major. The following observations were made by the Hon'ble Apex Court : -

“Deceased Child

14. Coming to the case of the deceased child, we are not inclined to accept the reasoning of the Tribunal on the yearly income. Recently, in *Baby Sakshi Greola v. Manzoor ahmad Simon and another* 2024 SCC Online SC 3692, J. B.R. Gavai, writing the bench, has elaborated that :

“29. This Court in the case of *Kajal* (supra) has held that taking notional income is not the correct approach. Instead, the minimum wages payable to a skilled workman in the concerned State has to be taken into consideration because, that would be the minimum amount which she would have earned on becoming a major; In this case, the minimum wage payable to a skilled workman in the State of Delhi at the time of the accident, i.e., 2nd June 2009, was Rs. 4,358/- per month.”

(Emphasis supplied)

15. For this purpose, we advert to the notification under the Minimum Wages Act, 1948, for a skilled worker in 2014 wherein Rs. 223/- per day has been fixed. The monthly income of the deceased comes to Rs.6,690/-, and consequently, the yearly income of the deceased has to be considered as Rs.80,280/-. The compensation payable, therefore, is as follows :

Final Compensation of Deceased Avika Parmar

Compensation Heads	Amount Awarded	In Accordance with
Monthly Income	223 x 30 = Rs.6,690/-	Baby Sakshi Greola v. Manzoor Ahmad Simon and another, (2022) SCC Online SC 3692
Yearly Income	6,690 x 12 = Rs.80,280/-	
Future Prospects (40%)	80,280 x 40% = Rs.1,12,392/-	
Deduction (1/2)	1,12,392/2 = Rs.56,196/-	
Multiplier (18)	56,196 x 18 = Rs.10,11,528	National Insurance Co. Ltd. V. Pranay Sethi 92017) 16 SCC 680 para 42 & 59
Loss of Estate	Rs.18,150/-	
Loss of Funeral Expenses	Rs.18,150/-	
Loss of Consortium	48,400 x 2 = Rs.96,800/-	
Total	Rs.11,44,628/-	

”

30. As per the notification No.3/42/83-3 Lab. dated 27.6.2007 issued by Labour Department, Haryana under the Minimum Wages Act,

1948, for a skilled worker in 2007, ₹ 4160/- has been fixed as monthly minimum wages.

31. In view of the ratio of the aforesaid decision and in view of the ratio of the decision of Hon'ble Apex Court in **National Insurance Company Limited v. Pranay Sethi** (2017) 16 SCC 680, the compensation payable, is as follows : -

Final compensation of deceased-Deepak Kumar

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹ 4,160/-
2.	Annual income	[₹ 4,160 x 12] = ₹ 49,920/-
3.	Deduction 1/2	[₹ 49,920 – ₹ 24,960] = ₹ 24,960/-
4.	Future prospects @ 40%	[₹ 24,960 + ₹ 9,984] = ₹ 34,944/-
5.	Multiplier of '18'	[₹ 34,944/- x 18] = ₹ 6,28,992/-
6.	Funeral expenses	₹ 18,000/-
7.	Loss of estate	₹ 18,000/-
8.	Loss of consortium	₹ 48,000/-
	Total Compensation	₹ 7,12,992/-
	Interest @ 7.5% per annum	On excess amount

FAO-4000-2009 (INJURED-BALJINDER KUMAR)

32. The Tribunal has awarded the compensation regarding the injury caused to Baljinder Kumar as per following calculations : -

Sr. No.	Heads	Compensation Awarded
1.	Medical Expenses	₹ 20,000/-
2.	Pain and suffering	₹ 20,000/-
	Total Compensation	₹ 40,000/-
	Compensation awarded	50% of ₹ 40,000/- = ₹ 20,000/-
	Interest @ 9% per annum	

33. Learned counsel for the appellant contends that only a sum of ₹ 20,000/- has been awarded on account of medical bills and ₹ 20,000/- was considered by the learned Tribunal for pain and suffering. It is contended

that the appellant suffered face injury and the teeth was broken as per the evidence led by the doctor-PW2 and was also on a liquid diet for 6 weeks.

34. *Per contra*, learned counsel for the respondent-insurance company contends that the injured has been rightly awarded the compensation.

35. I have considered the aforesaid contentions and perused the paperbook.

36. The principles for assessment of damages in an injury case has been examined by various decisions and have been summed up by Hon'ble Apex Court in **Baby Sakshi Greola's case (supra)** as under : -

“12. The assessment of damages in personal injury cases raises great difficulties. It is not easy to convert the physical and mental loss into monetary terms. There has to be a measure of calculated guesswork and conjecture. An assessment, as best as can, in the circumstances, should be made.

13. McGregor's Treatise on Damages, 14th Edition, Para 1157, referring to heads of damages in personal injury actions states:

“The person physically injured may recover both for his pecuniary losses and his non-pecuniary losses. Of these the pecuniary losses themselves comprise two separate items viz. the loss of earnings and other gains which the plaintiff would have made had he not been injured and the medical and other expenses to which he is put as a result of the injury, and the courts have sub-divided the non-pecuniary losses into three categories viz.

pain and suffering, loss of amenities of life and loss of expectation of life.”

14. In *Concord of India Insurance Co. Ltd. v. Nirmala Devi* [*Concord of India Insurance Co. Ltd. v. Nirmala Devi*, (1979) 4 SCC 365 : 1979 SCC (Cri) 996 : 1980 ACJ 55], this Court held : (SCC p. 366, para 2)

“2. ... the determination of the quantum must be liberal, not niggardly since the law values life and limb in a free country in generous scales.”

15. In *R.D. Hattangadi v. Pest Control (India) (P) Ltd.* [*R.D. Hattangadi v. Pest Control (India) (P) Ltd.*, (1995) 1 SCC 551 : 1995 SCC (Cri) 250], dealing with the different heads of compensation in injury cases this Court held thus : (SCC p. 556, para 9)

“9. Broadly speaking while fixing the amount of compensation payable to a victim of an accident, the damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant : (i) medical attendance; (ii) loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include : (i)

damages for mental and physical shock, pain and suffering, already suffered or likely to be suffered in the future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters i.e. on account of injury the claimant may not be able to walk, run or sit; (iii) damages for loss of expectation of life i.e. on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life.”

16. In *Raj Kumar v. Ajay Kumar* [*Raj Kumar v. Ajay Kumar*, (2011) 1 SCC 343 : (2011) 1 SCC (Civ) 164 : (2011) 1 SCC (Cri) 1161] , this Court laid down the heads under which compensation is to be awarded for personal injuries : (SCC p. 348, para 6)

“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.”

17. In *K. Suresh v. New India Assurance Co. Ltd.* [*K. Suresh v. New India Assurance Co. Ltd.*, (2012) 12 SCC 274 : (2013) 2 SCC (Civ) 279 : (2013) 4 SCC (Cri) 638] , this Court held as follows : (SCC p. 276, para 2)

“2. ... There cannot be actual compensation for anguish of the heart or for mental tribulations. The quintessentiality lies in the pragmatic computation of the loss sustained which has to be in the realm of realistic approximation. Therefore, Section 168 of the Motor Vehicles Act, 1988 (for brevity “the Act”) stipulates that there should be grant of “just compensation”. Thus, it becomes a

challenge for a court of law to determine “just compensation” which is neither a bonanza nor a windfall, and simultaneously, should not be a pittance.””

19. This Court, in the said case, thereafter, formulated various heads such as loss of earnings, expenses related to treatment, attendant charges, pain and suffering and loss of amenities, loss of marriage prospects, future medical treatment. Ultimately, this Court enhanced the compensation awarded by the High Court from Rs. 25,78,501/- to Rs.62,27,000/-.”

37. In the present case, the learned Tribunal has awarded only a sum of ₹ 20,000/- to the injured being 50% of medical expenses.

38. As per the facts on record, the claimant-injured remained hospitalized as indoor patient for 8 days. He suffered injury on his face. He was operated upon for his denture problem. As per his version, he could not take solid foods for 3 months. He was a student of B.A. 1st Class and could not attend his classes. Treating Dentist Dr. Deepak Aggarwal was examined as PW5 who has deposed that he has charged a sum of ₹ 20,000/- as medical expenses through bill Ex.P3. Keeping in view the nature of injury and the fact that the injury was on the face of the young student, the compensation on account of pain and suffering awarded by the Tribunal needs to be enhanced. The appellant is also entitled for compensation for special diet during his treatment, transportation charges and loss in his studies in the relevant academic year.

39. In view of the ratio of the aforesaid decisions in **Baby Sakshi Greola's** case (supra) and the facts and evidence on record, the compensation to the injured-Baljinder Kumar is reworked as under : -

Sr. No.	Heads	Compensation Awarded
1.	Medical Expenses i) Bills ii) Hospitalization charges	₹ 20,000/-
2.	Attendant charges	₹ 5000/-
3.	Special diet	₹ 30,000/-
4.	Transportation	₹ 5,000/-
5.	Pain and suffering	₹ 1,00,000/-
6.	Loss of students in academic year	₹ 50,000/-
	Total Compensation	₹ 2,10,000/-

40. The amount in excess of the amount awarded by the Tribunal shall attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. However, the claimant-appellants shall not be entitled to any interest for the period of delay in filing the main appeal.

41. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors., 2025 INSC 361**, after calculation of the enhanced amount, the same shall be transferred by respondent No.2-Insurance Company in the Bank Accounts of the claimant-appellants within a period of 06 weeks from today. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants to respondent No.2-Insurance company within a period of two weeks from today and needful shall be done by respondent No.2-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.

42. In view of the above discussion, all the three appeals are partly allowed and the award passed by the Tribunal is modified accordingly.

43. Pending application(s), if any, stand disposed of.

44. A photocopy of this order be placed on the file of the connected matters.

28-11-2025
Sapna Goyal/Paritosh

**(HARPREET KAUR JEEWAN)
JUDGE**

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO