



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

241(1)

FAO No.2367 of 2002 (O&M)
Reserved on : 21.07.2026
Pronounced on : 01.08.2026

Pepsu Road Transport Corporation, Patiala

...Appellant

Versus

Pashmin Chand Vohra and another

...Respondents

241(2)

FAO No.2887 of 2002 (O&M)

Pashmin Chand Vohra

...Appellant

Versus

Pepsu Road Transport Corporation, Patiala and another

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: None for appellant
 in FAO No.2367 of 2002.

Mr. Deep Inder Singh Walia, Advocate
for appellant in FAO No.2887 of 2002.

PARMOD GOYAL, J. (ORAL)

In present case, **FAO No.2367 of 2002** has been preferred by owner of bus No.PJG-7189 (hereinafter referred to as '**offending vehicle**') against impugned award dated 19.01.2002 passed by learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as '**Tribunal**'), being aggrieved by finding recorded by learned Tribunal as regards to rashness and negligence on the part of offending vehicle as well as quantum of compensation awarded to claimant-injured. **FAO No.2887 of 2002**, on the other hand, has been preferred by appellant-claimant for enhancement of

compensation of Rs.1,72,000/- awarded to him by learned Tribunal vide aforesaid award on account of injuries sustained by him in motor vehicular accident dated 09.06.1998 allegedly caused by rash and negligent driving of offending vehicle by respondent-driver.

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2. Claimant-injured had stated accident dated 09.06.1998 to be result of rash and negligent driving of respondent-driver of offending vehicle. It was also claimed by claimant-injured that on 09.06.1998, while he was returning from his office to his residence at Ambala on his scooter bearing registration No.HR-01-3469 on left hand side of the road at moderate speed, at about 01:45 p.m., when he reached near Railway over bridge near Central Jail, Ambala City on G.T. Road, offending vehicle came from behind and had hit him without blowing any horn and due to impact of collision with the offending vehicle, he had suffered multiple injuries.

3. To prove his assertions made in claim petition, claimant-injured duly appeared as PW2 and reiterated the manner of occurrence as noted above. Claimant-injured sought to draw corroboration from the FIR (Ex.P7) lodged against respondent-driver and the fact that it was respondent-driver who was facing criminal trial for causing the accident without making any complaint for his involvement in a criminal case.

4. In order to rebut the evidence of PW2, respondent-driver-Sukhvinder Singh appeared as RW1 and had denied the manner of accident as stated by PW2. However, if the evidence of PW2 and RW1 are considered on the standard of proof of preponderance of probability then it is the evidence of PW2 which is reliable and has rightly been accepted by learned

Tribunal. The manner of occurrence had come in public domain immediately after accident in the shape of FIR (Ex.A7). The matter was investigated by police and it was respondent-driver, who was challaned for causing the accident. On the other hand, the version stated by RW1 had come in public domain only upon filing of written statement and while appearing as RW1. There is no material to show that respondent-driver had challenged or protested against lodging of FIR against him prior to filing his written statement. If all these facts are taken into consideration then it is the evidence of PW2 which has rightly been accepted by learned Tribunal.

5. The argument raised on behalf of learned counsel for appellant-owner that sole testimony of claimant-injured is not sufficient to conclude rash and negligent driving on the part of respondent-driver and same is liable to be rejected being without any basis.

6. In motor vehicular accident claim cases, the standard of proof is preponderance of probabilities and the evidence of witnesses are to be tested on the touchstone of pre-ponderance of probabilities. The claim case is not required to be proved beyond reasonable doubt. In present case, entire record placed by claimant-injured as well as by RW-1 has been taken into consideration by learned Tribunal as well as by this Court and it has been found that it is the statement of PW2-claimant-injured, which is more reliable and cogent as the statement of RW-1 is nothing but an effort to avoid his liability. The conduct of witnesses and parties is an important factor which Courts, while appreciating evidence, has to take into consideration as Court has to act using prudence of an ordinary man. A person who is falsely implicated could definitely speak and protest against his false implication. If

no such effort is made then in a claim petition, it is safe to conclude that the assertions as made in FIR, which was lodged immediately after the occurrence is more trustworthy and should be relied upon over the evidence of respondent-driver who had belatedly taken stand to save his liability.

7. In view of above, I do not find any error in the approach of learned Tribunal in concluding that the accident dated 09.06.1998 was on account of rash and negligent driving on the part of respondent-driver. Accordingly, finding of learned Tribunal on issue No.1 is upheld. Appeal preferred by owner of bus is dismissed.

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8. In the present case, learned Tribunal had awarded the following compensation to appellant-claimant:

Loss of income during treatment	Rs.1,07,000/-
Compensation on account of permanent disability	Rs.30,000/-
Pain and sufferings	Rs.35,000/-
Total compensation awarded	Rs.1,72,000/-

9. Appellant-claimant claimed that he had sustained multiple grievous injuries including multiple fractures and had remained hospitalised for 15 days. He further claimed that he had undergone pain and sufferings, great humiliation and financial losses on account of injuries suffered by him.

10. In support of his claim regarding nature of injuries and treatment, period of hospitalization and loss suffered by him, appellant-claimant placed reliance upon evidence of Lt. Colonel H.R. Gupta, Surgeon,

Military Hospital, Ambala Cantt-PW3. PW3 had duly stated that appellant-claimant was admitted in Military Hospital, Ambala Cantt. on 09.06.1998 on account of multiple injuries sustained in roadside accident including fracture of pelvis. PW3 also stated that appellant-claimant was discharged on 17.08.1998 and was given treatment by Dr. Lt. Colonel AVN Ganga Prashad.

11. Major D.J. Sharma, Surgeon Trainee-PW5 stated that in his presence appellant-claimant was brought to hospital on 09.06.1998 at about 02:00 p.m. with multiple injuries. PW5 further stated that upon X-ray, fracture of pelvis right was detected. Treating Dr. Lt. Colonel AVN Ganga Prasahd, Surgical Specialist, Military Hospital, Ambala appeared as PW4 and stated that he had examined appellant-claimant on 17.09.1998. PW4 also stated that keeping in view condition of appellant-claimant, he was given low medical category namely A-3 temporary for 24 weeks and in December 1999, medical condition of appellant-claimant was again reviewed after which he was placed in category A-2 permanently and was released from military service.

12. From the evidence of PW2, PW3, PW4 and PW5, it is clearly made out that appellant-claimant had suffered multiple injuries including fracture of pelvis for which he remained admitted for more than two months and had undergone treatment for about nine months. These facts go to show that appellant-claimant must have undergone through immense **pain and sufferings**, therefore, the compensation of Rs.35,000/- awarded by learned Tribunal is inadequate and is accordingly enhanced to **Rs.75,000/-**.

13. Appellant-claimant had also sought loss of income during the period of his treatment. Appellant-claimant claimed that he had remained on

leave for about 161 days and for said period, he is entitled to compensation. Learned Tribunal had rightly granted Rs.1,07,000/- for loss of income during treatment. Undoubtedly, appellant-claimant had undergone treatment at Military Hospital where treatment was free, however, even though the treatment was free, appellant-claimant must have spent some amount on transportation to reach hospital from his home and to go back, on diet and for taking services of attendant, therefore, appellant-claimant is granted **Rs.25,000/- for medical expenses, transportation, special diet and attendant charges etc.**

14. In present case, appellant-claimant had claimed that he had suffered permanent disability of 15% on account of mal united fracture, inferior public femur right and both pubic ramii left with partial stiffness in both hip joints. To prove permanent disability, reliance was placed upon evidence of Dr. P. K. Nigam, Orthopaedic, Civil Surgeon, Ambala Cantt., who appeared as PW6. PW6 duly asserted to have issued disability certificate (Ex.P5) being member of Medical Board who had examined appellant-claimant and had found 15% permanent disability. Appellant-claimant had claimed that he was Lieutenant Colonel in Army and was earning Rs.20,000/-, which stands proved by evidence of Rajinder Singh-PW1, who had brought documents pertaining to leave, pay & allowance and medical record of appellant-claimant before the Court. Appellant-claimant was working as Lieutenant Colonel in the Army, therefore, the **income** pleaded and taken by learned Tribunal as **Rs.20,000/-** per month has rightly been taken. Since, appellant-claimant was 51 years of age at the time of accident, therefore, for calculating loss of earning capacity, future prospects

to the extent of 10% shall also be applicable in view of judgment passed by Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680 and multiplier of '11' needs to be applied in view of judgment passed by Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009(6) SCC 121. Appellant-claimant was in military services, was put in medical category A-2 on account of injuries suffered by him and was discharged from his services. Though in Army the retirement is based upon the rank of officer and appellant-claimant being Lieutenant Colonel would have retired otherwise also at the age of 52 years and was actually retired as per his age after attaining 52 years. Therefore, keeping in view extent of permanent disability stated by PW4 and nature of vocation, which appellant-claimant was performing and would have performed in future, the **functional disability** in present case is taken as **25%**.

15. The loss of earning capacity, therefore, is required to be ascertained by taking functional disability to be 25%, monthly income to be Rs.20,000/- per month, adding 10% towards future prospects and by applying multiplier of '11'.

16. Since appellant-claimant had suffered permanent disability and functional disability to the extent of 15% and 25% respectively, he would be deprived of future amenities of life as well as future prospects of life, therefore, he shall be entitled to compensation **for loss of future prospects and future amenities of life** which is quantified at **Rs.75,000/-**

17. Re-worked compensation payable to appellant-claimant is as under:-

Income	Rs.20,000/- per month	Rs.20,000/- per month
Future prospects	10% (20,000+ 2,000)	Rs.22,000/-
25% permanent disability	25% of Rs.22,000/-	Rs.5,500/-
Multiplier	11	11
Total loss of earning capacity	Rs.5,500 X 11 X 12	Rs.7,26,000/-
Loss of income during treatment	Rs.1,07,000/- (by learned Tribunal)	Rs.1,07,000/-
Medical expenses, special diet, transportation and attendant charges etc.		Rs.25,000/-
Compensation for pain and sufferings	Rs.35,000/- (as awarded by Tribunal)	Rs.75,000/-
Compensation for loss of future prospects and future amenities of life		Rs.75,000/-
Total compensation awarded by the Tribunal	Rs.1,72,000/-	
Total compensation awarded in appeal		Rs.10,08,000/-
Enhanced compensation	Rs.10,08,000/- (awarded in appeal) - Rs.1,72,000/- (awarded by Tribunal)	Rs.8,36,000/-

18. Appellant-claimant shall also be entitled to interest over enhanced amount to the extent of 7.5% from the date of filing of claim

petition till its realization. The liability of respondents to pay compensation shall be as per award.

19. In view of above discussion, FAO No.2367 of 2002 preferred by appellant-owner is dismissed being without any merit and FAO No.2887 of 2002 preferred by appellant-claimant is allowed in above terms.

20. Pending application(s), if any, stand disposed of. Photocopy of this order be placed on the file of connected case.

(PARMOD GOYAL)
JUDGE

01.08.2026
Sunil Chander

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