



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

FAO-5112-2004 (O&M)
Reserved on : 06.07.2026
Pronounced on : 01.08.2026

HARBHAJAN SINGH (SINCE DECEASED) THROUGH LRS

...Appellant

Versus

HARPAL SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Inderpreet Singh Kooner, Advocate
Ms. Supriya Sharma, Advocate
for the appellant.

Mr. D.P. Gupta, Advocate
Mr. Shubham Gupta, Advocate
for respondent No.4-Insurance Company.

PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by appellants-claimants of injured Harbhajan Singh (since deceased) (hereinafter referred to as 'deceased'), who got injured in motor vehicular accident that took place on 21.08.2003 on account of rash and negligent driving by respondent-driver while driving TATA Sumo bearing registration No.HR-49-7833 (hereinafter referred to as 'offending vehicle'), being aggrieved by the insufficient compensation of Rs.2,24,586/- awarded vide impugned award dated 09.08.2004 passed by Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'Tribunal').

2. Since in the present appeal the only issue raised by the appellants-claimants is with regard to the quantum of compensation and no appeal or cross-objection has been preferred by any of the respondents to

challenge findings of learned Tribunal as regards to rash and negligent driving of offending vehicle driven by respondent-driver, therefore, the detailed facts regarding the manner of accident are not being noticed herein for the sake of brevity.

3. In the present case, the learned Tribunal had awarded the following compensation :-

Medicines/treatment and transportation	Rs.1,01,086/-
Special diet	Rs.5,000/-
Attendant charges	Rs.3,500/-
Pain & Sufferings	Rs.20,000/-
Future medical charges	Rs.10,000/-
Loss of future income	Rs.72,000/- (Rs.2,000 x 12 x 3)
Loss of income	Rs.13,000/-
Total compensation awarded	Rs.2,24,586/-

4. Deceased had claimed that in the accident dated 21.08.2003 he had suffered multiple grievous injuries resulting in permanent disability due to which he had lost his earning capacity and had suffered huge financial loss. He claimed that he was earning Rs.20,000/- per month while working as a heavy duty crane operator with M/s Clever Land Bridge Company.

5. In order to prove nature of injuries, nature of treatment, period of hospitalization, expenses incurred upon hospital as well as medicines, other expenses incurred for seeking treatment and permanent disability deceased had placed reliance upon his own statement as AW7, as well as evidence of AW2-Dr. M.L. Puri and that of AW3-Ajay Kumar, AW4-Rachhpal Rai and AW5-Surinder Singh.

6. AW2-Dr. M.L. Puri stated that deceased was 55 years at the

time of accident and was admitted in Civil Hospital, Hoshiarpur on 21.08.2003. He was suffering from fracture of neck of femur with comminuted fracture shaft of femur of right leg with dislocation left MP joint. He was operated upon on 30.08.2003 for reduction and reconstruction nailing and on 04.10.2003 second suturing was done. Deceased was advised follow-up treatment and was discharged on 06.10.2003. He also asserted that at the time of his discharge, deceased was having nail in his body which was required to be removed.

7. On the other hand, AW3-Ajay Sharma proved medicine bills (Ex. A4 to Ex. A47). Similarly, AW4-Rachhpal Rai proved medicine bills (Ex. A55 to Ex. A73). AW5-Surinder Singh also placed on record receipts of transportation charges (Ex. A85 to Ex. A105).

8. Perusal of evidence of AW2-Dr. M.L. Puri further goes to show that on 28.05.2004, he had examined the deceased and had found permanent disability to the extent of 50% on account of malunited fracture right femur shaft femur and femur dx neck with R-reconstructed nail with restricted movement at knee range of motion 90 and restricted movement at hip with flx on deformity and there was range of motion 10 degree to 45 degree with chronic osteomyelitis. He proved the disability certificate of the deceased as Ex. A119.

9. From the evidence led by claimants it is, therefore, clearly made out that deceased had suffered multiple grievous injuries including multiple fractures. He was admitted in hospital on 21.08.2003 and was discharged on 06.10.2003. Deceased had undergone multiple surgeries and nailing was also done on account of injuries. The deceased also suffered permanent disability

to the extent of 50% due to restricted movement of knee and hip along with hip deformity.

10. Deceased while appearing as AW7 had reiterated nature of injuries as well as treatment received by him. He also claimed that he had spent Rs.25,000/- on hiring taxi, Rs.15,000/- on special diet and has lost earning capacity as earlier he was working as heavy duty crane operator with M/s Clever Land Bridge Company and earning Rs.20,000/- per month. The deceased also placed reliance upon passport Ex.A121, driving licence Ex.A122, health card Ex.A123 and Indian driving licence Ex.A125. He claimed that he had engaged an attendant at a monthly salary of Rs.1,500/-. Apart from bills produced by AW3 to AW5, deceased had also tendered medical bills Ex. A126 to Ex. A175. It was claimed that for removal of nail, future medical expenses amounting to Rs.50,000/- would be required.

11. Learned Tribunal has taken all the bills produced on record by AW3- Ajay Kumar, AW4- Rachhpal Rai, AW5 – Surinder Singh and AW7- injured himself and found that total expenses incurred on medical treatment were Rs.1,01,086/- and had duly rightly granted the same. The claim of deceased that he had kept two attendants for 49 days when he remained admitted in hospital was rejected on the ground that except for oral assertions, no evidence in this regard was placed on record. Keeping in view recommendation of AW2 – Dr. M.L.Puri regarding high protein diet, learned Tribunal had granted amount of Rs.1,01,086/- towards medical and transportation expenses, Rs.3,500/- for attendant charges, Rs.5,000/- for special diet and Rs.10,000/- for future medical expenses.

12. On consideration of totality of facts noted above, I find that

compensation for medical treatment, transportation, special diet and attendant charges needs to be enhanced. Keeping in view medical expenses, nature of injuries, nature of treatment and period of treatment, the same is enhanced to **Rs.1,30,000/-**.

13. As far as compensation for future medical expenses in absence of any material on record to show that how much amount would be needed, therefore, amount of **Rs.10,000/-** as awarded by learned Tribunal is upheld.

14. Though deceased had claimed that he was working as heavy duty crane operator before the accident, however, he has not placed on record any salary certificate or letter of appointment in this regard. He had also not disclosed his current income and vocation. In fact, no bank account details showing amount paid to deceased by employer or evidence regarding work permit or evidence from employer have been produced on record. Therefore, learned Tribunal has rightly taken note of the fact that deceased was a qualified driver having driving licence and had accordingly, determined his income as Rs.4,000/- per month. In absence of any other evidence, the approach of learned Tribunal cannot be faulted with.

15. Learned Tribunal has erred while granting compensation for loss of earning capacity. The same is totally inadequate. Whenever claimant suffers permanent disability on account of injuries, it is duty of the Courts to first find out functional disability and in case disability has resulted in functional disability i.e. resultant loss of earning capacity, in that case, income of claimant is required to be determined, thereafter, future prospects and proper multiplier are required to be applied to calculate loss of earning capacity.

16. In the present case, this course was not adopted by learned Tribunal though it had determined the income of deceased to be **Rs.4,000/-** per month. Taking income of deceased as determined by learned Tribunal to be correct, loss of earning capacity has to be determined by adding **10%** towards future prospects as deceased was 55 years old at the time of accident and by applying multiplier of '**11**'. The functional disability in the present case has to be taken as **60%**. Though permanent disability was to the extent of 50%, but it must not be forgotten that deceased was driver by profession and due to restricted movement of leg and deformity of hip, his capacity to earn as a driver must have considerably reduced and he would have to look for some other vocation and would be able to earn only to the extent of 40% of his total earning capacity prior to accident.

17. Deceased had suffered multiple fractures for which he was operated upon and had remained hospitalized for more than three months which goes to show that he must have undergone immense pain and sufferings. Accordingly, amount so awarded by learned Tribunal for pain and sufferings is inadequate and is enhanced to **Rs.75,000/-**. On account of permanent disability and functional disability, deceased would lose future prospects and enjoyment of future amenities of life, accordingly, he is entitled to compensation of **Rs.75,000/-** for loss of future prospects and future amenities of life. From the nature of injuries and period of hospitalization, it is clearly made out that deceased must have remained out of job for at least nine months, accordingly, he is entitled to compensation of **Rs.36,000/-** (Rs.4,000 x 9) for loss of earnings during treatment.

18. Accordingly, reworked compensation is as under :-

Income	Rs.4,000/- (as awarded by learned Tribunal)	Rs.4,000/-
Future prospects	10% (4000 + 400)	Rs.4,400/-
Functional disability	60% of Rs.4,400/-	Rs.2,640/-
Multiplier	11	11
Loss of earning capacity	Rs.2,640 x 12 x 11	Rs.3,48,480/-
Medical expenses, transportation, special diet, attendant charges	Rs.1,09,586/- (as awarded by Tribunal)	Rs.1,30,000/-
Loss of amenities of life and loss of future prospects		Rs.75,000/-
Future Medical expenses	Rs.10,000/- (as awarded by Tribunal)	Rs.10,000/-
Pain and sufferings	Rs. 20,000/- (by Tribunal)	Rs.75,000/-
Loss of income during treatment	Rs.4,000/-x9	Rs.36,000/-
Compensation awarded by Tribunal	Rs. 2,24,586/-	
Compensation awarded in appeal		Rs.6,74,480/-
Enhancement of compensation	Rs.6,74,480/- (as awarded in appeal) – Rs.2,24,586/- (as awarded by Tribunal)	Rs.4,49,894 /-

19. Appellant-claimant shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Apportionment and liability to pay compensation shall be as per award.

20. Appeal is allowed in above terms.

21. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

01.08.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

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