



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

FAO-3686-2002

Date of Decision: 14.07.2026

BALWANT SINGH

...Appellant

Versus

NAFE SINGH & OTHERS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Amit Sheoran, Advocate for
Mr. Kulvir Narwal, Advocate for the appellant.

Mr. Shubhashish Kukreti, Advocate
for respondent No.3-NIC.

Mr. R.C. Kapoor, Advocate
For respondent No.6-New India Assurance Co.

PARMOD GOYAL, J. (ORAL)

The present appeal has been preferred by the injured appellant/claimant who is aggrieved by award dated 25.02.2004 passed by Motor Accidents Claims Tribunal, Rohtak, (hereinafter referred to as 'Tribunal') whereby compensation of Rs.51,107/- was awarded for the injuries suffered by injured appellant/claimant in accident dated 13.05.1997 caused due to rash and negligent driving of vehicle bearing registration No. DL-3CG/1182 make Tata Sierra and vehicle bearing registration No. HR13 6596 make Matador (hereinafter referred to as '**offending vehicles**').

2. In present case after appreciation of evidence led by both the parties the learned Tribunal had concluded that accident was result of contributory negligence of driver of vehicle bearing No. DL-3CG/1182 make Tata sierra and vehicle No. HR13 6596 make matador. No appeal has

been preferred either by the driver and owner of Tata sierra or by driver and owner and insurance company of matador. Therefore, as far as finding on issue No. 1 as recorded by learned Tribunal is concerned the same does not warrant any interference. However, it is clarified that as far as claimants-appellants are concerned qua them it would be finding of composite negligence and they can recover amount of compensation from respondents jointly and severally though they may claim liability against each other to the extent determined by learned Tribunal. Claimant being a third party has no concern with *inter se* liability between both the offending vehicles. This view of mine finds support from judgment of Hon'ble Supreme Court in case titled, **Khenyei versus New India Assurance Co. Ltd. And Ors**, 2015 (9) SCC 273. Therefore, in present case the injured appellant/claimant shall be entitled to recover the entire compensation jointly and severally from all the respondents i.e. owner, driver of Tata Sierra and, owner driver and Insurance Company of matador.

3. However, as far as Insurance company of the vehicle Tata sierra is concerned which has been impleaded for the first time before this Court, the injured appellant-claimant shall not be entitled to recover the amount from it, as respondent No.6-Insurance Company insurer of Tata sierra was never given an opportunity to contest the claim petition. However, as far as the injured appellant- claimant is concerned he would be entitled to recover the compensation jointly and severally from all the respondents which were party before the learned Tribunal except for respondent No.6. It would be, however, open for owner of offending Tata sierra to seek his rights in accordance with law against Insurance Company for enforcement of his rights under contract of insurance.

4. Injured appellant-claimant is also aggrieved by award of compensation of Rs.51,107/- and has sought enhancement of compensation.
5. Learned Tribunal had granted following compensation:-

Medical expenses	Rs.6,107/-
Loss of income	Rs.5,000/-
Pain and sufferings	Rs.10,000/-
Future loss of amenities of life	Rs.10,000/-
Loss of expectation of life	Rs.10,000/-
Compensation for inconvenience, hardship and discomfort	Rs.10,000/-
Total compensation awarded	Rs.51,107/-

6. Injured appellant-claimant claimed that he had suffered fracture on his right leg, besides injuries on his back, head and left leg. He had also claimed that he remained admitted in PGIMS, Rohtak from 12.05.1997 to 13.05.1997 and from 08.07.1997 to 12.07.1997. He was operated on 09.07.1997, when nailing of right tibia was done. He claimed that he had remained bedridden for 6 to 7 months and had suffered immense loss of income, pain and sufferings, loss of amenities of life, future prospects, loss of earning capacity on account of disability suffered due to injuries.

7. In order to prove nature of injuries as well as nature of treatment, injured appellant-claimant had duly examined Dr. Umesh Modi as PW-7 and had placed reliance upon admission and discharge summary Ex.P-1, OPD card Ex.P-2, disability certificate Ex.P-3. From the evidence of treating doctor as well as medical record i.e. discharge summary, OPD card and disability certificate, it is clearly made out that injured appellant-claimant had suffered multiple fractures on his right leg and had undergone surgery and nailing. Further, from Ex.P-3, it is established that injured appellant-claimant had suffered 5% temporary disability on account of mild

stiffness of right knee and ankle joint. Injured appellant-claimant is also succeeded in proving that vide Ex.P-4 to Ex.P-20, he had spent Rs.6,107/-.

8. After appreciating the evidence of injured appellant-claimant, learned Tribunal had duly granted compensation of Rs.6,107/- spent vide Ex.P-4 to Ex.P-20 towards medical expenses. However, keeping in view nature of injuries and treatment which was spread over at least for 03 months, it is clearly made out that injured appellant-claimant must have spent some amount of money on transportation, special diet and attendant charges. Even though, no evidence is led, keeping in view nature of injury and treatment and period of treatment, it is held that injured appellant/claimant must have spent some amount for transportation, special diet and attendant charges. Accordingly, compensation for medical expenses, transportation, special diet and attendant expenses etc. is determined as Rs.20,000/-.

9. In the present case, injured appellant-claimant had not suffered any permanent injuries, he had suffered only temporary disability to the extent of 5% i.e. stiffness of knee and ankle which was curable with the passage of time. Therefore, under all the heads for which compensation was determined by learned Tribunal i.e. pain and sufferings, future prospects, loss of future amenities and inconvenience, consolidated compensation of Rs.50,000/- is awarded instead of Rs.40,000/- (Rs.10,000/- under each category). Since, injured appellant-claimant had suffered multiple fractures and had undergone surgery and nailing, he must have taken at least 06 months to fully recover and must have lost income for said period. Accordingly, taking minimum wages as income of injured appellant/claimant i.e. Rs.1,800/- per month, injured appellant-claimant shall

be entitled to Rs.10,800/- for loss of income during treatment. No permanent injury was suffered, only certificate regarding temporary injury was placed on record. The temporary injury was stated to be 5%. Doctor issuing said certificate was not examined. Therefore, the loss of earning in present case, on account of temporary disability is taken as Rs.10,000/- (Rs.2,000/- x 5% temporary disability).

10. Accordingly, appellant-claimant is entitled to the following compensation:

Medical expenses, special diet, attendant charges and transportation, etc.		Rs.20,000/-
Pain and sufferings		Rs.50,000/-
Loss of income during treatment	Rs.1,800/- x 6	Rs.10,800/-
Compensation for 5% temporary disability		Rs.10,000/-
Compensation awarded by Tribunal	Rs.51,107/-	
Compensation awarded in appeal		Rs.90,800/-
Enhancement of compensation	Rs.90,800/- (awarded in appeal)- Rs.51,107/- (awarded by Tribunal)	Rs.39,693/-

11. Appellant-claimant is, therefore, held entitled to enhanced compensation of Rs.39,693/- along with 7.5% interest on enhanced amount from date of filing of petition till realization. Apportionment and liability to pay compensation shall be as per award.

12. Appeal is accordingly allowed.

13. Pending application(s), if any, is/are disposed of accordingly.

14.07.2026
Jyoti-V/Ravinder

(PARMOD GOYAL)
JUDGE

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