

2026:PHHC:097927



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

FAO-2245-2021

Judgment reserved on :06.07.2026

Judgment Pronounced on 15.07.2026

HARENDER

... APPELLANT

VERSUS

NAIM AND ORS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: None for the appellant.

Mr. Paul S. Saini, Advocate
for respondent No. 3-Insurnace Company.

PARMOD GOYAL, J.

1. Present appeal has been preferred by injured-appellant-claimant, who got injured in motor vehicular accident that took place on 28.03.2018 on account of rash and negligent driving by respondent-driver while driving truck bearing registration No. UP-19-T-0613 (hereinafter referred to as 'offending vehicle'), being aggrieved by the insufficient compensation of Rs. 13,91,946.40/- awarded vide impugned award dated 27.01.2020 passed by Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as 'Tribunal').

2. Since in present appeal the only issue raised by appellants-claimants is as regards to quantum of compensation and no appeal or cross objection have been preferred by any of the respondents, the detailed facts as regards to 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:

Treatment including medicines	Rs. 79,122/-
Loss of earning due to disability	Rs. 11,52,824.4
Pain and sufferings	Rs. 50,000/-
Loss of amenities of life	Rs. 1,00,000/-
Transportation, special diet and attendant charges	Rs. 10,000/-
Total	Rs. 13,91,946.40

4. In order to prove the nature and extent of his injuries, the claimant-appellant himself appeared as a witness. He deposed that immediately after the accident, he was taken to SGT Medical College, Hospital & Research Institute, Budhera, District Gurugram, where he was medico legally examined. Owing to the serious nature of his injuries, he was shifted to Medanta – The Medicity Hospital, Sector-38, Gurugram, on the same day. He further stated that his left hand was operated upon and was amputated on 29.03.2018. He remained admitted in the hospital from 28.03.2018 to 31.03.2018.

5. The claimant-appellant asserted that he had incurred expenses exceeding ₹1,00,000/- towards medical treatment, medicines, special diet, transportation, and other incidental charges. He further stated that he is still under medical treatment and is likely to incur additional medical expenditure in future. It was also pleaded that, owing to the amputation of his left hand from the elbow, he required the assistance of an attendant and, because of the permanent disability suffered by him, he had lost his earning capacity.

6. PW-1, Sujeet, record keeper, duly proved the claimant-appellant's hospitalization from 28.03.2018 to 31.03.2018, as well as the medical expenses incurred by him through Exhibits P-1, P-8 to P-11, and P-12 to P-30. PW-2, Manwar Singh, Clerk at SGT Hospital, Gurugram also proved the medical bills, Exhibits P-31 to P-52, and the fact that the claimant-appellant remained admitted in the hospital on 18.06.2018 till 26.06.2018. PW-6, Dr. Parminder Kumar, Orthopaedic Surgeon and a member of the Disability Board, duly proved the disability certificate (Exhibit P-58), certifying that the claimant-appellant had suffered 65% permanent disability on account of the amputation of his left upper limb.

7. From the evidence discussed above, it is clearly established that the claimant-appellant sustained grievous injuries in the accident. He remained admitted in the hospital from 28.03.2018 to 31.03.2018, during which his left hand was amputated and also from 18.06.2018 to 26.06.2018. As a consequence of the said amputation, he suffered permanent disability to the extent of 65%, duly certified by the competent Disability Board.

8. It is the case of claimant-appellant that he was employed as a Security Guard in a warehouse namely Volkswagen Group Sales India Pvt. Ltd., Sultanpur, District Gurugram, under the supervision and employment of SIS Security, Khandsa Road, Gurugram, and was drawing salary of ₹13,612/- per month. He further claimed that, apart from his employment, he was also engaged in agricultural activities and was earning an additional income of ₹5,000/- per month from agriculture.

9. From the testimony of PW-5- appellant-claimant himself, who proved the employment record, it stands established that he was earning a

monthly salary of ₹13,612/-. While assessing the loss of earning capacity, the learned Tribunal erroneously excluded the allowances paid to the appellant-claimant by his employer and considered only the basic pay and dearness allowance as his monthly income.

10. The allowances paid to the claimant formed part of his regular emoluments and cannot be excluded while determining his income, as they were not paid exclusively for the performance of his official duties but were general allowances available for his personal and family expenses. Such allowances constituted part of his taxable income and, therefore, ought to have been included in computing his monthly earnings. Consequently, the learned Tribunal had erred in restricting the claimant's income to the basic pay and dearness allowance alone. The monthly income of the claimant is, therefore, taken as ₹13,612/-. No reliable evidence regarding income from agriculture was placed on record, therefore, it was rightly ignored by learned Tribunal. The claimant was 26 years of age at the time of the accident. Accordingly, while computing the loss of earning capacity, an addition of 40% towards future prospects is required to be made. Multiplier of 17 would be appropriate as injured-claimant in view of his age.

11. The claimant was employed as a Security Guard with a security agency. The amputation of his left hand has substantially impaired his ability to perform the duties as Security Guard and has, therefore, seriously affected his earning capacity. In the facts and circumstances of the present case, the functional disability suffered by the claimant is taken to be extent of permanent physical disability, i.e., 65%.

as noticed above, amounting to ₹79,122/-. Keeping in view the medical expenses proved on record, the period of hospitalization, the nature and extent of the injuries sustained, and the permanent disability suffered by the claimant, a consolidated sum of ₹1,00,000/- is awarded towards medical expenses, transportation, special diet, and attendant charges.

13. On account of the amputation of his left hand, the claimant has suffered a permanent deprivation of the normal amenities of life and suffered diminished prospects. He is, therefore, entitled to compensation under the heads of loss of amenities of life and loss of future prospects/enjoyment of life, which is quantified at ₹1,25,000/-.

14. The claimant also underwent immense pain and suffering as a result of the grievous injuries sustained by him, culminating in the amputation of his left hand. Accordingly, a sum of ₹75,000/- is awarded towards pain and sufferings.

15. The claimant must have remained bedridden and incapable of attending his work for a period of at least three months on account of the injuries sustained by him. Accordingly, he is entitled to compensation towards loss of income during the period of treatment, calculated at ₹13,612/- per month for three months, i.e., (₹40,836/-) rounded off to Rs. 41,000/-.

16. Learned counsel for the claimant-appellant has also claimed compensation towards future medical expenses. Considering the fact that the claimant's left hand has been amputated and that he would require an artificial limb/prosthesis, along with its maintenance and replacement as and when necessary, it is considered appropriate to award a sum of ₹1,50,000/- towards

medical care.

17. Accordingly, re-worked compensation passed in appeal is as under:

Income	Rs. 13,612/- (as awarded by learned Tribunal)	Rs. 13,612/-
Future prospects	40% (13,612 + 5445)	Rs. 19,057/-
Permanent disability	65% of Rs. 19,057/-	Rs. 12,387/-
Multiplier	17	17
Loss of earning capacity	Rs. 12,387 x 12 x 17	Rs. 25,26,948/-
Medical expenses, transportation, special diet, attendant charges	Rs. 79,122+Rs. 10,000/- =Rs. 89,122/- (as awarded by Tribunal)	Rs.1,00,000/-
Loss of amenities of life and loss of future prospects	Rs. 1,00,000/- (as awarded by Tribunal)	Rs. 1,25,000/-
Pain and sufferings	Rs. 50,000/- (as awarded by Tribunal)	Rs. 75,000/-
Loss of income during treatment	Rs. 13,612 x 3 = Rs. 40,836/-	Rs.41,000/-
Future medical expenses		Rs. 1,50,000/-
Compensation awarded by Tribunal	Rs. 13,91,946/-	
Compensation awarded in appeal		Rs. 30,17,948/-
Enhancement of compensation	Rs. 30,17,948/- (as awarded in appeal) – Rs. 13,91,946/- (as awarded by Tribunal)	Rs. 16,26,002/-

18. 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.

19. Appeal is accordingly allowed in above terms.
20. Pending miscellaneous application(s), if any, also stand(s) disposed
of accordingly.

15.07.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No