IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(224) **FAO no.1683 of 2003(O&M)**
Date of decision:04.12.2025

HANSRAJ **...Appellant**

Versus

SATISH AND OTHERS **...Respondents**

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Anil Shukla, Advocate for
for the appellant.

Mr. Pardeep Goyal, Advocate for
Ms. Kanika, Advocate,
for respondent No.3.

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VIRINDER AGGARWAL, J.(ORAL)

1. This instant appeal is directed against the award dated 14.1.2003 passed by the Motor Accidents Claims Tribunal, Faridabad, whereby the learned Tribunal awarded a compensation of ₹2,10,000/- along with 9% interest to the appellant on account of injuries sustained in a motor vehicular accident.

BACKGROUND FACTS

2. On 17.11.2000 at about 5:30 a.m., the appellant Hansraj was travelling in a three-wheeler bearing registration No. (HR-29B-1211) on Mathura Road, Faridabad, proceeding towards Sector 15-16 chowk. When the vehicle reached slightly ahead of the said chowk, a Canter bearing registration No. (DL-1LB-6088), being driven by respondent No.1 (Satish) in a rash and negligent manner, came from behind and struck the three-wheeler with great force. As a consequence of the impact, the appellant sustained multiple grievous injuries. On these assertions, The claim petition was filed under Section 166 of the

Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Faridabad, seeking compensation of ₹5,00,000 for the injuries suffered in the accident.

3. Upon a comprehensive appraisal of the oral and documentary evidence on record, the learned Tribunal concluded that the accident dated 17.11.2000 had been caused due to the rash and negligent driving of respondent No.1, the driver of Canter No. (DL-1LB-6088). With respect to the injuries and medical treatment, relying on the MLR (Mark-A), the outdoor ticket (Ex. P-149) from B.K. Hospital, the medical records of AIIMS, and the disability certificate (Ex. P-26), the learned Tribunal held that the claimant had sustained grievous spinal injuries resulting in paraplegia and permanent total disability, leaving him dependent on an attendant for his routine activities. Upon scrutiny of the duly proved medical bills (Ex. P-1 to P-21 and Ex. P-127 to P-128), the learned Tribunal awarded medical expenses of ₹72,000 and further awarded appropriate sums towards conveyance, special diet, loss of earnings, pain and suffering, future medical requirements, and attendant charges. In the absence of any reliable proof of income, the learned Tribunal, by estimating that the claimant must have been earning something and would have continued to earn up to the age of 65 years, if not beyond, quantified the loss of earning and future earnings at ₹25,000. In addition, it awarded a sum of ₹50,000 towards disability, loss of amenities and loss of expectation of life, thereby determining the total compensation at ₹2,10,000. On the question of liability, respondents No.1 to 3 were held jointly and severally liable. However, the driving licence produced by respondent No.1 was found to be forged, the learned Tribunal conferred upon respondent No.3 insurer the right to recover the compensation from the insured-owner of the offending vehicle.

CONTENTIONS

4. Learned counsel for the appellant argued that the impugned award is wholly unsustainable as the learned Tribunal failed to properly appreciate the medical evidence, disability certificate and the oral testimony of the claimant, resulting in the grant of grossly inadequate compensation. Learned counsel submitted that although the claimant had suffered grievous spinal injuries leading to paraplegia and permanent total disability, requiring prolonged treatment at AIIMS and lifelong attendant support, the learned Tribunal awarded only a meagre sum without applying the settled principles for determining just compensation. Learned counsel contended that the amounts awarded towards medical expenses, conveyance, special diet, attendant charges, loss of earnings, pain and suffering, and loss of amenities are disproportionately low and fail to reflect the lifelong impact of the disability. Learned counsel for appellant was urged that the compensation assessed is arbitrary, unrealistic and calls for substantial enhancement.

5. Learned counsel for respondent No.3 supported the award of the learned Tribunal, contended that the award had been passed after a proper and thorough appreciation of the evidence on record and therefore, did not warrant any interference by this Court.

OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and perused the award and record. The learned Tribunal, on a proper appraisal of the evidence, rightly concluded that respondent No.1 was negligent. This Court discerns no reason to disturb that finding.

7. With respect to the quantum of compensation, the award rendered by the learned Tribunal does not conform to the settled parameters of "just compensation" and, therefore, warrants fresh examination by this Court. The claimant, aged about 52–55 years at the time of the accident on 17.11.2000, was engaged in supplying bread and milk, though no documentary evidence of his earnings was produced. In such circumstances, this Court considers it appropriate to assess his monthly income at ₹2,000/-, consistent with the prevailing wages of an unskilled worker at the time of accident. However, in terms of the principles laid down in ***National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680,*** a self-employed individual in the age group of 50-60 years is entitled to an addition of 10% towards future prospects. The learned Tribunal omitted to grant this mandatory enhancement. Applying the said guideline, the claimant's annual income stands enhanced to ₹26,400/- after accounting for the 10% increase.

8. Further, the disability certificate (Ex. P-26), issued by the duly constituted Medical Board, records that the claimant has suffered grievous spinal injuries resulting in paraplegia and permanent total disability, rendering him wholly dependent on an attendant for daily activities. While the learned Tribunal noted this disability, its impact on the claimant's earning capacity was not adequately reflected in the award. The claimant's occupation involved supplying bread and milk, requiring physical mobility, lifting, and daily exertion due to the paraplegia, he would be completely incapacitated and unable to perform any gainful employment. Unlike sedentary vocations, manual labour involves significant physical exertion, and therefore the functional disability must be assessed with reference to the nature of work, as mandated in ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***. In these circumstances, the functional

disability affecting earning capacity is assessed at 100%. Taking the notional annual income ₹26,400/- the annual loss of earnings amounts to ₹26,400/-. Applying a multiplier of 11, appropriate for a person aged 52-55 years as per ***Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121***, the loss of future earning capacity works out to ₹2,90,400/-.

9. Additionally, the learned Tribunal awarded a consolidated sum of ₹25,000/- towards loss of earning and future loss of earning capacity. However, such an accumulated award does not conform to the settled method of assessment laid down by the Hon'ble Supreme Court in ***Raj Kumar (supra)***, which requires that loss of future earning be computed by applying the standard formula namely, determining the functional disability, assessing the annual income (inclusive of future prospects), and thereafter applying the appropriate multiplier. The learned Tribunal, instead of adopting the prescribed formula, merely estimated an aggregate amount, which cannot be sustained. Further, The statement of claimant shows that he had undergone four operations and had remained admitted in AIIMS for about three to four months. In these circumstances, and on the basis of the income assessed, the loss of earning during the actual period of treatment and incapacity is reasonably quantified at ₹8,000/- (₹2,000 x 4 Months).

10. Further, applying the principles from ***Raj Kumar*** **(supra)** and considering the serious nature of disability and its permanent impact, other remaining pecuniary and non-pecuniary head of compensation are reassessed as under:

<u>REASSESSED COMPENSATION</u>

Particulars	**Tribunal (₹)**	**Reassessed (₹)**
Loss of Disability/Future Earning	25,000/-	**2,90,400/-**
Loss of Income During Treatment		**8,000/-**
Medical Expenses	72,000/-	**72,000/-**
Pain and Suffering	25,000/-	**50,000/-**
Special Diet	5,000/-	**15000/-**
Transportation	3,000/-	**10,000/-**
Attendant Charges	30,000/-	**2,00,000/-**
Disability and Loss of Amenities	50,000/-	**50,000/-**
Total Compensation	2,10,000/-	**6,95,400/-**

11. Accordingly, the compensation awarded to appellant is enhanced from ₹2,10,000/- to **₹6,95,400/-** with interest at rate of 7% per annum from the date of filing of the claim petition till realization.

12. The appeal is accordingly **allowed** to the extent indicated hereinabove. The compensation as reassessed shall remain payable, and the liability to satisfy the award shall be governed strictly in accordance with the findings of the learned Tribunal on the issue of liability.

13. All pending miscellaneous applications, if any, stand disposed of.

(VIRINDER AGGARWAL)
JUDGE

04.12.2025
Saurav Pathania

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No