IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(214) **FAO no.3234 of 2003(O&M)**
Reserved on: 23.09.2025
Pronounced on: 26.09.2025

SAVITRI **.....Appellant**

Versus

RAMESH KUMAR & ANOTHER **.....Respondents**

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr Deep Inder Singh Walia , Advocate for
the appellant.

Ms Madhu Sharma , Advocate for
the respondents No.2-Insurance Company

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VIRINDER AGGARWAL, J.

1. This appeal is directed against the award dated 10.04.2003 passed by the Motor Accident Claims Tribunal, Hisar, whereby the learned Tribunal awarded a compensation of ₹30,110/- to the appellant-claimant on account of injuries sustained in a motor vehicle accident, fastening the liability only on respondent No.1, while absolving the respondent No. 2-insurance company.

FACTUAL BACKGROUND

2. The brief facts of the case are that on 28.08.2000, the appellant-claimant Savitri, along with her husband Rati Ram and one Amar Singh, was travelling in a three-wheeler no. HR-57-0487, driven by respondent No.1 Ramesh Kumar, from the Bus Stand to Mill Gate, Hisar. The vehicle was being driven at a high speed in a rash and negligent manner near Auto Market, Hisar. Respondent no.1

while attempting to avoid a ditch on the road lost control, as a result of which the vehicle turned turtle. The appellant-claimant sustained grievous injuries, and was admitted in the Civil Hospital, Hisar. where she remained hospitalised from 28.08.2000 to 26.09.2000. She underwent surgery and a rod was fixed in her left leg. She incurred expenses on treatment, suffered prolonged pain, and was left with a permanent disability to the extent of 5%. She filed a claim petition under Section 166 of the Motor Vehicles Act seeking compensation of ₹4,00,000/-.

3. The learned Tribunal, Hisar, after appreciating the evidence, held that the accident dated 28.08.2000 had taken place on account of the rash and negligent driving of three-wheeler No. HR-57-0487 by respondent No.1 Ramesh Kumar. The oral testimony of the appellant-claimant Savitri, duly corroborated by witnesses, was accepted as trustworthy, and negligence on the part of respondent No.1 was proved. Insofar, the learned Tribunal assessed the compensation payable to the claimant at ₹30,110/-. On the question of liability, the learned Tribunal held that respondent No.2-Insurance Company stood absolved as the driver of the vehicle was not in possession of a valid and effective driving licence to drive a three-wheeler at the time of the accident. Accordingly, the entire liability to satisfy the award was fastened upon respondent No.1, the owner-cum-driver of the offending vehicle.

CONTENTIONS

4. Learned counsel for the appellant has assailed the award primarily on the ground that the compensation is grossly inadequate and the insurance company has been wrongly absolved. Learned counsel for the appellant argues that the learned Tribunal erred in not adopting the structured formula for compensation

in injury cases. It is contended that the appellant's income, permanent disability, medical expenses, loss of earning during treatment, future loss of earning capacity, and non-pecuniary damages for pain and suffering were not properly assessed, leading to an arbitrary lump-sum award. Further, no addition for future prospects or conventional heads was made.

5. On the other hand, learned counsel for the respondent no.2 supports the learned Tribunal's award and contended that insurance company has been rightly absolved as respondent no.1 was not holding the valid licence to drive the auto(three-wheeler), and thus prayed for dismissal of the appeal.

OBSERVATIONS AND FINDING

6. Having heard the learned counsel for the parties and perused the record, including the evidence led before the Tribunal, this Court finds merit in the appellant's contentions. The Learned Tribunal's approach in awarding a lump-sum amount of ₹30110 without applying the established structured method for injury compensation is erroneous and warrants interference.

7. As far as the quantum of compensation is concerned, the award passed by the learned Tribunal does not fully reflect the settled principles of law and thus warrants reassessment by this Court. Firstly, With regard to the age of the injured, since the file has been burnt, there is no clear documentary proof available. Thus, to ascertain the age, reliance has been placed upon the memo available on record, wherein the age of the injured claimant is mentioned as 30 years. Considering that the accident took place in previous year to the filing of the claim petition, I am of the considered view that the age of the injured at the time of accident was approximately 29 years. Accordingly, she falls within the age slab of 25-30 years for the purpose of applying the appropriate multiplier

and other calculations. Secondly, the injured claimant was a home-maker and in the absence of documentary proof of the monthly income, a notional monthly income of ₹3,000/- (annual income ₹36,000/-) is assessed based on the prevailing standards for such self-employment in 2000. As per guidelines in ***National Insurance Company Limited v. Pranay Sethi (2017) 16 SCC 680*** *and* given his self-employment and age below 40, a **40%** addition towards **future prospects** is applied, raising the notional annual income to **₹50400/-**.

8. Further, the claimant suffered a 5% functional disability due to a fracture of the left leg into, requiring surgery and prolonged recovery, which probably make difficulties in her doing daily household chores and also limits her mobility and independence, as duties of housewife involve heavy use of all limbs, aligning with **Raj Kumar v. Ajay Kumar (2011) 1 SCC 343** for assessing disability based on vocation. For the f**uture loss of earning capacity**, the annual loss due to 5% disability is **₹2,520/-** annual, and applying a multiplier of 17 appropriate for age as per **Sarla Verma v. Delhi Transport Corporation (2009) 6 SCC 121**, it comes to **₹42,840/-.** In addition to it, the loss of income during the treatment and recovery period (hospitalised for 1 month) is amounted at **₹3,000/-.**

9. Under other Pecuniary and non- pecuniary damages, the claimant is entitled to **₹2110/-** towards medical expenses incurred on treatment as per bills (Ex. P5 to Ex. P13), **₹10,000/-** towards attendant charges as she had to hire a maid servant and sweeper during his recovery period; **₹10,000/-** for special diet and nourishment during hospitalisation and convalescence; **₹20000/-** for pain and suffering due to the trauma of surgery and extended bed rest. The total compensation thus amounts to **87,950/-** with Interest rate of 7% per annum from

the date of award and till realisation of the same.

COMPARATIVE COMPUTATION:

Particulars	Compensation By Tribunal	Reassessed Compensation (₹)
Income	Monthly- 3,000 Annual- 36,000	**Monthly- 3,000/- Annual- 36,000/-**
Annual Income With Future Prospects	Nil	**50,400/- (40%)**
Income With 5% Functional Disability	Nil	**2520/- (5% of 50,400)**
Multiplier	Nil	**17**
Loss of Disability/Future Earning Capacity	Nil	**42,840/- (2520/- x 17)**
Loss of Income During Treatment	Nil	**3000/-**
Medical Expenses	2110	**2110/-**
Pain and Suffering	28,000/-	**20000/-**
Special Diet and nourishment	Nil	**10,000/-**
Attendant Charges	Nil	**10,000/-**
Interest Rate	Nil	**7%**
Total Enhanced Compensation	30,110/- (lump-sum)	**87,950/-**

10. Significantly, the learned Tribunal has also erred while absolving the Insurance Company of the offending three wheeler. As respondent No.1-driver was having a valid licence to drive motorcycle, scooter, car, and jeep, which are light motor vehicles, and the three-wheeler also falls in the same category. Reliance can be taken upon the judgment of the Hon'ble Supreme Court in the case of ***M/s Bajaj Alliance General Insurance Co. Ltd. v. Rambha Devi (2024***

INSC 840) , where it was held that a driver possessing a licence for the Light Motor Vehicle (LMV) category under Section 10(2)(d) of the Motor Vehicles Act of 1988, which covers vehicles with a gross vehicle weight not exceeding 7,500 kg, is legally entitled to drive a transport vehicle of that class without requiring a separate endorsement under Section 10(2)(e). For the purpose of licensing, LMVs and transport vehicles falling within this weight limit are not treated as distinct classes. Therefore in the present case , the offending three wheeler also comes under the ambit of LMV and the driver was having valid and authorised licence to drive the vehicle. Thus, the defence raised by the Insurance Company before the learned tribunal to evade its liability is devoid of merit and cannot be sustained. Consequently, only respondents No.2-Insurance Company will be liable to pay the compensation to the appellant-claimant.

11. Accordingly, the present appeal is allowed. The impugned award is modified, and the compensation is enhanced to **₹87,950/-** with 7% interest from date of petition. The liability of enhanced compensation shall be borne by respondents No.2 based on the reassessed structured formula.

12. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

26.09.2025
Saurav Pathania

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