



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

(227)

FAO No. 4019 of 2003(O&M)**Date of Decision: 04.12.2025****Naveen Chhikara****...Appellant****Versus****Mukesh Kumar and others****...Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL****Present:** Mr. Kulvir Narwal, Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.3-Insurance Company.

VIRINDER AGGARWAL, J.(ORAL)

1. The present appeal has been preferred by the appellant-claimant seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Jhajjar, vide award dated 29.05.2003, whereby a sum of ₹63,760/- was granted on account of the injuries suffered in the motor vehicular accident dated 20.05.2000.

BACKGROUND FACTS

2. The case of the claimant is that on 20.05.2000, he was returning from Rohtak to Bahadurgarh in Car bearing registration no.DL-2CJ-6657 driven by him, and a Jeep bearing registration No. HR-46A-3593, driven by respondent No.1 in a rash and negligent manner came from opposite side and struck his Car, causing him multiple injuries. He was immediately taken to Hospital, where he remained admitted for about seven days and underwent treatment. He alleged expenses on medical treatment, transportation, special diet and loss of income during recovery. On these assertions, The claim petition was filed under



Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Jhajhar, seeking compensation of ₹10,00,000 for the injuries suffered in the accident. Upon a comprehensive appraisal of the oral and documentary evidence on record, the learned Tribunal recorded a categorical finding of rash and negligent driving on the part of respondent No.1 and held the owner and insurer jointly liable, while granting recovery rights to the insurer due to breach of policy. The learned Tribunal assessed medical expenses at ₹51,760/- based on the proved bills, and further awarded ₹7,000/- for Mental and physical agony and ₹5,000/- cumulatively towards transportation, special diet and attendant charges. The total compensation was assessed at ₹63,760/-.

CONTENTIONS

4. Learned counsel for the appellant contends that the Tribunal has not correctly appreciated the medical evidence and has failed to consider all the medical bills duly placed on record. It is argued that several bills were either ignored or wrongly excluded despite being genuine and supported by the treatment record, resulting in an under-assessment of the actual medical expenditure incurred by the appellant. It is further submitted that the amounts awarded towards transportation and special diet are meagre and that no compensation has been granted towards loss of income during the period of hospitalisation, though the appellant remained admitted for seven days following surgery for a compound fracture. Enhancement of compensation under these heads is therefore sought.

5. Learned counsel for respondent No.3-Insurance Company submits that there is no basis for enhancement under any head, and the award passed by the learned Tribunal is just, fair and well-reasoned. The insurer, therefore, prays for dismissal of the appeal.

**OBSERVATIONS AND FINDINGS**

6. Having heard learned counsel for the parties and perused the record, the findings of the learned Tribunal on the issues relating to negligence of the driver, involvement of the offending vehicle, liability of the respondents, and the insurer's right to recover from the owner are hereby affirmed. This Court does not find any ground to interfere with these conclusions. The only issue which survives for consideration in this appeal is confined to the quantum of compensation.

7. With respect to the quantum of compensation, the award rendered by the learned Tribunal does not confirm to the settled parameters of "just compensation" and, therefore, warrants fresh examination by this Court. Before proceeding to reassess the compensation, it is pertinent to note that the claimant has not suffered any permanent disability. PW-4 Dr. N.K. Maggu, who treated the appellant, has categorically stated that the disability of the claimant was "almost nil". The claimant, during his own cross-examination, also admitted that he does not possess any disability certificate. In the absence of proved disability, the claimant cannot be held to have lost any future earning prospects. However, the fact remains that he remained hospitalised for seven days after sustaining a compound fracture and underwent surgical treatment, during which he could not have attended to his work. Therefore, he is entitled to compensation towards loss of income during the period of hospitalisation, though not for any long-term loss of earning capacity.

8. Applying the settled principles governing assessment of compensation as laid down in ***Raj Kumar v. Ajay Kumar, 2011 (1) SCC 343***, compensation must cover both pecuniary and non-pecuniary losses and must be just and reasonable.

The medical record and bills placed on file show substantial expenditure on

surgery, implants, medicines and follow-up treatment. To do complete justice, and considering certain bills were excluded though the overall medical expenditure appears higher, and the file is burnt thus record is not available for ascertaining the actual medical expenses. Hence, a lump-sum of ₹70,000/- is awarded towards medical expenses in place of ₹51,760/-.

9. Keeping in view the nature of injuries, the period of hospitalisation and convalescence, a sum of ₹5,000/- is awarded towards loss of income during hospitalisation. The claimant, after discharge, must also have remained at home for a few days for recovery, during which he could not have attended to his work. Further, the amount awarded by the learned Tribunal towards special diet, transportation and attendant charges is on the lower side. Reasonable enhancement under these heads is therefore required, particularly as the learned Tribunal awarded these under one composite head, whereas they deserve to be separately awarded keeping in view the nature of treatment and the needs arising from the injuries. The reassessed compensation is as following:

REASSESSED COMPENSATION

Head of Compensation	Tribunal	Reassessed (₹)
Loss of income during treatment	x	5,000/-
Medical expenses	51,760/-	70,000/- (lump sum)
Special diet	5,000/-	5,000/-
Transportation		5,000/-
Attendant charges		5,000/-
Pain and Suffering	7,000/-	10,000/-
Total Compensation	63,760/-	1,00,000/-



10. Accordingly, in place of ₹63,760/- awarded by the learned Tribunal, the claimant shall now be entitled to **₹1,00,000/-** at 7% rate of interest per annum from the date of filing of the claim petition till realisation.

11. In view of the above, the appeal is partly **allowed** to the limited extent indicated above. The liability of the respondents shall remain joint and several, subject to the insurer's right to recover from the owner as already determined by the learned Tribunal.

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

(VIRINDER AGGARWAL)
JUDGE

04.12.2025
Saurav Pathania

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