2025:PHHC:156199

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No. 2866-2022 (O&M)
Reserved on: 29.10.2025
Pronounced on: 11.11.2025

MANGAT ....Appellant

Vs.

RAM NIWAS AND ANOTHER ....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Dheeraj Narula, Advocate for the appellant.

Mr. Nitin Thatai, Advocate
for respondent No. 1 (through video-conferencing).

Mr. Vikas Mohan Gupta, Advocate for respondent No. 2.

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<u>HARKESH MANUJA, J.</u>

1. By way of present appeal, challenge has been laid to an award dated 15.03.2022 passed by the learned Motor Accident claims Tribunal, Sirsa (for brevity, "the Tribunal"), whereby an amount of Rs. 8,14,520/- was awarded as compensation to the appellant/claimant along with interest @ 6.5% per annum from the date of filing of petition, till its realization, on account of injuries suffered by him in a vehicular accident.

<u>FACTS</u>

2. The appellant, being injured filed a claim petition before the Ld. Tribunal praying for grant of compensation to the tune of Rs. 25,00,000 (Rupees twenty five lakhs only) along with interest thereon @ 12% per annum on account of injuries suffered by him in a motor vehicular accident which took place on 01.07.2020 while alleging rash and negligent driving of respondent No.1/driver.

3. After going through the claim petition and evaluating the evidence led by both the parties, Learned Tribunal vide award dated 15.03.2022, arrived at a conclusion that the accident occurred on account of rash and negligent driving of respondent No.1 as well as contributory negligence on the part of the appellant/claimant to the extent of 50% and awarded the compensation in the following manner:-

S.No.	**Heads of Claim**	**Amount (in Rs.)**
1.	Medical Treatment Expenses	Rs. 4,25,000/-
2.	Attendant Expenses	Rs. 24,000/-
3.	Loss of Income	Rs. 54,000/-
4.	Loss of Future Income on account of Permanent Disability	Rs. 10,88,640/-
5.	Special Diet	Rs. 10,000/-
6.	Conveyance Expenses	Rs. 17,000/-
7.	Mental Pain and Agony	Rs. 10,400/-
	Total Compensation	**Rs. 16,29,040/-**
	50% Deduction	**Rs. 8,14,520/-**

Further, liability was fastened upon the driver and the Insurer of the offending vehicle jointly and severally, but was to be indemnified by the Insurance Company.

4. Being aggrieved against the aforesaid award dated 15.03.2022; the present appeal has been preferred by the appellant/claimant for setting aside the findings regarding contributory negligence as well as for enhancement of compensation.

Facts as specified in the claim petition being not in dispute, therefore, for the sake of brevity, those are not being repeated here.

ARGUMENTS
ON BEHALF OF THE APPELLANT/CLAIMANT

5. Learned counsel appearing on behalf of the appellant/claimant has argued that the Learned Motor Accident Claims Tribunal has erred in reducing the entitlement of the appellant to the extent of 50% by holding him contributorily negligent to the said extent, without there being any cogent evidence on record to substantiate such a finding. It was further contended that the Learned Tribunal wrongly assessed the monthly income of the appellant on a lower side, whereas the same ought to have been taken not less than Rs. 20,000/- per month, keeping in view the nature of his occupation and prevailing economic conditions. Learned counsel has also submitted that in view of the grievous injuries sustained by the appellant, which resulted in permanent and total disablement, the loss of earning capacity should have been taken at 100%, and the reduction made by the Tribunal was wholly unjustified and liable to be set aside.

ON BEHALF OF RESPONDENT No. 2/INSURANCE COMPANY

6. Per contra, learned counsel for respondent No.2/Insurance Company vehemently argued that in the facts and circumstances of the case, the appellant was adequately compensated, thus, the present appeal was liable to be dismissed.

ON BEHALF OF RESPONDENT No.1/DRIVER

7. Learned counsel appearing on behalf of respondent No.1, driver of the offending vehicle, contended that the accident did not occur on account of any rash or negligent driving on the part of driver, as he was driving the vehicle in a careful and lawful manner, observing all traffic rules. It was further submitted that the accident occurred due to the negligence and carelessness of the appellant/claimant himself. He further submitted that the appellant was adequately compensated, thus, the present appeal was liable to be dismissed.

<u>DISCUSSION</u>

8. I have heard learned counsel for the parties and perused the paper-book of the case as well. I find force in the arguments advanced by learned Counsel for appellant/claimant.

<u>QUESTION OF CONTRIBUTORY NEGLIGENCE</u>

9. A perusal of the impugned award shows that it was a case of head-on collision of two vehicles; the amount of compensation was reduced by 50% payable to the claimant. On perusal of the award, this Court is of the view that the Tribunal committed an error while reducing 50% compensation towards contributory negligence which is clearly unjustified, as there was no material on record to establish that any negligent or wrongful act on the part of the injured had contributed either to the occurrence of the accident or to the injuries sustained by him. As per settled law, the claimants cannot be held guilty of contributory negligence in cases where the Police attributes negligence against the driver of one vehicle, involved in the accident unless there is any other independent evidence adduced /available to prove the contributory negligence.

The Hon'ble Apex Court in ***<u>"Syed Sadiq & Others v. Divisional Manager, United India Insurance Company Limited, 2014 (4) SCC 735,</u>*** held as follows:-

> *"29. On the matter of extent of contribution to the accident, it is held by the Tribunal that the appellant claimants herein should have taken utmost care while moving on the highway. Looking at the spot of the accident, the Tribunal concluded that the appellant claimants were moving on the middle of the road which led to the accident. Therefore, the Tribunal concluded that though the tractor has been charge-sheeted*

> *under Sections 279 and 338 IPC, but given the facts and circumstances of the case, the appellant claimants also contributed to the accident to the extent of 25%. The High Court without assigning any reason concurred with the findings of the Tribunal with respect to contributory negligence. We find it pertinent to observe that both the Tribunal and the High Court erred in holding the appellant claimants in these appeals liable for contributory negligence. The Tribunal arrived at the above conclusion only on the basis of the fact that the accident took place in the middle of the road in the absence of any evidence to prove the same. Therefore, we are inclined to hold that the contribution of the appellant claimants in the accident is not proved by the respondents by producing evidence and therefore, the finding of the Tribunal regarding contributory negligence, which has been upheld by the High Court, is set aside."*

10. In view of the principles laid down by the Hon'ble Apex Court in ***"Syed Sadiq & Others v. Divisional Manager, United India Insurance Company Limited, 2014 (4) SCC 735,*** with regard to the issue of contributory negligence on the part of the appellant/claimant, it is pertinent to note that a criminal case was registered against the driver of the offending vehicle, who has failed to explain the circumstances under which the accident occurred. Merely because the accident was a case of head-on collision, it cannot, by itself, be made to presume that the drivers of both vehicles were equally responsible for the occurrence of the accident. Therefore, this Court is of the view that the learned Tribunal was not justified in holding that the appellant/claimant was also liable for the said accident. The finding of the contributory negligence is thus liable to be set aside. Ordered accordingly.

11. The next question to be determined is the quantum of compensation to which the appellant is entitled to. Before considering the said aspect, it is essential to draw guidance from the principles laid down in similar cases by the Hon'ble Apex Court. In ***Raj Kumar vs. Ajay Kumar and Ors.*** reported as ***(2011) 1 SCC 343,*** the Court laid down following heads under which compensation is to be awarded for personal injuries.

> *"6. The heads under which compensation is awarded in personal injury cases are the following:*
>
> *Pecuniary damages (Special damages)*
>
> *(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.*
>
> *(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:*
>
> *(a) Loss of earning during the period of treatment;*
>
> *(b) Loss of future earnings on account of permanent disability.*
>
> *(iii) Future medical expenses.*
>
> *Non-pecuniary damages (General Damages)*
>
> *(iv) Damages for pain, suffering and trauma as a consequence of the injuries.*
>
> *(v) Loss of amenities (and/or loss of prospects of marriage).*
>
> *(vi) Loss of expectation of life (shortening of normal longevity).*
>
> *In routine personal injury cases, compensation will be awarded only under heads (i), (ii)* (a) *and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, the compensation will granted under any of the heads (ii)* (b), *(iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life".*

<u>ON THE ASPECT OF ENHANCEMENT OF COMPENSATION ASSESSMENT UNDER "MEDICAL EXPENSES/HOSPITALIZATION</u>

12. In the present case, appellant/claimant suffered disability to the extent of 48% qua his whole body having suffered injuries of left shoulder power 0/5 (no movement), elbow flexion 0/5 extension, 3/5 wrist power and 4/5 muscle power, which has been established from the disability certificate proved on record as Ex.PW-5/A. As per the statement of Dr. Abhishek Singh (PW1), c/o City Health Care Hospital, Sirsa, the appellant/claimant remained hospitalized in the hospital from 01.07.2020 to 21.07.2020. He also proved medical records and medical bills i.e. Ex.P1 to Ex.P103, which shows that the appellant/petitioner paid a sum of

Rs.4,18,217/- for his treatment. Therefore, keeping in mind the cost factor prevalent at the time of motor vehicular accident and the treatment besides need of medicines during rehabilitation period, the compensation under this head needs to be reassessed. The aforesaid view finds force from the fact that due to shock and mental agony on account of accident, a person cannot be presumed to be vigilant enough to collect all the bills for claim/reimbursement purposes, thus, compensation under this head is assessed as Rs. 5,00,000/-.

ASSESSMENT UNDER "LOSS OF INCOME"

13. As per affidavit of Mangat Ram Ex.PW/2, the appellant/claimant was working as a vegetable and fruits vendor and earning Rs. 15,000 – Rs. 20,000/- per month. The Learned Tribunal rightly assessed his income @ Rs. 9,000/- per month (Rs. 295 per day) as per minimum wages in the year 2020, in the absence of any corroborative evidence and being a labourer. As per PW1, appellant/claimant remained in hospital from 01.07.2020 to 21.07.2020 i.e. 21 days, as such loss of income suffered by him during the said hospitalization period is assessed as Rs. 6195/- (295 x 21). Further, evidently the motor vehicular accident in the present case took place on 01.07.2020 and conservatively the appellant/claimant must have been bed-ridden for 6 months after accident. Thus, it would be safe to assume that appellant suffered loss of income for 6 months due to reduced working capacity being bed-ridden. Therefore, after considering facts and circumstances of the present case, loss of income for the said period is assessed @ Rs. 53,100/- (295 x 180).

14. Further, there is no dispute with the proposition of law that the entire percentage of disability cannot be taken into consideration to determine the loss of future earning on account of permanent disability. The Hon'ble Supreme Court in

Raj Kumar's case (supra), has laid down that loss of future earning cannot be assessed on the basis of the entire percentage of the permanent disability but has to be assessed on the basis of percentage of functional disability i.e. effect or impact of such disability on the earning capacity. In view of the aforesaid ratio of law laid down by the Hon'ble Apex Court, though the appellant-claimant has suffered 48% permanent disability, however, considering the injuries suffered by him in the accident in question, besides, the body parts involved therein, his functional disability having impact on his future earning capacity needs to be assessed @ 40%. Additionally, the Hon'ble Supreme Court, in the case of ***"Pappu Deo Yadav v. Naresh Kumar"*** reported as ***2020 INSC 553*** held that in cases where a claimant suffers permanent disability due to a motor vehicle accident, compensation may be awarded not only for the future loss of income but also towards future prospects.

14.1 A perusal of the record shows that the age of claimant/appellant at the time of the accident was 40 years. The computation of future prospects is to be done as per the law laid down by a Constitution Bench of the Hon'ble Supreme Court in ***"National Insurance Co. Ltd. v. Pranay Sethi"*** reported as ***(2017) 16 SCC 680*** para 59.3, which records the conclusion in this regard and the same reads as under:-

> *"59.3 While determining income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should read as actual salary less tax."*

14.2 In view of the above discussion, the appellant/claimant in addition to loss of future earnings, shall also be entitled to compensation for loss of future prospects @ 30%. Therefore, the income of the appellant/claimant after adding future prospects be taken @ Rs. 11,700/- for the purpose of calculation of compensation. Accordingly, this Court finds that the compensation payable for the functional disability to the extent of 40% is assessed @ Rs. 8,42,400/-.

ASSESSMENT UNDER OTHER 'PECUNIARY HEADS'

15. Admittedly, the injured was bed ridden for 6 months as he was operated upon and would have definitely gone for his post-operative care. Thus, compensation granted for special diet and conveyance charges @ Rs. 51,000/- is very less and no compensation is granted under the head of attendant charges. Therefore, compensation granted under these heads is reassessed @ Rs. 1,00,000/.

ASSESSMENT UNDER 'NON PECUNIARY HEADS'

16. In the present motor vehicular accident, appellant/claimant suffered injuries for which he went into the phase of obtaining treatment, spanning over a period of 6 months. In injury cases compensation for mental agony and pain and suffering cannot be assessed with mathematical certainty and the fact that no amount of compensation can restore the injured person's physical frame and eradicate or ameliorate the agony suffered by the injured. Therefore, the compensation under this head is reassessed as Rs. 1,00,000/-.

CONCLUSION

17. In view of what has been discussed hereinabove, the appellant/claimant shall be entitled for the grant of compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Loss of Income (Rs. 6,195 + Rs. 53,100 + Rs. 8,42,400)	Rs. 9,01,695/-

2.	Medical Expenses/Hospitalization	Rs. 5,00,000/-
3.	Compensation under other pecuniary head	Rs. 1,00,000/-
4.	Compensation under non-pecuniary head	Rs. 1,00,000/-
	Total Compensation	**Rs. 16,01,695**
	Amount Awarded by the Tribunal	**Rs. 8,14,520/-**
	Enhanced Amount	**Rs. 7,87,175/-**

18. The grant of interest @ 6.5% per annum is not equitable and just in view of the observation made by the Hon'ble Supreme Court in ***Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513*** approved in a subsequent judgment titled as ***Puttamma and others Vs. K.L. Naryana Reddy and another, 2014 (1) RCR (Civil) 443,*** thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimant from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

19. In view of the aforesaid modification, the present appeal stands disposed of.

20. Pending miscellaneous application(s) is any, shall also stand disposed of.

November 11, 2025 **(HARKESH MANUJA)**
sonika **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No