IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(230) **FAO no.2766 of 2003 (O&M)**
Date of decision: 18.11.2025

TARKESHWAR SHARMA **...Appellant**

Versus

ASAM AND OTHERS **...Respondents**

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Digvijay, Advocate for
Mr. Ashish Gupta, Advocate
for the appellant.

Mr. Rajneesh Malhotra, Advocate
for respondent No.6.

*****

VIRINDER AGGARWAL, J.(ORAL)

1. This instant appeal is directed against the award dated 20.03.2002 passed by the Motor Accidents Claims Tribunal, Gurgaon, whereby the learned Tribunal awarded a compensation of ₹90,000/- to the appellant on account of injuries sustained in a motor vehicular accident.

BACKGROUND FACTS

2. On 12.10.1992, the claimant, Tarkeshwar Sharma, aged about 25 years and working as a motor mechanic, was travelling from Punhana to Ferozepur Jhirka after meeting one Nazar Mohammad in a Maruti car bearing registration No. (DL-3C-B-2357). When the vehicle reached near village Nasirbas at about 8:00 PM, a tractor bearing registration No. (RRD-5733), driven by respondent No.1, Asam, in a rash and zig-zag manner, came from the opposite direction and struck the car. Due to the force of the impact, the claimant sustained multiple grievous injuries, including fracture of the left leg. On these assertions, The claim petition was filed under Section 166 of the Motor Vehicles Act

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

3. Upon a comprehensive consideration of the oral and documentary evidence adduced by the parties, the learned Tribunal returned a categorical finding that the accident dated 12.10.1992 had occurred due to the rash and negligent driving of respondent No.1, the driver of tractor No. (RRD-5733). Further, with regard to the injuries and treatment, the learned Tribunal, on the basis of the medical records and disability certificate (Ex. P-2), found that the claimant had suffered multiple grievous injuries resulting in 10% permanent disability of the left lower limb. Though the claimant alleged expenditure of ₹70,000–80,000, the medical bills on record reflected expenses of about ₹6,059/-. Keeping in view the nature of injuries, duration of treatment, period of hospitalisation, and the claimant's vocation as a motor mechanic but no cogent evidence was produced, the learned Tribunal assessed his monthly income at ₹2,000/- and awarded ₹12,000/- towards loss of income for six months which culminated in a total award of ₹90,000/- including additional sum under various heads. On the issue of liability respondents No.1 to 6 were all held jointly and severally liable to pay the compensation.

<u>CONTENTIONS</u>

4. Learned counsel for the appellant argued that the award is unsustainable as the learned Tribunal failed to correctly appreciate the medical and oral evidence, resulting in grossly inadequate compensation. Learned Counsel submitted that despite the claimant having suffered grievous injuries, prolonged treatment and 10% permanent disability, the learned Tribunal awarded only a meagre sum without properly considering medical expenses, pain and suffering,

special diet, attendant charges, and loss of income. It was contended that the compensation assessed is wholly inadequate and calls for enhancement.

5. Learned counsel for respondent No.6 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 regard to the quantum of compensation, the award passed by the learned Tribunal does not fully meet the settled standards of "just compensation" and thus warrants reconsideration by this Court. As the claimant was aged about 21 years at the time of the accident on 12.10.1992 and was working as a motor mechanic. Although he asserted a monthly income of ₹3,000–3,500, no documentary evidence was produced to substantiate the claim. In such circumstances, the learned Tribunal rightly assessed his monthly income at ₹2,000/-, treating him as a manual labourer. This assessment is reasonable and merits affirmation. In terms of the principles laid down in ***National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680***, a self-employed individual below 40 years of age is entitled to an addition of 40% towards future prospects. The learned Tribunal, however, did not grant this statutory enhancement. Applying the said guideline, a 40% increase is warranted, thereby raising the annual income to ₹33,600/-.

9. Further, the disability certificate (Ex. P-2), issued by the duly constituted Medical Board, records 10% permanent disability of the left lower limb on account of restricted knee movement and muscular weakness. Though the percentage of disability may appear modest, its impact on the earning capacity of a labourer cannot be understated. The claimant's occupation required constant bending, squatting, lifting of tools and parts, and considerable physical mobility. Even a mild restriction in the functioning of a weight-bearing limb substantially affects his efficiency and productivity. 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 reasonably assessed at 20%, despite the physical disability being 10%. On that basis, the annual loss of earning amounts to **₹6,720/-**, and applying the multiplier of **18**, appropriate for a person aged **21 years** as per ***Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121***, the **loss of future earning capacity** works out to **₹1,20,960/-**.

10. Additionally, the learned Tribunal rightly took into account the loss of income during the period of treatment and recovery. Though the claimant asserted in the petition that he had remained under treatment for more than one year due to injury and he could not work during that period. However, he was able to substantiate only about one month of hospitalization. In these circumstances, the learned Tribunal, on a prudent assessment of the nature of injuries and the reasonable time required for recuperation, treated six months as the period during which the claimant would have been unable to earn and accordingly awarded **₹12,000/-** under this head. This Court finds the said

approach to be justified, as it strikes a fair balance between the unsupported assertion of prolonged hospitalization and the medical material actually brought on record, and therefore warrants no interference. Further, the medical bills produced on record (Exs. P-15 to P-43) reflect an expenditure of approximately ₹6,059/-. The learned Tribunal itself acknowledged that, in view of the prolonged treatment and two spells of hospitalization, all expenses may not have been duly receipted. Considering the duration of admission and the nature of the orthopaedic injuries suffered, award of **₹10,000/-** under this head is justified.

11. 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:

REASSESSED COMPENSATION

Particulars	Tribuanl	Reassessed Compensation (₹)
Loss of Disability/Future Earning Capacity	50,000/-	**1,20,960/-**
Loss of Income During Treatment	12,000/-	**12,000/-**
Medical Expenses	10,000/-	**10,000/-**
Pain and Suffering	18,000/-	**25,000/-**
Special Diet	x	**10,000/-**
Transportation	x	**10,000/-**
Attendant Charges	x	**5,000/-**
Loss of Amenities of Life	x	**15,000/-**
Total Enhanced Compensation	90,000/-	**2,07,960/-**

12. Accordingly, the compensation awarded to appellant is enhanced from ₹90,000/- to **₹2,07,960/-** with interest at rate of 7% per annum from the date of filing of the claim petition till realization.

13. 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.

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

18.11.2025 **(VIRINDER AGGARWAL)**
Saurav Pathania **Judge**

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