

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****119****FAO-2310-2021(O&M)****Date of decision: 19.08.2025****Pawan Kumar****...Appellant(s)****Vs.****Rudar Kumar & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Nitish Kumar, Advocate for
Mr. Jarnail S. Saneta, Advocate
for the appellant.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.3,18,064/- awarded by Motor Accident Claims Tribunal, Panipat vide Award dated 19.02.2021 passed in MACT Petition No.50 dated 12.04.2017 filed u/s 166 of the Motor Vehicles Act.

2. Brief facts of the case are that the Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the appellant/claimant had suffered injuries in the motor vehicular accident that took place on 02.02.2017 due to the rash and negligent driving of car bearing registration No.HR-26-AF-0900 (hereinafter "the offending vehicle") by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3. The afore-said



compensation has been awarded along with interest @ 6% per annum from the date of filing of the petition till realisation to be paid jointly and severally by the respondents.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that in the accident in question, the appellant had suffered disability to the extent of 29% on account of Malunited fracture tibia and fibula left side with implant in situ ROM at left ankle. Yet the learned Tribunal has awarded only Rs.2,10,000/- under the head of disability by taking disability of the appellant as 15% only; whereas admittedly as per Disability Certificate (Ex.P19), the appellant had suffered disability of 29%. Even amounts awarded under the other heads are on the lower side. Furthermore, the appellant had remained hospitalised from 02.02.2017 to 08.02.2017 and then 23.02.2017 to 02.03.2017 and was operated with ORIF with planting on 25.02.2017. Only Rs.83,064/- has been awarded towards medical treatment whereas Rs.2 lakh ought to have been awarded; and Rs.50,000/- should have been awarded towards pain and suffering. Even interest is awarded on the lower side as only 6%; whereas the same should be 18% per annum. It is accordingly prayed that the impugned Award be modified, and amount of compensation be enhanced to Rs.10 lakh along with interest @ 18% per annum.

4. No other argument is made on behalf of the appellant.

5. I have heard learned counsel and perused the case file in detail.



6. The pleaded case of the appellant before the Tribunal is that:-

“2. Petitioner Pawan has averred that on 02.02.2017, he, along with his employee Sandeep son of Kailash, were going to Meerut on Activa no.HR-06AK-2215 in a moderate speed. When they reached in front of 79 Mile Dhaba, G.T.Road, Samalkha, District Panipat, at about 1:00 p.m., offending Car bearing registration no. HR-26AF-0900 (hereinafter referred to as "offending vehicle"), came from Panipat side, which was being driven by the respondent no.1 in a rash and negligent manner and hit the non offending vehicle directly, then he, along with Sandeep, fell in the ditches and received multiple injuries. He also received fracture in his left leg. The driver stopped the offending vehicle and came near him and told his name and address and he fled away along with offending vehicle after sometime.”

7. Thus, a perusal of the above pleading shows that as per the appellant, he had received a fracture in his left leg. It has been contended by the appellant that in the accident in question, he had suffered 29% permanent disability, as evident from Disability Certificate (Ex.P19). However, Dr. Pardeep Kumar PW2 who had prepared the Disability Certificate has admitted in his cross-examination that the said Disability Certificate was prepared without seeing the X-ray film and X-ray report of the appellant. Admittedly, even no demand was made for standing photo of the patient/appellant. PW2 further admitted that the affected limb of the appellant was covered with wearing cloth. He has further admitted that in the affidavit (Ex.PW1/A), that disability of the appellant has been subsequently recorded in different ink after using whitener. From the above evidence it would appear that the Disability Certificate has been issued by



PW2 after colluding with the appellant. It has also come on record that in the proceedings before the learned Tribunal, during his cross-examination the appellant had remained continuously standing without support from 11:30 am till 3:40 pm. The said fact also renders the alleged disability of the appellant to be doubtful. Yet, despite the above said facts and evidence, the learned Tribunal has taken disability of the appellant as 15%. It is also to be noted that the appellant has admitted in his cross-examination as PW1 that the Discharge Summary (Ex.P14 and P15) does not bear the signature of a doctor or any doctor who examined the appellant; and Ex.P16 to P18/OPD card of the appellant can be printed at any printing press.

8. Although the appellant had plead that he was doing business of thread trading and earning Rs.20,000/- per month, however, no evidence to this effect has been produced by the appellant. As such, the learned Tribunal had taken income of the appellant as unskilled labourer as Rs.8,280/- per month as determined by the Labour Commission Haryana vide Notification No.2/7083-7193 DATED 02.03.2017. The learned Tribunal had taken disability of the appellant as 15% holding that the appellant can still continue the said activity without support but not to the extent to which he was doing it before the accident. Hence, taking notional income of the appellant as Rs.8,300/- per month, loss to his earning capacity was calculated to be Rs.1,245/- per month. Therefore, yearly loss comes to Rs.14,940/- rounded off to Rs.15,000/- (1245x12). Age of appellant was



determined to be about 43 years old at the time of accident, as per the Disability Certificate (Ex.P19). Accordingly, multiplier of 14 had been applied. Thereby granting total compensation of Rs.2,10,000/- towards disability (Rs.15,000/- x 14).

9. Further, the appellant has contended that he had spent Rs.2 lakh on his treatment, however, there is no evidence to support the said assertion as no bills showing incurring of expenditure of Rs.2 lakh has been produced by the appellant. Moreover, medical bills (Ex.P1 to P13) are computer generated. Yet the learned Tribunal has awarded Rs.83,064/- towards medical expenses. Further, Rs.25,000/- has been awarded for undergoing pain and suffering; thereby granting total compensation of Rs.3,18,064/-. From the above facts, it is clear that the evidence produced by the appellant was tenuous at best, yet learned Tribunal has awarded the impugned compensation. It is also to be noted that FIR (Ex.P20) was registered 7 days after the accident on 09.02.2017.

10. In view of the above no ground is made out to enhance the compensation awarded to the appellant. The present appeal is **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

19.08.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No