



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

229 FAO-7517-2016
Date of decision :15.09.2025

RELIANCE GENERAL INSURANCE CO. LTD. ... APPELLANT

VERSUS

AARIF AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sanjeev Kodan, Advocate
for the appellant.

Mr. Ashish Gupta, Advocate
for respondent No. 1.

Mr. Saleem Ahmad, Advocate
for respondent Nos. 2 and 3.

PARMOD GOYAL, J. (ORAL)

1. The present appeal has been preferred by the Insurance Company being aggrieved by the award dated 08.11.2016 passed by the Motor Accident Claims Tribunal, Mewat (hereinafter referred to as 'Tribunal') whereby total compensation of Rs.5,68,560 was paid to the injured claimant.

2. The Tribunal in the present case has awarded following compensation:

Income	Rs. 7,600/- (Minimum wages payable to an unskilled workers)
Loss of income for a period of 6 months	(Rs. 7,600x6) Rs. 45,600/-
Medical expenses	Rs. 48,720/-



Pain and sufferings	Rs. 1,25,000/-
Disability	Rs. 2,46,240/-
Hospitalization	Rs. 28,000/-
Attendant charges	Rs. 50,000/-
Transportation	Rs. 25,000/-
Total compensation awarded by Tribunal Rs. 5,68,560/-	

3. Insurance Company is primarily aggrieved on two counts:
- (i) That the learned Tribunal has erred in not appreciating the violation of the terms and conditions of the insurance policy on the part of the owner and driver of the offending tractor; and
 - (ii) That the compensation awarded to the injured claimant is excessive and not based upon the evidence available on record.
4. Learned counsel for the appellant has argued that the claimant himself, while testifying in the witness box, admitted that the tractor was loaded with tent articles at the time of the accident. This, according to the appellant, indicates violation of the insurance policy, as it suggests that the tractor was being used for commercial purposes. Therefore, it is contended that the insurance company is not liable to indemnify owner of tractor.
5. Apart from the claimant’s above-mentioned statement in the claim petition, no evidence was led by the insurance company to prove that the tent articles loaded on the tractor were part of any commercial transaction.
6. It is a well-known fact that tractors and trolleys are often used by agriculturists to carry their own goods, which may include items related to agriculture as well as personal belongings. The mere fact that the tractor was loaded with tent articles does not, by itself, establish that the vehicle was being used for commercial purposes, unless it is specifically shown that the load was



being carried as part of commercial transaction.

7. Since no such evidence has been brought on record, it cannot be concluded that there was any violation of the insurance policy by the owner or driver of the offending vehicle. As such, the findings of the learned Tribunal on this issue cannot be faulted.

8. In view of the above conclusion, learned counsel for the claimant has also challenged quantum of compensation awarded by the learned Tribunal. It is an admitted fact that the injured was 22 years old at the time of the accident and had suffered 10% disability, as deposed by PW-4 Dr. Naseem Ahmed. The doctor had placed disability certificate as Ex. P-177. According to the testimony of Dr. Naseem Ahmed, the claimant-respondent had suffered 10% permanent disability being post-traumatic operated case of fracture of intertrochanteric area of right femur with mild restriction of movements at right hip joint.

9. Admittedly, the claimant sustained injuries in November 2015. In the absence of any documentary proof regarding his actual income, the learned Tribunal rightly applied the minimum wages applicable to an unskilled worker as the income of the injured. After applying an addition of 50% towards future prospects, the monthly income of the injured was calculated at ₹11,400/-. A multiplier of 18 was applied, considering the age of the claimant as 22 years, and functional disability was assessed at 10%.

10. I find that in the present case, the learned Tribunal has erred in awarding 50% towards future prospects. Since the notional income of the injured has been taken as equivalent to the minimum wages payable to an unskilled worker, the appropriate addition towards future prospects ought to have been 40%, in line with the principles laid down by the Hon'ble Supreme Court.



11. I do not intend to interfere with the finding of the learned Tribunal regarding functional disability, which has been correctly assessed at 10%, considering the nature of the injury, particularly the restriction of movement of right hip joint.

12. Accordingly, the income of the petitioner is taken as ₹7,600/- per month. With an addition of 40% towards future prospects, the revised monthly income comes to ₹10,640/-, which would come to ₹1,27,680/- per annum. Assessing 10% functional disability, the annual loss of earning capacity would be ₹12,768/- per annum.

13. The petitioner has further been granted a sum of Rs. 1,25,000/- towards pain and suffering. Considering the nature of the injury and the evidence on record, I find no reasons to interfere with the said award.

14. Similarly, the petitioner has been rightly awarded Rs. 48,720/- towards medical expenses, Rs. 50,000/- towards attendant charges, Rs. 25,000/- towards transportation charges and Rs. 45,600/- towards loss of income.

15. Award of ₹28,000/- towards hospitalization is not justified in the facts and circumstances of the present case, particularly when compensation under the head of pain and suffering, attendant charges, transportation, special diet and medical expenses has been separately granted. Similarly, the award of ₹50,000/- towards attendant charges and ₹25,000/- towards transportation charges is also excessive, especially in the absence of any specific evidence substantiating such expenses. The total amount incurred towards medical expenses was ₹48,720/-. Accordingly, and keeping in view the overall facts and circumstances of the case, the petitioner is held entitled to a consolidated amount of ₹50,000/- towards attendant charges, transportation, and special diet.



16. In view of the above, the petitioner is held entitled to the following compensation:

Income	Rs. 7,600/- per month (minimum wages payable to unskilled workers)	Rs. 7,600/- per month
Functional Disability	10%	Rs 760/-
Future prospects	40% (760 +304)	Rs. 1,064/-
Multiplier	18	18
Loss of earning capacity	Rs. 1064x12x18	Rs. 2,29,824/-
Pain and sufferings	Rs. 1,25,000/-	Rs. 1,25,000/-
Attendant charges, transportation and special diet		Rs. 50,000/-
Medical expenses	Rs. 48,720/-	Rs. 48,720/-
Loss of income during treatment	Rs. 45,600/-	Rs. 45,600/-
Compensation awarded by Tribunal	Rs. 5,68,560/-	
Total compensation awarded in appeal		Rs. 4,99,144/-
Difference in the amount of compensation	Rs. 5,68,560/- (awarded by Tribunal)- Rs. 4,99,144 (awarded in appeal)	- Rs. 69,416/- (Excess amount to be paid back by claimant)

17. The award passed by the learned Tribunal is modified to the extent indicated above. The petitioner shall be entitled to a total compensation of ₹4,99,144/- along with interest as awarded by the Tribunal. Excess amount with interest paid to claimant be returned by claimant or can be recovered by appellant if amount is not paid.

18. The appeal stands disposed of in the above terms.



Whether speaking/reasoned	Yes
Whether reportable	Yes/No