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

**FAO-7077-2016 (O&M) &
XOBJC-117-CII-2017 (O&M)
Date of Decision : 02.12.2025**

National Insurance Co. Ltd

... Appellant(s)

Versus

Sanjeev Kumar & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sachin Ohri, Advocate for the appellant.

Mr. R.S. Rangpuri, Advocate
for respondent No.1/cross-objector.

ALKA SARIN, J. (Oral)

CM-24333-CII-2016

1. For the reasons mentioned therein, the application seeking condonation of delay of 53 days in refiling the appeal is allowed and the delay of 53 days in refiling the appeal is condoned.

CM-24332-CII-2016

2. For the reasons mentioned therein, the application seeking condonation of delay of 118 days in filing the appeal is allowed and the delay of 118 days in filing the appeal is condoned.

FAO-7077-2016 & XOBJC-117-CII-2017

3. The present order shall dispose off the appeal being **FAO-7077-2016** filed by the appellant-Insurance Company and the cross-objections being **XOBJC-117-CII-2017** filed by the injured-claimant challenging the impugned award dated 21.01.2016 passed by the Motor Accident Claims

Tribunal, Sri Muktsar Sahib (hereinafter referred to as 'Tribunal'). The parties are being referred to as the Insurance Company, the injured-claimant and owner and driver.

4. Brief facts relevant to the present *lis* are that on 05.04.2014 the injured-claimant alongwith Inderjit Singh @ Pappi, Parmod, Roop Chand, Mangal Singh, Ramji, Pappu Kabaria, Ram Je, Kala Ram, Gogi @ Surjit Kumar etc, was going to Mela Buraj Mahima in a Tata Canter 407 bearing registration No.PB-0F-5198. When they reached near Appna Petrol Pump near Village Aklian, a Bus bearing registration No.PB-02-AZ-6895 (hereinafter referred to as 'offending Bus') being driven by its driver in a rash and negligent manner and at a very high speed, came from behind and made a cut while crossing the Canter. As a result, the Tata Canter went uncontrolled and scrolled down on the road. The driver of the offending bus ran away from the spot. All the persons travelling in Tata Canter sustained injuries. FIR No.31 dated 05.04.2013 was registered at Police Station Nehianwala, District Bathinda.

5. On notice the driver and owner of the offending bus filed the written statement denying the accident having taken place. The Insurance Company had also filed its separate written statement raising preliminary objections qua the maintainability of the claim petition. It was further averred that the driver of the offending bus was not holding a valid and effective driving licence at the time of the accident. The factum of the accident was also denied.

6. On the basis of the pleadings of the parties, the following issues were framed :

1. *Whether claimant received injuries in motor*

vehicular accident on 05.04.2013 at about 4 PM near Appna Petrol Pump of Village Aklian due to rash and negligent driving of respondent No.1 Harpal Singh driver of Bus No.PB-02-AZ-6895 ? OPP

2. *Whether the claimant is entitled to compensation on account of injuries received by him? If so, to what amount and from whom ? OPP*
3. *Whether respondent No.1/driver of the offending vehicle was not holding valid and effective driving licence at the time of accident ? OPR-3*
4. *Relief.*

7. The Tribunal, while holding that the offending bus was being driven in a rash and negligent manner and causing the accident, had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Monthly Income	₹10,000/-
2.	Loss of income on account of 30% permanent disability	₹3,000/-
3.	Loss of earning by applying multiplier of 13	₹4,68,000/- [₹3,000 x 12 x 13]
4.	Loss of earning for the period of hospitalization	₹15,000/-
5.	Attendant charges	₹10,000/-
6.	Special Diet	₹15,000/-
7.	Medical expenses	₹75,303/-
8.	Transport charges	₹10,000/-
	Total Compensation	₹5,93,303/-
	Interest	7% per annum

8. Aggrieved by the same, the Insurance Company has filed the

appeal **FAO-7077-2016** on the ground that the offending bus while making a cut did not touch the Tata Canter and it was the Canter which was being driven in a rash and negligent manner. Cross-objections being **XOBJC-117-CII-2017** have also been filed the injured-claimant for enhancement of compensation.

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9. Learned counsel for the Insurance Company would contend that the offending bus was being driven by the driver at a proper speed and it was the Canter which was coming from behind which hit the offending bus while it was making a cut hence it could not have been held that the offending bus was being driven in a rash and negligent manner.

10. *Per contra* learned counsel for the injured-claimant has contended that the offending bus, which was being driven at a high speed, overtook the Canter and suddenly made a cut while crossing the Canter, thus, resulting in the accident. The driver of the Canter could not control the vehicle and the same rolled down the road.

11. Heard.

12. The only argument raised by the learned counsel for the Insurance Company is that the offending bus was not being driven in a rash and negligent manner. However, the finding of the Tribunal is to the contrary that the offending bus while overtaking the Canter suddenly made a cut while crossing the Canter. The evidence on the record is overwhelming. The driver of the offending bus who could have been the best person to depose did not step into the witness box. It is expected that a vehicle while overtaking would overtake in a safe manner and cannot make a sudden cut resulting in the vehicle which was being overtaking to lose its control. In view thereof, the

argument of the learned counsel for the Insurance Company stands rejected.

XOBJC-117-CII-2017

13. Learned counsel for the injured-claimant would contend that though the income of the injured-claimant as well as the permanent disability @ 30% has rightly been assessed and a multiplier method has correctly been applied, however, no amount has been awarded towards loss of future prospects, which ought to have been 25% keeping in view the age of the injured-claimant as 46 years. It is further the contention that no amount has been awarded under the heads 'pain and suffering' and loss of amenities of life and that the amount awarded under the other heads i.e. special diet, attendant charges and transportation are on the lower side. Learned counsel for the injured claimant has relied upon judgment of the Hon'ble Supreme Court in the cases of **Pappu Deo Yadav Vs. Naresh Kumar & Ors. [2020 (4) RCR (Civil) 404]**.

14. *Per contra* learned counsel for the Insurance Company has contended that sufficient amount has already been awarded as compensation and no further enhancement is called for.

15. Heard.

16. In the present case, since there is no dispute so far as the income of the injured-claimant, permanent disability and the multiplier method applied thereto by the Tribunal, the same are accordingly maintained. Though the Tribunal has rightly applied the multiplier method so far as loss of income is concerned, however, no addition has been made towards future prospects which ought to have been made @ 25% in view of the law laid down in case of **Pappu Deo** (supra). Thus, the injured-claimant is also entitled to addition of 25% towards future prospects.

17. In the present case, no amount has been awarded towards pain and suffering and loss of amenities of life. Due to the accident, the injured-claimant sustained injuries and he remained admitted in Guru Gobind Singh Medical College and Hospital, Faridkot for a period of 40 days i.e. from 05.04.2013 to 01.05.2013 and then from 12.02.2014 to 26.02.2014. As per the Disability Certificate (Ex.A4), the diagnosis of the injured-claimant is *Arthrodesis (Rt.) Ankle with O/c # Calcaneus (L) Foot with # injury Pubic Rami Lt. Side*. Keeping in view the permanent disability of the injured-claimant and the period of hospitalization, this Court deems it appropriate to award an amount of ₹1,50,000/- towards pain and suffering and an amount of ₹1,50,000/- towards loss of amenities of life. Further the amounts awarded under the other heads i.e. special diet, attendant charges and transportation, in the opinion of this Court, are on the lower side and the same are enhanced to ₹25,000/- towards special diet, ₹20,000/- towards attendant charges and ₹20,000/- towards transportation charges. The amounts awarded towards loss of income during the period of hospitalization and medical expenses are maintained. Accordingly, the reworked compensation is as under :

Sr.No.	Heads	Compensation Awarded
1	Loss of future earnings on account of permanent disability as assessed by the Tribunal	₹4,68,000/-
2	Future prospects @ 25%	[₹4,68,000 + 1,17,000] = ₹5,85,000/-
3	Pain and suffering	₹1,50,000/-
4	Loss of amenities of life	₹1,50,000/-
5	Special Diet	₹25,000/-
6	Attendant charges	₹20,000/-
7	Transportation charges	₹20,000/-
8	Loss of earning for the period of hospitalization	₹15,000/-

9	Medical expenses	₹75,303/-
	Total Compensation	₹10,40,303/-

18. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

19. In view of the decision by the Hon’ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account of the claimant within six weeks from today. The particulars of the bank account alongwith the requisite documents(s) in support thereof shall be furnished by the claimant to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

20. In view of the above discussion, the appeal being **FAO-7077-2016** filed by the Insurance Company is dismissed and the cross-objections being **XOBJC-117-CII-2017** filed by the injured-claimant are allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

02.12.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO