



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-4970-2025(O&M)

Date of decision: 02.12.2025

Apreet

...Appellant(s)

Vs.

Ashwani Kumar & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTAPresent:- Mr. Rajiv Kumar Saini, Advocate
for the appellant.

NIDHI GUPTA, J.

Present appeal has been filed by injured-claimant seeking enhancement of compensation of Rs.32,15,903/- awarded by the Motor Accident Claims Tribunal, Karnal (hereinafter 'the learned Tribunal') vide Award dated 17.05.2025 passed in MACP Case No.128 dated 19.02.2021 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act").

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the appellant had suffered injuries in a motor vehicular accident that took place on 25.12.2020 due to the rash and negligent driving of TATA 407 bearing registration No.HR-45A-9619 (hereinafter "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The aforesaid compensation has been awarded



along with interest of 9% per annum. Respondents were held jointly and severally liable for payment of compensation.

3. Learned counsel for the appellant seeks enhancement of compensation by submitting that in the accident in question, the appellant had suffered head injury, facial fractures with fracture neck of femur right with fracture shaft femur bilateral with fracture of tibia right with facial laceration, as a result of which, he had suffered 30% permanent disability. It is submitted that therefore, functional disability should have been assessed as 50%. The appellant was only 20 years old at the time of accident. The appellant had remained hospitalised for 37 days. However, only Rs.89,790/- has been awarded for loss of job for six months; whereas it was proved that the appellant had remained in hospital and thereafter, he is on bed and also on follow up treatment for 2 years. Thus, the attendant charges should also have been awarded. Even no compensation has been awarded for loss of pleasure and beauty or marriage prospects. Very less amounts have been awarded under the other heads. Even rate of interest deserves to be enhanced. It is also submitted that the motorcycle of the appellant had struck into the offending vehicle in front of it as the respondent No.1 had suddenly applied brakes. It is submitted that accordingly there was no fault of the appellant in causing the accident in question. Thus, the learned Tribunal is in error in making a deduction of 50% towards contributory negligence. Learned counsel accordingly prays that the impugned Award be modified.



4. No other argument is made on behalf of the appellant. I have heard learned counsel and perused the case file in detail.

5. It was the pleaded case of the appellant in the Claim Petition before the Tribunal as recorded in Paras 3 and 4 of the impugned Award that:-

“3. Common facts of these two petitions, as averred by the claimants are that on 25.12.2020 the claimant Apreet, Amit s/o Rajesh Kumar and Neshant Sharma s/o Sachin were going from Jogi Majra to Karnal on motorcycle Splendor bearing No.HR-05AL-4223 which was being driven by Apreet on moderate speed on due left hand side of the road and reached at about 12:00 Noon when they reached Nirmal Kutia Flyover meantime offending TATA 407 was going ahead of them which was being driven by its driver in zig-zag, rash and negligent manner and suddenly applied break due to which the motorcycle hit TATA 407 from backside due to which Apreet received injuries all over his body, head and right leg, Neshant received injuries on face and shoulder etc. and Amit also received injuries including injury on left eye. After the accident the injured/claimants were taken to Amritdhara Hospital, Karnal. The present accident and injuries to claimants took place due to the sole, rash, negligent and careless driving of the driver of the offending Vehicle bearing registration No.HR45A-9619. On the basis of above facts, the police registered FIR No.677 dated 25.12.2020 u/s 279/337 IPC at PS. Sector 32-33, Karnal.

4. In claim petition no.2, it was further averred that claimant/injured Apreet was aged about 20 years and he had passed pharmacy from Bharat College of Pharmacy Babain and now he was under training in LNJP Hospital, Kurukshetra. He



remained admitted in hospital as indoor patient from 25.12.2020 to 2.1.2021 in Amritdhara Hospital, Karnal and from 2.1.2021 to 4.1.2021 in Kalpana Chawla Govt. Medical College & Hospital, Karnal again from 4.1.2021 to 26.1.2021 in Amritdhara Hospital, Karnal and he spent ₹ 20 lacs approximately on treatment, medicines, special diet, transportation and physician fee etc. It has, therefore, been prayed that the claimant be awarded compensation to the tune of ₹ 1,00,00,000/- (One Crore) alongwith interest at the rate of 18% per annum from the date of accident till the actual realization of the award amount."

6. From the facts narrated above, it is clear that at the time of accident, the appellant was triple riding on the motorcycle in question. As such, deduction of 50% made by the learned Tribunal towards contributory negligence, is correct and upheld. At this stage, reference is made to a judgment passed by this Court in **Angrejo Devi v. Jai Parkash (P&H): Law Finder Doc Id # 401182**; wherein it is held as under:-

"Motor Vehicles Act, 1988, Section 128 - Motor Vehicles Act, 1988, Section 166 - Contributory negligence - Fatal motor accident - Deceased was driving with two passengers on pillion seat in violation of Section 128 of M.V. Act - Accident caused by rash and negligent driving of motor cycle by respondent - The deceased was aged 50 years and there was every possibility of losing control - Held, it was case of contributory negligence of deceased in the ratio of 50% each."



7. Reference is also made to judgment passed by Madras High Court in **Managing Director, Tamil Nadu State Trans. Corpn. Ltd. v. Abdul Salam (Madras)(DB): Law Finder Doc Id # 380518**; holding that:-

“A. Rash and Negligence - Contributory negligence - Pillion rider - Triple riding - Collision between a bus and motor cycle resulting in death of one of the pillion riders - Deceased was travelling in motor cycle as one pillion riders - Tribunal held that accident occurred due to rash and negligent driving of the bus - Defence that three persons were riding the motor cycle and it was unbalanced and accident occurred due to rash and negligent driving of the motor cycle - Motorcyclist was at fault for carrying two pillion riders not permitted by law - Hence, Held that deceased was liable for 5% of contribute or negligence and consequently 50% of the compensation is deducted to words contributory negligent - Appellate court reversed the finding and held the deceased guilty of contributory negligence to the extent of 50 per cent - Therefore, appeal partly allowed.”

8. Thus, Id. Tribunal has correctly made deduction of 50% towards contributory negligence.

9. It has also been contended on behalf of the appellant that the offending vehicle had applied brakes suddenly as a result of which, the motorcycle on which the appellant was traveling, had struck into the offending vehicle. Reference is made to Rule 23 of the Rules and Road Regulation 1999, which reads as follows: –

“23. Distance from vehicles in front.- *The driver of a motor vehicle moving behind another vehicle shall keep at a sufficient*



distance from the other vehicle to avoid collision if the vehicle in front should suddenly slow down or stop.

10. Thus, Rule 23 categorically stipulates that safe distance be maintained from the vehicle in front. Clearly, the appellant was driving. The motorcycle at a fast speed to have struck into the offending vehicle with such impact to result in injuries to the claimant.

11. It has next been contended on behalf of the appellant that less compensation has been awarded as the appellant has suffered 30% disability in the accident in question. Record reveals that in the accident in question, the appellant had suffered 30% permanent disability qua right limb and 12% temporary disability qua right leg and left thigh. This is evident from Disability Certificate (Ex.P11), which was proved from the evidence of PW4 Dr. Manu Soni. PW4 had further deposed that the appellant was suffering from 21% permanent disability qua the whole body. Thus, learned Tribunal has correctly assessed disability of the appellant as 21%. In assessing the functional disability of the appellant as 21%, the learned Tribunal had also been mindful of the fact that disability of 12% qua the right leg and right thigh was temporary and would be reduced with passage of time and physiotherapy.

12. Further, the appellant claimed that he had done Diploma of Pharmacy, but failed to produce any proof of income. As such, Tribunal had assessed notional income of the appellant as Rs.14,965/- per month as per DC rate for unskilled worker. Age of the appellant was taken to be 20 years



on the basis of his Aadhaar Card (Ex.P19), wherein his date of birth is mentioned as 15.07.2000. Accordingly, the learned Tribunal had awarded compensation in the following manner:-

Head	Amount
Annual income	Rs.14,965/- x 12 = Rs.1,79,580/-
40% future prospects	Rs.1,79,580/- + Rs.71,832/- = Rs.2,51,412/-
Loss of income and future earning on account of 21% permanent disability Multiplier of 18	Rs.2,51,412/- x 18 = Rs.45,25,416/-
Loss of earning for six months (Rs.14,965/- per month)	Rs.14,965/- x 6 = Rs.89,790/-
Medical expenses	Rs.16,49,600/-
Attendant charges for 37 days	Rs.1000/- x 37 = Rs.37,000/-
Conveyance and special diet	Rs.30,000/-
Pain and suffering	Rs.50,000/-
Loss of amenities	Rs.50,000/-
Total compensation	Rs.64,31,806/-
50% amount deducted for contributory negligence	50% of Rs.64,31,806/- = Rs.32,15,903/-
Net compensation	Rs.32,15,903/-

13. In view of the above discussion, I find no ground is made out for enhancement of compensation. The present appeal accordingly stands **dismissed**.

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

02.12.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No