



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

107**FAO-5005-2003****Date of decision :11.03.2026****DEVINDER SINGH****... APPELLANT****VERSUS****NARESH KUMAR AND ORS.****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

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

Ms. Tanvi Aggarwal, Advocate for
Mr. Vikas Mohan Gupta, Advocate
for respondent No. 3-Insurance Company.

PARMOD GOYAL, J. (ORAL)

1. The present appeal has been preferred by injured-appellant-claimant, who had suffered injuries in motor vehicular accident dated 15.04.1999 on account of rash and negligent driving of respondent No. 1 while driving the truck bearing registration No. HP-24-4415.

2. Being aggrieved by impugned award dated 16.08.2003 passed by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'Tribunal'), vide which the injured-appellant-claimant was found entitled to total compensation of Rs. 48,600/-, the appellant-claimant is seeking enhancement of compensation awarded by the Tribunal as the same is not in accordance with his entitlement.

3. Learned Tribunal has awarded following compensation to the injured-appellant-claimant:

Medical bills	Rs. 4,400/-
Pain and sufferings	Rs. 20,000/-
Special diet	Rs. 5,000/-
Conveyance charges	Rs. 10,000/-
Attendant charges	Rs. 5,000
Loss of income during treatment	Rs. 4,200/-
Total compensation awarded	Rs. 48,600/-

4. The learned Tribunal has duly considered the extent of injuries, the period of hospitalization, and the nature of treatment as is clearly established from the evidence of PW-2 Dr. Rahul Bhan and PW-3 Dr. K.D.Sharma, the doctors examined by the claimant. The claimant is primarily aggrieved by the quantum of compensation awarded under various heads by the learned Tribunal and the non-grant of compensation for loss of earning capacity on account of permanent disability, loss of future amenities of life and loss of future prospects arising out of the said permanent disability.

5. From the evidence of PW-2 and PW-3, it stands clearly proved that immediately after the accident the claimant was shifted to Sector 32 Hospital, Chandigarh, where he remained admitted from 15.04.1999 to 19.04.1999, and thereafter he was admitted to Sector 16 Hospital from 19.04.1999 to 05.05.1999. The claimant suffered mal-uniting fractures of both bones of the right leg. Surgery was performed and fixator was applied on his right leg during the surgical procedure carried out on 02.06.1999.

6. PW-3 further proved Ex. A-3 medical expenditure record, Ex. A-4

OPD Card of appellant-claimant, Ex. A-6 MLR and Ex. A-7 and Ex. A-8

discharge slip, which clearly establish the nature of injuries and treatment undergone by the claimant. It is thus evident that the appellant-claimant had suffered injuries on his right leg, including multiple fractures of the right lower leg, and also sustained injuries on his forearm. He remained admitted in the hospital from 19.04.1999 to 05.05.1999 and had to undergo surgery.

7. These facts are not being disputed even by the learned counsel for the Insurance Company. However, the main dispute in the present case relates to the admissibility of the disability certificate i.e. Ex. A-1.

8. In the present case, Ex. A-1 disability certificate was proved by PW-1 Leeladhar, the clerk from the office of Civil Surgeon, who had produced the disability certificate on record as Ex. A-1. However, doctor issuing the same was not examined.

9. Perusal of the evidence of PW-1 shows that he had duly identified the signatures of the issuing doctor, namely Dr. S.P. Sharma, Additional CMO, and also clearly stated that the disability certificate was issued on the recommendation of Dr. R.K. Mittal, who had duly examined the claimant-appellant. PW-1 specifically identified the signatures of both the doctors appearing on the disability certificate. However, the learned Tribunal rejected the evidence of PW-1 and concluded that in the absence of the doctor who had issued the disability certificate, the said certificate could not be held to be duly proved and, therefore, could not be taken into consideration. Accordingly, the disability certificate Ex. A-1 was excluded from consideration by the learned Tribunal.

10. Learned counsel for the claimant-appellant has argued that the

Indian Evidence Act, 1872 which clearly states that when document is alleged to be signed or written by a person, the signatures or handwriting of that person must be proven to be in his handwriting either by examining author or some witness conversant with signature. It is contended that once PW-1 proved the issuance of Ex. A-1 by identifying the signatures of the concerned doctors, the onus shifted upon the respondents to rebut the same. In the absence of any evidence led by the respondents to challenge the said document, Ex. A-1 ought to have been accepted by the learned Tribunal.

11. On the other hand, learned counsel for the Insurance Company has relied upon the judgment of the Hon'ble Supreme Court in **Rajesh Kumar alias Raju Vs. Yudhvir Singh and another**, (2008) 7 SCC 305, to contend that where the doctor issuing the disability certificate is not examined, such certificate cannot be safely relied upon for determining disability.

12. On consideration, I find that once the disability certificate has been proved by PW-1 by identifying the signatures of the doctor issuing the same, the onus shifts upon the respondents to rebut the said document. In the absence of any cogent evidence led by the respondents to challenge the genuineness of the disability certificate, the same cannot be discarded merely on the ground that the doctor issuing the certificate was not examined.

13. Section 67 of the Indian Evidence Act, 1872 provides the mode of proving the signature and handwriting of a person and reads as under:-

“67. Proof of signature and handwriting of person alleged to have signed or written document produced.-If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be

proved to be in his handwriting.”

14. A document can be proved either by examining the person in whose handwriting the document was prepared, or by proving the signatures appearing on the document. The mandate of Section 67 of the Evidence Act, 1872 in the present case stands duly complied with.

15. The judgment relied upon by the learned counsel for the respondent—Insurance Company is clearly distinguishable. In the said judgment, the disability certificate was not proved either by proving the signatures appearing thereon or by examining any person acquainted with the signatures of the doctor issuing the certificate. However, in the present case, by examining PW-1, who duly identified the signatures of the issuing doctors, the disability certificate Ex. A-1 stands duly proved on record. Therefore, the learned Tribunal ought to have taken the same into consideration.

16. As per the disability certificate, the claimant has suffered shortening of the leg resulting in 25% permanent disability. Consequently, the loss of earning capacity has to be assessed accordingly. In the present case, considering the nature of disability, i.e., shortening of the leg, the functional disability qua the whole body can reasonably be assessed as 20%.

17. The appellant-claimant has asserted that he was earning Rs. 4,000/- per month while working as a Foreman in Aggarwal Plastic Industries. However, except for placing on record certificate Mark-71, no other document was produced to substantiate the pleaded income or vocation of the claimant. No document was proved, nor any witness was examined from the office of the alleged employer to establish the claimant's employment or income.

18. In these circumstances, I do not find any error in the approach

adopted by the learned Tribunal in treating the claimant-appellant as an unskilled worker and applying the minimum wages payable to an unskilled worker at the time of the accident to determine the income of the injured claimant. Accordingly, the monthly income of the appellant-claimant is taken to be Rs.2,100/- per month and addition of 40% towards future prospects needs to be made while calculating loss of earning capacity. Since appellant-claimant was 28 years old at the time of accident, multiplier of 17 needs to be applied.

19. Learned counsel for the claimant-appellant has also made reference to Ex. A-37 to A-70, which reflects medical expenses amounting to Rs. 4,403/- rounded off to Rs. 4,400/- and the same was duly proved by PW-3. However, the said amount was fully taken into consideration by the learned Tribunal while awarding compensation. Claimant-appellant shall also be entitled to compensation for future loss of amenities and loss of future prospects and accordingly amount of Rs. 30,000/- is awarded collectively under both the heads.

20. Accordingly, the amount awarded by the learned Tribunal under the head of medical expenses, i.e., Rs. 4,400/-, pain and sufferings as Rs. 20,000/-, special diet as Rs. 5,000/-, conveyance charges as Rs. 10,000/-, attendant charges as Rs. 5,000/- and loss of income during treatment as Rs. 4,200/- needs no enhancement. Claimant-appellant is held entitled to the said additional amount towards medical expenses.

Income	Rs.2,100/- per month (as per minimum wages)	Rs.2,100/- per month
20% Functional disability		Rs.420/-
Future prospects	40% (420+168)	Rs.588/-

Multiplier	17	17
Total loss of earning capacity	Rs.588 x 12 x 17	Rs.1,19,952/-
Medical Expenses	Rs.4,400/- (by Tribunal)	Rs.4,400/-
Pain and sufferings	Rs. 20,000/- (by Tribunal)	Rs.20,000/-
Special diet	Rs.5,000/- (by Tribunal)	Rs.5,000/-
Conveyance charges	Rs. 10,000/- (by Tribunal)	Rs. 10,000/-
Attendant charges	Rs. 5,000/- (by Tribunal)	Rs. 5,000/-
Loss of income during treatment	Rs.4,200/- (by Tribunal)	Rs.4,200/-
Loss of future amenities of life and future prospects		Rs. 30,000/-
Total compensation awarded by Tribunal	Rs.48,600/- (by Tribunal)	
Total compensation awarded in appeal		Rs.1,98,552/-
Enhancement of compensation	Rs.1,98,552/- (as awarded in appeal)- Rs.48,600/- (as awarded by Tribunal)	Rs.1,49,952/-

21. Appeal is accordingly allowed in above terms.
22. Claimants-appellants shall also be entitled to interest @ 7.5% on the enhanced compensation from the date of filing of claim petition till realization. Apportionment and liability of respondents to pay compensation shall be as per the award.
23. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

11.03.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No