

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

(215)

**FAO No.4069 of 2002(O&M)
Date of decision:05.05.2026**

SAT PAL

... APPELLANT

VERSUS

VINOD KUMAR AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Adarsh Jain, Senior Advocate,
Ms. Kamaldeep Kaur, Advocate
for the appellant.

Mr. Sahaj Mahajan, Advocate
for respondent No.3/Insurance Company.

VIRINDER AGGARWAL, J.(ORAL

1. The present appeal has been preferred by the appellant seeking enhancement of the compensation awarded vide award dated 01.03.2002 passed by the learned Motor Accident Claims Tribunal, Faridabad, on account of the injuries sustained by Sat Pal in a motor vehicular accident.

BACKGROUND FACTS

2. The brief facts of the case are that on 12.05.1999 at about 6:30 a.m., the appellant-claimant Sat Pal was proceeding on foot near the Railway Crossing, Bamnikhera when the offending vehicle Tata 407 bearing registration No. UP-14-H-3231, driven by respondent No.1 Vinod Kumar in a rash and negligent manner, came from behind and hit the appellant. Due to the forceful impact, the appellant fell down and sustained multiple injuries. The appellant was taken to Civil Hospital, Palwal and was later referred to ESI Hospital, Faridabad. On account of the injuries suffered in the accident, the appellant filed a petition under Section 166 of the Motor Vehicles Act, 1988 before the learned Motor Accident Claims Tribunal, Faridabad, seeking compensation.

After appreciating the evidence led by the parties, the learned Tribunal awarded a sum of ₹37,554/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till realization. The respondents were held jointly and severally liable to pay the awarded amount.

CONTENTIONS

3. Learned counsel for the appellant argued that the compensation awarded by the learned Tribunal is grossly inadequate and inconsistent with settled principles for determining just compensation. It was submitted that the learned Tribunal has failed to award appropriate amounts under several significant heads. In particular, insufficient compensation has been granted towards medical expenses, special diet, and other consequential expenses incurred by the appellant on account of the injuries sustained in the accident. Learned counsel also submitted that no amount has been awarded towards loss of amenities of life, transportation expenses, attendant charges, pain and suffering. On these grounds, it was urged that the compensation awarded by the learned Tribunal deserves to be suitably enhanced so as to ensure the grant of fair and reasonable compensation to the appellant.

4. Learned counsel for the respondent No.3 supported the award of the learned Tribunal, contended that the award had been passed after a proper and thorough appreciation of the evidence on record and therefore, did not warrant any interference by this Court.

OBSERVATIONS AND FINDINGS

5. I have heard learned counsel for the parties and perused the complete records. On due consideration of the findings recorded by the learned Tribunal, particularly on the issue of negligence and fastening of liability, I find no reason to take a different view. However, the core issue arising in this appeal pertains

to the reassessment of the quantum of compensation. The reassessment is, therefore, undertaken as under:

6. In the injury cases, the amount of compensation has to be evaluated in accordance with the principles recognised in *Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343*, wherein the Hon'ble Supreme Court has classified the heads of compensation separately for pecuniary and non-pecuniary damages, including medical expenses, loss of income during treatment, future loss of earning capacity, transportation, pain and suffering and loss of amenities. The quantum in this case, therefore, warrants re-examination by considering the nature of injuries, duration of hospitalisation and other attending circumstances as reflected in the respective records.

7. A perusal of the record indicates that the appellant-claimant Sat Pal sustained grievous injuries in the motor vehicular accident which occurred on 12.05.1999. The medical evidence on record establishes that the appellant suffered a fracture of the shaft of right femur with diffuse swelling on right thigh and right hip. The testimony of Dr. Jagmohan Mittal (PW-1) who had medico-legally examined the appellant shows that on taking X-ray, fracture on shaft of right femur was found. The claimant remained confined to bed for months. Further, the testimony of Dr. R.S. Gupta (PW-2) reveals that he attended the appellant and found him suffering from a subtrochanteric fracture shaft right femur. He proved OPD slip (Ex.P2) and discharge slip (Ex.P3). He also opined that there was possibility of shortening of leg due to the fracture and of permanent disability. The nature of the injuries and the treatment undertaken have been duly proved through the testimonies of -Dr. Jagmohan Mittal (PW-1) and Dr. R.S. Gupta (PW-2) who produced and proved the relevant medical documents. The said medical evidence clearly demonstrates

that the injuries suffered by the appellant were serious in nature and necessitated prolonged medical care, plastering and a substantial period of rest and recuperation.

8. Further, the record indicates that the appellant incurred expenses towards medical treatment and purchase of medicines during the course of his treatment. Various medical bills and receipts were produced on record to substantiate the said expenditure, out of which bills (Mark A to Mark M) amounting to ₹28,054/- were duly proved. The evidence also shows that the appellant had to undergo prolonged treatment for the fracture of femur followed by post-treatment care and, therefore, was required to incur expenses on medicines, diagnostic tests and other allied medical necessities. The appellant claimed to have spent about ₹50,000/- on his treatment. In these circumstances, the learned Tribunal awarded a sum of ₹28,054/- towards medical expenses. Having regard to the nature of the injuries sustained, the duration of treatment, and the fact that the award is based on duly proved medical bills, this Court is of the considered view that the learned Tribunal has rightly assessed the amount under this head. The same does not suffer from any illegality or infirmity warranting interference by this Court.

9. Moreover, the evidence on record establishes that the appellant was stated to be working and earning his livelihood at the time of the accident and had claimed a monthly income of ₹4,000/-. However, the material available on record reflects that no documentary evidence was produced to substantiate the said assertion, and the claim of income remained unsupported except for the oral testimony of the appellant. In the absence of reliable proof of income, the earnings of the appellant are required to be assessed on a notional basis by treating him as an unskilled/casual labourer. Having regard to the year of

accident, i.e. 1999, the monthly income can reasonably be taken at ₹2,000/-, which corresponds to the prevailing wages of an unskilled labourer at the relevant time. Further, keeping in view the nature of injuries sustained by the appellant and the fact that he remained confined to bed for months, it is evident that he would have suffered loss of earnings during the period of treatment and recuperation. Though the learned Tribunal has taken this aspect into consideration while awarding compensation, the amount granted under this head appears to be on the lower side and does not adequately compensate the appellant for the actual loss suffered. Accordingly, the same warrants suitable enhancement.

10. Moreover, a perusal of the record reveals that Dr. R.S. Gupta (PW-2) appeared in evidence and deposed with regard to the possibility of shortening of the leg and resultant permanent disability as a consequence of the fracture. It is also a matter of record that the said witness was not cross-examined by the respondents on this aspect. However, no formal disability certificate was produced to establish the nature and extent of any permanent disability in accordance with law. Further, while assessing the impact of such alleged disability on the earning capacity of the appellant, it is evident that no sufficient material has been placed on record to prove the appellant's vocation or income. In these circumstances, the learned Tribunal has rightly concluded that the permanent disability was not duly proved so as to warrant assessment of loss of future earning capacity. Accordingly, the finding recorded by the learned Tribunal on this issue is well-reasoned and does not call for any interference by this Court.

11. Further, the record also indicates that the appellant would have required transportation for visiting hospitals, assistance of an attendant and a

special diet to facilitate recovery. However, no compensation has been awarded under the heads of pain and suffering, loss of amenities, attendant charges and transportation. Having regard to the nature of injuries, particularly the fracture of femur, the prolonged period of treatment and bed rest, and the overall circumstances of the case, the appellant is entitled to just and reasonable compensation under the aforesaid heads.

12. Lastly, having regard to the nature of injuries suffered by the appellant, the fracture of shaft of right femur, possibility of shortening of leg and permanent disability, the prolonged period of treatment and confinement to bed, the inconvenience and discomfort caused to him during the course of treatment and recovery, this Court is of the considered view that the compensation awarded by the learned Tribunal requires to be suitably enhanced so as to ensure that the injured claimant receives just and reasonable compensation. The compensation is accordingly reassessed as reflected in the following table:

Particulars	Awarded by Tribunal (₹)	Re-assessed (₹)
Loss of income during treatment (5 months)	7,000/-	10,000/- (2,000 x 5)
Medical expenses (Mark A to Mark M)	28,054/-	28,054/-
Transportation	x	5,000/-
Special diet	2500/-	20,000/-
Attendant	x	10,000/-
Loss of amenities	x	10,000/-
Pain and suffering	x	20,000/-
Total	37,554/-	₹1,03,054/-

13. In view of the above, the appeal is partly allowed. The impugned award dated 01.03.2002 is modified to the extent that the compensation payable to the appellant is enhanced from ₹37,554/- to ₹1,03,054/-. The enhanced amount shall carry interest at the rate of 7% per annum from the date of filing of the claim petition till realization. Except for the modification of the quantum of

compensation, all other findings recorded by the learned Tribunal, including those with regard to negligence, liability and mode of disbursement, shall stand affirmed.

14. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

05.05.2026

Poonam

(VIRINDER AGGARWAL)
JUDGE

- (i) *Whether speaking/reasoned* : *Yes/No*
- (ii) *Whether reportable* : *Yes/No*