

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

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**FAO-3994-2003****SURINDER SINGH**

. . . . Appellant

**Vs.****Amar Nath and others**

. . . . Respondents

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**Reserved on: 06.05.2026****Pronounced on: 07.05.2026****Pronounced Fully/Operative Part: Fully**

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**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

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Present: - Mr. Dinesh Maurya, Advocate,  
Mr. G.S. Sandhu, Advocate, for the appellant.

Mr. Paul S. Saini, Advocate,  
for respondent No.3-Insurance Company.

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**DEEPAK GUPTA, J.**

This claimant's appeal is directed against the award dated 30.07.2003 passed by learned Motor Accident Claims Tribunal, Karnal, whereby compensation on account of injuries suffered by the appellant in a motor vehicular accident was assessed at ₹77,900/-.

2. Briefly stated, on 20.07.2001, the claimant-appellant was proceeding on his motorcycle from Karnal towards Assandh. When he reached near Community Health Centre, Assandh, offending vehicle bearing registration No.HR-46-0896, being driven by respondent No.1 in a rash and negligent manner and on the wrong side of the road, struck against the motorcycle of the claimant, resulting in grievous injuries to him. Initially, he was taken to CHC, Assandh and thereafter shifted to Karan Hospital, Karnal, where he remained admitted from 20.07.2001 to 04.08.2001.

3. The claimant instituted a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation from the driver, owner and insurer of the offending vehicle. Respondent No.1-driver did not contest the proceedings

and was proceeded against ex parte, whereas respondents No.2 and 3 contested the claim petition.

4. On appraisal of the evidence, learned Tribunal recorded a categorical finding that the accident had taken place due to rash and negligent driving of the offending vehicle by respondent No.1 and accordingly awarded compensation of ₹77,900/- along with interest. However, since the driver was found not to be holding a valid and effective driving licence at the time of accident, recovery rights were granted to the Insurance Company against the owner of the offending vehicle.

5. The claimant has preferred the present appeal seeking enhancement of compensation on the ground that the amount awarded by the Tribunal is wholly inadequate keeping in view the nature of injuries, disability and its impact upon his earning capacity.

6. Learned counsel for the appellant has contended that the claimant had suffered compound fractures resulting in permanent disability and stiffness in the right lower limb, which materially affected his capacity to perform agricultural work. It is submitted that the Tribunal assessed the income on the lower side and also awarded inadequate compensation under various heads.

7. *Per contra*, learned counsel appearing on behalf of the Insurance Company has argued that the compensation awarded by the Tribunal is fair and reasonable and does not warrant any interference.

8. This Court has heard learned counsel for the parties and carefully examined the evidence available on record.

9. At the outset, it may be noticed that the findings recorded by the Tribunal with regard to rash and negligent driving of the offending vehicle as well as grant of recovery rights in favour of the insurer have attained finality, as the same have not been challenged by the owner or driver. Therefore, the only issue requiring consideration in the present appeal is with regard to adequacy of compensation.

10. The medical evidence on record reveals that the claimant had suffered compound fracture of right femur besides fractures involving right hand and right great toe. He underwent surgical procedures during hospitalization and due to post-operative infection, he had to undergo another surgery on 31.07.2001. The claimant remained admitted in hospital for about fifteen days.

11. PW-3 Dr. Rakesh Girdhar proved disability certificate Ex.P3 and deposed that the claimant suffered permanent disability to the extent of 10% in relation to the right lower limb, which translated into 5% disability qua the whole body on account of stiffness of the right knee joint and restricted movement.

12. It is true that the permanent disability qua the whole body has been assessed at 5%. However, while determining compensation in injury cases, what is material is not merely the percentage of physical disability but its effect on the earning capacity of the injured. Functional disability may, in a given case, differ from medical disability depending upon the avocation of the injured and the nature of work being performed by him.

13. The claimant was admittedly engaged in agricultural pursuits. Agricultural work requires continuous physical activity including standing, walking in fields, squatting and lifting weight. Stiffness and restricted movement in the right lower limb would necessarily affect the efficiency of the claimant in carrying out such activities. Nevertheless, in the absence of specific evidence demonstrating complete or substantial incapacity to continue agricultural work, assessment of functional disability at 20%, as urged by counsel for the appellant, would appear to be on the higher side.

14. Having regard to the nature of disability, avocation of the claimant and overall evidence on record, this Court deems it appropriate to assess the functional disability affecting earning capacity at 10%.

15. The Tribunal assessed monthly income of the claimant at ₹2,400/-. Considering the fact that the accident pertains to the year 2001 and the claimant was an agriculturist aged about 53 years, monthly income is

reassessed at ₹3,000/- per month i.e. ₹36,000/- annually, which appears to be a reasonable estimation considering the facts and circumstances of this case.

16. Further, having regard to the principles laid down by the Hon’ble Supreme Court in cases relating to assessment of future earning capacity, addition towards future prospects deserve to be granted even in injury cases, where permanent disability affects earning capacity. Since the claimant was between 50 to 60 years of age, an addition of 10% towards future prospects would be appropriate. Accordingly, annual income for the purpose of computation comes to ₹39,600/- per annum.

17. Applying 10% functional disability, annual loss of earning capacity comes to ₹3,960/-. By applying multiplier of 11 applicable to the age group of the claimant, compensation under the head of future loss of earning capacity works out to ₹43,560/-.

18. Apart from the above, the claimant is also entitled to compensation under the following heads:

| Head                                                 | Amount             |
|------------------------------------------------------|--------------------|
| • Medical expenses                                   | ₹30,000/-          |
| • Pain and suffering                                 | ₹40,000/-          |
| • Transportation, attendant charges and special diet | ₹25,000/-          |
| • Loss of income during treatment for three months   | ₹9,000/-           |
| • Loss of future earning capacity                    | ₹43,560/-          |
| <b>Total</b>                                         | <b>₹1,47,560/-</b> |

19. Since the Tribunal has already awarded compensation of ₹77,900/, the enhanced compensation payable to the claimant comes to ₹69,660/-, which is rounded off to ₹70,000/-.

20. Accordingly, the present appeal is partly allowed. The claimant-appellant is held entitled to an enhanced compensation of ₹70,000/- over and

above the amount already awarded by the Tribunal. The enhanced amount shall carry interest at the rate of 7.5% per annum from the date of filing of the claim petition till actual realization and shall be payable jointly and severally by the respondents. However, the Insurance Company shall remain entitled to recovery rights against the owner of the offending vehicle in terms of the award passed by the Tribunal.

21. The appeal stands disposed of in the aforesaid terms. Pending miscellaneous applications, if any, shall also stand disposed of.

07.05.2026  
*Vivek*

(DEEPAK GUPTA)  
JUDGE

|                                  |            |
|----------------------------------|------------|
| <i>Whether Speaking/reasoned</i> | <i>Yes</i> |
| <i>Whether reportable</i>        | <i>No</i>  |

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