



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

(224)

FAO-805-2002 (O&M)

Reserved on : 11.05.2026

Pronounced on : 21.05.2026

Uploaded on : 21.05.2026

Ram Kumar

...Appellant

Versus

Baljeet and Others

... Respondents

CORAM :HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Robin Dutt, Advocate, and
Mr. Jagriti Thakur, Advocate, and
Mr. Kartar Singh, Advocate
for the appellant.

Mr. D.K. Dogra, Advocate,
for respondent No.3-Insurance Company.

Amarinder Singh Grewal, J.

1. The claimant-appellant has preferred this appeal seeking enhancement of the compensation awarded vide Award dated 12.09.2001, passed by the Motor Accident Claims Tribunal, Jagadhari (hereinafter referred to as 'the learned Tribunal'). The learned Tribunal awarded a sum of ₹45,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realization, on account of injuries sustained by the appellant in a motor vehicular accident dated 17.08.1999, involving truck bearing registration No. HR-37-7920, which was allegedly driven by respondent No. 1 in a rash and negligent manner

2. Briefly stated, the facts as emerge from the impugned Award are that the appellant-claimant Ram Kumar filed a petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of injuries



sustained by him in a motor vehicular accident dated 17.08.1999 at about 3:00 PM. It was pleaded that he along with Sohan Lal son of Phool Chand was travelling on motorcycle bearing registration No. HR-02C-1102 towards Chaharwala. At about 3:00 PM, when they reached near Village Chanda Kheri, near Pargati Metal, truck bearing registration No. HR-37-7920, being driven by respondent No.1 in a rash and negligent manner, suddenly turned towards Pargati Metal without giving any signal or indicator and abruptly applied brakes. This manoeuvre led to a collision, resulting in multiple injuries to the claimant and the pillion rider, as well as damage to the motorcycle, a fact substantiated by the police charge sheet (Ex. P-18). While respondent Nos. 1, 2, and 3 contested the petition, the learned Tribunal, upon appreciating the evidence, concluded that the accident resulted from contributory negligence, apportioning 75% liability to the truck driver and 25% to the claimant and awarded a compensation of ₹45,000/- with interest at 9% per annum. Dissatisfied with the quantum of compensation, the claimant has preferred the present appeal seeking enhancement.

3. Learned counsel for the claimant-appellant contends that the learned Tribunal has erred both on facts and in law while awarding a meagre compensation of ₹45,000/-, which is wholly inadequate and not commensurate with the nature of injuries and permanent disability suffered by the appellant. It is submitted that the learned Tribunal has wrongly decided Issue No.1 by attributing 25% contributory negligence to the claimant despite the fact that the accident stood duly proved on record to have occurred solely due to the rash and negligent driving of respondent No.1-driver. Learned counsel further submitted that the learned Tribunal has misapplied the judgment in **Suraj Bhan versus Sat Pal, reported as 1997(3) PLR 78**, which was not applicable to the



peculiar facts and circumstances of the present case. Furthermore, argued that the learned Tribunal has illegally awarded only a lump sum compensation of ₹45,000/- and has further erred in deducting 25% thereof on account of alleged contributory negligence, besides failing to award any compensation towards permanent disability despite the statement of Dr. Deepan Jain and the disability certificate available on record establishing that the appellant had suffered 15% permanent disability on account of the injuries sustained in the accident. It has, thus, been prayed that the impugned award be modified and the compensation enhanced appropriately, as the appellant had claimed compensation to the tune of ₹5,00,000/- in the claim petition.

4. Per contra, learned counsel for respondent No.3—Insurance Company contends that the impugned award does not suffer from any illegality or perversity and has been passed after due appreciation of oral as well as documentary evidence. It is argued that the appellant has failed to substantiate the claim for enhancement by leading reliable evidence and that the learned Tribunal has already granted just and reasonable compensation. Learned counsel further submits that the rate of interest awarded is in consonance with settled law and does not warrant any upward revision. It is maintained that the findings recorded by the learned Tribunal are well-reasoned and do not call for any interference by this Court. Consequently, it is prayed that the appeal, being devoid of merit, deserves dismissal.

5. After hearing learned counsel for the parties and perusing the record with their able assistance, the question that arises for consideration in the present appeal is whether the compensation awarded by the learned Tribunal is just and reasonable, or whether the same warrants enhancement in light of the



nature of injuries, extent of permanent disability and its impact on the earning capacity of the claimant-appellant.

6. This Court has carefully reviewed the impugned award and the evidence adduced before the learned Tribunal regarding the occurrence of the accident. The primary contention before this Court is whether the apportionment of liability 75% to the respondent no.1 -truck driver and 25% to the appellant warrants interference. It is a settled position of law, reaffirmed by the Hon'ble Supreme Court in **Parmila & Ors. v. Rajender & Ors. (2026) INSC 420**, that in motor accident cases, the driver of the offending vehicle is the 'best person' to narrate the circumstances of the collision. Relevant para of the judgment is reproduced herein:-

24. It is well settled that in cases arising out of motor accidents, the determination of negligence must be founded upon a balanced and objective assessment of the conduct of all parties involved, particularly where the circumstances suggest a possible sharing of responsibility. The complete exclusion of contributory negligence on the part of one driver, especially in a head-on collision, ordinarily warrants a careful scrutiny of the surrounding circumstances, including the manner of driving, the point of impact, and other attendant factors. The impugned findings, however, do not reflect such an exercise having been undertaken.

25. There is a crucial aspect of the matter which has been completely glossed over by the Tribunal as well as the High Court. Admittedly, respondent No.1- Rajender was driving the offending bus, and therefore, he would have been the best person to narrate the manner in which the accident took place.

7. In the present case, respondent no.1 -truck driver failed to enter the witness box to rebut the claimant's testimony. The absence of the driver from the witness box creates a presumption that their version of the events would not have withstood the scrutiny of cross-examination. While the respondent's



failure to signal a turn and the absence of braking lights constitute a clear breach of the duty of care, the appellant also bears a reciprocal obligation to exercise reasonable caution. As observed by the Supreme Court in **Pramodkumar Rasikbhai Jhaveri v. Karmasey Kunvargi Tak & Ors, (2002) 6 SCC 455**, contributory negligence is not merely about who caused the accident, but whether the appellant's own conduct contributed to the severity of the impact. Relevant part of the judgment is reproduced herein:-

The question of contributory negligence arises when there has been some act or omission on the claimant's part, which has materially contributed to the damage caused, and is of such a nature that it may properly be described as 'negligence.' Negligence ordinarily means breach of a legal duty to care, but when used in the expression "contributory negligence" it does not mean breach of any duty. It only means the failure by a person to use reasonable care for the safety of either himself or his property, so that he becomes blameworthy in part as an "author of his own wrong.

8. The evidence suggests that the appellant's speed was such that they could not avoid the collision even upon the truck's maneuver. The High Court's scope of interference in findings of fact is limited. As per the recent dictum of the Hon'ble Supreme Court in ***Parmila and others' case (supra)***, the determination of negligence must be founded upon a 'balanced and objective assessment of the conduct of all parties.' The learned Tribunal, in its wisdom, has conducted a comparative analysis of the respective actions of both drivers. It found that while the respondent's maneuver was the proximate cause of the accident, the appellant's speed was a contributing factor. This Court finds that the 75:25 apportionment of liability is a well-reasoned and equitable distribution. It reflects a nuanced application of the Motor Vehicles Act, acknowledging that the burden of safety is shared on public roads.



Consequently, the findings of the learned Tribunal on Issue No. 1 are upheld as they are based on a sound appreciation of evidence, and no perversity or material irregularity is found that would necessitate a modification.

9. Regarding the second issue concerning the enhancement of compensation, this Court has carefully reviewed the award passed by the learned Motor Accidents Claims Tribunal. Upon a meticulous perusal of the paper book, it is observed that the Tribunal awarded a sum of ₹47,000/- under the combined heads of 'Permanent Disability' and 'Loss of Earning Capacity' without any supporting evidence on record. Upon a perusal of the paper book, this Court observes that there is no disability certificate on record to substantiate a claim for permanent impairment. Furthermore, the appellant has failed to adduce any cogent evidence regarding his occupation, monthly income, or proof of age. The learned Tribunal's award appears to be based on an assumption rather than empirical evidence. However, this Court is conscious of its duty to ensure 'just compensation' under the Motor Vehicles Act, 1988. Following the dictum of the Hon'ble Supreme Court in **Abhimanyu Partap Singh v. Namita Sekhon & Anr. 2022(8) SCC 489**, the Court must adopt a pragmatic approach.

While the absence of a disability certificate precludes an award for permanent disability, the injuries sustained a fracture of the tibial condyles of the left leg and a fracture-dislocation of the proximal joint of the left middle finger undoubtedly caused the appellant significant temporary disability. The nature of these injuries is such that the claimant would have been rendered immobile and dependent on others for basic daily activities during the recovery period. The fracture of the tibial condyle directly impairs the ability to bear weight, while the dislocation of the finger joint restricts the manual dexterity essential for daily life. Consequently, the appellant suffered not only physical agony but also



a profound loss of autonomy and 'amenities of life' for the duration of the healing process. In the absence of any credible evidence regarding the claimant's permanent disability, monthly income, or proof of age, this Court is unable to determine a precise 'Loss of Future Earnings' or 'Future Prospects.' To ensure that the ends of justice are met and to avoid the compensation from being purely speculative, this Court adopts the well-settled 'broad-brush' approach. Consequently, the compensation is re-determined, restricting the award to actual medical expenses, pain and suffering, and the loss of amenities endured by the appellant during the period of recovery and hospitalization, as detailed below:-

1. **Actual Medical Expenses:** ₹13,000/- (Proven by Ex. P-1 to P-13).
2. **Pain and Suffering:** ₹15,000/- (For surgical trauma).
3. **Special Diet, Transport, and Attendant Charges:** ₹15,000/-.
4. **Loss of Income During Treatment:** ₹15,000/- (Notional loss for the period of immobility).
5. **Loss of Amenities of Life:** ₹42,000/- (For the period of physical restriction and inability to lead a normal life).

Total Enhanced Compensation: ₹1,00,000/-.

10. The learned Tribunal previously applied the contributory negligence ratio of 75:25. Maintaining the same ratio as established in Issue No. 1, the appellant is entitled to 75% of the total enhanced compensation, with the remaining 25% being deducted on account of the appellant's own contribution to the accident.

11. Accordingly, the present appeal is allowed, and the total compensation is re-determined and enhanced to ₹1,00,000/- (Rupees One Lakh only). Applying the contributory negligence ratio of 75:25 as established in Issue No. 1, this amount is subject to a 25% deduction on account of the appellant's own contribution to the accident, amounting to ₹25,000/-.



Consequently, a net amount of ₹75,000/- (Rupees Seventy-five Thousand only) is held payable to the appellant by Respondent No. 3 – the Insurance Company.

12. The enhanced amount of compensation, i.e., over and above the amount awarded by the learned Tribunal, shall carry interest at the rate of 7.5% per annum from the date of filing of the claim petition till its realization. Consequently, the impugned award passed by the learned Tribunal stands modified to the aforesaid extent, and the appeal is accordingly allowed.

13. All pending miscellaneous applications, if any, stand disposed of. No order as to costs.

May 21, 2026
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(AMARINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No