



S. No.220

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.873 of 2002 (O&M)

Date of Decision:21.01.2026

Abdul Majid

.....Appellant

Vs.

Sule Khan and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Ashish Gupta, Advocate for the appellant.

Mr. Aseem Aggarwal, Advocate for respondent No.3.

Respondents No.1 and 2 already ex parte before the Tribunal.

Yashvir Singh Rathor, J. (Oral)

CM No.3690-CII of 2002

This is an application for condonatin of delay of 1309 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed and delay of 1309 days in filing the appeal is condoned.

FAO No.873 of 2002 (O&M)

1. This appeal has been instituted against the award dated 18.12.1997 for enhancement of compensation vide which a sum of Rs.20,000/- has been awarded to the petitioner on account of injuries suffered by him in a motor vehicular accident in a vehicle being driven by respondent No.1 in a rash and negligent manner which was owned by respondent No.2 and insured with respondent No.3.



2. As per version of appellant, accident took place on 28.10.1995 at 08.00 a.m., when he was carrying 8 to 10 school children in his tonga to Ferozepur Jhirka. When they reached a little ahead of Maholi towards Ferozepur Jhirka, truck bearing registration No.RJ-02-G/1175 came from the opposite side in a rash and negligent manner at a high speed and hit in his tonga which was being plied on the left side of the road. Several children fell from the tonga and suffered injuries. Appellant also suffered injuries on account of the accident. He was taken to the hospital and he had spent Rs.25,000/- on his treatment. A sum of Rs.5,000/- was spent for the treatment of his mare. He also suffered great physical and mental agony and claimed compensation to the extent of Rs.5 lakhs.

3. Respondents No.1 and 2 initially filed written statement but thereafter, they absented and were proceeded ex parte vide order dated 25.09.1997. Respondent No.3 – The New India Assurance Co. Ltd. also filed separate written statement and opposed the petition on the ground of cause of action.

4. Following issues were framed by the Tribunal as under:-

- “1) Whether the accident in question resulting in injuries to the petitioner was caused due to rash and negligent driving of vehicle No.RJ-02-G-1175 by respondent No.1? OPP
- 2) What amount of compensation, the petitioners are entitled to recover and against whom?OPP
- 3) Relief.”

5. Both the parties led their respective evidence and after hearing the parties, learned Tribunal held that accident in question had taken place due to rash and negligent driving on the part of respondent No.1 while driving the offending



vehicle. Under Issue No.2, it was held that appellant had suffered 15% permanent disability on account of injury in his ankle as well as fractures and he was awarded a sum of Rs.15,000/- towards pain and sufferings and for permanent disability. A sum of Rs.5,000/- was also awarded for damage to his tonga and injuries to the mare.

6. Feeling aggrieved, the present appeal has been filed by the claimant for enhancement of compensation awarded by the Tribunal. No notice is required to be issued to respondents No.1 and 2 as they were already ex parte before the Tribunal.

7. At the very outset, it is pertinent to mention that record of the Tribunal has got burnt and the present appeal shall be decided on the basis of facts and findings recorded in the main award.

8. It is not in dispute that no appeal has been preferred by the owner as well as driver of the offending vehicle challenging the finding on Issue No.1. The Insurance Company had filed one appeal bearing FAO No.500 of 1998 against the same award which has already been disposed of vide judgment dated 16.09.2010 and finding on Issue No.1 has not been varied or set aside. However, Insurance Company has been given the liberty to recover the awarded amount from the insured/ owner on account of breach of terms and conditions of the insurance policy. As such, there is no necessity to go into the finding on Issue No.1 as same has not been assailed by the owner-cum-driver.

9. From the material on file, it is established that petitioner had suffered fracture in his leg and has suffered 15% permanent disability in relation to the ankle. Petitioner has been awarded only a sum of Rs.15,000/- towards pain and sufferings and on account of permanent disability suffered by him. However, it is



well settled that pain component in such type of injuries is enormous and petitioner is certainly entitled to enhanced amount of compensation on account of *pain and sufferings as well as permanent disability* suffered by him and same is enhanced to **Rs.25,000/-**.

10. However, the compensation of **Rs.5,000/-** awarded to him for damage to his tonga and injuries suffered by the mare shall remain the same and does not call for any interference.

11. Petitioner had also claimed a sum of Rs.15,000/- towards medical expenses but no amount was granted to him as no bills were proved. However, this Court cannot loose sight of the fact that petitioner had suffered fracture in his ankle and some amount must have been spent by him on his treatment. As such, some guess work has to be applied in assessing the compensation on account of the expenses incurred on the treatment. Accordingly, petitioner is held entitled to a sum of **Rs.5,000/-** towards *treatment expenses*.

12. It must have taken at least three months for the injuries/ fractures to heal and during this period, appellant- claimant would not have been able to do any job and by considering his wages/ income to be Rs.1700/- per month, he is awarded a sum of **Rs.5000/-** towards *loss of income*.

13. During this period, he must have also spent some amount *on special diet, on transportation and in engaging an attendant* but no compensation has been awarded by the Tribunal under this head. Accordingly, he is also awarded a sum of **Rs.5,000/-** under this head.

14. The total compensation payable to the appellant is accordingly assessed as under:-



S.No.	Under Head	By the Tribunal	By High Court
1.	<i>Pain and sufferings as well as permanent disability</i>	Rs.15,000/-	Rs.25,000/-
2.	Damage to Tonga and injuries suffered by mare	Rs.5,000/-	Rs.5,000/-
3.	<i>Treatment expenses</i>	Nil	Rs.5,000/-
4.	<i>Loss of income</i>	Nil	Rs.5000/-
5.	<i>Special diet, on transportation and in engaging an attendant</i>	Nil	Rs.5,000/-
	Total compensation	Rs.20,000/-	Rs.45,000/-

15. Accordingly, enhanced compensation is assessed as Rs.25,000/- and appellant is entitled to recover the same along with interest @ 9% from the date of filing of claim petition till realisation. However, no interest shall be payable for a period of 1309 days as appeal was filed after a long delay. This Court while deciding FAO No.500 of 1998, has held that Insurance Company is not liable to pay the compensation and as such, the liability of respondents No.1 and 2 shall be joint and several. However, respondent No.3 shall first of all satisfy the award and pay the enhanced compensation and thereafter, it shall have a right to recover the awarded amount from the owner/ insured without filing a separate suit along with interest @ 6% per annum from the date of deposit till realisation. No order as to costs. The entire of compensation be paid to the petitioner in cash.

(Yashvir Singh Rathor)
Judge

January 21, 2026
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No