



FAO-3285-2003(O&M)

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

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Reserved on: 20.05.2026

Pronounced on: 26.05.2026

Uploaded on: 27.05.2026

Rajesh Kumar

.....Appellant

Versus

Sanjay Kumar and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Maneet Kaushik, Advocate,
for the appellant

Mr. Ankush Madan, Advocate for
Mr. Mohit Sardana, Advocate
for respondent No.1

Mr. Sandeep Suri, Advocate,
for the respondent No.3 (Insurance Company)

AMARINDER SINGH GREWAL, J.

1. The present appeal has been filed by the appellant-claimant seeking enhancement of the compensation awarded by the learned Motor Accident Claims Tribunal, Karnal (hereinafter "*the Tribunal*"), vide award dated 05.04.2003, whereby a sum of ₹15,000/- was granted on account of injuries sustained by him in a Motor Vehicle Accident dated 29.06.2000 due to rash and negligent driving of respondent No.1.

2. Succinctly, the facts of the case are that on 26.09.2000 at about 5:30 p.m., the claimant was driving motorcycle bearing registration No.

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HR-05-H-0224 from Madhuban towards Karnal. When he reached opposite Sector-3, G.T. Road, Karnal, his brother, who was standing on the other side of the road along with a three-wheeler of which he was the owner-cum-driver, called him. Consequently, the claimant stopped his motorcycle and turned back towards Madhuban in order to reach his brother. While he had just started proceeding towards his brother at a moderate speed, a truck bearing registration No. PB-13-2400 (hereinafter referred to as 'offending vehicle'), being driven by respondent No.1 in a rash and negligent manner, at a high speed and without blowing any horn, came from the side of Madhuban and struck against the motorcycle of the claimant. Due to the impact, the claimant fell on the metalled road and sustained injuries, besides causing extensive damage to the motorcycle. The accident is stated to have occurred solely due to the rash and negligent driving of the offending truck by respondent No.1. Respondent No.2 is the owner of the offending vehicle, whereas the same was insured with respondent No.3 at the relevant time. The learned Tribunal, vide award dated 05.04.2003, held that this is a case of contributory negligence and granted a total compensation of ₹15,000/-. Claimant, being dissatisfied with the quantum so awarded, had preferred the present appeal seeking enhancement.

3. Learned counsel for the appellant-claimant contended that the learned Tribunal gravely erred in partly allowing the claim petition by holding the claimant guilty of contributory negligence to the extent of 50% and awarding a meagre compensation of Rs.15,000/- along with interest @ 9% per annum, despite the fact that the accident occurred solely due to the rash and negligent driving of respondent No.1. Further, it was submitted

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that the findings recorded by the learned Tribunal are based upon conjectures and surmises and are contrary to the pleadings and evidence available on record. Furthermore, the claimant while appearing as PW-1 specifically deposed that the offending truck was being driven in a rash and negligent manner and merely because the claimant was allegedly on the wrong side of the road, the same by itself could not amount to negligence, particularly when he was driving at a moderate speed near the edge of the road. Additionally, respondent No.1-driver failed to step into the witness box to rebut the version of the claimant and, therefore, an adverse inference ought to have been drawn against him. Subsequently, the learned Tribunal failed to award just and adequate compensation despite the claimant having suffered multiple grievous injuries including fracture of both bones of left forearm, fracture of lateral condyle of left tibia, lacerated wounds on the lips and forehead, missing teeth and other injuries, as duly proved through the testimonies of PW-2 Dr. Raj Mohan Singh and PW-1 Dr. Sham Wadhwa. Moreover, the claimant remained admitted in General Hospital, Karnal till 05.07.2000 and thereafter at PGI, Rohtak till 20.07.2000, yet inadequate compensation was awarded towards pain and suffering, medical treatment and conveyance charges, despite unrebutted evidence showing that an amount of Rs.1,25,000/- had been spent on treatment and medical bills worth Rs.10,536/- had been placed on record. Lastly, learned counsel submitted that the Tribunal further erred in not awarding any compensation towards special diet, attendant charges and loss of income suffered by the claimant during the period he remained on medical leave for about three



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months, which otherwise could have been encashed by him at the time of retirement.

4. *Per contra*, learned counsel for respondent Nos.1 and 3 submitted that the award passed by the learned Tribunal does not suffer from any irregularity or infirmity, and that the findings recorded therein are well-reasoned on the basis of the material available before the learned Tribunal. It is accordingly contended that no ground is made out for interference in appeal.

5. I have heard learned counsel for the parties and examined the limited record, with their able assistance.

6. Upon consideration of the rival submissions and after going through the limited evidence available on record, this Court finds no ground to interfere with the finding of contributory negligence recorded in the present case. The case of the claimant is that while proceeding from Madhuban towards Karnal, he stopped his motorcycle after being called by his brother standing on the opposite side of the road and thereafter turned back towards Madhuban, whereupon the offending truck struck against his motorcycle. The testimony of the claimant himself clearly reveals that the road in question was divided by a central divider and comprised separate carriageways for traffic moving in opposite directions. It has further come in his own cross-examination that after stopping his motorcycle on being called by his brother, he turned back towards Madhuban and proceeded on the same carriageway meant for vehicles coming from the opposite direction and had covered a substantial distance on the wrong carriageway

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before the collision occurred. Thus, the claimant consciously chose to drive on the wrong side of a divided road instead of taking the appropriate passage to reach the other side. Such conduct, in the considered opinion of this Court, materially contributed towards the occurrence of the accident and cannot be brushed aside lightly.

7. At the same time, the negligence of the driver of the offending truck also stands established. The truck was admittedly a heavy vehicle and the driver thereof failed to appear in the witness box to rebut the version put forth by the claimant. The circumstances further indicate that had the truck been driven with due caution and proper lookout, the accident could have been avoided. Therefore, the present case cannot be said to be one where the entire blame can be fastened upon either side exclusively. Keeping in view the manner in which the accident occurred, the nature of the road, the conduct of the claimant in driving on the wrong carriageway and the corresponding duty of care expected from the driver of a heavy vehicle, this Court is of the considered view that the finding attributing contributory negligence to the claimant to the extent of 50% is just, reasonable and calls for no interference.

8. So far as the quantum of compensation is concerned, the evidence available on record clearly establishes that the claimant had suffered multiple grievous injuries in the accident in question. PW-2 Dr. Raj Mohan Singh, Medical Officer, General Hospital, Karnal, who medico-legally examined the claimant, proved that the claimant had sustained lacerated wounds over the forehead and lips, missing teeth, abrasions around the knee joint and other injuries on his person. Further, PW-1 Dr.

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Sham Wadhwa, Radiologist, proved that upon radiological examination, fracture of both bones of the left forearm and fracture of lateral condyle of left tibia were detected. The record further reveals that the claimant remained admitted in General Hospital, Karnal and thereafter underwent treatment at PGI, Rohtak. However, the claimant has not placed on record any disability certificate nor has any cogent evidence been led to establish any permanent functional disability arising out of the injuries sustained by him. Likewise, except for medical bills amounting to Rs.10,536/-, no satisfactory documentary evidence has been produced to substantiate the larger claim regarding medical expenditure.

9. Nevertheless, the absence of permanent disability or exhaustive documentary proof cannot be a ground to deny just and reasonable compensation commensurate with the injuries proved on record. A person who has suffered multiple fractures along with facial injuries and loss of teeth is bound to undergo considerable pain, trauma and physical discomfort during the period of treatment and recuperation. Keeping in view the nature of injuries, duration of treatment and overall facts and circumstances of the case, this Court deems it appropriate to award a lump-sum amount of Rs.20,000/- towards expenses incurred during treatment and recovery arising out of the injuries sustained by the claimant. In addition thereto, a sum of Rs.30,000/- is awarded towards pain and suffering and a further sum of Rs.10,000/- towards special diet, attendant and transportation charges. The amount of Rs.10,536/- awarded by the Tribunal towards medical expenses is upheld.



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10. Consequently, the total compensation payable to the claimant is re-assessed at ₹70,536/-, and the award stands enhanced to the aforesaid extent. However, since the claimant has rightly been held guilty of contributory negligence to the extent of 50%, the aforesaid amount is liable to be reduced accordingly to ₹35,268/-.

11. The enhanced compensation, i.e. over and above the compensation awarded by the learned Tribunal, shall also carry interest @ 7.5% per annum from the date of filing of the claim petition till its realization, payable by respondent No.3 to the appellant-claimant.

12. Pending application(s), if any, shall also stand disposed of.

(AMARINDER SINGH GREWAL)
JUDGE

May 26, 2026
Kanchan/Sanchi

Whether speaking/reasoned:-	Yes/No
Whether Reportable:-	Yes/No