



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**FAO-496-2002 (O&M) and
XOBJ-71-CII-2002**

Bhanwar Singh and another

. . . . Appellants

Vs.

Rajender

. . . . Respondent

Reserved on: 16.03.2026

Pronounced on: 18.03.2026

Pronounced Fully/Operative Part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - None for the appellants.

Mr. Susheel Sheoran, Advocate
for the cross-objector/respondent.

DEEPAK GUPTA, J.

The present appeal has been preferred by the driver & owner of the offending vehicle, assailing the award dated 05.10.2001 passed by the learned Motor Accident Claims Tribunal, Bhiwani, whereby compensation to the tune of ₹1,25,000/- along with interest was awarded in favour of the respondent-claimant. The claimant-injured has also filed cross-objections seeking enhancement of the compensation.

2. At the time of hearing, despite due intimation, none appeared on behalf of the appellants. It is evident that the appellants are no longer interested in pursuing the present appeal. Accordingly, the appeal is liable to be dismissed in default for want of prosecution.

3. Heard learned counsel for the respondent-cross objector/claimant on the question of enhancement of compensation and perused the record.

4. As borne out from the record, on 17.06.1997, the claimant-Rajender was travelling in Jeep No. DL-2C-3236 from Naurangabad to Dhana. The said vehicle, owned by appellant No.2 and driven by appellant No.1, was

being driven in a rash and negligent manner. On the way, the driver lost control and the vehicle struck against a *kikkar* tree, resulting in serious injuries to the claimant, particularly on his left upper limb, forehead and head.

5. The injured was initially treated at Anand Nursing Home, Bhiwani and was thereafter referred to Jaipur Golden Hospital, Delhi, where he remained admitted for 13 days. The vehicle in question was admittedly uninsured.

6. The claim petition was contested by the appellants, who denied the occurrence of the accident, as well as the nature of injuries and expenses incurred.

7. Upon appreciation of evidence, the learned Tribunal returned a finding of rash and negligent driving against appellant No.1 and awarded compensation of ₹1,25,000/- along with interest, holding both the driver and owner jointly and severally liable.

8. Learned counsel for the claimant has contended that the compensation awarded by the Tribunal is grossly inadequate. It is argued that as per evidence on record, the claimant incurred medical expenses to the tune of ₹55,097/-; suffered 21% permanent disability in relation to his left upper limb; and that he was about 32 years of age and working as a labourer at the time of accident. It is urged that even in the absence of documentary proof of income, minimum wages prevalent at the relevant time i.e. ₹1,548.74/- per month ought to be taken into account; and compensation towards future loss of earning capacity deserves to be reassessed accordingly by applying settled principles.

9. This Court finds merit in the submissions advanced on behalf of the claimant.

10. The medical evidence on record establishes that the claimant suffered grievous injuries, including fractures of both bones of the forearm and humerus, requiring surgical intervention (plating and nailing). The

disability certificate reflects 21% permanent disability of the left upper limb, accompanied by restricted movement and chronic complications.

11. Although the disability is assessed qua the limb, the functional disability affecting earning capacity has to be assessed in the context of the occupation of the injured. The claimant being a labourer, use of upper limbs is integral to his vocation. Therefore, the functional disability impacting earning capacity can reasonably be assessed at 30%, keeping in view the nature of injuries and occupation.

12. In the absence of documentary evidence of income, the notional income is taken as ₹1,550/- per month, taking cue from and in consonance with the minimum wages prevailing in the year 1997.

13. The claimant being 32 years of age at the time of accident, addition of 40% towards future prospects is justified in view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd. vs. Pranay Sethi and others, 2017 (16) SCC 680*** and subsequent judgments extending the benefit even to self-employed persons.

14. Thus, the computation is as follows:

- Monthly income : ₹1,550/-
- Annual income : ₹18,600/-
- Addition of 40% future prospects : ₹26,040/- per annum
- Multiplier (age 32) : 16
- Total $-(₹18,900 \times 16)$: ₹4,16,640/-
- Loss of earning capacity (30%) : ₹1,24,992/-

15. Further, the claimant has proved medical expenses of ₹55,097/-, which are rounded off to ₹60,000/- considering incidental expenses.

16. The claimant remained hospitalized and under treatment for a considerable period and would have required attendant care, transportation and would have suffered loss of income during treatment. Compensation under these conventional heads also deserves enhancement.

17. Accordingly, the compensation is reassessed as under:

Head of Compensation	Amount (₹)
Loss of future earning capacity	1,24,992.00
Medical expenses	60,000.00
Pain and suffering	10,000.00
Attendant charges	3,000.00
Transportation	3,000.00
Loss of income during treatment	3,000.00
Total	2,03,992.00

- Rounded off to ₹2,04,000/-

18. Since the Tribunal has already awarded ₹1,25,000/-, the claimant shall be entitled to enhanced compensation of ₹79,000/-.

19. The enhanced amount shall carry interest @ 7.5% per annum from the date of filing of the claim petition till realization. The liability to pay the enhanced compensation shall remain joint and several upon the appellants (driver and owner), as rightly held by the Tribunal, particularly in view of the fact that the offending vehicle was uninsured.

20. In view of the above:

- The appeal filed by the driver and owner is dismissed in default for want of prosecution.
- The cross-objections filed by the claimant are partly allowed in the aforesaid terms.

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

18.03.2026

Vivek

(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes
Whether reportable	No

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