

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

(107)

FAO-4755-2003 (O&M)
Date of Decision-24.03.2026

Rajinder Singh**....Appellant**

Versus

Bal Kishan And Others**....Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Sanjeev Kumar Sharma, Advocate
for the appellant.

Mr. Pardeep Kumar, Advocate
Mr. D P Gupta, Advocate
for the respondents no.3 Insurance Company.

VIRINDER AGGARWAL, J. (Oral)

1. The present appeal arises out of the motor vehicular accident dated 21.10.2000 and the award dated 06.08.2003 passed by the learned Motor Accident Claims Tribunal, Karnal, whereby compensation of ₹28,464/- alongwith interest @ 9% per annum has been awarded to the appellant-claimant. Dissatisfied with the quantum so awarded, the present appeal has been preferred seeking enhancement of compensation.

BACKGROUND FACTS

2. The motor vehicular accident in question occurred on 21.10.2000 at about 2:15 p.m. near Walaiti Rice Mill, Nissing when the appellant/claimant Rajinder Singh was coming from Nissing and was travelling on Karnal-Nissing road for going to village Agondh on his motorcycle bearing registration No. HR-05E-4274. When the vehicle reached near the place of occurrence, a four-wheeler bearing registration No. HR-56-0467, being driven by respondent No.1

in a rash and negligent manner and at a high speed, came from the wrong side of the road and in an effort to overtake a jhota-buggi struck against the motorcycle of the appellant. As a result of the said collision, the appellant sustained multiple grievous injuries including fracture of shaft femur on the left leg. He was admitted in hospital from 21.10.2000 to 01.11.2000 and underwent surgery with rod insertion. The appellant claimed that he was working as a mason and earning Rs.150/- per day. An FIR was registered with regard to the said occurrence. The injured claimant thereafter filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of the injuries suffered by him in the said accident.

3. Upon appreciation of the evidence on record, the learned Tribunal returned a categorical finding that the accident in question had occurred due to the rash and negligent driving of the offending vehicle by respondent No.1. While deciding Issue No.2 with regard to quantum, the Tribunal held that the claimant had sustained fracture injuries and had undergone surgical treatment. The Tribunal, however, confined the compensation primarily to the proved medical expenses amounting to ₹13,464/- and awarded a sum of ₹15,000/- towards pain and suffering and disability, thereby assessing the total compensation at ₹28,464/- alongwith interest @ 9% per annum. The Tribunal further held that although the Insurance Company was liable to satisfy the award, it would be entitled to recover the same from the insured on account of breach of policy conditions relating to the driving licence. Dissatisfied with the quantum so awarded, the appellant has preferred the present appeal seeking enhancement of compensation has been preferred.

CONTENTIONS

4.

Learned counsel for the appellant contends that the compensation

awarded by the learned Tribunal is wholly inadequate and does not satisfy the requirement of “just compensation” within the meaning of the Motor Vehicles Act. It is argued that the learned Tribunal has confined the award substantially to the proved medical expenses and has granted only a meagre amount under the head of pain and suffering. No amount has been granted towards other well-recognised heads such as loss of income during treatment, attendant charges, special diet, future medical expenses and loss of amenities. It is further submitted that the Tribunal has ignored the nature of the injuries sustained by the appellant including fracture of femur, 5% permanent disability, prolonged hospitalisation and the fact that the appellant will have to undergo yet another operation for removal of the rod. The failure to award compensation under the conventional heads has resulted in a manifestly inadequate award which calls for interference by this Court.

5. Per contra, learned counsel appearing for the Insurance Company supports the impugned award and submits that the learned Tribunal has assessed the compensation on the basis of the evidence available on record and no further enhancement is warranted.

OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and have perused the record.

7. At the outset, it may be noticed that the findings recorded by the learned Tribunal on the issue of rash and negligent driving of the offending vehicle have not been disputed before this Court. The Tribunal has relied upon the testimony of the injured witness and the contemporaneous record including the FIR. In the absence of any material to the contrary, the findings recorded by the Tribunal on the issue of negligence deserve to be affirmed and are accordingly upheld. The only question which arises for consideration in the present appeal is

with respect to the adequacy of the compensation awarded to the appellant.

8. For the purpose of reassessment of compensation, the first issue which requires determination is the extent of functional disability so as to compute the loss of future earning capacity. In the present case, the claimant suffered fracture of the leg and underwent surgical treatment. The disability to the extent of 5 % was proved vide Ex. P1. Keeping in view the nature of injuries and overall facts and circumstances, the functional disability is assessed at 2% as the disability is confined to the limb and no evidence has been led to show substantial impact on earning capacity. The claimant has stated his age to be 30 years at the time of accident in the grounds of appeal, which has not been specifically rebutted. Accordingly, the multiplier applicable would be 17 in terms of *Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121*. The income of the claimant is assessed at ₹2,000/- per month, considering the prevailing wages of an unskilled labourer in the year 2000. The loss of future income is, thus, computed as under:

Particulars	Amount (₹)
Monthly Income	2,000/-
Income with Future Prospects (40%)	2,800/- (2000 + 800)
Loss of Income after applying Functional Disability (2%)	56/-
Annual Loss of Income	672/- (56 × 12)
Multiplier (Age 30 years)	17
Loss of Future Income	11,424/- (672 × 17)

9. Apart from loss of future earning capacity, the claimant is also entitled to just compensation under other pecuniary and non-pecuniary heads. The

principles governing such assessment have been laid down in *Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343*, wherein it has been held that compensation in injury cases must account for medical expenses, pain and suffering, attendant charges, special diet, conveyance and other incidental expenses. In the present case, the claimant had suffered fracture injury and remained hospitalised from 21.10.2000 to 01.11.2000. Though the medical expenses have been awarded on the basis of proved bills. The compensation awarded by the learned Tribunal under these heads is found to be inadequate. Accordingly, the claimant is held entitled to the following amounts:

Particulars	Re-assessed Compensation (₹)
Pain and suffering	20,000/-
Medical expenses	13,464/-
Transportation	5,000/-
Attendant charges	5,000/-
Special diet	10,000/-
Total	53,464/-

10. Thus, the total compensation payable to the claimant is reassessed as under:

Particulars	Amount (₹)
Loss of Future Income	11,424/-
Other Heads	53,464/-
Total	64,888/-

11. Resultantly, the compensation awarded by the learned Tribunal is enhanced from ₹28,464/- to **₹64,888/-**. The enhanced amount shall carry interest of 7% per annum from the date of filing of the claim petition till realization. Except for the modification of the quantum of compensation, all

other findings recorded by the learned Tribunal, including those with regard to negligence, liability and mode of disbursement, shall stand affirmed including the direction granting recovery rights to the Respondent No. 3 Insurance Company.

12. Since the main appeal has been decided, any pending miscellaneous application(s), if any, shall also stand disposed of.

24.03.2025
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

- (i) Whether speaking/reasoned : Yes/No
- (ii) Whether reportable : Yes/No