



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

(219)

FAO No.4628 of 2002(O&M)

Date of decision: 20.03.2026

GURCHARAN KAUR

... APPELLANT

VERSUS

JASWANT SINGH (WRONGLY MENTIONED AS JAWANT SINGH) AND

OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Gaurav Tyagi, Advocate,
Mr. S.S. Kharb, Advocate
for the appellant.

Mr. Rahul Pathania, Advocate
for respondent No.3/Insurance Co.

Ms. Atika Rani, Advocate,
Ms. Pooja Sareen, Advocate
for respondent No.4.

VIRINDER AGGARWAL,J.

1. The present appeal has been preferred by the appellant seeking enhancement of the compensation awarded vide award dated 07.08.2002 passed by the learned Motor Accident Claims Tribunal, Karnal, on account of the injuries sustained by Gurcharan Kaur in a motor vehicular accident.

BACKGROUND FACTS

2. The brief facts of the case are that on 21.09.1999 at about 10:30 A.M., the appellant-claimant Gurcharan Kaur was travelling in a three-wheeler bearing registration No. HR-045-3457 from Assandh to the village Rattag to attend a ceremony. When the said vehicle reached near village Khanda Kheri, a



tractor-trolley bearing registration No. HR-40-6109, driven by respondent No.2 at a high speed and in a rash and negligent manner, came from the opposite direction. The trolley attached to the tractor had an open hook which was swinging and struck the three-wheeler, resulting in the accident. In the said occurrence, the appellant sustained multiple injuries and was taken to a hospital at Karnal for medical treatment. Subsequently, the appellant instituted a claim petition under Section 166 of the Motor Vehicles Act before the learned Motor Accident Claims Tribunal, Karnal, seeking compensation for the injuries suffered by her in the accident. After appreciating the evidence led by the parties, the learned Tribunal awarded a sum of ₹37,100/- as compensation along with interest at the rate of 12% per annum from the date of filing of the claim petition till realization. The respondents No.1 to 3 were held jointly and severally liable to pay the awarded amount, with liberty to the insurance company to recover the same from the owner of the tractor.

CONTENTIONS

3. Learned counsel for the appellant argued that the compensation awarded by the learned Tribunal is grossly inadequate and inconsistent with settled principles for determining just compensation. It was submitted that the learned Tribunal has failed to award appropriate amounts under several significant heads. In particular, insufficient compensation has been granted towards medical expenses, pain and suffering, and other consequential expenses incurred by the appellant on account of the injuries sustained in the accident. Learned counsel also submitted that no reasonable amount has been awarded towards loss of amenities of life, transportation expenses, attendant charges and special diet. On these grounds, it was urged that the compensation awarded by



the learned Tribunal deserves to be suitably enhanced so as to ensure the grant of fair and reasonable compensation to the appellant.

4. Per contra, learned counsel for the respondents supported the impugned award, submitting that the learned Tribunal appreciated the evidence in its correct perspective and awarded just, proper, and reasonable amounts. It was argued that no sufficient proof of permanent disability or substantial loss of earning was led, and no infirmity, perversity, or misreading of evidence warrants interference.

OBSERVATIONS AND FINDINGS

5. I have heard learned counsel for the parties and perused the complete records. On due consideration of the findings recorded by the learned Tribunal, particularly on the issue of negligence and fastening of liability, I find no reason to take a different view. However, the core issue arising in this appeal pertains to the reassessment of the quantum of compensation.

6. In the injury cases, the amount of compensation has to be evaluated in accordance with the principles recognised in ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***, wherein the Hon'ble Supreme Court has classified the heads of compensation separately for pecuniary and non-pecuniary damages, including medical expenses, loss of income during treatment, future loss of earning capacity, transportation, pain and suffering and loss of amenities. The quantum in this case, therefore, warrants re-examination by considering the nature of injuries, duration of hospitalisation and other attending circumstances as reflected in the respective records.

7. A perusal of the record reveals that the appellant-claimant Gurcharan Kaur had sustained grievous injuries in the accident that occurred on 21.09.1999. The evidence on record indicates that the appellant suffered a



fracture of the pelvic bone for which an external fixator was applied, a compound fracture of the left forearm requiring surgical intervention with insertion of plates, and injuries on the right hip and stomach, besides other injuries on different parts of the body. It has further come in evidence that the appellant was initially taken to the General Hospital, Karnal and thereafter admitted to Haryana Nursing Home, Karnal, where she remained hospitalized from 21.09.1999 to 11.10.1999, i.e., for about twenty days. The nature of the injuries and the treatment undertaken have been duly proved by Dr. K.L. Sachdeva, who appeared as a witness and produced the relevant medical records, treatment chart and prescription slips. The said evidence clearly establishes that the injuries suffered by the appellant were serious in nature and required operative treatment, prolonged medical care and bed rest for a considerable period.

8. Moreover, appellant has further contended that she incurred an expenditure of about ₹10,800/- towards treatment and hospitalisation charges and approximately ₹25,751/- towards purchase of medicines, diagnostic tests, X-rays and other related medical expenses. The medical bills and prescription slips (Ex.P-19 to Ex.P-32) produced on record substantiate that the appellant had to incur expenses on medicines and other medical requirements during the course of treatment. In view of the fact that the appellant had undergone surgical fixation with insertion of plates and application of an external fixator and had remained hospitalized for a significant duration, it is reasonable to infer that she must also have incurred additional expenditure towards transportation and post-operative care. However, the learned Tribunal has awarded ₹25,000 amount towards medical and incidental expenses, which does not adequately reflect the actual expenses reasonably incurred by the injured claimant.



9. Further, this Court finds from the evidence available on record that the appellant was serving in the office of the Child Development Project Officer and was working as an employee of the Anganbadi, drawing a salary of about ₹700/- per month. The evidence also indicates that on account of the injuries sustained in the accident, she remained under treatment for a considerable period and was advised bed rest after her discharge from the hospital. The appellant has deposed that due to the said injuries she could not attend her duties and had to remain on earned leave for a period of about three months (21.09.1999 to 25.12.1999). Although the appellant was a government employee and continued in service, the fact cannot be ignored that during the period immediately following the accident, when she was undergoing treatment and recuperation from the fractures sustained by her, she was incapacitated from performing her official duties and had to exhaust her earned leave. Having regard to the nature of the injuries suffered by her, including fracture of the pelvic bone and fracture of the forearm requiring surgical intervention, and the consequent period of recovery, it is evident that the appellant remained unable to discharge her normal functions for a substantial period. Therefore, even though there is no direct loss of salary as she remained on earned leave, the fact that she was compelled to utilize her earned leave on account of the accident deserves to be taken into consideration while assessing compensation towards loss of income during the period of treatment and recovery. Considering that the appellant was drawing a salary of ₹700/- per month and remained on earned leave for about three months, the temporary loss of earnings for the said period is liable to be computed accordingly.

10. At the same time, it is noteworthy that no medical evidence has been produced on record to establish any quantified permanent disability affecting



the earning capacity of the appellant. No disability certificate issued by a competent medical board indicating the percentage of permanent disability has been placed on record. In the absence of such evidence demonstrating functional disability or loss of earning capacity, this Court does not find it appropriate to award compensation towards future loss of income on account of permanent disability.

11. Nevertheless, the fact remains that the appellant had suffered fractures requiring surgical intervention and prolonged treatment, remained hospitalized for about twenty days and thereafter had to undergo a period of recuperation with restricted mobility. During this period she must have required assistance, transportation and a special diet, and would have suffered considerable pain, discomfort and loss of amenities of life.

12. Having regard to the nature of injuries, the period of hospitalization, the treatment undertaken, and the inconvenience suffered by the appellant during the course of recovery, this Court is of the considered view that the compensation awarded by the learned Tribunal requires to be suitably enhanced under the conventional heads so as to ensure that the injured claimant receives just and reasonable compensation.

Particulars	Awarded by Tribunal (₹)	Re-assessed (₹)
loss of income during treatment (3 months)	2,100	2,100/- (700x3)
Medical expenses	25,000	36,551
Transportation	5,000	5,000/-
Special diet		7,500/-
Attendant	x	7,500/-
Loss of amenities	x	7,500/-



Pain and suffering	5,000	10,000/-
Total	37,100	₹75,900/-

13. In view of the above, the appeal is partly allowed. The impugned award dated 07.08.2002 is modified to the extent that the compensation payable to the appellant is enhanced from ₹37,100 to ₹75,900/-. The enhanced amount shall carry interest at the rate 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.

14. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

20.03.2026
Poonam

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