



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

(101)

FAO No.1277 of 1999(O&M)

Date of decision: 25.02.2026

Sahabuddin

... Appellant

Versus

Umar And Others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Uday Vij, Advocate,
Mr. Sanjay Vij, Advocate
for Appellant.

None for respondent No.1 and 2/Cross-Objectors

Mr. Pardeep Goyal, Advocate,
Ms. Ayushi Jain, Advocate
for respondent No.3.

VIRINDER AGGARWAL,J. (Oral)

1. This Appeal is directed against the award dated 09.01.1999 passed by the Motor Accidents Claims Tribunal, Gurgaon, whereby the learned Tribunal awarded a compensation of ₹8,000/- along with interest at 12% per annum to the appellant/claimant on account of injuries sustained in a motor vehicular accident.

BACKGROUND FACTS

2. The facts leading to the present appeal, in brief, are that on 03.03.1994 at about 8:30 p.m., the injured appellant Sahabuddin was standing on the kacha portion of the Sohna-Palwal road near Sohna after his scooter had developed a mechanical defect and he had parked it on the side of the road. At that time, Truck bearing No. HYW-2985 driven by respondent No.1 (Umar) came from the Sohna side at a very high speed, without blowing any horn, in a rash and



negligent manner and violently struck the appellant as well as his scooter. As a result of the said accident, the appellant sustained multiple serious injuries including fracture in his left hand. The appellant was initially treated at Civil Hospital, Sohna and was referred to Safdarjang Hospital, New Delhi, where he remained admitted for five days. Consequently upon the accident, a claim petition came to be filed by the injured appellant under Section 166 of the Motor Vehicles Act before the learned Motor Accident Claims Tribunal, Gurgaon, seeking compensation of ₹5,00,000/- under various heads.

3. Upon a comprehensive appraisal of the oral as well as documentary evidence adduced on record, the learned Tribunal returned a categorical finding that the accident in question occurred on account of the rash and negligent driving of Truck No. HYW-2985 by respondent No.1. The learned Tribunal placed reliance upon the testimony of the injured claimant himself (PW-3), Kuldeep (PW-1) who was examined as an eye-witness to the occurrence, Mohammad Usman (PW-2), who proved the registration of the criminal case by tendering copy of the FIR (Ex. P-1), and Dr. R.S. Yadav (PW-4), who proved the medico-legal report as well as the disability certificate (Ex. PW4/A). Further, the learned Tribunal held that respondent No.1 was driving the offending vehicle and that the vehicle was not insured with respondent No.3 on the date of accident as the policy had expired on 16.02.1993. Consequently, respondents No.1 and 2 were held jointly and severally liable to pay the compensation while respondent No.3 (Insurance Company) was absolved of liability. While determining the quantum of compensation, the learned Tribunal awarded a sum of ₹3,000/- on account of medical expenses, ₹4,000/- towards pain and suffering, ₹500/- towards loss of income and ₹500/- towards transportation, aggregating to a total sum of ₹8,000/-. The learned Tribunal



further directed that the awarded amount shall carry interest at the rate of 12% per annum from the date of filing of the claim petition within two months, failing which interest at rate of 18% per annum.

CONTENTIONS

4. Learned counsel for the appellant argued that the compensation awarded by the learned Tribunal is grossly inadequate and inconsistent with the settled principles for determining just compensation. It was submitted that the learned Tribunal failed to grant adequate amounts under essential heads such as pain and suffering, loss of earning capacity, loss of amenities, transportation, attendant charges and special diet and made no proper assessment towards future loss of earning capacity in light of the permanent disability suffered by the appellant as proved by Dr. R.S. Yadav (PW-4) and certificate Ex.PW4/A. Reliance was placed on the nature of injuries (fracture leading to bony deformity and restricted movements of left forearm), the appellant's profession as truck owner-cum-driver, and the fact that he had to engage a driver after the accident, urging substantial enhancement to ensure fair and reasonable compensation.

5. Per Contra, the learned counsel for the respondent No.3 (Insurance Company), while supporting the impugned award, submitted that the learned Tribunal has appreciated the evidence in its correct perspective and has passed the award strictly in accordance with law. It was argued that the claim of injured appellant has been duly considered, and the amounts awarded under various heads are just, proper, and reasonable, particularly since the claimed loss of income was not proved. It was further contended that no infirmity, perversity, or misreading of evidence can be attributed to the conclusions arrived at by the learned Tribunal so as to warrant interference by this Court in



exercise of appellate jurisdiction. None appeared for the respondents no. 1 & 2 at time of argument and final disposal of the appeal.

OBSERVATIONS AND FINDINGS

6. 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. The findings on those aspects, based on the credible testimony of Kuldeep (PW-1), appellant (PW-3) and documentary evidence, are accordingly affirmed. However, the core issue arising in this appeal pertains to the quantum of compensation which requires the reassessment which is undertaken as under:

7. 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, permanent disability and other attending circumstances as reflected in the respective records.

8. A perusal of the impugned award reveals that the learned Tribunal has recorded that the appellant had sustained a fracture of the left hand in the accident, which allegedly resulted in bony deformity of the left forearm with restricted movements. It has further been noticed that the appellant claimed to have remained admitted and under treatment at Safdarjang Hospital, New Delhi for about five days. The appellant also asserted that on account of the injuries



suffered by him, he was unable to continue driving and that he was employed as a driver by Vijender Yadav at the relevant time. The medico-legal report (MLR) shows that Dr. Sarita Chaudhary was the treating doctor at the initial stage. Even Dr. R.S. Yadav, who appeared as PW-4 and whose testimony has been relied upon by the appellant, did not depose in clear terms regarding the duration of hospitalization at Safdarjang Hospital, nor did he substantiate the nature and extent of treatment allegedly undertaken there. Further, no documentary evidence has been placed on record to establish that the appellant was in fact referred to Safdarjang Hospital by Civil Hospital, Sohna. No referral slip, discharge summary, indoor patient record or treatment chart has been produced. Significantly, no X-ray report has been brought on record to conclusively establish the fracture or its residual consequences.

9. Equally important is the fact that although the appellant asserted that he was employed as a driver under one Vijender Yadav and was earning ₹2,200/- per month, he failed to disclose complete particulars of the alleged employer. No documentary proof of employment, salary certificate, wage receipt or corroborative evidence has been produced. The alleged employer was not examined as a witness. In the absence of such foundational evidence, the plea regarding employment and specific income remains unsubstantiated and cannot be accepted at face value. The appellant claimed that he remained incapacitated for a considerable period. It is true that during the period of incapacity, a person engaged in such avocation would ordinarily suffer some loss of income. However, in the absence of reliable documentary proof of earnings, this Court is constrained to assess the loss of income on the basis of reasonable guesswork. Having regard to the nature of avocation and the prevailing circumstances at the relevant time, the monthly income of the appellant is



assessed at ₹2,000/- for the purpose of computing loss of earnings. Taking the period of incapacity as three months, a sum of ₹6,000/- is assessed towards loss of income.

10. Before adverting to the merits of the challenge, it would be apposite to recapitulate the relevant findings recorded by the learned Tribunal on the issue of alleged permanent disability, which form the basis of the present consideration.

***Para 18.** It is very strange that when the petitioner appeared in the witness box as PW3 he has not ventured to give details of injuries suffered by him, medical treatment to which he was subjected and the period of confinement, either as indoor or out-door patient. Even when Dr. R.S. Yadav, who as per averments in the petitioner's case has treated the petitioner, was examined, has nowhere deposed about these aspects. A look at copy Ex. P2 of the M.L.R shows that it was Dr. Sakita Chaudhary who was the treating doctor of the petitioner. There is absolutely no evidence that petitioner was referred to Sardarjang Hospital, New Delhi. Statement of the petitioner as PW3 is lacking of many material particulars. The petitioner also failed to produce any x-ray report to show that injury No. 1 was subjected to x-ray examination. Non production of x-ray report has to be taken as a presumption that even injury No. 1 like injuries No. 2 and 3, was simple in nature. All the three injuries being simple in nature.*

***Para 24.** The petitioner has produced certificate Ex. PW4/A. Dr R.S. Yadav, after examining the petitioner found bony deformity in left fore-arm when movements of left fore-arm were also restricted. The certificate mentions that the petitioner was unfit to drive the vehicle. The author of this certificate was examined as PW4. He was pointedly cross-examined. The petitioner has never remained under his treatment. The doctor is not even an orthopaedician. What documents were examined before coming to the conclusion mentioned in certificate Ex. PW4/A has not been disclosed.*

***Para 25.** Even from cross-examination, this witness, it is clear that the Medical Officer knew about the existence of a Medical Board at Gurgaon, specially for the purpose of issuing such disability certificate. It is understandable as to how and under what circumstances the Medical Officer ventured to give this certificate when he was not even the treating doctor nor the orthopaedician. The Medical Officer even did not bother to assess the disability of particular limb and to assess the percentage of such disability, it*



has also not been examined as to whether the disability was permanent and if so in what proportion. Certificate Ex.PW4/A thus, does not make us to reach anywhere. It does not advance resolution of the matter in dispute. Even signatures appended on this certificate when compared with the signatures appended by this witness when examined in the court on 25.9.1998, do to show that the doctor has very casually and in a slipshod manner signed the said certificate Ex.PW4/A. In nutshell statement of Dr. R.S. Yadav, PW4 and certificate Ex.PW4/A when read together clearly indicate that this witness is not worthy of reliance. Certificate Ex.PW4/A which has been proved by PW4, Dr. R.S. Yadav, cannot be taken into consideration."

.....(emphasis added)

11. Upon a careful re-appraisal of the evidence on record, this Court finds no infirmity in the appreciation of evidence undertaken by the learned Tribunal on the issue of alleged permanent disability. The claimant had relied upon disability certificate (Ex.PW4/A) purportedly issued by Dr. R.S. Yadav (PW-4). However, the said certificate suffers from serious deficiencies. Admittedly, it was not issued by a duly constituted Medical Board, despite the witness conceding in his cross-examination that such a Board exists at Gurgaon for assessment of disability. Furthermore, PW-4 has neither been shown to be the treating doctor of the claimant nor an orthopaedic specialist competent to assess permanent disability. Even the MLR (Ex.P2) reflects that the claimant was treated by Dr. Sakita Chaudhary and not by PW-4. Significantly, the certificate (Ex.PW4/A) does not quantify the percentage of disability, nor does it specify whether the alleged disability is temporary or permanent in nature. It also fails to assess disability with respect to any particular limb in accordance with recognized medical standards. The absence of objective clinical findings and supporting radiological material, including X-ray reports, further renders the certificate unreliable. The tenor of the deposition and the material placed on record unmistakably indicate that the certificate was issued in a casual and



perfunctory manner without proper medical evaluation. In such circumstances, the conclusion drawn by the learned Tribunal in discarding the disability certificate does not suffer from any perversity or misreading of evidence. In the absence of cogent and reliable proof of functional disability affecting earning capacity, no enhancement on account of future loss of income is warranted. The finding of the learned Tribunal on this aspect is, therefore, affirmed.

12. Nevertheless, even if functional disability affecting earning capacity is not established, the fact remains that the appellant did sustain injuries in the accident and would have suffered pain, discomfort and temporary restriction of movement during the course of treatment. The Court cannot be oblivious to the physical and mental trauma associated with such injuries. Such factors are relevant while awarding just compensation under the Motor Vehicles Act. Keeping in view the nature of injury, the period of treatment, the inconvenience caused, and the attendant requirement of transportation, special diet and assistance during recovery, this Court finds it appropriate to enhance compensation under the conventional heads to ensure that the appellant receives just and reasonable compensation commensurate with the injuries proved on record.

Particulars	Awarded by Tribunal (₹)	Re-assessed (₹)
Loss of income during treatment (3 months)	500/-	6,000/-
Medical expenses	3,000/-	15,000/-
Transportation	500/-	5,000/-
Loss of amenities	x	2,000/-
Attendant	x	2,000/-
Special diet	x	5,000/-
Pain and suffering	4,000/-	10,000/-
Total	8,000/-	₹45,000/-



13. It is pertinent to notice that cross-objections were also stated to have been filed along with the present appeal. However, when the matter was taken up for hearing, none appeared on behalf of the cross-objectors. The record further reflects that the cross-objectors have not independently assailed any specific finding of the learned Tribunal nor pressed their objections during the course of arguments. In the absence of appearance and in view of the failure to address arguments in support thereof, the cross-objections are deemed to have been abandoned. Accordingly, this Court proceeds to adjudicate and decide the present appeal on the basis of the material available on record and the submissions advanced by the appearing parties.

14. Even otherwise, upon independent examination of the award and findings recorded by the learned Tribunal, this Court does not find any ground warranting interference in favour of the cross-objectors beyond what has already been considered hereinabove while reassessing the compensation payable to the claimant.

15. In view of the above, the appeal is partly **allowed**. The impugned award dated 09.01.1999 is modified to the extent that the compensation payable to the appellant is enhanced from ₹8,000/- to ₹45,000/-. 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. The cross-objections, in the absence of prosecution and appearance on behalf of the cross-objectors, stand dismissed as not pressed.

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



17. A photocopy of this order be placed on the file of the connected case.

25.02.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

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