



FAO-2693-2002(O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-2693-2002(O&M)
Date of decision- 06.04.2026

Rakesh Kumar

.....Appellant

Versus

Net Ram and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present: Mr. Kunal Phogat, Advocate,
for the appellant

Mr. Vijay Kumar Garg, 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, Gurgaon (hereinafter “*the Tribunal*”), vide Award dated 13.02.2002, whereby a sum of ₹1,02,517/- was granted on account of injuries sustained by him in a Motor Vehicle Accident dated 28.07.1999 due to rash and negligent driving of respondent No.2.

2. Succinctly, the facts of the case are that on 28.07.1999, the claimant–appellant was traveling from Ferozepur Jhirka to his village Pahari in Jeep No. HR-28-5144, driven by respondent No. 2, when despite being cautioned to drive slowly, the driver (respondent No. 2) drove the vehicle in a rash and negligent manner and, near village Mamedda and then

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collided with another jeep ahead. As a result whereof the claimant fell down and sustained grievous injuries, including fracture and crushing of his leg underneath the jeep. Subsequently, FIR No. 118 of 1999 was registered at Police Station Ferozepur Jhirka. The claimant remained admitted in hospital for 48 days from 28.07.1999 to 14.09.1999 underwent surgical operations with insertion of a rod, and suffered permanent disability to the extent of 25% in relation to his left lower limb. Consequently, he filed a petition seeking compensation on the account of injuries suffered by him. The learned Motor Accident Claims Tribunal, Gurgaon, vide Award dated 13.02.2002, granted a total compensation of ₹1,02,517/-, along with interest @ 9% per annum and being dissatisfied with the compensation so awarded, the claimant has preferred the present appeal seeking enhancement.

3. Learned counsel for the appellant–claimant contends that the compensation awarded by the learned Tribunal is wholly inadequate and does not reflect the true extent of loss suffered by the appellant in the facts and circumstances of the present case. It is submitted that the appellant had filed the claim petition on account of grievous injuries sustained in the motor vehicle accident, which resulted in fracture of his leg, multiple surgical interventions including insertion of a rod, prolonged treatment and permanent disability to the extent of 25%, thereby seriously impairing his earning capacity and normal enjoyment of life. Furthermore, it is contended that the learned Tribunal has erred in assessing the income of the appellant on the lower side and has failed to appreciate that the appellant, being a young businessman, was earning substantially more than what has been taken into account.

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3.1 It is further contended that no amount has been awarded towards pain and suffering and special diet, and the amounts granted under the heads of transportation and attendant charges are merely nominal and wholly insufficient. It is also urged that the loss of future earning capacity has been computed in a mechanical manner without properly appreciating the functional impact of the disability on the appellant's vocation, and without applying the settled principles governing assessment of compensation. Lastly, it is contended that the learned Tribunal has failed to take into consideration the long-term effect of the permanent disability on the appellant's future prospects and overall quality of life, thereby resulting in undervaluation of just compensation.

4. *Per contra*, learned counsel for respondent No.3-Insurance Company 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 appeals.

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

6. In the present case, the claimant was about 25 years of age at the time of accident and had suffered grievous injuries resulting in fracture of his leg, for which he underwent surgical intervention and insertion of a rod. As per the disability certificate Ex. P1 and the testimony of PW-1 Dr. Akhlaq Ahmed, the claimant has suffered 25% permanent disability pertaining to the left lower limb, which has resulted in restriction of



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movement. The claimant has pleaded that he was running a general merchant shop, however, in the absence of any cogent evidence to substantiate his income, the same is required to be assessed on the basis of minimum wages prevailing at the relevant time, i.e. ₹1268/- per month (annual income comes to ₹15,216/-). Further, in view of the law laid down by the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi (2017) 16 SCC 680*, an addition of 40% (₹6,086.4/-) towards future prospects is warranted, thereby taking the annual income to ₹21,300/- (₹15,216 + ₹6,086.4 = ₹21,302.4/-). Though the disability has been assessed at 25% qua the limb, keeping in view the nature of avocation of the claimant, the functional disability is assessed at 15%. Applying the multiplier of 18 as per *Sarla Verma v. Delhi Transport Corporation 2009 (6) SCC 121*, the loss of future earning capacity is assessed at ₹57,510/- (₹21,300 × 15% × 18). The amount of ₹17,517/- awarded towards medical expenses is duly supported by bills on record and does not call for any interference. Further, it has come on record that the claimant remained under plaster for a period of about six months and the said fact has gone unrebutted in cross-examination. Thus, he is held entitled to compensation towards loss of income during the period of treatment, which is assessed at ₹7,608/- [6 (months) × ₹1268/- (salary per month)].

7. However, the compensation awarded by the learned Tribunal under the non-pecuniary heads is found to be on the lower side. The claimant, being a young person, had suffered fracture, underwent surgery and remained immobilized for a considerable period, resulting in pain, trauma and prolonged discomfort. Accordingly, a sum of ₹20,000/- is awarded towards pain and suffering. Further, considering the duration of



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treatment and the attendant circumstances, a consolidated amount of ₹20,000/- is awarded towards transportation, special diet and attendant charges. The amount awarded towards loss of enjoyment of life is also found to be inadequate and is enhanced from ₹30,000/- to ₹50,000/-, in view of the permanent restriction in movement suffered by the claimant. Consequently, the total compensation payable to the claimant is re-assessed at ₹1,72,635/-, and the Award stands enhanced to the aforesaid extent, i.e. (₹57,510/- + ₹7,608/- + ₹17,517/- + ₹20,000/- + ₹20,000/- + ₹50,000/-)

8. 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.

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

(AMARINDER SINGH GREWAL)
JUDGE

April, 06, 2026
nitin/ss

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