



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

212

FAO-2739-2001 (O&M)
Date of decision:20.04.2026

KARNAIL SINGH ...APPELLANT
VERSUS
STATE OF HARYANA AND OTHERS ...RESPONDENTS
CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: None for appellant.
Mr. Abhinav Mahant, Asst. A.G., Haryana.

PARMOD GOYAL, J. (ORAL)

Appellant-claimant is aggrieved by award dated 30.11.2000 passed by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as ‘**Tribunal**’), vide which it was held that accident dated 01.07.1998 was the result of contributory rash and negligent driving of the bus bearing registration No.HR-391924 by respondent No.3 and scooter bearing registration No.HNH 14405 being driven driven by appellant-claimant.

2. While deciding issue No.1, learned Tribunal had held that both appellant-claimant as well as respondent No.3 had contributed in causing the accident and are equally responsible for the same. Accordingly, 50% amount of total compensation was ordered to be paid to the appellant-claimant.

3. Appellant-claimant was held entitled to following compensation:-

Compensation for expenditure incurred on treatment	Rs.42,000/-
Compensation for loss of earning capacity on account of 60% disability	Rs.60,000/-

Compensation on account of transportation charges	Rs.2,000/-
Compensation for loss of salary during the period he remained admitted in the hospitals	Rs.4,500/-
Compensation for pain and suffering, special diet and attendants	Rs.10,000/-
Total	Rs.1,18,500/-

4. Appellant-claimant is not represented by any counsel. It is worth noticing that appellant-claimant had filed present appeal in 2001 and thereafter records of appeal were not available as same got burnt in a fire incident. Accordingly grounds of appeal and award passed by Court alone were available with this Court. Fresh notices were issued to appellant-claimant. However, the notices issued to the appellant-claimant received back with the report ‘incorrect/incomplete address’ and therefore appellant-claimant could not be served. Learned counsel for respondent has fairly stated that fresh/correct address of appellant-claimant is not available with them also. However, lower Court record is available for perusal of this Court.

5. Appellant-claimant has challenged finding of the learned Tribunal on two grounds. Appellant-claimant has challenged the finding of contributory negligence on issue No.1 as well as quantum of compensation of Rs.1,18,500/- and has prayed that compensation be enhanced.

6. As far as findings of learned Tribunal on issue No.1 is concerned, I do not find any error in the same. Learned Tribunal has duly

appreciated evidence of appellant-claimant as well as that of driver and conductor of offending bus who had appeared as RW1 and RW2.

7. It was the case of appellant-claimant that on 01.07.1998 at about 06:30 a.m., he was going from his house situated in Shanti Nagar, Hisar to Arcee Ispat Limited, Talwandi on his scooter bearing registration No.HNH/4405 and when appellant-claimant reached near the factory, he turned towards his right to go into the factory. In the meanwhile, offending bus came from opposite side, being driven in rash and negligent manner by respondent No.3, had hit back of his scooter without blowing horn. On the other hand, driver and conductor of the offending bus, while appearing as RW1 and RW2, stated that bus was being driven in moderate speed and in careful manner. The canter was coming from opposite side, whereas scooter of appellant-claimant was driven rashly and negligently behind the canter. The driver of canter slowed down the speed of canter and the scooterist got puzzled and lost control over scooter to avoid accident with canter. Appellant-claimant turned his scooter towards the right side, ignoring the bus coming from front side. Both RW1 and RW2 had stated that RW1 had taken bus on the kutchra portion to save the scooterist but the scooterist struck this scooter against the bus.

8. Admittedly, it was appellant-claimant who took turn towards the right side and appreciating evidence of appellant-claimant as well as RW1 and RW2, the learned Tribunal arrived at the conclusion that both appellant-claimant, while driving scooter and respondent No. 3, while driving bus, were negligent and contributed in causing the accident. The finding recorded is based upon proper appreciation of evidence available on

record and therefore cannot be faulted with. Both appellant-claimant and respondent No.3 were required to take proper caution while appellant-claimant was required to take special caution before turning to right side which was wrong side and driver of bus was required to take caution when he had already seen canter coming from opposite side behind which, there was scooterist. Therefore, no interference with finding of learned tribunal can be made.

9. As far as quantum of compensation is concerned, determination of compensation under head expenditure incurred on treatment, compensation for transportation charges, compensation for pain and sufferings, special diet and attendant charges, and compensation for loss of salary during period of treatment, when appellant-claimant remained admitted in hospital, is based upon evidence led by appellant-claimant. All the expenses placed on record by way of evidence were duly taken into consideration and compensation has been awarded accordingly. Therefore, no interference is warranted in the facts and circumstances of the present case regarding above-noted heads.

10. However, grounds of appeal go to show that appellant-claimant is primarily aggrieved by non-grant of compensation for loss of future amenities and future prospects of life on account of 60% permanent injuries on the right upper limb suffered by him in the accident. Appellant-claimant is also aggrieved by grant of lessor compensation for loss of earning capacity.

11. Appellant-claimant had placed reliance upon disability certificate (Ex.P3) which was duly proved by PW3 Dr. J.S. Bhatia. Dr. J.S.

Bhatia, vide permanent disability certificate (Ex.P3) had found disability to the extent of 60% on account of deformity of right upper limb (forearm) due to loss of blood supply on account of fractures on both bones of right forearm.

12. Perusal of award shows that while calculating loss of future earning capacity on account of permanent disability, the learned Tribunal had not taken into consideration functional disability which claimant-appellant ought to have suffered on account of 60% disability of right forearm as per claim petition and his statement. Appellant-claimant was earning Rs.3,000/- per month being an electrician, was aged 26 years while he was working with M/s. R.C. Industries Ltd. To prove his employment and salary, appellant-claimant applicant had duly examined PW1-Rishi Kumar, who had duly proved salary certificate (Ex.P1), whereby appellant-claimant was found to be getting Rs.3,000/- per month while working as an electrician in M/s. R.C. Industries Limited.

13. In view of above facts, the learned Tribunal ought to have determined compensation by applying appropriate multiplier, future prospects and loss of earning capacity ought to have been determined in view nature of vocation of appellant-claimant, who was working as an electrician and nature of disability that is deformity of the right forearm to the extent of 60%. The extent of disability goes to show that appellant-claimant must have suffered grave loss on account of disability suffered in the accident. Keeping in view the nature of employment as well as nature of injuries qua whole body, functional disability is accordingly determined at 30%. The income of appellant-claimant has to be taken as proved by PW1

and accordingly same is taken as Rs.3,000/- per month. Since appellant-claimant was 26 years old at the time of accident, appellant-claimant is entitled to future prospects to the extent of 40% as well as multiplier of ‘17’.

14. Accordingly, reworked compensation payable to appellant-claimant is as under:-

Income	Rs.3,000/- per month (working as an electrician)	Rs.3,000/- per month
Functional disability	30% of Rs.3,000/-	Rs.900/-
Future prospects	40% (900+360)	Rs.1,260/-
Multiplier	17	17
Loss of earning capacity	Rs.1260X17X12	Rs.2,57,040/-
Compensation for loss of future amenities and future prospects		Rs.50,000/-
Compensation for expenditure incurred on treatment	Rs.4,2000/- (as awarded by Tribunal)	Rs.42,000/-
Compensation on account of transportation charges	Rs.2,000/- (as awarded by Tribunal)	Rs.2,000/-
Compensation for loss of income during the period he remained in the hospital	Rs.4,500/- (as awarded by Tribunal)	Rs.4,500/-
Compensation for pain and sufferings, special diet and attendants	Rs.10,000/- (as awarded by Tribunal)	Rs.10,000/-
Compensation awarded by the Tribunal	Rs.1,18,500/-	
Compensation awarded in appeal		Rs.3,65,540/-

Enhanced compensation	Rs.3,65,540/- (as awarded in appeal) – Rs.1,18,500/- (as awarded by Tribunal)	Rs.1,23,520/- (50% of Rs.2,47,040/-, on account of contributory negligence)
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15. Appellant-claimant shall also be entitled to interest over enhanced amount to the extent of 7.5% from the date of filing of claim petition till its realization. The liability of respondents to pay compensation shall be as per award.
16. Present appeal is disposed of in above terms.
17. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)

JUDGE

20.04.2026

Sunil Chander

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No