



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4242-2001 (O&M)

ASHWANI GANDHI

..... APPELLANT

VERSUS

PRITPAL SINGH AND OTHERS

..... RESPONDENTS

1.	Judgment reserved on	22.01.2026
2.	Judgment pronounced on	31.01.2026
3.	Judgment uploaded on	31.01.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	No

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr.Pavan Malik, Advocate
for the appellant.

Mr. D.R. Bansal, Advocate
for respondent No.3-National Insurance Co. Ltd.

YASHVIR SINGH RATHOR, J. (Oral)

1. The present appeal has been instituted by the appellant (hereinafter referred to as petitioner) against the award dated 09.05.2001 passed by MACT Gurgaon, vide which a sum of ₹2,00,000/- has been awarded as compensation on account of injuries suffered by him in a motor vehicular accident on account of rash and negligent driving on



the part of respondent No.1 while driving offending vehicle bearing No.DL-4-CF-7375, which was owned by respondent No.2 and insured with respondent No.3. All the respondents were held liable to pay compensation jointly and severally.

2. Case of the petitioner is that on 20.10.1999, he was going on his scooter bearing No.HR-26-G-8935 to his house in DLF Colony, Gurgaon. At about 6:45 P.M., when he reached near Atlas Crossing on National Highway No.8, one person, namely, Bhola was pulling a rickshaw in front of his scooter. In the meanwhile, offending vehicle bearing No.DL-4-CF-7375, came from behind which was being driven by respondent No.1 at a high speed and in a rash and negligent manner and it hit his scooter from behind and the scooter further hit the rickshaw due to which he as well as rickshaw puller suffered injuries and the scooter was also damaged. The petitioner who suffered grievous injuries was taken to Kalyani Hospital, Gurgaon for treatment. He was 43 years of age and was working as Inspector with Central Excise and Customs Gurgaon and drawing ₹12,800/- per month as salary. He suffered fractures on lower portion of right leg and on upper portion of right arm and he was operated upon at Kalyani Hospital, where he remained admitted from 20.10.1999 to 26.10.1999. He had spent a sum of ₹50,000/- on his treatment and was advised to take bed rest for five months by the doctor. The wife of petitioner was working with Rashtriya Sanskrit Sansthan and getting a monthly salary of ₹8,300/- and she had to remain on leave from 21.10.1999 to 20.01.2000, as her attendant. He had also spent huge sum on special diet and on physiotherapy and he has also been advised to



undergo surgery in future. He has also spent ₹12,000/- for repair of his scooter and needs ₹30,000/- for his future treatment.

3. Respondents No.1 and 2 in their written statement have opposed the petition on the grounds of cause of action and locus standi. It has been denied that accident took place due to rash and negligent driving on the part of respondent No.1. The material contents of the claim petition have been refuted and dismissal of the same was sought.

4. Respondent No.3-National Insurance Company Ltd., filed separate written statement and took an objection that respondent No.1 was not holding a valid and effective driving licence at the time of accident. The petition is also bad for non-joinder of the insurer of the scooter and dismissal of the claim petition was sought.

5. From the pleadings of the parties, the following issues were framed:

- “1. Whether the motor vehicle accident that took place on 20.10.99 is an outcome of rash and negligent driving of card No. DL-4CF-7375 by respondent No.1? OPP*
- 2. Whether the petitioner is entitled to compensation for the injuries he suffered in the aforesaid accident. If so, in what amount? OPP*
- 3. Whether respondent No.3 is entitled repudiate the contract of insurance on to the grounds alleged? OPP*
- 4. Relief”*

6. Both the parties led evidence in support of their case.

7. After hearing the parties, learned Tribunal held under Issue



No.1 that the accident in question had taken place due to the rash and negligent driving on the part of respondent No.1 while driving the offending vehicle which resulted in injuries to petitioner and awarded a sum of ₹2,00,000 /- as compensation along with interest @ 9% per annum from the date of filing of claim petition till realization.

8. Feeling aggrieved, the present appeal has been preferred by the claimant for enhancement of compensation awarded by the Tribunal.

9. I have heard the learned counsel for the parties and have gone through the material on record.

10. At the very outset, it is pertinent to mention that the finding on issue No.1 has not been assailed by the respondents as neither the owner and driver nor the Insurance Company has filed any appeal or cross-objections to challenge the Award. Resultantly, the finding on issue No.1 has gone unassailed and is affirmed. It is accordingly, held that the accident in question occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending vehicle.

11. To prove the injuries suffered by the petitioner, he has examined PW1 Dr. Subhash Khanna, who deposed that petitioner was brought to Kalyani Hospital on 20.10.1999, with the history of road accident. The petitioner had sustained injuries/fractures in his right arm and right leg. Thereafter, he was operated upon and discharged from the hospital and was declared fit to join his duties on 18.03.2000. As such, from the testimony of PW1 Dr. Subhash Khanna, it is established that petitioner had suffered fractures in his right leg and right arm and he was



operated upon. Thereafter, he remained under treatment for about 4 months. Learned Tribunal awarded him a sum of ₹20,000/- as compensation on account of 'pain and sufferings'. However, in my considered opinion, the compensation under the said head is grossly inadequate. It is well-known that pain component in such type of injuries is enormous as he had undergone surgery as well and such injuries take a long time to heal. Accordingly, petitioner is held entitled to a sum of ₹35,000/- as compensation under the head 'pain and sufferings'.

12. Regarding medical expenses incurred during the treatment, learned Tribunal has awarded a sum of ₹40,000/-. A sum of ₹28,475/- was incurred at Kalyani Hospital and besides this, it was also held that petitioner had spent another sums of ₹3,800/- and ₹7,100/- for purchase of medicines etc. vide bills Ex.P17 to Ex.P27. All the bills relied upon by the claimant have been taken into consideration while assessing the amount of compensation under the head "expenses incurred on treatment", and there is thus no reason to take a contrary view.

13. Petitioner has claimed that he was working as Inspector with Central Excise and Customs, Gurgaon and was drawing ₹12,300/- per month as salary. As per his version, he remained on leave for 5 months and he had to waste his earned leave on account of this accident which he could have otherwise got encashed. Learned Tribunal held that petitioner has not summoned any record to establish his salary to be ₹12,300/- per month but still, the learned Tribunal assessed his salary to be ₹10,000/- per month and awarded a sum of ₹50,000/- as compensation for loss of income due to availing of earned leaves which too is not on lower side



and he has been duly compensated in this regard. No interference in the compensation under the said head of loss of income is also thus made out.

14. Besides this, as per version of petitioner, his wife also remained on earned leave for 3½ months, who was getting ₹8,316/- per month as salary and learned Tribunal awarded him another sum of ₹29,000/- as compensation on account of loss of salary suffered by his wife being his attendant and under this head also, he has been duly compensated and no interference is called for.

15. Petitioner has suffered permanent disability to the extent of 22.5% as per disability certificate Ex.P28 which has been proved on file by PW4 Dr. Akhlak Ahmad, who was member of the Board which assessed his disability. However, petitioner was a permanent Government employee serving with the Central Government and as such, his earning capability has not diminished on account of permanent disability suffered by him and petitioner thus is not entitled to compensation on account of “loss of income due to permanent disability”. However, petitioner was awarded a sum of ₹50,000/- as compensation on account of permanent disability suffered by him which in my opinion is slightly on lower side and same is liable to be enhanced to ₹60,000/- on account of ‘loss of amenities and due to permanent disability’. Besides this, petitioner has been awarded a sum of ₹11,000/- on account of conveyance charges and special diet. However, it has come in evidence that petitioner remained under treatment and bed-ridden for 5 months and he must have spent considerable amount on special diet and on transportation and the compensation under this head is also enhanced to ₹15,000/-. As a result



of aforesaid discussion, the compensation to be awarded to petitioner is re-assessed as under:-

Head of Compensation	Amount Awarded by Tribunal (₹)	Enhanced Amount (₹)
Pain and Sufferings	₹20,000	₹35,000 (₹35,000-₹20,000 =₹15,000/-)
Medical Expenses	₹40,000	-
Loss of Salary (Petitioner)	₹50,000	-
Loss of Salary (Wife)	₹29,000	-
Permanent Disability / Loss of Amenities	₹50,000	₹60,000 (₹60,000-₹50,000 =₹10,000)
Conveyance & Special Diet	₹11,000	₹15,000 (₹15,000-₹11,000 =₹4,000/-)
Total	₹2,00,000 (already granted)	₹29,000

16. Accordingly, the present appeal is partly accepted with costs and petitioner is held entitled to a sum of ₹29,000/- as enhanced compensation over and above what has been awarded by the Tribunal along with interest @ 9% per annum from the date of filing of claim petition i.e. 23.05.2000 till realization to be paid by respondents, jointly and severally.

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

31.01.2026

Vishal Vardhan

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No