



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

(219)

**FAO-3068-2002 (O&M)
Date of Decision: 09.03.2026**

ROSHAN LAL**... APPELLANT****VERSUS****RAJBIR AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. K.S. Bedi, Advocate for the appellant.

Mr. Suvir Deewan, Advocate for the respondents No. 3.

VIRINDER AGGARWAL,J.(ORAL)

1. This Appeal is directed against the award dated 03.12.2001 passed by the Motor Accidents Claims Tribunal, Karnal, whereby the learned Tribunal awarded a compensation of ₹95,000/- along with interest at 9% per annum to the appellant/claimant on account of injuries sustained in a motor vehicular accident.

BACKGROUND FACTS

2. The facts giving rise to the present appeal, in brief, are that on 20.10.1998 at about 2:00-2:30 p.m., near Baldi Bye-pass on the Karnal-Uchana road, the appellant Roshan Lal was travelling as a passenger in a three-wheeler bearing registration No. HR-45-3284, driven by respondent No.1 Rajbir, from Karnal Bus Stand towards his native village Uchana. The said three-wheeler was allegedly being driven at a high speed and in a rash and negligent manner and, while attempting to overtake a jeep from the wrong side (left side), the



driver lost control over the vehicle, as a result of which the three-wheeler turned turtle and fell into a roadside ditch. In the said accident, the appellant sustained multiple grievous injuries and was immediately taken to Civil Hospital, Karnal, where he remained admitted for about 10-11 days. Thereafter, he continued his treatment from a doctor at Kurukshetra and remained under medical care for a considerable period. Consequently, the injured appellant filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 before the learned Motor Accident Claims Tribunal, Karnal, seeking compensation for the injuries suffered by him in the said accident.

3. Upon due consideration of the oral as well as documentary evidence adduced by the parties, the learned Tribunal recorded a clear and categorical finding that the accident had occurred on account of the rash and negligent driving of the offending three-wheeler bearing registration No. HR-45-3284 by respondent No.1 Rajbir. In arriving at this conclusion, the learned Tribunal placed reliance on the testimony of the injured claimant himself, who appeared as PW-4, as well as the consistent and reliable statement of eye-witness Pawan Kumar (PW-3). Their testimonies were found to be cogent and trustworthy and stood duly corroborated by the police record including the FIR (Ex.P2). The Tribunal further noticed that respondent No.1 had been prosecuted under Sections 279, 337 and 338 of the Indian Penal Code in connection with the same occurrence and had been charge-sheeted on 10.05.1999 (Ex.P3). It was, however, rightly observed that the pendency of the criminal trial would not absolve the driver of his civil liability in proceedings under the Motor Vehicles Act. While determining the quantum of compensation in the injury claim, the



learned Tribunal took into consideration the nature of injuries sustained by the claimant, the medical record placed on file as well as the disability certificate indicating 24% permanent disability. On appreciation of the evidence, the Tribunal awarded compensation under various heads including Rs.8,000/- for pain and suffering, Rs.12,000/- towards medical expenses on the basis of proved bills amounting to Rs.12,134/-, Rs.10,000/- towards conveyance, special diet and attendant charges, Rs.50,000/- on account of the adverse effect of the disability on the earning capacity and future prospects of the claimant, Rs.10,000/- towards loss of income during the period of treatment and Rs.5,000/- towards miscellaneous and unforeseen expenses. However, no separate compensation was awarded towards future medical treatment or crop loss, as the same was not sufficiently proved on record. Accordingly, the total compensation payable to the claimant was assessed at Rs.95,000/-, which was directed to carry interest at the rate of 9% per annum from the date of filing of the claim petition till realization, with the respondents held jointly and severally liable to satisfy the award.

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 disability (despite evidence of 24% whole body and 40% qua hip joints permanent disability), pain and suffering, loss of amenities, transportation, attendant charges, special diet, medical expenses and loss of income during



treatment and recovery, as well as future earning capacity due to incapacity for agricultural labour on leased land. It was thus urged that the award warrants enhancement.

5. Per Contra, the learned Counsel for the respondent No.3 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 is argued that the claim of the injured appellant has been duly considered, and the amounts awarded under various heads are just, proper, and reasonable. It is 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.

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 the validity of the driving licence (leading to joint and several liability of respondents No.1 to 3), I find no reason to take a different view. The findings on those aspects are accordingly affirmed, and the liability remains fastened jointly and severally on respondents No.1 to 3. However, the core issue arising in the present appeal pertains to the reassessment of the quantum of compensation. The reassessment is, therefore, undertaken as under:

7. For the purpose of reassessment of compensation, the foremost issue that arises for consideration is the extent of functional disability so as to



correctly determine the loss of future earning capacity. The disability certificate (Ex. P8), duly proved on record by Dr. Ravinder Arora (PW-7) of the Medical Board, Civil Hospital, Karnal, certifies that the appellant is suffering from 24% permanent disability of the whole body, with 40% disability qua both hip joints, the principal disability being fracture of the superior ramus of the left pubic bone resulting in restricted movements and persistent pain. The said disability and its effects have also been spoken to by the appellant himself while appearing as PW-4. The permanent character of the disability stands established from the testimony of the medical witness, the medico-legal report (Ex. P7), the X-ray report (Ex. P6) and the record showing that the appellant remained hospitalized for about 10–11 days and continued treatment thereafter.

8. However, a perusal of the impugned award shows that the learned Tribunal, despite noticing the nature of injuries and the disability suffered by the appellant, awarded a consolidated amount without undertaking a proper assessment of the long-term consequences of the disability on the earning capacity of the appellant. At the time of the accident, the appellant was about 40 years of age and was engaged in agricultural activities. Evidence on record, including the testimony of Babir Singh (PW-6), indicates that the appellant had taken about 12 acres of land on lease for cultivation and was earning from agricultural operations and sale of produce. The said occupation inherently requires considerable physical effort, mobility, squatting and sustained labour in the fields. In these circumstances, the restricted movement of the hip joints, the persistent pain and the difficulty in walking and squatting would inevitably have an adverse impact on the appellant's ability to perform such labour-



intensive agricultural work. The material on record therefore indicates that the physical disability suffered by the appellant, though assessed at 24%, has a substantial bearing on his functional capacity and his ability to effectively pursue his occupation as before.

9. Though the medical disability has been assessed at 24% qua the whole body (40% hip joints), the functional disability, having regard to the appellant's occupation as an agriculturist, translates into 40% loss of earning capacity in his pre-accident vocation. Applying the principles laid down by the Hon'ble Supreme Court in *Raj Kumar v. Ajay Kumar (2011) 1 SCC 343*, wherein it has been held that functional disability must be assessed with reference to its impact on earning capacity and not merely the percentage of physical impairment, and considering the appellant's age, the nature of injury (pubic bone fracture with hip involvement), permanent restrictions, inability to cultivate leased land, and lifelong physical limitations (including inability to enjoy conjugal life), it is just and appropriate to assess the functional disability at 40% for the purpose of computing loss of future income.

10. The appellant claimed a monthly income of ₹8,000/-, purportedly substantiated by his testimony (PW-4), the evidence of Balbir Singh (PW-6) regarding lease of 12 acres, and J-forms (Ex. A30-A45) showing sale of agricultural produce through commission agents. However, having regard to the rural agrarian context, the lack of income-tax returns or formal records, the un rebutted but self-serving nature of the oral evidence, and the learned Tribunal's assessment based on comparable notional earnings for similar cultivators in 1998, the asserted monthly income of ₹8,000/- has not been



sufficiently substantiated on record. The appellant not being an income-tax assessee, his income is required to be assessed on a notional basis. Having regard to the nature of his profession and the year of accident, i.e. 1998, the notional monthly income is reasonably assessed at ₹3,000/-. The age of the appellant, as borne out from the record, is 40 years. Consequently, in the light of the principles laid down by the Hon'ble Supreme Court in *National Insurance Company Limited v. Pranay Sethi, (2017) 16 SCC 680* and *Sarla Verma v. Delhi Transport Corporation, (2009) 6 SCC 121*, the loss of future income on account of permanent functional disability is re-assessed as under:

Particulars	Amount (₹)
Loss of Monthly Income (40% Functional Disability)	1,200/- (40 % of 3,000/-)
Monthly loss of Income with Future Prospects (25%)	1500/- (1,200 + 300)
Annual Loss of Income	18,000/- (1,500 × 12)
Multiplier (age 40 years)	15
Loss of Future Income	2,70,000/- (18,000 × 15)

11. Apart from loss of future earning capacity, the claimant is also entitled to just compensation under other pecuniary and non-pecuniary heads. The principles governing such assessment have been authoritatively laid down by the Hon'ble Supreme Court in *Raj Kumar v. Ajay Kumar (2011) 1 SCC 343*, wherein it has been held that compensation in injury cases must adequately account for medical expenses, loss of income during treatment, pain and suffering, loss of amenities, attendant charges, special diet, transportation and future medical needs, depending upon the facts of each case. Thus, from the evidence on record, including the testimony of the appellant (PW-4), the MLR



(Ex. P7), X-ray (Ex. P6), proved medical bills (Rs.12,134/- Ex. A1-A29 – partial only), 10-11 day admission, and continued treatment (total Rs.50,000/- deposited), the claimant remained hospitalized and under recovery for a few months, suffering prolonged pain. The compensation awarded under these heads by the learned Tribunal (Rs.95,000/- total) is found to be on the lower side and deserves enhancement in view of the nature of the grievous injuries, duration of treatment, severity of suffering, and lifelong impairment (including psychological impact on conjugal life). Accordingly, the claimant is held entitled to the following amounts:

Particulars	Re-assessed Compensation(₹)
Pain and suffering	15,000/-
Medical expenses	12,134/-
Transportation	10,000/-
Attendant	10,000/-
Special diet	5,000/-
Loss of Amenities	5,000/-
Loss of Income (During treatment and Hospitalization)	12,000 (3000 x 4 Months)
Total	69,134/-

TOTAL COMPENSATION

12. Thus, the total compensation payable to the claimant is reassessed as under:

Particulars	Amount (₹)
Loss of Future Income	2,70,000/-
Other Heads	69,134/-
Total	₹3,39,134/-

13. In view of the above, the appeal is partly allowed. The impugned award dated 03.12.2001 is modified to the extent that the compensation payable



to the appellant is enhanced from ₹95,000/- to **₹3,39,134/-**. 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.

09.03.2026
KV

(VIRINDER AGGARWAL)
JUDGE

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