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FAO-1995-2002 (O&M)

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

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**FAO-1995-2002 (O&M)
Date of decision :27.01.2026**

CHHINDO RANI AND ORS.

... APPELLANTS

VERSUS

TILAK RAJ AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sandeep Jasuja, Advocate
for the appellants.

Dr. D.S. Lamba, Addl. A.G. Punjab.

Mr. Sahej Mahajan, Advocate for
Mr. R.K. Bishambo, Advocate
for the respondent-Insurance Company.

PARMOD GOYAL, J. (ORAL)

1. Claimants-appellants have filed the present appeal being aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'Tribunal') vide award dated 28.11.2001.

2. In the present case, appellant No. 3-Bula Ram had sought compensation for the injuries suffered by him in an accident dated 16.03.1996, which occurred due to the rash and negligent driving of respondent No. 1 while driving Bus bearing registration No. PB-12-9826. The claim petition was filed by injured Bula Ram through his wife, along with his minor son, who were also impleaded as claimant-appellant Nos. 1 and 2. It was pleaded that on account of the injuries sustained in the accident, Bula Ram has become 100% disabled and

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is completely incapacitated from earning his livelihood.

3. However, at the time of leading evidence before the Tribunal, no permanent disability was proved. No disability certificate was produced and no doctor was examined to prove permanent disablement. The doctors examined, namely AW-1 and AW-5, were only the treating doctors. AW-5 specifically deposed that after his admission in the hospital, claimant Bula Ram was discharged on 10.04.1996 and that his condition was improving.

4. Despite this, in the claim petition as well as in her oral testimony while appearing as PW-1, claimant No. 1 (wife of Bula Ram) asserted that Bula Ram had suffered 100% disability. In the absence of any medical evidence proving permanent disability, the Tribunal awarded compensation under the following heads:

1.	For medical expenses	Rs. 75000/-
2.	For special diet	Rs. 5000/-
3.	For loss of income for the period under treatment	Rs.10000/-
4.	For expenditure of the family members attending the patient.	Rs.10000/-
	Total compensation awarded.	Rs. 1,00,000/-

5. Aggrieved thereby, the claimants preferred an appeal before this Court. During the pendency of the appeal, an application was moved seeking examination of claimant Bula Ram by a Medical Board for determination of permanent disability. The matter was referred to Lok Adalat and vide order dated 26.07.2005, it was directed that Bula Ram be examined by a Medical Board headed by the Civil Surgeon, Ferozepur.

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6. Pursuant thereto, claimant Bula Ram was examined by the Medical Board and a disability certificate was issued and placed on record. However, unfortunately, in a fire incident, the records of the present appeal, including the disability certificate, were destroyed.

7. Subsequently, after reconstruction of the record, when the case was taken up for hearing, keeping in view the peculiar circumstances, this Court vide order dated 07.02.2019 directed re-examination of Bula Ram by the Medical Board.

8. Thereafter, learned counsel for the claimants-appellants informed the Court that at the time of passing of order dated 07.02.2019 he was not in contact with claimants-appellants and subsequently came to know that claimant-appellant Bula Ram had already expired in the year 2012, i.e. prior to the passing of order dated 07.02.2019. Accordingly, the disability certificate issued by the Medical Board pursuant to the Lok Adalat order dated 26.07.2005, along with a verification report obtained by the claimants-appellants under the Right to Information Act, was placed on record.

9. In these circumstances, since the original record pertaining to the disability certificate was also available with the Medical Board, the State was directed to verify the genuineness of the conclusions drawn by the Medical Board. Upon such verification, the disability certificate was found to be genuine, wherein claimant-appellant Bula Ram had been assessed to be 100% disabled.

10. It is pertinent to note that as per the disability certificate, the claimant-appellant was found to be suffering from “Traumatic spastic quadriplegia with mental retardation.”

11. Keeping in view the facts and circumstances of the present case,

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particularly the verification carried out by the State, which is the owner of the offending bus, the disability certificate is accepted in evidence. Consequently, it is held that the appellants-claimants are entitled to compensation under the head of loss of earning capacity on account of permanent disability.

12. Learned counsel for the appellants has placed reliance upon the following judgments in support of his pleas for enhancement in compensation:

- (1) **Usha Rani Vs. Joginder Singh and others**, 2014(77) R.C.R. (Civil) 920;
- (2) **Shaikh Farooq Mohammad Gaouse Vs. The Transport Manager, Thane Municipal Transport Undertaking, Administrative Building**, 2013(8) R.C.R. (Civil) 1858;
- (3) **Shaileshkumar S/o Karmashibhai Arjanbhai Kanani Vs. Ghanshyambhai Popatbhai Patel and 3**, 2017(1) GujLH 242; and
- (4) **Kavita Vs. Deepak and others**, 2012(4) R.C.R. (Civil) 273.

13. In the present case, the claimants-appellants asserted that the injured, now deceased, was earning a sum of Rs. 4,500/- per month as salary while working as Secretary of a Co-operative Society and an additional Rs. 2,000/- per month by selling milk. The claimants had examined an official from the Co-operative Society to prove the said income; however, no salary certificate or pay-scale was produced. The said witness was only able to prove that the claimant was working as Secretary of the Co-operative Society but could not disclose the actual salary being paid to him.

14. In these circumstances, when the actual income of the claimant-appellant (deceased) is not forthcoming, this Court is required to make a

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reasonable assessment based on the material available on record. As per the prevailing rates in the year 1996, the minimum wages payable to a skilled worker were Rs. 1,944/- per month. However, from the evidence led by the claimants, it stands proved that the deceased was working as Secretary of a Co-operative Society and, therefore, his job would have been of a better nature than that of a skilled worker. Accordingly, his monthly income is assessed at Rs. 2,200/- per month, instead of the minimum wages payable to a skilled worker.

15. As regards the alleged additional income from selling milk, there is no evidence on record except bald oral assertions made by the claimants. Such oral assertions, in the absence of any cogent corroborative evidence, cannot be accepted.

16. Accordingly, the income of the deceased is assessed at Rs. 2,200/- per month. Since the deceased was 48 years of age at the time of the accident, the multiplier of 13 is applicable. He shall also be entitled to future prospects to the extent of 25%.

17. There shall be no deduction towards personal expenses, as the loss is being determined under the head loss of earning capacity and not under the head loss of dependency. The appellants shall also be entitled to a sum of Rs. 25,000/- towards loss of future prospects and loss of future amenities and a further sum of Rs. 25,000/- towards future medical expenses and Rs. 50,000/- as compensation for pain and sufferings. As far as compensation awarded on account of medical expenses, special diet and expenditure on attendant and loss of income during the period of treatment, the same has been awarded in a just and reasonable manner by the learned Tribunal and does not call for any further enhancement. No additional compensation under these heads is warranted.

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Accordingly, the following compensation shall be payable:

Income of deceased	Rs. 2,200/- per month	Rs. 2,200/- per month
Future prospects	25% (Rs. 2,200 + 550)	Rs. 2,750/-
Multiplier	13	13
Loss of earning capacity due to permanent disability	Rs. 2750 x 13 x 12	Rs. 4,29,000/-
Future prospects and future amenities		Rs. 25,000/-
Future medical expenses		Rs. 25,000/-
Pain and sufferings		Rs. 50,000/-
Compensation for special diet	Rs. 5,000/- (awarded by Tribunal)	Rs. 5,000/-
Medical expenses	Rs. 75,000/- (awarded by Tribunal)	Rs. 75,000/-
Compensation for loss of income for the period under treatment	Rs. 10,000/- (awarded by Tribunal)	Rs. 10,000/-
Expenditure of the family members attending the patient	Rs. 10,000/- (awarded by Tribunal)	Rs. 10,000/-
Compensation awarded by Tribunal	Rs. 1,00,000/-	
Compensation awarded in appeal		Rs. 6,29,000/-
Enhanced amount of compensation	Rs. 6,29,000/- (awarded in appeal) – Rs.1,00,000/- (awarded by Tribunal)	Rs. 5,29,000/-

18. The appeal is disposed of accordingly in above terms.
19. The appellants shall also be entitled to enhanced compensation along with 7.5% per annum from the date of filing of the claim petition till its realization. The apportionment and liability to pay compensation shall be as per award passed by learned Tribunal.

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20. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

27.01.2026
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Whether speaking/reasoned
Whether reportable

(PARMOD GOYAL)
JUDGE

Yes
Yes/No