

2026:PHHC:063657



-1-

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

FAO-4944-2002 (O&M)
FAO-2645-2002 (O&M)
Date of Decision: 27.04.2026

1. FAO-4944-2002

JAGDISH SINGH

....Appellant

Versus

CHAND RAM AND OTHERS

...Respondents

2. FAO-2645-2002

NATIONAL INSURANCE CO. LTD.

....Appellant

Versus

JAGDISH SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sandeep Kotla, Advocate
for appellants in FAO-4944-2002 and
for respondent No.1 in FAO-2645-2002.

Mr. D.P. Gupta, Advocate and
Mr. Shubham Gupta, Advocate
for the appellant in FAO-2645-2002 and
for respondent No.3 in FAO-4944-2002.

PARMOD GOYAL, J. (ORAL)

FAO-2645-2002

Appellant/insurance company has preferred the present appeal against impugned order dated 31.01.2002, passed by learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'Tribunal') whereby compensation of Rs.6,01,929.35/- was granted to claimant on account of

injuries suffered by him in motor vehicular accident dated 16.05.1999, caused by rash and negligent driving by respondent No.2 driver of truck bearing No.HRS-7531 (hereinafter referred to as 'offending vehicle').

2. Grievance of appellant/insurance company is with regards to fastening of liability to pay compensation along with respondents No.2 and 3 i.e. driver and registered owner of offending vehicle. It is the case of appellant/insurance company that driver of offending vehicle-respondent No.2 Chand Ram was not having any valid driving licence and, therefore, appellant/insurance company is entitled to recover back amount payable under the award from primary defaulters i.e. driver and owner of offending vehicle as vehicle was being driven in violation of insurance contract.

3. Appellant/insurance company has placed reliance upon four witnesses who were examined as RW1 to RW4. RW1-Junior Assistant, Office of JIC & SRIA at Hyderabad, Central Zone was examined to show that original driving licence issued by Licencing Authority, Hyderabad was never issued by Hyderabad authority. RW2-Ahlmad to Sh. Rajinder Goel, JMIC, Panipat was examined to prove that licence which was taken from respondent No.2 during investigation is the licence which is being verified by appellant/insurance company, whereas RW3-Clerk, office of RTA, Hisar was examined to show that licence issued by Licencing Authority, Hyderabad at the first instance was never renewed by Licencing Authority, Hisar. Appellant/insurance company had also examined RW4-Ganga Bishan, Clerk, Office of S.D.O.(C)-cum-Licencing Authority, Hisar to show that no licence was either issued by Licencing Authority, Hisar or was never renewed as was made out from licence Ex.R2/A.

4. Learned Tribunal has duly considered evidence of all the witnesses examined by appellant/insurance company as no witness was examined by respondents No.2 and 3 in support of their case. Learned Tribunal had rejected evidence of RW1 who was examined from Hyderabad Central Zone, as Hyderabad had five licencing zones. It was concluded that since it was not mentioned on licence as to which zone had issued the licence, therefore, mere examination of witness from Hyderabad Central Zone alone would not be sufficient to conclude that no licence was issued by the authorities at Hyderabad.

5. Learned counsel for appellant/insurance company while placing reliance on the judgment of Hon'ble Supreme Court titled **Pappu & Ors. Vs. Vinod Kumar Lamba & Anr.**, 2018 AIR SUPREME COURT 592 has submitted that in the present case, accident had taken place on 16.05.1999 and licence issued by Hyderabad Authorities on 16.05.1991 was valid upto 1998. As per Ex.RW2/A the licence was renewed by Licencing Authority, Hisar before the date of accident. Learned counsel for appellant/insurance company has referred to evidence of RW3 as well as RW4 wherein both have stated that licence so placed on record to be that of driver of offending vehicle was never issued or renewed by Licencing Authority, Hisar. Evidence of RW3 and RW4 duly supports the case set up by appellant/insurance company. There was no rebuttal to this evidence. From evidence of RW3 and RW4, it is proved that licence Ex.RW2/A in name of respondent No.2 was never renewed and on date of accident respondent No.2 was not having valid licence. It is accordingly held that respondent-driver of offending vehicle was not holding a valid and effective driving

licence on the date of occurrence of accident and appellant/insurance company has no liability to indemnify respondents No.2 and 3 i.e. driver and owner of offending vehicle, as vehicle was being driven in violation of insurance contract.

6. Accordingly, finding of learned Tribunal on issue No.3 is modified. It is held that liability to pay compensation is that of respondents No.2 and 3 i.e. driver and owner of offending vehicle alone and insurance company has no duty to indemnify them under insurance contract as driver of offending vehicle was not having valid and effective driving licence on the date of accident. It is however, directed that compensation so determined be paid by appellant/insurance company at first instance with liberty to get it recovered from respondents No.2 and 3 i.e. driver and owner of offending vehicle by way of filing execution along with 6% interest from the date of payment till realization.

7. Pending application(s), if any, is/are disposed of accordingly.

FAO-4944-2002

8. Present appeal has been preferred by appellant/claimant being aggrieved by impugned order dated 31.01.2002, passed by learned Motor Accident Claims Tribunal, Panipat (hereinafter referred to as 'Tribunal'), whereby appellant/claimant was granted compensation of Rs.6,01,929.35/- on account of injuries sustained in motor vehicular accident dated 16.05.1999.

9. It is the case of appellant/claimant that he has only been granted Rs.1,50,000/- on account of disability, despite the fact that vide disability certificate Ex.PX disability has been mentioned as 75% which is stated to be

permanent in nature. It is asserted that as per disability certificate the lower body of appellant/claimant has become non-functional and being a labourer it has restricted him from earning to the effect of 100%. It is submitted that learned Court has erred in granting only Rs.2,000/- per 1% of 75% of disability which comes to (Rs.2,000/- x 75 = Rs.1,50,000/-) and accordingly, appellant/claimant has sought enhancement.

10. On the other hand, it is pointed out by learned counsel for respondent/insurance company that appellant/claimant has been granted Rs.2,00,000/- over and above the compensation of Rs.1,50,000/- for permanent disability as he will not be able to work for rest of his life.

11. Perusal of award clearly goes to show that appellant/claimant had succeeded in proving disability suffered by him vide Ex.PX to the extent of 75%. Nature of disability clearly shows that lower portion of body of appellant/claimant has become non-functional. It is also not in doubt that appellant/claimant was an agricultural labourer and once his lower body portion has become non-functional, functional disability in the present case would be 100% as against 75% permanent disability as assessed by doctors. Practically appellant/claimant will not be able to earn anything and accordingly functional disability in the present case is taken as 100%.

12. Claimant-appellant has claimed that he was an agriculturalist and earning Rs.4-5,000/- per month from agriculture and dairy farming. However, no material was adduced to prove the pleaded income and vocation except for self serving evidence. Learned Tribunal however has not assessed the loss of income of claimant/appellant on the basis of minimum wages prevalent at the time of accident. Therefore, in absence of any cogent

evidence regarding income of injured appellant-claimant, minimum wages prevalent at the time of accident i.e Rs.1,901 /- per month for unskilled worker is taken income of injured.

13. PW-3 Dr. Ved Parkash Gupta M.C. G.H Panipat, has proved the disability certificate as Ex.PX stating the permanent disability of injured appellant-claimant to the extent of 100%. Keeping in view age of the injured who was 46 years old at the time of accident future prospects to the extent of 25% of income and multiplier of ‘13’ needs to be applied for determining loss of earning capacity in view of mandate of Hon’ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.,** 2009 (2) SCC (Civil) 770 and **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.,** 2017 (4) RCR (Civil) 1009.

14. Appellant-claimant shall also be entitled to compensation of Rs.2,00,000/- for loss of future prospects of life and amenities due to permanent disability as has been granted by learned Tribunal as future attendant charges. Since 100% disability and loss of income is being taken, therefore, no loss of income during treatment can be granted. Compensation awarded by learned Tribunal under the heads medical expenses, pain and sufferings and future medical and attendant charges is just and sufficient. Appellant-claimant shall also be entitled to compensation of Rs.1,00,000/- for loss of future amenities of life and future prospects.

15. Accordingly, reworked compensation is as under :-

Income of injured	Rs.1,901/- per month (as per minimum wages payable to unskilled worker)	Rs.1,901/- per month
100% functional disability	100% of Rs.1,901/-	Rs.1,901/-

Future prospects	25% (1,901 + 475)	Rs.2,376/-
Multiplier	13	13
Loss of earning capacity	Rs.2,376 x 13 x 12	Rs.3,70,656/-
Pain and sufferings	Rs.50,000/- (awarded by Tribunal)	Rs.50,000/-
Medical expenses, special diet, transportation and attendant charges etc.	Rs.2,01,929/- (Rs.1,76,929 + Rs.25,000) (awarded by Tribunal)	Rs.2,01,929/-
Compensation for loss of future prospects and loss of future amenities of life		Rs.1,00,000/-
Future medical expenses and future attendant charges	Rs.2,00,000/- (as awarded by Tribunal)	Rs.2,00,000/-
Compensation awarded by Tribunal	Rs.6,01,929.35/-	
Compensation awarded in appeal		Rs.9,22,585/-
Enhancement of compensation	Rs.9,22,585/- (awarded in appeal) - Rs.6,01,929.35/- (awarded by Tribunal)	Rs.3,20,656.65/-

16. Accordingly, appeal is allowed in above terms. Appellant/claimant shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization. Liability of respondents to pay compensation shall be as per decision in FAO No.2645 of 2002 decided along with present appeal.

17. Pending application(s), if any, is/are disposed of accordingly.

27.04.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No