IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

I. FAO-1961-2004 (O&M)

Dilbag Rai **. . . . Appellant**

Vs.

Rameshwar Sharma and Another . . . . Respondents

II. FAO-4957-2004 (O&M)

Naresh Kumar and Another **. . . . Appellants**

Vs.

Rameshwar Sharma and Another . . . . Respondents

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Reserved on: 21.04.2026
Pronounced on: 23.04.2026
Pronounced fully/operative part: Fully

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by:- Mr. Harsh Aggarwal, Advocate for the appellant(s).

Mr. Assem Aggarwal, Advocate for respondent No.2. *(through Video Conferencing)*.

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DEEPAK GUPTA, J.

This common judgment shall dispose of two appeals arising out of the same motor vehicular accident dated 11.04.2002, which were decided by the learned Motor Accident Claims Tribunal, Hoshiarpur, vide separate awards both dated 19.01.2004.

2. The factual matrix is not in dispute. On 11.04.2002, Dilbag Rai, Ramesh, and Rajendra Kumar were travelling in a Tata Sumo, when the vehicle developed a puncture near Ambala and was parked on the roadside with indicators on. While the driver and Rajendra Kumar were changing the tyre, another

Tata Sumo bearing No. HR-07C-0251, driven rashly and at high speed, hit their vehicle from behind. Rajendra Kumar died on the spot, while Dilbag Rai and Ramesh sustained injuries.

3. Dilbag Rai filed a claim for compensation for his injuries, whereas Naresh Kumar (brother of the deceased) filed a separate claim for death compensation.

4. The Tribunal held the offending driver negligent and awarded ₹2,54,000/- to Dilbag Rai. However, it found that Naresh Kumar was not financially dependent on the deceased and granted only ₹50,000/- under no-fault liability to him and another brother.

5. The finding of the Tribunal holding respondent No.1 negligent has not been challenged and is affirmed. Under challenge in both the appeals is the finding qua quantum of compensation.

<u>FAO No.1961 of 2004 (Injury Claim – Dilbag Rai)</u>

6. The issue is whether the compensation awarded is just and adequate.

7. As per the evidence on record, the claimant suffered amputation of the right lower limb, resulting in permanent disability assessed at 80%. The Tribunal, however, awarded only a lump sum amount without properly evaluating the effect of such disability on earning capacity.

8. It is now well settled that the assessment must focus on functional disability, i.e., the impact of the injury on the earning capacity of the injured. The claimant being a dairy farmer was engaged in physically intensive work requiring mobility, balance, and sustained manual effort. Loss of a lower limb substantially impairs such capacity. In these circumstances, this Court is of the considered view that the functional disability ought to be assessed at 80%, as the

injury has a near-total impact on the claimant's ability to efficiently carry on his vocation.

9. *Loss of Future Earnings :* The notional income of the claimant taken by the Tribunal at ₹2,500/- per month (₹30,000/- per annum), is not disputed. Since the claimant is 42 years of age, so by adding 25% towards future prospects, the annual income becomes ₹37,500/-. Applying the multiplier of 14 (for age of 42 years), the total income comes to be ₹5,25,000/-.

10. Applying functional disability of 80%, the loss of future earning capacity is assessed at ₹4,20,000/-

11. *Other Heads of Compensation :* The amounts awarded by the Tribunal under conventional heads are found to be inadequate and are accordingly revised as under:

- Medical expenses (including prosthesis already taken) : ₹40,000/-
- Transportation, special diet and attendant charges : ₹20,000/-
- Loss of income during treatment : ₹10,000/-
- Future prosthetic replacement and maintenance : ₹75,000/-
- Pain and suffering : ₹1,00,000/-
- Loss of amenities and enjoyment of life : ₹1,00,000/-

12. Thus, the total compensation is computed at ₹4,20,000 + ₹40,000 + ₹20,000 + ₹10,000 + ₹75,000 + ₹1,00,000 + ₹1,00,000 = ₹7,65,000/-

13. After deducting ₹2,54,000/- already awarded by the Tribunal, the enhanced compensation payable comes to ₹5,11,000/-

14. The appeal (FAO 1961-2004) is partly allowed accordingly. The claimant is entitled to an enhanced compensation of ₹5,11,000/-, which shall be payable by the respondents jointly and severally, along with an interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

<u>FAO No.4957 of 2004 (Death of Rajendra Kumar)</u>

15. The deceased was admittedly 52 years old unmarried person. The claimants, being his brothers, are legal representatives but have failed to establish that they were financially dependent upon the deceased.

16. The evidence on record shows that claimant Naresh Kumar was himself a partner in the business and continued to derive income therefrom even after the death of the deceased. The other brother, Subhash, did not step into the witness box to prove dependency.

17. It is settled law that mere legal heirship does not entitle a claimant to compensation under the head of loss of dependency in the absence of proof of dependency.

18. In these circumstances, the Tribunal was justified in restricting the compensation to ₹50,000/- under no-fault liability.

19. FAO No.4957 of 2004 is therefore dismissed, being devoid of any merits.

(DEEPAK GUPTA)
JUDGE

23.04.2026
Neetika Tuteja

Whether speaking/reasoned? Yes
Whether reportable? No

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