IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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I. **FAO-5945-2002**

M/s National Insurance Company

. . . . Appellant

Vs.

Master Rahul and others

. . . . Respondents

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II. **FAO-4978-2002**

Master Rahul

. . . . Appellant

Vs.

Lala Ram

. . . . Respondent

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Date of decision: 27.04.2026

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CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

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Present: - Mr. Sanjiv Pabbi, Advocate
for the appellant in FAO-5945-2002
for the respondent in FAO-4978-2002

Mr. Sandeep Chhabra, Advocate,
for the appellant in FAO-4978-2002
for the respondent in FAO-5945-2002

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DEEPAK GUPTA, J. (ORAL)

These two appeals arise out of a common award dated 05.06.2002 passed by the learned Motor Accident Claims Tribunal, Faridabad, whereby compensation of ₹60,000/- along with interest was awarded to the injured-claimant, Master Rahul.

2. One of the appeals has been preferred by the claimant seeking enhancement of compensation, whereas the other appeal has been filed by the Insurance Company seeking exoneration from liability or, in the alternative, grant of recovery rights.

3. The brief facts are that on 20.04.1997, the claimant, a minor aged about 6 years, sustained injuries in a motor vehicular accident caused due to rash and negligent driving of truck bearing registration No. HR-29B-9405. The learned Tribunal, upon appreciation of the evidence, held the driver of the offending vehicle negligent. The said finding has attained finality and is not under challenge before this Court.

4. Thus, the controversy in the present appeals is confined to the adequacy of compensation and the liability of the insurer.

5. The evidence on record reveals that the claimant sustained serious injuries on both legs and underwent prolonged treatment. He was initially treated at B.K. Hospital, Faridabad, thereafter admitted at Arora Ortho Centre, and subsequently at Lok Nayak Jai Parkash Hospital, New Delhi, where he remained hospitalized for a considerable period. The record further shows that even in the year 2000, he required hospitalization and surgical intervention in the Department of Plastic Surgery for complications arising from the original injury, including unstable scar and deformity of the left foot.

6. The disability certificate (Ex.P9), duly proved through medical evidence, establishes that the claimant has suffered 36% permanent disability on account of post-traumatic deformity of the left foot.

7. It is to be borne in mind that the claimant was only 6 years of age at the time of the accident. In cases involving children, the impact of permanent disability cannot be assessed merely in terms of loss of earning capacity, but must also take into account the long-term effect on the child's physical development, mobility, enjoyment of life, and future prospects. The concept of "just compensation" in such cases necessarily requires a broader and more humane approach.

8. The Tribunal has awarded a total sum of ₹60,000/-, which is wholly inadequate having regard to the nature of injuries, prolonged treatment, and permanent disability suffered by the claimant.

9. Accordingly, this Court proceeds to reassess the compensation under appropriate heads as under:

a) *Medical expenses:* Although bills on record are limited, considering multiple hospitalizations and surgeries, a sum of ₹30,000/- is awarded.

b) *Pain and suffering:* In view of the severe injuries, repeated hospitalization, and surgical procedures endured by a minor child, ₹75,000/- is awarded.

c) *Loss of amenities and future discomfort:* The permanent deformity of the foot is bound to adversely affect the claimant's mobility, recreational activities, and overall enjoyment of life. A sum of ₹1,00,000/- is awarded under this head.

d) *Permanent disability:* Considering 36% permanent disability in a growing child and its lifelong impact, a sum of ₹1,50,000/- is awarded.

e) *Attendant charges, special diet, and transportation:* A consolidated sum of ₹25,000/- is awarded.

10. Thus, the total compensation is assessed as follows:

- Medical expenses : ₹30,000/-
- Pain and suffering : ₹75,000/-
- Loss of amenities : ₹1,00,000/-
- Permanent disability : ₹1,50,000/-
- Attendant/diet/transport : ₹25,000/-
- **Total : ₹3,80,000/-**

11. After deducting ₹60,000/- already awarded by the Tribunal, the enhanced compensation payable to the claimant comes out to be ₹3,20,000/-.

12. The contention of the Insurance Company that the driver was not holding a valid driving licence cannot be accepted. Though reliance has been placed upon an investigator's report, the same has not been proved in

accordance with law. Neither the investigator nor any official from the concerned Licensing Authority has been examined to substantiate the plea that the licence was fake.

13. It is well settled that the burden to prove breach of policy conditions lies upon the insurer, and such burden cannot be discharged by mere production of an unproved document. In the absence of cogent evidence, the plea raised by the insurer must fail.

14. Accordingly, the finding of the Tribunal holding the driver, owner, and insurer jointly and severally liable is upheld, and no ground is made out for granting of recovery rights.

15. Consequently, the appeal filed by the Insurance Company **(FAO No. 5945 of 2002)** is dismissed. The appeal filed by the claimant **(FAO No. 4978 of 2002)** is allowed.

16. The claimant shall be entitled to an enhanced compensation of ₹3,20,000/-, over and above the amount awarded by the Tribunal. The enhanced compensation shall be payable by all the respondents jointly and severally along with interest @ 7.5% per annum from the date of filing of the claim petition till its realization.

17. A photocopy of this judgment be placed on the file of the connected case.

(DEEPAK GUPTA)
JUDGE

27.04.2026
Vivek

Whether Speaking/reasoned *Yes*
Whether reportable *No*

VIVEK PAHWA
2026.04.28 18:03
I agree to specified portions of this document
Chandigarh