



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

(103)

FAO No.923 of 2004 (O&M)**Date of decision: 11.05.2026**

Avtar Singh

... Appellant

Versus

Gurjeet Singh And Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Kamal Sharma, Advocate,
Mr. Vijay Kumar, advocate
for Appellant.
Mr. Brij Bhushan Sharma, Advocate,
Mr. Deepak Suri, Advocate
for respondent No.3.

VIRINDER AGGARWAL, J.(ORAL)

1. The present appeal has been preferred by the appellant seeking enhancement of the compensation awarded vide award dated 04.02.2003 passed by the learned Motor Accident Claims Tribunal, Sangrur, on account of the injuries sustained by Avtar Singh, in a motor vehicular accident.

BACKGROUND FACTS

2. The brief facts of the case are that on 09.01.1999, the claimant Avtar Singh was driving Motorcycle bearing registration No. HR-1618, with Maninder Singh travelling as a pillion rider. At about 6:00 PM, when they reached near Check Centre, Mehlon Road, Sangrur, the offending Maruti Zen Car bearing registration No. CH-01T-3522, driven by respondent No.1 Gurjit Singh in a rash and negligent manner, came from the side of Mehlon Road and struck against the motorcycle of the claimant. As a result of the impact, the claimant fell on the road and sustained grievous injuries, including multiple



fractures of the right femur resulting in shortening of the leg. In respect of the occurrence, FIR No.14 dated 09.01.1999 was registered at Police Station Sangrur. Thereafter, the claimant filed a petition under Section 166 of the Motor Vehicles Act, 1988 before the learned Motor Accident Claims Tribunal, Sangrur, seeking compensation on account of the injuries suffered in the accident. Upon appreciation of the oral and documentary evidence available on record, the learned Tribunal allowed the claim petition and awarded compensation of ₹75,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realization, while holding the respondents jointly and severally liable to satisfy the award.

CONTENTIONS

3. Learned counsel for the appellant contended that the compensation awarded by the learned Tribunal is grossly inadequate and is not commensurate with the nature of injuries and suffering endured by the appellant. It was argued that the learned Tribunal failed to award compensation under various settled heads loss of amenities, transportation, attendant charges and special diet. It was further submitted that despite the appellant having suffered permanent disability to the extent of 15%, no compensation was awarded on that account. On these grounds, it was urged that the impugned award deserves to be enhanced to ensure grant of just and reasonable compensation in accordance with law.

4. 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 was argued that the claim of injured appellant has been duly considered, and the amounts awarded under various heads are



just, proper, and reasonable. It was 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

5. 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 fastening of liability, I find no reason to take a different view. Those findings are accordingly affirmed. However, the core issue arising in this appeal pertains to the reassessment of the quantum of compensation.

6. For the purpose of determining just compensation, the principal question that arises for consideration is the nature and extent of the claimant's functional disability and the effect thereof on his earning capacity. In the present case, claimant Avtar Singh was driving his Bullet Motorcycle at the time of the accident and suffered grievous injuries, including multiple fractures of the right femur requiring internal fixation, as recorded in the MLR (Ex. A51). The medical evidence brought on record, particularly the testimony of Dr. G.S. Sidhu (AW-2), Orthopaedic Surgeon, and Dr. Om Parkash (AW-3), Medical Officer, read in conjunction with disability certificate Ex. A50, establishes that the claimant suffered permanent disability to the extent of 15% in relation to the right lower limb. Further, the evidence reveals that the disability has resulted in shortening of the right leg by one inch along with restricted movement of the right knee and ankle joints, thereby adversely affecting the claimant's mobility and efficiency in carrying out physical work. Despite the aforesaid evidence, the learned Tribunal failed to properly evaluate the consequential loss of future



earning capacity in accordance with the settled principles governing assessment of functional disability.

7. Upon a holistic reappraisal of the evidence, this Court is of the considered view that although the physical disability has been assessed at 15%, the same would have a direct bearing on the appellant's functional capacity, particularly in work involving mobility and physical exertion. However, in the absence of cogent evidence demonstrating a higher loss of earning capacity, the functional disability is reasonably assessed at 10% for the purpose of computation. It is well settled that it is the functional impact of the disability on the earning capacity and future prospects of the claimant which is determinative. In this regard, reliance may be placed on the judgment of the Hon'ble Supreme Court in *Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343*, wherein it has been authoritatively held that compensation towards loss of future earnings must correspond to the actual diminution in earning capacity resulting from the disability suffered.

8. In the present case, the profession of the claimant as a driver necessarily required physical fitness and agility, and the permanent disability suffered in the right lower limb would have a direct bearing upon his efficiency and earning capacity. The functional impact of the injury, therefore, cannot be ignored while assessing compensation under the head of loss of future earning capacity. Although the claimant asserted that he was earning ₹5,500/- per month as a driver-cum-agriculturist, no cogent documentary evidence has been produced on record to fully substantiate the said income. In such circumstances, the income of the claimant is required to be assessed on a reasonable notional basis. Having regard to the nature of work performed by the claimant as a skilled worker/driver and keeping in view the year of accident i.e. 1999, his monthly



income is assessed at ₹3,000/-. The age of the claimant, as borne out from the material available on record, was approximately 25 years at the time of the accident. 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	Re-assessed (₹)
Monthly Income (10% Functional Disability)	300/-
Monthly Income with Future Prospects (40%)	420/- (300 + 120)
Annual Income	5,040/- (420 × 12)
Multiplier (Age-25 years)	18
Loss of Future Income	90,720/- (5,040 × 18)

9. Apart from compensation towards loss of future earning capacity, the claimant is also entitled to just and reasonable compensation under various pecuniary as well as non-pecuniary heads. The principles governing assessment of compensation in injury cases 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 must adequately take into consideration medical expenses, pain and suffering, loss of amenities, attendant charges, special diet, conveyance and future medical requirements, depending upon the facts and circumstances of each case. In the present case, the evidence brought on record, including the treatment record and oral testimony, clearly establishes that the claimant remained admitted in DMC Hospital, Ludhiana



from 09.01.1999 to 01.02.1999, i.e. for nearly one month. As per the statement of the injured claimant (AW-1), he remained unable to attend to his work for approximately one and a half years and has not fully recovered even thereafter. The claimant suffered grievous injuries comprising multiple fractures of the right femur and right lower leg, requiring internal fixation. The medical evidence further reveals shortening of the right leg by one inch resulting in 15% permanent disability. The injuries sustained by the claimant have caused restricted mobility and continuing hardship in his day-to-day activities. Having regard to the nature and extent of injuries, prolonged treatment and hospitalization, permanent disability suffered by the claimant, physical pain and mental suffering undergone by him, as well as the lasting impact of the injuries on his lifestyle and earning capacity, this Court is of the considered view that the claimant is entitled to appropriate compensation under the following heads:

Particulars	Re-assessed (₹)
loss of income during Hospitalisation and treatment (12 months)	36,000/- (3,000 x 12)
Medical expenses (Ex.A1 to A43, Ex.A44,46,47,49,48)	53,000/-
Transportation	5,000/-
Special Diet	10,000/-
Loss of amenities	10,000/-
Attendant	5,000/-
Pain and suffering	10,000/-
Total	₹1,29,000/-

Total Compensation

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

Particulars	Amount (₹)
Loss of Future Income	₹90,720/-
Other Heads	₹1,29,000/-
Total	₹2,19,720/-



11. In view of the above, the appeal is **partly allowed**. The impugned award dated 04.02.2003 is modified to the extent that the compensation payable to the appellant is enhanced from 75,000/- to ₹2,19,720/-. 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.

12. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

11.05.2026
Poonam

- (i) *Whether speaking/reasoned* : Yes/No
(ii) *Whether reportable* : Yes/No