



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

FAO-162-2005 (O&M)

Date of Decision: 21.01.2026

GOPAL DASS

....Appellant

Versus

RAMESH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. R.S. Mamli, Advocate for the appellant.

 Mr. Lalit Garg, Advocate for the respondent No.3.

Parmod Goyal, J. (Oral)

Present appeal has been preferred by the injured/appellant-claimant who had suffered injuries in motor vehicular accident dated 16.01.2003, on account of rash and negligent driving by respondent No.1 while driving Truck bearing registration No. HR-37-2697.

2. Being aggrieved by the impugned award dated 05.10.2004, passed by the Motor Accident Claims Tribunal, Jagadhri (hereinafter referred to as '**Tribunal**'), vide which the appellant-claimant was found entitled to total compensation of Rs.3,04,000/-, the appellant-claimant is seeking enhancement of compensation awarded by the Tribunal as the same is not accordance with his entitlement.

3. Since in present appeal the only issue raised by appellants-claimants is as regards to quantum of compensation and there is no appeal or cross-objection preferred by respondents to challenge manner of

accident, the detailed facts as regards to manner of accident are not being noticed for the sake of brevity.

4. Leaned Tribunal had granted following compensation to appellant/claimant:-

Medical and other expenses	Rs.1,60,000/-
Loss of Income	Rs.1,14,000/-
Pain and sufferings	Rs.30,000/-
Total	Rs.3,04,000/-

5. Ld. Counsel for claimant-appellant has sought enhancement in compensation on the following grounds that :

- Ld. Tribunal has erred in not granting compensation on the basis of functional disability which is 100% (as permanent disability is 70%) as per income of deceased after taking in account future prospects & multiplier (considering age of injured to be 43 years). Award of Consolidated compensation amounting to ₹ 114,000 is insufficient and not in accordance with entitlement of claimant-appellant;
- Determination of monthly income as ₹ 2000 on the basis of assumption is liable to be ignored and income as pleaded by claimant appellant i.e. ₹ 4500 being auto driver ought to have been taken by Ld. Tribunal;
- Compensation for loss of future prospects and future amenities, for loss of income during treatment and for future medical expenses has not been granted to which appellant-claimant is entitled to;
- Enhancement of compensation for medical expenses & other expenses and pain and sufferings being insufficient in view of nature of injuries, nature of treatment and period of

hospitalisation, was sought.

6. It is the case of claimant/appellant that on 16.01.2003 while going along with Bhupinder Singh and Pawan Kumar from Yamuna Nagar from Damla, offending truck of respondent No. 1 had hit the three wheeler of the claimant/appellant resulting into injuries to claimant/appellant. Claimant/appellant was taken to J.P. Hospital and remained admitted there for 30 days. He was operated upon 5 times and bone crafting was also done. Visited hospital 50 times and had spent Rs.3,00,000/-. He was earning Rs.4,500/- pm by plying auto on hire basis. Claimant had claimed 70% permanent disability, therefore has become unfit on account of injuries and is unable to earn at all, accordingly, has sought compensation for loss of earning capacity. It was claimed that he also took treatment from Sai Baba Hospital, visited various doctors and hospitals. PW-2 Dr. Amit Goyal has duly proved admission of claimant in J.P. Hospital on 16.01.2003 with fracture of neck femur, trocenter of right femur, fracture of right shaft of femur, fracture of lateral condyle of right femur, fracture of right patella, inter condilar fracture of right tibia and fracture of shaft of right tibia. He asserted that claimant was operated upon on 18.01.2003 & 06.02.2003 for fixation of fractures. Further, PW-8 Dr. Deepan Jain member of board which had examined claimant had stated that claimant had suffered 70% permanent disability on account of non union of fracture shaft with non union of fracture both bones leg with osteomyelitis of right femur. Medical bills amounting to Rs.1,38,363/- including expenses charged and stated by PW-2 have duly been proved on record.

7. Therefore, keeping in view expenses, nature of injuries and

nature of treatment proved on record as far compensation under head medical expenses, special diet, transportation, attendant etc. amounting to Rs.1,60,000/- is concerned it is just compensation. However, grant of Rs.30,000/- towards pain and sufferings needs to be enhanced, same is enhanced to Rs.50,000/- Similarly, grant of Rs.1,14,000/- for loss of earning capacity/income needs to be revised after taking in consideration proved income of claimant after applying future prospects and multiplier as per age of injured-claimant.

8. Claimant-appellant has claimed that he was earning Rs.4,500/- pm by running auto. However, no material was adduced to prove 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 but had assumed income to be Rs.2000/- without any basis. Therefore, in absence of any cogent evidence to conclude income of deceased to be pleaded income, minimum wages prevalent at the time of accident i.e Rs.2,500/- per month for skilled worker to determine loss of income of injured has to be taken. There is no rebuttal to age of claimant which is stated to be 43 years. PW8 Dr. Deepan Jain, member of medical board had proved the disability certificate Ex.P82. On consideration of 70% permanent disability, functional disability is taken to the extent of 70% in view of pleaded vocation and nature of disability stated by PW-8. Further, future prospects to the extent of 25% of income and multiplier of 14 needs to be applied for determining loss of earning capacity in view of age of injured as per mandate of **Smt. Sarla Verma & Ors. Vs. Delhi**

Transport Corporation & Anr., 2017 (16) SCC 680 and National Insurance Company Limited Vs. Pranay Sethi & Ors., 2017 (16) SCC 680.

9. Claimant/appellant shall also be entitled to compensation of Rs. 50,000/- for loss of future prospects of life and amenities due to permanent disability. Compensation of Rs. 11,000/- rounded off as compensation for loss of income during treatment which has been taken as 5 months from nature of injuries and treatment. However, no compensation is payable for future medical expenses in absence of any evidence in this regard.

10. In view of the above claimant/appellant is entitled to the following reworked compensation :-

Income of the injured	Rs.2,500/- (as per minimum wages)	Rs.2,500/- (as per minimum wages)
Future prospects	25% (2,500 + 625)	Rs. 3,125/-
70% permanent disability		Rs.2,187/-
Multiplier	14	14
Total loss of income	Rs.2,187 x 14 x 12	Rs.3,65,904/-
Pain & Sufferings & special diet	Rs.30,000/- (awarded by Tribunal)	Rs. 50,000/-
Medical Expenses, Attendant, Diet & Transportation etc.	Rs.1,60,000/- (awarded by Tribunal)	Rs. 1,60,000/-
Compensation for loss of future prospects of life and amenities		Rs. 50,000/-
Compensation for loss of income during treatment		Rs. 11,000/-
Compensation awarded by	Rs. 3,04,000/-	

Tribunal		
Compensation awarded in appeal		Rs.6,36,904/-
Enhancement in compensation	Rs.6,36,904 /- (awarded in appeal) - Rs.3,04,000/- (awarded by Tribunal)	Rs.3,32,904/-

11. Appeal is accordingly allowed in above terms.

Claimant/appellant shall be entitled to enhanced compensation along with 7.5% interest from date of filling claim petition till realization.

Apportionment and liability to pay compensation shall be as per the award.

Enhanced compensation be paid within six weeks in accordance with terms of award through bank account of claimant/appellant.
12. Pending application(s), if any, is/are disposed of accordingly.

21.01.2026

chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No