



(228) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1803-2005 (O&M)
Date of Decision: 22.01.2026

KARAN SINGH

... Appellant

Vs.

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Sandeep Parkash Chahar, Advocate for the appellant.
Mr. Ved Parkash, Senior DAG, Haryana.

VIRINDER AGGARWAL, J (ORAL)

1. This appeal is directed against the award dated 12.02.2004 passed by the Motor Accidents Claims Tribunal, Rohtak, whereby the learned Tribunal awarded a compensation of ₹1,25,000/- along with interest at 9% per annum to the appellant/claimant on account of injuries sustained in a motor vehicular accident.

BACKGROUND FACTS

2. The facts leading to the present appeal, in brief, are that on 13.02.2001, the injured appellant was travelling as a passenger in a bus bearing registration No. HR-46/8709 (hereinafter referred to as the offending bus), driven by respondent No.3, proceeding from his village towards Rohtak. The bus was being driven by respondent No.3 at a high speed in a rash and negligent manner. When the bus reached near Mohan Spinning Mill, Rohtak, the driver took a sharp curve to overtake a vehicle ahead, as a result of which the bus struck against an electric pole. The electric wires from the pole entered through the window of the bus and pierced into the right arm of the appellant,



causing grievous injuries. The driver did not stop the bus immediately despite the appellant's pleas and only halted at Sunarian Chowk, Rohtak. The appellant was thereafter taken to the Post Graduate Institute of Medical Sciences, Rohtak (PGIMS, Rohtak) by Surender Singh. Consequent upon the accident, a claim petition came to be filed by the injured appellant under Section 166 of the Motor Vehicles Act, 1988, before the learned Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as the learned Tribunal), seeking compensation of Rs.3,00,000/-

3. Upon appreciation of the oral and documentary evidence led by the parties, the learned Tribunal returned a categorical finding that the accident in question occurred due to the rash and negligent driving of the offending bus by respondent No.3. The learned Tribunal relied upon the testimony of the injured eye-witness Surender Singh (PW7), the appellant himself (PW8), medical evidence, police records (including FIR Exhibit P4), and the fact that respondent No.3 was facing criminal trial. The learned Tribunal further held that respondent No.3 was not holding a valid and effective driving licence at the time of the accident, in violation of the insurance policy terms, thereby absolving respondent No.4 (insurer) from liability. Consequently, respondents No.1 to 3 were held jointly and severally liable. While determining the quantum of compensation, the learned Tribunal awarded a sum of Rs.1,00,000/- as compensation towards injuries (including pain and suffering, transportation, nutrition, etc.) and Rs.25,000/- towards loss of income, aggregating to a total sum of Rs.1,25,000/-. The learned Tribunal further directed that the awarded amount shall carry interest at the rate of 9% per annum from the date of filing of the claim petition till realization.

**CONTENTIONS**

4. Learned counsel for the appellant argued that the compensation awarded by the learned Tribunal is grossly inadequate and inconsistent with the settled principles for determining just compensation. It was submitted that the learned Tribunal failed to grant adequate amounts under essential heads such as disability (despite evidence of 30% disability), pain and suffering, loss of amenities, transportation, attendant charges, special diet, and loss of income during treatment and recovery. It was thus urged that the award warrants enhancement.

5. Per Contra, the learned state Counsel 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 is argued that the claims of injured appellant has been duly considered, and the amounts awarded under various heads are just, proper, and reasonable, particularly since the disability was assessed as temporary and the bone united after the second surgery. It is 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

6. 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 the absence of a valid driving licence (leading to exoneration of the insurer), I find no reason to take a different view. The findings on those aspects are accordingly affirmed,



and the liability remains fastened jointly and severally on respondents No.1 to 3. However, the core issue arising in the present appeal pertains to the reassessment of the quantum of compensation.

7. For the purpose of reassessment of compensation, the foremost issue that arises for determination is the extent of functional disability in order to assess the resultant loss of future earning capacity. Although the disability certificate (Ex. P-3) assessed 30% temporary disability prior to the second surgery on account of non-union of the fracture of the right humerus, stiffness of the right elbow and shoulder, the testimony of Dr. Ishwar Singh (PW-1) reveals that after the second operation dated 16.08.2001, the fracture united, the upper limb regained functionality and the radial nerve recovered. However, the learned Tribunal, on personal observation of the appellant during court proceedings, specifically recorded the presence of a deformity in the right arm with a visible bend (as noticed in paragraph 29 of the award). This circumstance clearly indicates that even after the passage of several years, the appellant has not fully recovered from the effects of the injury. The appellant was 45 years of age at the time of the accident and was engaged as an agriculturist, besides operating a sugarcane crusher (Kothu), both of which are occupations requiring sustained manual labour and physical exertion. The injury to the dominant right upper limb, coupled with a permanent deformity, would inevitably impair his efficiency in performing agricultural activities such as tilling the land, operating machinery and handling agricultural produce. Consequently, his overall productivity and earning capacity would stand adversely affected. In these circumstances, notwithstanding the medical assessment of disability as temporary, the residual deformity has resulted in a



permanent functional disability, which has a direct bearing on the appellant’s vocational efficiency and future earning potential. Relying on the principles in *Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343*, where functional disability is to be assessed based on the impact on the claimant's earning capacity rather than mere physical impairment, it is just and appropriate to take the functional disability at 10% in the facts of the present case.

8. The appellant claimed his monthly income to be Rs.14,000/- from agriculture and running the sugar cane crusher, supported by the statement of Suresh Chand (PW9) who was employed by him as a laborer at Rs.3,500/- per month, indicating the scale of his operations. However, in the absence of documentary proof, and considering the year of the accident 2001 and prevailing wages for similar occupations, it is reasonable to assess the monthly income at Rs.3,000/-. Hence, in view of the law laid down 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 due to permanent functional disability is computed as under:

Particulars	Amount (₹)
Monthly Income (10% Functional Disability)	300/-
Monthly Income with Future Prospects (25%)	75/- (300 + 75)
Annual Income	4500/- (375 × 12)
Multiplier (Age 45 years)	14
Loss of Future Income	63,000/- (4500 × 14)

9. Apart from loss of future earning capacity, the claimant is also entitled to just compensation under other pecuniary and non-pecuniary heads. The principles governing such assessment 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 in injury cases must adequately account for medical expenses, loss of income during treatment, pain and suffering, loss of amenities, attendant charges, special diet, transportation and future medical needs, depending upon the facts of each case. Thus, from the evidence on record, including the testimony of Dr. Ishwar Singh (PW1), Dr. O.P. Garg (PW2), and medical bills and treatment records proving expenditure of Rs.7,788/- at Ishwar Orthopaedic Hospital (with the appellant claiming Rs.1,00,000/- overall), the claimant remained hospitalized for 10 days in total, underwent two surgeries, and continued treatment for a prolonged period on account of the compound fracture of the right humerus and radial nerve paresis resulting in residual deformity. The compensation awarded under these heads by the learned Tribunal (lumped as a global sum of Rs.1,00,000/- for injuries and Rs.25,000/- for loss of income) are found to be on the lower side and deserve enhancement in view of the nature of the grievous injuries, duration of treatment, and the severity of suffering and lifelong impairment. Accordingly, the claimant is held entitled to the following amounts:

Particulars	Re-assessed Compensation (₹)
Pain and suffering	30,000/-
Medical expenses	10,000/-
Transportation	15,000/-
Attendant	30,000/-
Special diet	15,000/-
Loss of income during treatment	35000/-
Total	1,35,000/-



Total Compensation

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

Particulars	Amount (₹)
Loss of Future Income	₹63,000/-
Other Heads	₹1,35,000/-
Total	₹1,98,000/-

11. In the light of the above discussion and the computation undertaken hereinabove, the present appeal is partly **allowed** to the extent of enhancement of compensation as reassessed above. The enhanced amount shall carry interest at rate of 7% per annum from the date of filing of the respective claim petition till the realisation of the entire amount. 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

22.01.2026
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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*