



S. No.226

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

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**FAO No.5534 of 2005 (O&M)  
Date of Decision:21.01.2026**

**Tajbir Singh**

**.....Appellant**

**Vs.**

**Ram Dutt Sharma and others**

**.....Respondents**

**CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present:- None for the appellant.

Mr. Paul S. Saini, Advocate for respondent No.2.

Mr. Sahej Mahajan, Advocate for Mr. R.K. Bashamboo,  
Advocate for respondent No.4.

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**Yashvir Singh Rathor, J. (Oral)**

1. This appeal has been instituted against the award dated 20.07.2005 for enhancement of compensation vide which a sum of Rs.1,04,739/- has been awarded to the petitioner- appellant on account of injuries suffered by him in a motor vehicular accident with a vehicle being driven by respondent No.1 in a rash and negligent manner which was owned by respondent No.1 and insured with respondent No.2.

2. Case of petitioner is that on 02.12.2003 at about 04:30 PM, he along with one Harjinder Singh was going to Village Yara on motor cycle No.HR-07B-8734 and when they reached near Government School, Yara, respondent No.1, who was going ahead of them on another motor cycle bearing No.HR-07F-0503, suddenly turned his motor-cycle towards Village Yara without giving any indicator or signal, as a result of which, their motor-cycle struck against his motor-cycle.



Petitioner fell down and suffered multiple injuries on his person including fracture in his right leg. He was brought to Anand Hospital, Kurukshetra by his father and thereafter, he was shifted to Vardhman Hospital, Muzaffar Nagar where he was treated. It is alleged that accident took place solely due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle and all the respondents are jointly and severally liable to pay compensation to petitioner.

3. Respondent No.1 denied having met with any accident and took a plea that false FIR has been got registered. Respondent No.2 – New India Assurance Co. Ltd. also filed separate written statement and opposed the petition on the grounds of cause of action, locus standi, estoppel jurisdiction and maintainability etc. On merits, it has been denied that any such accident took place and also took a plea that false FIR has been registered after six days of the alleged accident only to grab money from the Insurance Company. It is further submitted that accident took place due to rash and negligent driving on the part of claimant himself, who was not following traffic rules while driving his own motor cycle. It is also submitted that respondent No.1 was not holding a valid and effective driving licence as well as registration certificate and Insurance Company is not liable to indemnify the owner.

4. Respondent No.3 also filed separate written statement and denied his liability to pay any compensation. Respondent No.4, who is the Insurance Company of ill-fated motor-cycle has also filed written statement and opposed the petition by refuting the material contents of the same.

5. Following issues were framed by the Tribunal for trial:-



“1) Whether Tejbir Singh, petitioner suffered injuries because of rash and negligent driving of motor cycle No.HR-07F-0503, by its driver namely Ram Dutt Sharma on 02.12.2003?OPP

2) If issue No.1 is proved, then to what amount of compensation, Tejbir Singh, petitioner is entitled to and from whom?OPP

3) Whether the present claim petition is the result of collusion between petitioner and respondent No.1?OPR-2.

4) Whether the drivers of the vehicles in question were not holding valid and effective driving licences at the time of alleged accident? OPR-2&4.

5) Whether the drivers of the vehicles in question have violated the terms and conditions of the policy of insurance?OPR-2&4.

6) Relief.”

6. After hearing the parties, learned Tribunal decided Issue No.1 in favour of petitioner and held that accident in question had taken place on account of rash and negligent driving on the part of respondent No.1 while driving offending motor-cycle bearing No.HR07-F-0503 and under Issue No.2, petitioner was awarded compensation of Rs.1,04,739/- and respondent No.1 and respondent No.2 – Insurance Company were held liable to pay compensation to the petitioner jointly and severally while respondents No.3 and 4 were exonerated and claim petition against them was dismissed.

7. Feeling aggrieved, appeal in hand has been preferred. The parties have been heard and material on file has been perused.

8. It is not in dispute that no appeal has been preferred by the owner as well as driver of the offending vehicle challenging the finding on Issue No.1. As



such, there is no necessity to go into the finding on Issue No.1 as same has not been assailed by the owner-cum-driver.

9. To prove his injuries, petitioner has examined PW2 Dr. Himanshu Anand, an Orthopaedic Surgeon, who deposed that the petitioner – Tejbir Singh had suffered fracture of upper end of tibia right when he was brought to the hospital in an injured condition on 02.12.2003. He had applied POP slab and surgery was advised and he had charged Rs.900/- on account of treatment excluding cost of medicines. Patient was discharged on his request on 03.12.2003.

10. PW4 – Neeraj Kumar, Accountant in Vardhman Hospital, Muzaffar Nagar (UP) has produced medical prescriptions and treatment record of the petitioner Ex.P9 to Ex.P13. He also led in evidence receipt Ex.P7 regarding expenses of Rs.58,000/- incurred by petitioner for treatment in the said hospital and medical certificate Ex.P8 vide which he was advised bed rest for two months from 3.12.2003 to 03.02.2004.

11. The afore-said witnesses were cross-examined at length by the respondents but nothing favourable could be extracted during their cross-examination. As such, from their testimony, it is established that petitioner had suffered fracture upper end of tibia right and he was operated upon in Vardhman Hospital, Muzaffar Nagar (UP). Learned Tribunal has awarded him only a sum of Rs.10,000/- towards pain and sufferings. However petitioner had suffered fracture in his leg and was operated upon. It is well known that pain component in such type of injuries is enormous and such injuries take a lot of time to heal and the compensation on account of pain and suffering awarded by the Tribunal is thus on



lower side. Accordingly, petitioner is held entitled to a sum of **Rs.30,000/-** towards *Pain and Sufferings*.

12. Petitioner has also examined PW Dr. C.R. Khatri, L.N.J.P. Hospital, Kurukshetra, who proved disability certificate of petitioner Ex.P1, according to which he had suffered 15% permanent disability being attributable to mild restriction of movement of right knee joint to the extent of 10% and muscle atrophy right thigh of 5%. On account of afore-said *permanent disability*, petitioner has been awarded only a sum of Rs.25,000/-, which too is on lower side and same is liable to be enhanced to **Rs.40,000/-**.

13. Petitioner remained under treatment for a long period and, thereafter, he was advised bed rest for two months. However, it must have taken at least three months for the injuries to heal and during this period, petitioner must have spent some amount on his transportation, special diet and in engaging an attendant but no amount under this head has been awarded by the Tribunal. Petitioner is accordingly held entitled to a sum of **Rs.20,000/-** on account of *transportation, special diet and in engaging an attendant*.

14. Petitioner was a student of 10+2 but he has been awarded a sum of Rs.3,000/- on account of loss of studies. However, the accident took place in December, 2023 and it must have taken at least three months for the injuries to heal. Taking the minimum wages of the petitioner around to be Rs.2,500/- per month, he is also held entitled to a sum of **Rs.7,500/-** towards *Loss of Income* during the period he remained under treatment.

15. Medical Expenses of Rs.66,739/- have been awarded by the Tribunal after taking into consideration the evidence led by the petitioner and no interference in the same is called for.



16. The total compensation payable to the appellant is accordingly assessed as under:-

| S.No. | Under Head                                                          | Compensation awarded by the Tribunal | Compensation awarded by High Court |
|-------|---------------------------------------------------------------------|--------------------------------------|------------------------------------|
| 1.    | <i>Pain and sufferings</i>                                          | Rs.10,000/-                          | Rs.30,000/-                        |
| 2.    | <i>Permanent Disability</i>                                         | Rs.25,000/-                          | Rs.40,000/-                        |
| 3.    | <i>Medical Expenses</i>                                             | Rs.66,739/-                          | Rs.66,739/-                        |
| 4.    | <i>Loss of income</i>                                               | Rs.3,000/-                           | Rs.7,500/-                         |
| 5.    | <i>Special diet, on transportation and in engaging an attendant</i> | Nil                                  | Rs.20,000/-                        |
|       | <b>Total compensation</b>                                           | Rs.1,04,739/-                        | Rs.1,64,239/-                      |

17. As a result of afore-said discussion, the appeal in hand is partly allowed with cost and petitioner is held entitled to enhanced compensation of Rs.59,500/-. The appellant is entitled to recover the same from respondents No.1 and 2 jointly and severally along with interest @ 9% per annum, from the date of filing of claim petition till realisation. The entire of compensation be paid to the petitioner in cash.

(Yashvir Singh Rathor)  
Judge

January 21, 2026  
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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |