



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

FAO-5170-2009 (O&M)

Reserved on: 08th December 2025

Date of decision: 25th February 2026

Uploaded on: 27th February 2026

Lal Singh

.....Appellant

versus

Anil Kumar and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Amit Jain, Advocate for the appellant.

Ms. Maanvi Verma, Advocate,
for Mr. Rajneesh Malhotra, Advocate,
for respondent No.3-Insurance Company.

HARPREET KAUR JEEWAN, J.

1. The appellant is the claimant, seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Gurugram (*hereinafter referred to as 'the Tribunal'*), vide Award dated 01.06.2009, regarding the injuries suffered by him in a motor-vehicle accident.

2. The facts to the relevant extent are that on 21.07.2007, at about 7:30 pm, the appellant was crossing the National Highway-8 when he was hit by a motorcycle, which was being driven by respondent No.1-Anil Kumar. Resultantly, the appellant fell down and sustained multiple grievous injuries, including fracture in the left leg. He underwent treatment in Pushpanjali Hospital, Gurugram and was operated upon in Shubam Hospital, Gurugram. He remained admitted in the hospital for about two months, as such, he filed a claim petition seeking compensation regarding the injuries suffered by him on account of rash and negligent driving by respondent



No.1-Anil Kumar. The driver and owner of the motorcycle as well as the Insurance Company contested the claim petition.

3. The Tribunal held that it is a case of ‘contributory negligence’, as such, the appellant was held entitled to 50% of the amount assessed by the Tribunal and an amount of Rs.82,500/- as per the following calculations:-

(a)	Medical and other expenses	Rs.1,00,000/-
(b)	Loss of income	Rs.50,000/-
(c)	Pain and sufferings	Rs.15,000/-
	Total	Rs.1,65,000/-

Issue of Negligence

Arguments

4. The learned counsel for the appellant contends that the finding of the Tribunal, that it is a case of contributory negligence, is erroneous. Reliance has been placed on the decision of the Hon’ble Apex Court in **“M. Nithya and others Vs. SBI General Insurance Company Limited”, Civil Appeal arising out of SLP (C) Nos.833-834 of 2023.**

5. *Per contra*, learned counsel for respondent No.3-Insurance Company contends that the findings of the Tribunal are based on facts and evidence on record and the same require no interference.

6. I have considered the aforesaid contentions and perused the paper-book.

7. It is evident from Para No.4 of the Award, passed by the



firstly, that the motorcycle in question was not involved in the accident and secondly, that respondent No.1 was not holding a valid and effective driving licence at the time of the alleged accident, which is in violation of the terms and conditions of the Insurance Policy. Regarding the driving license, separate Issue No.3 was framed. However, the Tribunal has concluded that this issue was not pressed upon at the time of arguments. Even before this Court, the issue regarding the driving license has not been pressed by the Insurance Company, as such, the only ground to challenge by the Insurance Company is that the motorcycle was not involved in the accident. The Insurance Company has not taken a plea of 'contributory negligence'. The appellant-claimant has himself appeared as PW-7 and made a statement on oath, as per which, when he was crossing the National Highway, a motorcycle, which came from Manesar side was being driven by respondent No.1 at a high speed, as a result of which, he received multiple injuries. It is also on record that the FIR was registered on the basis of the statement of the appellant-claimant and even the Registration Number of the offending motorcycle i.e. DL-3-SBF-2273 is mentioned in the FIR. The FIR was proved by Head Constable Joginder, Police Station, Sector-10, Gurugram, who appeared as PW-4. It is also on record that respondent No.1-driver of the motorcycle is facing criminal trial for driving the motorcycle in a rash and negligent manner and such proceedings have been proved by Mr. Ashok Juliaya, Additional Ahlmad of the Court, who appeared as PW-6. The aforesaid evidence is uncontested as the respondents have not led any evidence.



8. In view of the above facts and circumstances, it is concluded that the Tribunal has neither framed any issue regarding negligence on the part of the motorcyclist nor the driver of the motorcycle has made a statement on oath to controvert the evidence led by the appellant-claimant. In such circumstances, fixing a liability of 'contributory negligence' on the appellant, is not legally sustainable.

9. The Hon'ble Apex Court in the case of *M. Nithya and others (supra)* has held that when the Tribunal did not frame an issue on 'contributory negligence', the High Court ought not to have considered that argument in order to reduce the compensation awarded. It was further observed that even the Insurance Company did not lead any evidence on this aspect nor insisted for framing of an issue. Considering the circumstances, where neither any issue was framed nor any evidence was led, the Hon'ble Apex Court reversed the findings of the High Court holding the deceased responsible for 'contributory negligence' and reducing the compensation awarded.

10. As per the facts on record, the appellant was a pedestrian. This Court, in "*Usha Rani and others Vs. Barjesh Kumar and others*", 2012 (5) *R.C.R. (Civil) 687*, held that in a situation of motor-accident, where a pedestrian gets killed by a motor-vehicle, it will be loathe to infer any element of negligence on the part of the pedestrian. It was observed that it has to be invariably a greater care for the driver of a motor-vehicle to mind the safety of any pedestrian, even, in a situation where a pedestrian is prone to be careless. This Court held as under:-



“xxxxxxx Normally, in a situation of motor accident where a pedestrian gets killed by a motor vehicle, I will be loathe to infer any element of negligence on the part of pedestrian. It has to be invariably a greater care for a driver of motor vehicle to mind the safety of any pedestrian, even, in a situation where a pedestrian is prone to be careless. I have attempted to dwell on this point in a decision in FAO No.48 of 1991 titled as *Mohindro Devi v. Sukh Ram* dated 06.12.2010:

"3. I am of the view that the approach of the Tribunal was wholly faulty. Learned counsel for the insurance company would argue that there was no negligence at all of the truck and the accident had taken place only by the negligence of the cyclist. Any driver of a motor cycle ought to know that a cyclist or a pedestrian has just as much use for the road as they have. There shall be a greater degree of circumspection for a driver on a motor vehicle, than a pedestrian or a cyclist. The reasons are obvious. A pedestrian dashing against another pedestrian does not cause death nor a cyclist could cause death to a pedestrian. It is only a faster moving vehicle with heavier mass can cause death by its impact. A person that drives a truck ought to be prepared at any time for even a careless use of the road by a pedestrian or a cyclist. I will be loath to infer an element of negligence for a cyclist or a pedestrian ever. I would, on the other hand, hold a driver of the motor cycle to be always responsible if there results an impact with the cyclist and he comes to harm and in this case, a person was crushed to death. It will be wrong to assume that a driver, who could drive the vehicle carefully, would cause death by the negligence of another. Even an issue of contributory negligence in such situations ought not to be easily inferred. I would, therefore, reverse the finding that the accident took place only by the negligence of the cyclist and that the driver of the truck was careful in his driving."

11. Similarly, this Court, in “*Lalit Kumar (Minor) Vs. Pardeep Kumar and another*”; 2016 (2) R.C.R. (Civil) 523, held that in a situation of a motor-vehicle accident, where a pedestrian get killed by a motor-vehicle, the Court should not infer any negligence on the part of the pedestrian.

12. Keeping in view the facts and circumstances of the present case; in view of the fact that the evidence led by the appellant is not controverted by the respondent-Insurance Company and also in view of the ratio of the aforesaid decisions, the finding of the Tribunal that the appellant is responsible for ‘contributory negligence’, is liable to be set aside.

Accordingly, it is held that the appellant sustained injuries on account of the



rash and negligent driving on the part of the motorcyclist-respondent No.1/Anil Kumar.

Quantum of Compensation

13. Learned counsel for the appellant contends that the Tribunal did not award compensation towards Attendant Charges, Transportation and Special Diet neither did it determine the functional disability of the appellant.

14. *Per contra*, learned counsel for respondent No.3-Insurance Company contends that proper compensation has been awarded by the Tribunal, in terms of the evidence on record.

15. I have considered the aforesaid submissions and perused the paper book.

16. The concept of just compensation rests on the principle of *restitutio ad integrum*, which means restoration to the original condition, as far as possible. An effort is made for bringing a person's position as if the incident/accident has never occurred. Though it is a well-recognized principle of law, however, for awarding compensation, the factual matrix as well as the principles and judicial precedents laid down in various judgments are always taken into consideration with a view to alleviate the pain and sufferings of an injured person to secure him the required amenities. Guidance is being taken from the principles laid down by the Hon'ble Apex Court while awarding pecuniary and non-pecuniary damages in an injury case in "*Raj Kumar vs. Ajay Kumar and Another*"; (2011) 1 SCC 343 and



“Baby Sakshi Greola vs. Manzoor Ahmad Simon and another”; 2025 (1)

R.C.R. (Civil) 238.

17. It is well-settled that while determining the amount of compensation payable to an injured/victim of a roadside accident, damages have to be assessed as ‘Pecuniary Damages’ and ‘Special Damages’. Such principles have been discussed by the Hon’ble Apex Court in its various decisions and the same have been summed up in **“Baby Sakshi Greola (supra).**

18. Coming to the facts of the present case, as per the statement of the appellant-claimant (PW-7), he underwent treatment in Pushpanjali Hospital, Gurugram for two months. He was under treatment in Shubam Hospital, Gurugram, where he was operated upon three times and he had spent a sum of ₹75,000/- to meet the hospital expenses, which is in addition to the medical expenses. The medical bills (Ex.P-1 to P-22), amounting to ₹1,18,647/-, have been referred to by the Tribunal in Para No.11 of the Award. Apart from this, Mr. Santam Saha, Accountant, Pushpanjali Hospital, Gurugram, appeared as PW-5 and Dr. Rohit Arora from Shubam Hospital, Gurugram appeared as PW-1. Even Vijay Sharma, Chemist appeared as PW-2 to prove the correctness of the bills.

19. The Tribunal has also referred to the evidence led by the appellant-claimant to prove the Disability Certificate (Ex.P-23) as the Board, upon medical examination, had found 25% permanent disability on account of fracture of *pubic rami* and fracture in both bones of the left leg. Though, the Tribunal has also concluded that the appellant-claimant had suffered



dispute regarding the age of the appellant as 50 years. Despite that, the Tribunal has awarded a meager compensation of ₹50,000/- under the head “Loss of Present as well as Future Income” on account of 25% permanent disability. As such, the compensation needs to be re-worked.

Loss of Earnings on account of Disability

20. As per the Disability Certificate (Ex.P-23), the appellant was found having 25% permanent disability on account of fracture of *pubic rami* and fracture in both bones of the left leg. The appellant was 50 years of age at the time of accident. As per the evidence on record, the appellant was running a shop and he remained under treatment for a long period and during this period, he was unable to perform his work. 25% permanent disability on account of the aforesaid fractures is also going to impact the future functioning of the appellant. Keeping in view the nature of job that the appellant was performing, his functional disability is determined as 30%. There are no pleadings on behalf of the parties regarding income of the deceased, as such, considering the fact that the injured is a shop-keeper, his monthly income is determined as Rs.4,030/- per month, i.e. at par with the minimum wages prescribed for a skilled worker in the State of Haryana in the year 2007. Future prospects at the rate of 25% are also admissible in terms of the law laid down in **“National Insurance Co. Ltd. vs. Pranay Sethi”; (2017) 16 SCC 680** Furthermore, keeping in view the age of the injured-appellant, multiplier of 13 would be applicable to calculate the loss of income on account of disability.



Medical expenses

21. The Tribunal has not awarded adequate compensation on account of medical expenses. It has even not considered the functional disability of the appellant and only awarded a meager compensation of Rs.50,000/- under the head “Loss of Present as well as Future Income” on account of 25% permanent disability.

21.1 The appellant-claimant has proved the medical bills worth Rs.1,18,647/-. In view of the ratio of decision of the Hon’ble Apex Court in **“Kajal vs. Jagdish Chand and Others”; (2020) 4 SCC 413**, the appellant is entitled to a sum of Rs.1,25,000/- towards medical expenses.

22. Attendant Charges

It has come in evidence that the appellant remained admitted in the hospital for 02 months. Keeping in view the minimum wages of an unskilled labourer, the attendant charges for 02 months are worked out as Rs.3,510/- X 2 = Rs.7,020/-.

23. Pain and Sufferings

In view of the ratio of decision of the Hon’ble Apex Court in **Kajal (supra); “Mallikarjun vs. National Insurance Company Limited”, (2014) 14 SCC 396** and **“K.S. Murlidhar vs. R. Subbulakshmi and Another”, (2024) SCC (Online) SC 3385**, the appellant-claimant is also held entitled to enhanced compensation on account of pain and sufferings since a meger amount of Rs.15,000/- has been awarded by the Tribunal under this head.



24. In view of the aforesaid discussion; the age of the injured is determined as 50 years and the compensation awarded to the appellant-claimant is reworked as under:-

Sr. No.	Compensation Heads	Amount Awarded
1.	Monthly income	Rs.4,030/-
2.	Annual Income	Rs.4,030/- X 12 = Rs.48,360
3.	Future Prospects (25%)	Rs.48,360/- + Rs.12,090/- = Rs.60,450/-
4.	Multiplier (13)	Rs.60,450/- X 13 = Rs.7,85,850/-
5.	Loss of Future Income (25% Permanent Disability)	Rs.1,96,463/-
6.	Medical Expenses	Rs.1,25,000/-
7.	Attendant Charges (for 02 months)	Rs.3,510/- X 2 = Rs.7,020/-
8.	Special Diet	Rs.50,000/-
9.	Transportation	Rs.50,000/-
10.	Pain and Sufferings	Rs.2,00,000/-
Total Compensation		= Rs.6,28,483/-
Interest @ 7.5% per annum on enhanced amount		

25. In view of the decision by the Hon’ble Apex Court in *Parminder Singh vs. Honey Goyal & Ors., 2025 INSC 361*, after calculation of the enhanced amount, the same shall be transferred by respondent No.3-Insurance Company in the Bank Accounts of the claimants-appellants within a period of 06 weeks from today.The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimants-appellants to respondent No.3-Insurance Company within a period of two weeks from today and needful shall be done by respondent No.3-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The



26. In view of the above discussion, the present appeal is partly allowed and the Award passed by the Tribunal is modified accordingly.
27. Pending miscellaneous applications, if any, stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

25th February 2026
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>