



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

FAO-4418-2011 (O&M)
Date of Decision: January 13, 2026

Gulab

...Appellant

VERSUS

Sanjeev Kumar and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

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

Respondents proceeded against ex-parte.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby, assailing the judgment of dismissal of the claim petition filed at the instance of the appellant-claimant for seeking compensation, on account of the injuries sustained by him, in a motor vehicular accident.

The facts germane, to be noticed, are as herein given:-

That, on 12.03.2007, at about 6.30 p.m., appellant-claimant Gulab Singh, along with his niece, was proceeding to village Muniarpur from village Atwan, on foot. When he reached near Dera Ranjit Singh, situated in the area of village Chanarthal, Tehsil Thanesar, District Kurukshetra, respondent No.1-Sanjeev Kumar, while driving his motorcycle bearing registration No.HR-07G-3904, came from the side of village Chanarthal.



The said motorcycle was being driven by respondent No.1 in a rash and negligent manner and at a high speed and he struck the same against the appellant-claimant. As a result of the same, the appellant-claimant suffered multiple injuries, including fracture of right leg. Respondent No.1, also fell after the accident. The niece of the appellant-claimant also received injuries, in the accident. After the accident, respondent No.1 fled away from the spot, along with the motorcycle. One Krishan Lal s/o Mohinder Singh of village Atwan, came there, who removed the appellant-claimant to LNJP Hospital, Kurukshetra. Due to the injuries suffered in the accident, the appellant-claimant became unconscious.

Also, it is the version of the appellant-claimant that he remained admitted in the LNJP Hospital, Kurukshetra from 12.03.2007 to 16.04.2007, as indoor patient and spent about Rs.50,000/-. FIR No.81 dated 14.03.2007 was registered at Police Station Shahbad under Sections 279 and 337 IPC, at the instance of the appellant-claimant. Further, it is the version of the appellant-claimant that he was 25 years old, at the relevant time and was a fruit seller and earning Rs.8000/- per month.

Upon notice, respondent No.1 made appearance through counsel and filed reply, thereby denying the accident in toto. However, respondent No.2-owner of the motorcycle, did not make appearance despite service and as such, was proceeded against ex-parte.

From the pleadings of the parties, following issues were framed:-

- “1. *Whether accident in question took place due to rash and negligent driving of his vehicle by respondent No.1, as alleged, if so, to what effect?OPP.*



2. *If issue No.1 is proved, whether the claimant suffered injuries in the accident in question, if so, what amount of compensation, the claimant is entitled to?OPP.*
3. *Relief.”*

To substantiate his claim, the appellant-claimant himself stepped into witness box as PW-2 and further also examined PW-1 Dr.N.P.Singh and PW-3 Dr.Bimla Gauri. The disability certificate is Ex.P1, MLR report is Mark P-2, copy of treatment and discharge record is Mark P-3, medical bills are Mark P-4 to Mark P-54, copy of report under Section 173 Cr.P.C. is Mark P-55, copy of site plan is Mark P-56, copy of chargesheet is Mark P-57, copy of x-ray slip is Mark P-58 and copy of treatment record is Mark P-59.

On the other hand, respondent No.1 himself appeared as RW-1 and denied the accident.

On appraisal of the evidence, brought on record, learned Tribunal had concluded that the version of the appellant-claimant to the police, naming respondent No.1 as driver of the offending motorcycle bearing registration No.HR-07G-3904, is based on no material. It was for the claimant to stand on his own legs and prove involvement of the motorcycle in question and respondent No.1, but he has miserably failed to do so by any cogent and convincing evidence. Thus, the issues framed were decided against the appellant-claimant and consequently, the claim petition was dismissed.

Being aggrieved, the appellant-claimant has filed the present appeal.

Upon notice, the respondents did not make appearance despite



service and as such, they were proceeded against ex-parte.

Learned counsel for the appellant heard.

At the very outset, learned counsel for the appellant-claimant, while making reference to the testimony of the appellant-claimant PW-2, as well as the documents coming forth, has assiduously submitted that it is the categorical claim of the appellant-claimant that the accident had taken place, due to rash and negligent driving of motorcycle bearing registration No.HR-07G-3904, driven by respondent No.1-Sanjeev Kumar. However, this testimony has not been appraised in the correct perspective. In fact, it is submitted that much emphasis has been laid upon the cross-examination of PW-2, whereas, the connectivity of the offending motorcycle, vis-a-vis, the accident in question, stands amply established from the FIR, which has been duly proved in evidence. In fact, counsel also submits that though, there is delay in registration of the FIR, but however, the same stands amply explained from the very fact of the appellant-claimant, being admitted in the hospital, at the relevant time and therefore, solely, on account of there being two days' delay in registration of the FIR, it does not ipso facto lead to the conclusion of alleged wrongful role assigned to respondent No.1-Sanjeev Kumar.

In fact, it is submitted that the very fact of the injuries sustained and the admission of the appellant-claimant in the hospital, on account of the injuries suffered in the accident in question, do amply stand established from the documents proved in evidence. Further also, counsel laid much emphasis upon the disability suffered by the appellant-claimant, on account of the injuries sustained, in the accident in question. In this regard, reference



has been made to the testimony of PW-3 Dr.Bimla Gauri, Medical Officer, LNJP Hospital, Kurukshetra. Also, it is pointed out that the criminal case was registered against Sanjeev Kumar and even, the challan was presented against him, which in itself establish about the rashness and negligence, on the part of respondent No.1, in causing the accident, which led to the injuries, on the person of the appellant-claimant.

In view of the submissions aforesaid, more particularly, when the respondents have not come forward to resist the claim of the appellant-claimant and have been proceeded against ex-parte, it is pertinent to mention that the Motor Vehicles Act is a benevolent piece of legislation and the proceedings conducted, are summary proceedings. The parameters of appraisal and extent of evidence, to be brought on record, to establish a case is entirely different in criminal proceedings, as compared to the tortious claims/proceedings in the motor accident claims. In the cases under the Motor Vehicles Act, which is a benevolent piece of legislation, the evidence is to be appraised on the principle of probability and the evidence, need not to be appraised to the extent, to establish the liability, beyond reasonable doubt. Considering this principle, the evidence brought on record, ought to be taken into consideration.

Appellant-claimant Gulab has stepped into witness box as PW-2 and in his affidavit Ex.PW-2/A, he has categorically deposed about the manner of taking place of the accident and also imputed rashness and negligence, on the part of respondent No.1-Sanjeev Kumar, in causing the accident, which resulted into injuries on his person. He has categorically given further details, with regard to the injuries sustained and his admission



in the hospital.

No doubt, as observed by learned Tribunal, the appellant-claimant, while facing cross-examination, had stated that he is 5th standard pass and that he is not conversant with 'English' alphabets. Solely on account of there being slight darkness, it cannot be concluded by the Tribunal that it was difficult for the appellant to decipher about the number of the motorcycle in question. Though, he stated that he was in conscious condition, when he went to the hospital, but however, this fact also has to be appraised, in the backdrop of the other evidence, brought on record. It is necessary to point out that report under Section 173 Cr.P.C. has also been duly proved in evidence as Mark P-55. Perusal of this report reveals that the intimation with regard to the admission of the appellant in LNJP Hospital, Kurukshetra, was received by the police on 13.03.2007. It also reveals that on that very day, the Investigating Officer had gone to the hospital and obtained opinion, with regard to the fitness of the injured and the concerned doctor had opined about Gulab to be unfit for making the statement. It was on this account that the statement was not recorded on that very day and it was on subsequent date i.e. 14.03.2007, that the statement of the appellant-claimant was recorded by the Investigating Officer.

Thus, in the given circumstances, the delay in lodging of the FIR stands amply explained. By the very nature of things, an FIR is only aimed at intimating of the occurrence to the police. It cannot and does not purport to be complete encyclopedia of all the attending circumstances. It should be noted that at the time of recording of the FIR, the appellant-claimant was admitted in the hospital, on account of injuries sustained in the accident in



question. Had it been a false version put forth by the appellant-claimant, then, not only the number of the vehicle would have been planted, it would not have been difficult for the appellant also to nominate the driver of the offending vehicle, but the same was not done. Besides the same, also it is pertinent to mention that vehicle mentioned herein, is not an insured vehicle. If the vehicle was to be implanted, then the appellant-claimant would have naturally made an attempt to implant insured vehicle, which would have secured his right to compensation, but it was no so. This aspect also falsifies the claim of false implantation of the vehicle in question.

Not only this, close perusal of the report under Section 173 Cr.P.C. further reveals that it was during the course of investigation that the statement of the owner of vehicle i.e. Labh Singh was recorded and he had stated about Sanjeev Kumar s/o Ishwar alias Rameshwar, who is his nephew, to have taken away his motorcycle, at the relevant time and thereupon, Sanjeev Kumar was nominated as accused and efforts were made to effect his arrest, but to no effect. It was later on, on 22.08.2007, Sanjeev Kumar had surrendered in the Court and thereupon, his arrest was effected in the case in hand. This fact also, about the surrender made by the accused, to a great extent, counters the plea of false implication, as observed by learned Tribunal. What was the necessity for respondent No.1-Sanjeev Kumar to surrender in the Court, if he had not caused the accident.

Besides the aforesaid, also no further material is coming on record that respondent No.1 has disputed his arrest, anywhere before the higher authorities, after having surrendered in the Court.

Considering the same, on the basis of the report under Section



173 Cr.P.C. and the manner of the surrender made by respondent No.1 in the criminal case as well as considering the entire evidence on record, the version of the false implication, as concluded by learned Tribunal, falls flat. Rather, the findings on issue No.1 are hereby reversed and in view of the material brought on record, it is held that the accident had taken place, due to rash and negligent driving of motorcycle bearing registration No.HR-07G-3904, driven by respondent No.1-Sanjeev Kumar and on the basis of the medical evidence, brought on record, it also stands established that the accident in question resulted into injuries, on the person of the appellant-claimant, which caused disability.

In the light of the reversal of the findings on issue No.1, now comes the question, with regard to the working upon the compensation to be awarded to the appellant-claimant.

Appellant-Gulab in his affidavit Ex.PW-2/A, has categorically stated about the injuries sustained by him, in the accident in question and also further deposed about having remained admitted in LNJP Hospital for treatment as indoor patient and also proved various medical record. PW-1 Dr.N.P.Singh has deposed about having medico legally examined Gulab on 12.03.2007 and MLR is Mark P-2. PW-3 Bimla Gauri, Medical Officer, LNJP Hospital, Kurukshetra has also been examined and she has proved the disability certificate, which is Ex.P1, which states about the total disability to be assessed as 27%, on account of 'delayed union right thigh, moderate restriction of movement and right joint with swelling right thigh, mild restriction of movement at right hip joint'. In the disability certificate, there is no mention made, as to whether, it is permanent or temporary disability.



While facing cross-examination, the concerned doctor, who proved the disability certificate, has categorically stated that the word permanent or temporary is not printed on the proforma/certificate and also further stated that the disability assessed was particularly, not qua whole body and it will be compared qua whole body. She further stated that it will be reduced to some extent. No further examination of the appellant-claimant, with regard to the assessment of the disability, as such, was made.

In the light of the same, while making some wild guess work, proximate to the reality, for working on of the compensation, the disability, qua the whole body is taken to be 10%, more particularly, considering the chances of decrease in the extent of disability, as the appellant was of young age, at the relevant time.

Definitely, there is bound to be decrease in the body functionality, on account of the injuries sustained, more particularly, considering the seat of the injuries. The appellant-claimant, undisputedly, was working as fruit seller, at the relevant time. Even though, he asserted his earnings to be Rs.8000/- per month, but no document, as such, has come on record. In any case, in modest estimate, his earnings are taken as Rs.5000/- per month, to work upon the compensation. Considering the age of the appellant-claimant, the suitable multiplier to be applied is '18' and thus, the extent of loss of earnings, on account of disability to be 10%, is worked upon as $\text{Rs.}5000 \times 12 \times 18 \times 10\% = \text{Rs.}1,08,000/-$.

For some period of time, the appellant-claimant must have been put on special diet also for healing process and thus, on this count, an amount of **Rs.5000/-** is awarded. He ought to have passed through turmoil



state of mind, on account of injuries sustained in the accident in question and would not have able to follow his livelihood, at least for a period of about six months and thus, on the count of loss of earnings for a period of six months, compensation is granted to the extent of Rs.5000x6=**Rs.30,000/-**.

Also, from the record, it is evident that the appellant-claimant had undergone operation and femur interlocking nail was inserted, which was purchased for an amount of Rs.5005/-. Considering the same and also considering the hospitalization to be undergone for the removal of the nail, at a later stage, on account of medical expenditure incurred and for future medical expenses, an amount of **Rs.20,000/-**, ought to be awarded to the appellant-claimant.

Taking into consideration the kind of injuries sustained by the appellant-claimant, it is quite obvious, he must have been looked after, by his family also, who would have taken care of him by diverting their time from the gainful employment for some period of time and thus, on the count of 'attendant charges', an amount of **Rs.10,000/-** is awarded.

Further, the appellant-claimant remained admitted in the hospital and various trips 'to and fro' must have been made, during the period of hospitalization to take care of the appellant and thereafter also, for follow-up also and thus, on the count of transportation also, an amount of **Rs.5,000/-** is awarded.

Even, considering the kind of injuries sustained, it is quite obvious that the claimant must have passed through a traumatic state of mind, during the process of treatment as well as thereafter, more particularly, considering the insertion of femur interlocking nail. Thus, on



the count of ‘pain and suffering’, an amount of **Rs.30,000/-** is awarded.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant, is computed in tabular form, as herein given:-

1.	Loss on account of disability	Rs.1,08,000/-
2.	Special diet	Rs.5,000/-
3.	Loss of earnings for 6 months	Rs.30,000/-
4.	Medical expenses	Rs.20,000/-
5.	Attendant charges	Rs.10,000/-
6.	Transportation	Rs.5,000/-
7.	Pain and suffering	Rs.30,000/-
	Total	Rs.2,08,000/-

As such, the appellant-claimant is held entitled to the compensation to the extent of **Rs.2,08,000/-**. The appellant-claimant shall be entitled to the interest, at the rate of 8% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. The liability of respondents No.1 and 2, shall be joint and several, to pay the amount of compensation.

With the above observations, the present appeal stands allowed.

January 13, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No