



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

236

FAO-3612-2002 (O&M)
Date of Decision: 28.07.2026

SURINDER SINGH

..... Appellant

VERSUS

AMARJIT SINGH AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Bhupesh Dogra, Advocate for
Mr. Anurag Goyal, Advocate for the appellant.

Mr. Suvir Dewan, Advocate
for respondent No.2-Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral)

1. The present appeal has been filed by the claimant seeking enhancement of the compensation. A perusal of the Award shows that the liability of respondents No.1 and 2 was held to be joint and several. Since the liability of the respondents is joint and several, there is no necessity to issue notice to respondent No.1 owner-cum-driver. As such, issuance of notice to respondent No.1 is dispensed with.

2. This appeal has been instituted by the claimant for enhancement of compensation against the Award dated 03.04.2002 decided by MACT, Kurukshetra (**for short "Tribunal"**) passed in MACT Case No.84 of 1999 in a petition under Section 166 of the Motor Vehicles Act, 1988 (**for short 'Act'**) vide which a sum of Rs.1,14,975/- has been awarded as compensation to claimant Surinder Singh due to injuries suffered by him in a motor vehicular accident on



account of rash and negligent driving on the part of respondent No.1, owner-cum-driver, while driving TATA Mobile bearing No.PB-56-3201 (**for short ‘offending vehicle’**), which was insured with respondent No.2.

3. From the pleadings of parties, the following issues were framed by the learned Tribunal:-

- “1. Whether the accident in question resulting into injuries on the person of Surinder Singh damage to the motorcycle of claimant Gurdev Singh and death of Surjit Singh was caused due to rash and negligent driving of tata mobile bearing No.PB-56-3201 by its driver Amarjit Singh? OPP*
- 2. Whether the claimants are entitled to claim the compensation, if so how much and from whom? OPP*
- 3. Whether the driver of the offending vehicle was not having valid driving license at the time of accident? OPP*
- 4. Relief.”*

4. Thereafter, the parties led evidence in support of their case.

5. After hearing the parties and on going through the material on the file, the Tribunal under issue No.1 came to the conclusion that the driver of the offending vehicle bearing No.PB-56-3201 as well as the driver of the motorcycle bearing No.HYC-4745 on which the claimant was travelling as a pillion rider had contributed to the accident in the ratio of 25:75. Under issue No.2, total compensation was assessed and after deducting 25% on account of contributory negligence, a sum of Rs.1,14,975/- was awarded as compensation to the claimant, payable by respondents No.1 and 2 jointly and severally.

6. Issue No.3 was not pressed by Insurance Company and same was



decided against it and Insurance Company has thus not disputed its liability to indemnify the insured.

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

8. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Registry and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned award.

9. Learned counsel for the appellant argued that the accident in question had taken place between motorcycle bearing No.HYC-4745 which was being driven by Surjit Singh on which claimant Surinder Singh was riding the pillion and one TATA Mobile bearing No.PB-56-3201 being driven by respondent No.1. Learned counsel next contended that the Tribunal held the drivers of both the vehicles to be rash and negligent while driving their respective vehicles and fixed the liability of motorcyclist namely Surjit Singh to the extent of 25% and that of respondent No.1 to the extent of 75% and after assessing the compensation, 25% of the amount was deducted on account of contributory negligence, which is contrary to law. Learned counsel next contended that claimant was not driving the motorcycle in question and was thus not a tortfeasor. He was a third party qua drivers, owners and insurers of both the vehicles and it was a case of composite negligence and since claimant had not contributed to the accident, no amount could have been deducted out of compensation assessed by the Tribunal as he had the remedy to claim compensation from either of the tortfeasors without



impleading the other one and the finding to that extent is liable to be set aside. Learned counsel next contended that deduction of the compensation to the extent of 25% is thus erroneous and the entire amount of compensation that has been assessed by the Tribunal or may be assessed by this Court be awarded. Learned counsel for the appellant argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation, which is grossly inadequate. The compensation has not been awarded for the pecuniary and non-pecuniary damages as per settled law and the compensation is thus liable to be enhanced. In support of his contentions, the learned counsel has relied upon **2014 (1) RCR (Civil) 914 Sanjay Verma Vs. Haryana Roadways, 2009(6) SCC 121 Sarla Verma and others Vs. Delhi Transport Corporation and Another, 2017 (16) SCC 680 National Insurance Co. Ltd Vs. Pranay Sethi and Others, 2025 ACJ 1624, Karuna Parmar Vs. Prakash Sinha and others and 2024 SCC Online SC 3692, Baby Sakshi Greola Vs. Manzoor Ahmad Simon,.**

10. On the other hand, the learned counsel for respondent No.2 argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

11. First of all, the point to be determined is whether the compensation as assessed by the Tribunal could have been deducted on account of the contributory negligence of the drivers of both the vehicles, including the motorcycle on which the claimant was travelling. The answer is certainly in the negative. The law in



this regard has been settled by the Hon'ble Supreme Court in **Law Finder Doc ID #669171, Khenei Vs. New India Assurance Co. Ltd. and Others**, in which it has been held that in the case of composite negligence, the claimant is entitled to sue both or any one of the joint tort feasons and to recover the entire compensation, as the liability of joint tort feasons is joint and several. It has been further held that it will not be appropriate for the Court/Tribunal to determine the extent of composite negligence of the drivers of two vehicles in the absence of the impleadment of the other joint tort feasons. In such a case, the impleaded joint tort feason should be left, in case he so desires, to sue the other joint tort feason in independent proceedings after the passing of the decree or award. Hon'ble Supreme Court has also drawn a distinction between contributory negligence and composite negligence and has held that there is a difference between contributory and composite negligence. In the case of contributory negligence, a person who has himself contributed to the accident cannot claim compensation for the injuries sustained by him in the accident to the extent of his own negligence; whereas in the case of composite negligence, a person who has suffered has not contributed to the accident, but the outcome is a combination of the negligence of two or more other persons.

12. In the present case also, the accident took place between between motorcycle bearing No.HYC-4745, on which the claimant was travelling and the TATA Mobile bearing No.PB-56-3201. The claimant did not implead the driver and owner of the motorcycle in the claim petition but impleaded the driver-cum-owner of the offending TATA Mobile bearing No.PB-56-3201. The claimant,



being a third party, is entitled to sue both or any of the joint tortfeasors and to recover the entire compensation, as the liability of the drivers and owners of both vehicles is joint and several. The learned Tribunal thus gravely erred in deducting 25% of the amount out of the total compensation assessed by it and the finding to that extent is reversed.

13. As per the version of claimant, he had suffered multiple injuries and while appearing in the witness box as PW3, he deposed that he suffered fractures of both bones of legs and his collar bone was also fractured. He regained consciousness after two days in PGI, Chandigarh and remained admitted in PGI, Chandigarh for two months. After his discharge from PGI, Chandigarh, he went to PGI, Chandigarh for follow-up treatment on 10-12 occasions. He has spent huge amount on his treatment, in engaging an attendant and on special diet.

14. Learned Tribunal while assessing the compensation has held in Para No.10 of the award as under:-

“A perusal of the discharge and follow up card of petitioner Surinder issued by PGI Chandigarh shows that he was admitted there on 7.6.1999 and was discharged on 3.7.1999. He was having closed fractures of Shaft femur right and fracture of shaft of femur left and also fracture of clavicle, locking nailing and bone grafting of the petitioner was done in P.G.I. Chandigarh. A perusal of the discharge summary also shows that petitioner had suffered injuries on his shoulder. According to the disability certificate present on the file, petitioner was having 28% disability qua the whole body.”

15. After going through the entire evidence on record and the disability



suffered by the claimant, the Tribunal assessed the compensation payable to the claimant to the tune of Rs.1,14,975/-. However, the compensation awarded by the Tribunal is grossly inadequate.

16. Coming to the assessment of compensation, the law is well settled that the compensation for injuries suffered by victim in a motor vehicular accident should be just and equitable. Courts have consistently held that while money cannot erase the pain, suffering, or trauma but it is the only legal means to provide restitution and restore the victim to his previous position as far as possible for which 'just compensation' has to be assessed. It is also well settled that while it is impossible to fully compensate for the loss of limb, life, or quality of life, the compensation must be 'Just', meaning thereby, that it should be fair, reasonable, and equitable based on the evidence and not merely a 'Windfall' or a 'Pittance'. The core objective is to put the injured/victim in the same position he would have been if the accident had not taken place, to the extent money can do so. This approach ensures that the law provides a realistic recompense for the trauma endured, rather than just providing normal relief.

17. Hon'ble Supreme Court in 2013 (3) RCR (Civil) 934 - **G.Ravindranath @ R. Chowdary Vs. E. Srinivas and another**, has held that in a case of accident resulting in injuries to the victim, the compensation in personal injury cases should be determined under the following heads:-

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing expenditure, food and miscellaneous



(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

- (a) Loss of earning during the period of treatment;
- (b) Loss of future earnings on account of permanent disability
- (iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

- (v) Loss of amenities (and/or loss of prospects of marriage).
- (vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded under heads (i), (ii) (a) and (iv) It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

18. The discharge card issued by PGI, Chandigarh shows that claimant was admitted in PGI, Chandigarh on 07.06.1999 and was discharged on 03.07.1999. He had suffered closed fractures of shaft femur right and fracture of shaft femur left along with fracture of clavicle. Locking nailing and bone grafting was done at PGI, Chandigarh and as such, claimant was operated upon for the fractures suffered by him.



19. The claimant was 18 years of age and had suffered closed fractures of shaft femur right and fracture of shaft femur left along with fracture of clavicle. The pain component in such injuries and subsequent surgical interventions is enormous. Therefore, taking into consideration the severity of the injuries, the claimant is held entitled to a sum of **Rs.25,000/-** on account of '**pain and sufferings**'.

20. The accident had taken place in the year 1999. The claimant was a student of 10+2 and Hon'ble Supreme Court in **Karuna Parmar's case (supra)** while relying upon judgment rendered by the Hon'ble Supreme Court in **Baby Sakshi Greola's case (supra)**, has held that minimum wages payable to a skilled worker in the concerned State have to be taken into consideration while assessing income in the case of a child because that would be the minimum amount which a child would have earned on attaining the age of majority. In the present case, the claimant was around 18 years of age and the accident took place on 03.06.1999 and during those days, minimum wages earned by a skilled person were around Rs.3,500/- per month. Accordingly, income of claimant is taken as **Rs.3,500/- per month**.

21. Claimant was around 18 years of age on the date of the accident and as such, 40% amount has to be added to his monthly income towards future prospects in view of the law laid down in **Sanjay Verma's case (supra)** and **Pranay Sethi's case (supra)**, which takes his income to **Rs.4,900/- per month (Rs.3,500/- + Rs.1,400/-)**.

22. Claimant has suffered 28% disability qua whole body as also held by



the Tribunal, which will certainly diminish his earning capabilities and the avocation or profession he will pursue. The compensation under the head 'loss of income' thus has to be assessed keeping in view the percentage by which his earning capability has been diminished and by applying a suitable multiplier in view of law laid down by Hon'ble Supreme Court in 2010(4) PLR 242 **Yadava Kumar Vs. The Divisional Manager, National Insurance Company Limited**. Since, claimant has suffered 28% permanent disability, the monthly loss of income will thus come to **Rs.1,372/-** (**Rs.4,900/- × 28%**) and the annual loss of income will come to **Rs.16,464/- per annum** (**Rs.1,372 × 12**) and in view of law laid down in **Pranay Sethi's case (supra)** and **Sarla Verma's case (supra)**, the multiplier of 18 has to be applied which takes the compensation to **Rs.2,96,352/-** (**Rs.16,464/- X 18**) on account of 'loss of income' due to **permanent disability**.

23. The Tribunal has also awarded a sum of Rs.28,300/- for the expenses incurred on treatment. However, it is a matter of common knowledge that patients or their attendants generally do not preserve all the bills and as their primary concern is to provide best treatment to the patient and some amount of guesswork thus has to be applied while assessing the expenses incurred on treatment. Applying some guesswork as patients and their attendants do not preserve all the bills, the claimant is held entitled to a sum of **Rs.35,000/- for the 'expenses incurred on treatment'**.

24. During this period of four months, claimant must have spent huge amount on **special diet, in engaging an attendant and on transportation**, accordingly, he is held entitled to a sum of **Rs.15,000/-** under all these heads.



25. It must have taken at least four months for the injuries to heal. During this period, he would not have been able to do any work. Accordingly, he is held entitled to compensation of **Rs.14,000/- (Rs.3,500/- X 4)** for ‘**loss of income during treatment**’.

26. The disability suffered by claimant is going to remain with him throughout his life as it will impact his routine activities. Accordingly, the claimant is held entitled to a sum of **Rs.25,000/-** on account of ‘**loss of amenities**’.

27. Resultantly, the compensation to be awarded to the claimant is Surinder Singh assessed as under:-

Sr. No.	Head of Compensation	Compensation assessed by this Court
1.	Pain and sufferings	Rs.25,000/-
2.	Expenses incurred on treatment	Rs.35,000/-
3.	Special diet, Attendant charges and on transportation	Rs.15,000/-
4.	Loss of Future Income due to Permanent Disability	Rs.2,96,352/-
5.	Loss of income during treatment	Rs.14,000/-
6.	Loss of amenities	Rs.25,000/-
	Total	Rs.4,10,352/-

28. Resultantly, the appeal in hand is partly accepted with costs and appellant/claimant is held entitled to a sum of **Rs.4,10,352/-** as compensation. The enhanced compensation thus comes out to **Rs.2,95,377/- (Rs.4,10,352/- - Rs.1,14,975/-)** which is rounded off to **Rs.2,95,500/-** over and above the compensation awarded by the Tribunal. The entire compensation including enhanced compensation shall be payable jointly and severally by respondents No.1 and 2 along with interest @ 9% per annum, from the date of filing of the



claim petition i.e. 24.07.1999, till realization.

29. Pending miscellaneous application(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

28.07.2026
Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No