



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

**FAO-7420-2014 (O&M)
Date of Decision: July 22, 2025**

Abdul Qayum

...Appellant

VERSUS

Ashik Ali alias Guddu and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Munish Mittal, Advocate
for the appellant.

Mr.Ravinder Arora, Advocate
for respondent No.3.

ARCHANA PURI, J.

The present appeal has been filed by the appellant-claimant, thereby, questioning the adequacy of the compensation awarded by learned Motor Accident Claims Tribunal, on account of injuries sustained by him, in a motor vehicular accident.

Suffice to consider that the accident had taken place on 11.06.2022. The appellant-claimant Abdul Qayum along with other persons, being fruit vendors, had loaded their litchi fruit in TATA 709 bearing registration No.UP-07G-5609 and were coming from Dehradun to Chandigarh, being driven by respondent No.1-Ashik Ali @ Guddu. The appellant as well as other occupants of the truck, on account of the accident question, which was held to have been taken place on account of rash and



negligence, on the part of the respondent No.1, had sustained extensive injuries and claim petitions were filed by various occupants of the truck in question. Appellant-Abdul Qayum had also sustained injuries and he had also filed separate claim petition.

Considering the evidence, brought on record, it was held by learned Tribunal that Abdul Qayum had suffered grievous injuries and he remained hospitalized at first instance, from 11.06.2002 to 16.06.2002 and second time from 22.06.2004 to 06.07.2004. The discharge card is Ex.P22, wherein, it was observed that he had suffered fracture left femur, for which, he was operated upon. Considering the same and also taking into consideration the fact of the second admission, being on account of fall three months back, i.e. somewhere in March 2004, for the purposes of assessment of the compensation, the first admission was taken into consideration, but however, no amount on the count of 'medical bills' has been awarded.

However, on the count of 'pain and suffering' Rs.25,000/- was awarded and on the counts of 'good diet, transportation etc.', another amount of Rs.40,000/- was awarded. While assessing the income of the appellant as Rs.2500/- per month, an amount of Rs.10,000/- was awarded, for his inability to attend to his work at least for 4-5 months. Considering the disability certificate Ex.P24, wherein, the disability was mentioned as Fifty Five percent in words and in figures, was mentioned as 50%, another amount of Rs.50,000/- was awarded under this head. Thus, in total, the compensation awarded was Rs.1,25,000/- and the liability of the respondents was held to be joint and several.

Being aggrieved, only the appellant-claimant has filed the



present appeal for seeking enhancement.

At the very outset, it is submitted by learned counsel for the appellant-claimant that various counts, which ought to be taken into consideration, while making assessment of extent of compensation, have been given amiss by learned Tribunal. In fact, the extent of disability has not been properly appraised and the Tribunal did not consider the aspect of functional disability, not only to the income generating capacity of the appellant, who was a fruit vendor but also about non-quantifiable implications, on the life of the appellant-claimant. Also, it is submitted that the seat of injury was such, which made the appellant immobile for a long duration of time and this fact, as such, has not been considered by learned Tribunal. Even though, the earnings were asserted to be Rs.5000/- per month, but it has been erroneously considered on lesser side as Rs.2500/- per month. Thus, it is submitted that the consequential 'work on' of the compensation is on lesser side.

On the other hand, learned counsel for the respondents have refuted the claim of the appellant-claimant, while asserting that no satisfactory evidence has been led to seek compensation, as now impressed upon. In fact, it is submitted that apart from the appellant-claimant himself stepping into witness box as PW-1, no other witness has been examined. The treating doctor has also not been examined. Even, qua the disability certificate, no member of the board, as such has been examined. Such being the factual position, it is submitted that appeal sans merit and deserves to be dismissed.

However, the '**work on**' of the compensation, as detailed



aforesaid, do call for re-determination.

Time and again, it has been held by the Court that the '**just**' compensation is adequate compensation and the Award must be just that-'**no less and no more**'. The extent of money awarded by Courts, can hardly redress the actual sufferings of the injured victim (who is deprived of the normal amenities of life and suffers the unease of being a burden on others), however, the Courts can make a genuine attempt to help restore the self-dignity of such claimant, by awarding '**just compensation**'.

Suffice to make reference to the decision rendered by the Hon'ble Supreme Court in *Raj Kumar Vs. Ajay Kumar and Anr., 2011 (1) SCC 343*, wherein the Hon'ble Supreme Court brought out difference between personal disability and functional disability, resulting in the loss of earning capacity. It was laid down that compensation, on account of loss of earning capacity, has to be granted in accordance with the nature of job undertaken by the victim of the motor vehicular accident. The test for determining the effect of permanent disability, on future earning capacity involves the three steps, as was laid down in *Raj Kumar's case (supra)*, which was further reiterated in *Chanappa Nagappa Muchalagoda vs. Divisional Manager, New India Insurance Company Limited, 2020 (1) SCC 796*.

Thus, it goes without saying that in matters of determination of compensation, the Tribunals/Courts are statutorily bound with the responsibility of fixing '**just**' compensation. It is obviously true that determination of '**just**' compensation, cannot be equated to bonanza, but at the same time, it ought not to be a niggardly amount. The concept of '**just**



compensation' obviously suggest an application of fair and equitable principles and reasonable approach, on the part of Tribunals/Courts. However, the measures have to be applied proportionately.

Very true, it is only the appellant himself having stepped into witness box as PW-1 and deposed about the kind of injuries sustained by him and the period of his hospitalization, in his affidavit Ex.P1. However, no doctor, as such, who extended the treatment to the appellant, has been examined. Even, it is true that no member of the board of doctors, who had examined the appellant, for the purposes of disability has been examined. Anyhow, all the aforesaid circumstances have to be considered, in the light of the testimony of the appellant and also taking into consideration, about the Motor Vehicles Act, being benevolent piece of legislation.

In the affidavit Ex.P1, it has been specifically deposed by the appellant that he remained hospitalised w.e.f. 11.06.2002 to 16.06.2002, at first instance and that he had suffered fracture in his thigh and pelvis and he remained under treatment. The discharge card of PGI has been proved as Ex.P22, which reflects about the appellant to have got admitted on 11.06.2002 and remained there for treatment upto 16.06.2002. This co-relate to the date of accident and injuries sustained. Also, from the same it is evident that he suffered fracture of **#ST Femur (L)**, for which open reduction and inter fragmentation was done on 13.06.2002 and he had undergone surgery. This discharge card also states about re-admission of the appellant in PGI on 22.06.2004 to 06.07.2004.

Very true, as observed by learned Tribunal that this re-admission was for the second time, but there is an observation made in the discharge card



that the patient had history of fall three months back. Considering the same, it relates to some injury by re-fall in March 2004, for which, re-fixation of implant had to be done. This subsequent re-admission, as such, was required to co-relate to the injuries suffered in the accident in question, but however, no such evidence is coming on record.

In the given circumstances, learned Tribunal had appropriately considered the hospitalisation of the appellant, on account of the injuries sustained, to be only for six days. Ortho Trauma proforma of the said period of Ex.P23. Various prescriptions slips and the bills have been brought on record as Mark 78 to Mark 90, which relates to the private doctors and the medicine bills, are Mark 91 to Mark 183, which co-relate to the period of hospitalization and the treatment undergone. The total of the medical bills has been observed as Rs.52082/-, but however, close perusal of the bills reveal that it also contains the bills of the treatment of the appellant, with regard to the treatment undergone in the year 2004, i.e. which relates to the history of re-fall three months back, as observed in the discharge card and therefore, it has to be excluded. The total of bills relating to the period of first admission is to the extent of Rs.11,379/-, which is now rounded off as **Rs.12,000/-**.

The perusal of the disability certificate Ex.P24 reveals about the appellant to have suffered permanent disability to the extent of Fifty Five percent. However, none of the member of the board has been examined. In this context, it is also further necessary to point out that in the said certificate, there was no re-assessment of disability recommended and there is no mention made of any chance of improvement or not. In the given



circumstances, also it is further pertinent to mention that disability, at one stage, is written as Fifty Five percent in words and at another place, it is written as 50% in figures. It has been rightly observed by learned Tribunal that this document could only have been clarified by examination of member of the board, but however, none has been so examined. A consolidated amount of Rs.50,000/- had been awarded under the head of disability. However, this calls for re-consideration.

Very true, no member of the board of doctors has been examined, but however, this disability certificate, as such, also cannot be discarded in toto. It mentions about the extent of disability to be 50/55%. It is pertinent to mention that the appellant had stated himself to be working as fruit vendor. On the day of accident also, he along with others had loaded their goods and were coming from Dehradun. There is no reason, as such, coming forth, for considering the earnings of the appellant, at the minimum tier of Rs.2500/- per month, as taken by learned Tribunal. Considering the appellant to be working as fruit vendor and indulging in sale of fruits, therefore, very close to proximate reality, his earnings, in modest estimate, can be considered as Rs.4,000/- per month.

Considering the kind of injuries sustained by the appellant, as discussed aforesaid, obviously, he would not have been able to follow source of his livelihood and would have remained immobile for a period of at least 10 months. On this count also, for the loss of income, he is entitled to **Rs.40,000/-**.

So far as, the extent of disability is concerned, even if, no doctor has been examined, it is quite obvious that the kind of injuries sustained, is



bound to reduce the functional efficiency of the appellant and thus, considering the same, in the absence of any material coming forth, his functional disability can appropriately be taken as 20%.

Taking it to be so and also considering the appellant to be falling in the age group of 36-40 years, as per *Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77*, the appropriate multiplier to be applied is '15' and also multiplying the same with 20% of disability and dividing the same by 100, as per standard multiplier process, the loss is assessed as $\text{Rs.}4000 \times 12 \times 15 \times 20 / 100 = \text{Rs.}1,44,000/-$.

Besides the same, looking at the kind of injuries sustained by the appellant-claimant, it is quite obvious that on account of use of the conveyance for 'to and fro' to the hospital, some amount must have been spent by the family of the appellant-claimant for the period of hospitalization and follow up treatment. Thus, on the count of 'transportation charges', an amount of **Rs.20,000/-** is awarded.

Obviously, during the period of treatment and some time thereafter, in the minimum, the appellant-claimant must have been put on special rich diet, for the healing process. On this count also, another sum of **Rs.20,000/-** is granted.

Furthermore, for some period of time, after the accident, in the minimum and even, looking at the kind of injuries sustained, the appellant-claimant must have been looked after by a bye-stander/attendant throughout. Even if, the appellant-claimant was being looked after only by his family members, then also, it should be noted that they could perform the role of care-giver, only by diverting their own time, from any form of gainful



employment, which could have generated some income. Thus, on the count of 'attendant charges', an amount of **Rs.25,000/-** is granted.

The appellant-claimant, on account of the injuries sustained, must have passed through a very traumatic state of mind, on account of injuries sustained. Considering the same, on the count of 'pain and suffering', the compensation of **Rs.40,000/-** is granted.

Thus, on the various counts, the compensation ought to be granted to appellant-claimant-Abdul Qayum, is re-computed as herein given:-

| | | |
|----|-------------------------------|----------------------|
| 1. | Medical Bills | Rs.12,000/- |
| 2. | Loss of earnings | Rs.40,000/- |
| 3. | Disability | Rs.1,44,000/- |
| 4. | Transportation charges | Rs.20,000/- |
| 5. | Special diet | Rs.20,000/- |
| 6. | Attendant charges | Rs.25,000/- |
| 7. | Pain and suffering | Rs.40,000/- |
| | Total | Rs.3,01,000/- |

As such, the compensation, awarded by learned Tribunal, stands enhanced from **Rs.1,25,000/-** to **Rs.3,01,000/-**. On the enhanced amount of compensation i.e. $Rs.3,01,000 - 1,25,000 = Rs.1,76,000/-$, the appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the present appeal, till realization of the enhanced amount of compensation. **However, as per observations made in the order dated 09.07.2025, the appellant-claimant, shall not be entitled to any interest, vis-a-vis, delay in filing the appeal.**

Accordingly, the impugned Award dated 16.12.2005 stands



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modified, to the extent, as indicated aforesaid. The residue terms of the impugned Award, shall remain the same.

With the above observations, the present appeal stands allowed.

July 22, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No