

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****217-I****FAO-1723-2013 (O&M)
Date of decision: 07.07.2025****Lakhwinder Singh****...Appellant(s)****Vs.****Gurmukh Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Manglesh Kumar, Advocate for
Mr. Shakti Mehta, Advocate
for the appellant.

Ms. Manvi Verma, Advocate for
Mr. Rajneesh Malhotra, Advocate
for respondent No.3-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.1,79,400/- awarded by the learned Motor Accident Claims Tribunal, Mohali (for short "the learned Tribunal") vide Award dated 14.01.2013 passed in MACT Case No. 22 dated 25.02.2010 filed under Section 166 of the Motor Vehicles Act, 1988. The above said compensation was awarded along with interest @ 6% per annum. All the respondents were held jointly and severally liable to pay the compensation amount.

2. Brief facts of the case are that the learned Tribunal on the basis of evidence adduced by the parties, concluded that the appellant/injured-claimant had suffered injuries in a motor vehicular



accident that took place on 01.01.2010 due to the rash and negligent driving of a Tractor Trolley bearing registration No. PB-65-J-3090 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3.

3. Learned counsel for the appellant seeks enhancement of compensation on the ground that income of the appellants has been taken on the lower side as only Rs.4,000/- p.m. Learned counsel submits that CM-8847-CII-2013 filed under Order 41 Rule 27 CPC for leading additional evidence has been allowed by a Coordinate Bench of this Court vide order dated 04.12.2013; vide which, appellant has produced his Income Tax Returns (Annexure P-1). Learned counsel submits that as per Annexure P-1, appellant was deriving annual income of about Rs.1,65,000/- for the assessment year 2011-12. Thus, monthly income of the appellant was more than ₹13,000/- per month. It is submitted that therefore, income of the appellant could not have been taken as only Rs.4,000/- p.m.

4. Learned counsel further submits that even nothing has been awarded to the appellant towards medical expenses. It is submitted that by way of additional evidence, appellant has also produced his medical bills (Annexure P-2); and therefore, the same ought to be reimbursed to the appellant. It is accordingly prayed that the present appeal be allowed; and compensation be enhanced.



5. Learned counsel for respondent No.3-insurance company vehemently opposes submissions made on behalf of the appellant and submits that appellant had failed to produce any proof of employment, let alone income before the learned Tribunal and, therefore, income of the appellant has been rightly assessed as Rs.4,000/- p.m. It is also submitted that the appellant had not produced any medical bills before the Tribunal and the bills (Annexure P-2) now produced by the appellant, cannot be relied upon. It is accordingly prayed that present appeal be dismissed.

6. No other argument is raised on behalf of the parties.

7. I have heard learned counsel for the parties and perused the case file in great detail.

8. Perusal of the record of the case shows that it was the pleaded case of the appellant in the claim petition that on 1.1.2010, he along with Sohan Lal were returning from Dera Bassi on motorcycle No.PB-70-3-5187 driven by him and at about 9.15 p.m. when they reached near HPL Factory village Bhagwas, their motorcycle was hit by the offending vehicle which came from the opposite side. The tractor trolley was being driven by respondent no.1 in a rash and negligent manner. The accident took place due to the rash and negligent driving of the tractor trolley by respondent No.1. Maninder Singh, brother of Sohan Lal was coming on his separate motorcycle bearing No.PB-70-13-2633 and he witnessed the said accident. Both the injured were taken to GMCH Sector 32 Chandigarh. However, Sohan Lal had breathed his last on the way to the hospital. The appellant was admitted in GMCH Sector 32 Chandigarh,



where he remained admitted upto 7.2.2010. He had suffered compound fracture in his right thigh and was operated upon after one month of the accident. An iron rod was inserted in his right thigh. The appellant has alleged that even at present he has not fully recovered. He has incurred big amount of expenditure on his medical treatment, transportation and special diet. At the time of accident, he was 22 years old and was earning Rs.40,000/- per month. He was working as commission agent in RMP (Infotech Resource Money power). As such, appellant had claimed Rs.5 lacs as compensation.

9. Thus, in the accident in question, appellant had suffered fracture in the right thigh. Even as per the Discharge and follow-up card Ex.P2, it is shown that appellant had suffered compound fracture of right thigh; and that he had remained admitted in GMCH, Sector 32, Chandigarh from 01.02.2010 till 07.02.2010. Even as per the evidence of PW2 Dr. Pranav Kumar, GMCH Sector 32, Chandigarh, the appellant remained admitted in hospital with *“open fracture of right femur for which debridement followed by interlocking nailing was performed”*.

10. As regards, the medical expenditure incurred by the appellant, before the learned Tribunal, appellant had produced medical bills dated 02.11.2011 (Ex.P3 to Ex.P5), for an amount of Rs.1,450/- only. However, before this Court, the appellant has produced voluminous medical bills Annexure P-2 by way of additional evidence. However, this Court is not inclined to accept the said bills as, the appellant had categorically stated before the learned Tribunal that he had spent Rs.2 lacs



on his treatment '*but could not preserve the bills*'. When confronted with this statement made by the appellant, learned counsel for the appellant is unable to explain as to how he has now produced the bills at Annexure P-2. In view of the same, said bills (Annexure P-2) now produced by the appellant, are discarded.

11. Further, even though bills for only ₹1450/- were produced by the appellant, yet, learned Tribunal had awarded Rs. 25,000/- towards medical expenditure. Learned Tribunal had further awarded Rs.7,000/- for transportation charges; Rs.16,000/- for loss of income for 4 months; and Rs.30,000/- towards future treatment. Appellant had also produced a Disability certificate Ex.P7 which was issued one and a half years after the accident, as per which appellant had suffered permanent disability to the extent of 25%. However, appellant had failed to produce any medical evidence to prove or show that his earning capacity had been affected in any manner due to the injuries suffered in the accident. As such, learned Tribunal had taken loss of income of the appellant to be 10%. Learned Tribunal had applied multiplier of 18; and further awarded Rs.15,000/- towards pain and suffering; and accordingly awarded total compensation of Rs.1,79,400/-.

12. Although the appellant had pleaded and deposed that he was working as commission agent, and earning ₹40,000/- per month, however, besides his bald statement, appellant had failed to produce any documentary evidence to prove his avocation or salary. No documents in the form of offer letter, appointment letter, attendance register, or EPF



form, et cetera were produced by the appellant to prove his employment. It was in this background, learned Tribunal had assessed monthly income of the appellant as Rs.4,000/- p.m. by treating him to be a labourer. Nonetheless, before this Court, by the of additional evidence, the appellant has produced his Income Tax Returns (Annexure P-1); as per which for the assessment year 2011-12, income of the appellant is shown to be Rs.1,65,000/-; as per Income Tax Return for the assessment year 2010-11, income is again shown to be Rs.1,65,000/-; and for the assessment year 2009-10, appellant is shown to be having gross total income of Rs.95,000/-. As such, income of the appellant will be taken as Rs.1,41,667/- on the basis of the average of the Income Tax Return for the three years.

13. In view of the above facts, compensation payable to the appellant is recalculated in the following manner: -

Income	Rs.1,41,667/- (average of ITR of 3 years) ITR-2011-12 Rs.1,65,000/- ITR-2010-11 Rs.1,65,000/- ITR-2008-09 Rs.95,000/- Total Rs.4,25,000/-
Permanent Disability	10%
Age	22 years
Multiplier	18
Income loss on account of permanent disability	Rs.1,41,667 x 18 x 10% = Rs.2,55,000/-
Interest	6% per annum

14. Hence, present appeal is **partly allowed** in the above terms.



15. Pending application(s) if any also stand(s) disposed of.

07.07.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No