

**FAO-9208-2014 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****(226-3)****FAO-9208-2014 (O&M)
Date of decision:- 27.01.2025****Parveen Kumar****... Appellant****Versus****Parveen Kumar and others****... Respondents****(226-1)****FAO-8970-2014 (O&M)****The New India Assurance Company Ltd.****... Appellant****Versus****Parveen Kumar and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Shubham Gupta, Advocate for
Mr. Raj Kumar Bashamboo, Advocate
for respondent No.3 in FAO-9208-2014 and
for the appellant-Insurance Company in FAO No. 8970 of 2014.

Mr. B.K.Bagri, Advocate
for the appellant in FAO-9208-2014 and
for the respondent No.1 in FAO-8970-2014.

Mr. Sandeep Kumar Yadav, Advocate
for the respondents No.2 and 3 in FAO No. 8970 of 2014.

**********SUVIR SEHGAL, J. (ORAL)**

1. This order shall dispose off both the above noted appeals as they arise out of award dated 15.07.2014 passed by the Motor Accident Claims Tribunal (for short "the Tribunal"), Rewari. For the sake of convenience, factual position is being taken from FAO-9208-2014.

2. Instant appeal has been filed under the Motor Vehicles Act, 1988 (for brevity hereinafter referred to as "MV Act") by the injured, Parveen Kumar.



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Appellant has sought enhancement of compensation granted by the Tribunal vide award dated 15.07.2014.

3. Facts leading to the filing of the appeal are that on 31.05.2011, Parveen Kumar was traveling as a pillion rider on a motorcycle driven by Pawan Dev. A Maruti Car bearing registration No. HR-36C-0549, which was being driven at a high speed by respondent No.1, came from the opposite direction and struck against the motorcycle. Both the motorcyclists fell on the road. Pawan Dev sustained fatal injuries and died on way to the hospital. Parveen Kumar was taken to H-way Hospital, where he was medically treated. An FIR No.116 dated 31.05.2012, Ex.PA, was lodged under Sections 279, 337 and 304-A, IPC at Police Station Rampura. Appellant filed a claim petition under Section 166 of the MV Act claiming compensation on account of the injuries sustained by him, which has been partly accepted and he has been granted compensation of Rs.2,98,468/-. Respondents have been jointly and severally held liable to pay the amount, along with interest @ 7% per annum, from the date of filing of the claim petition.

4. Counsel for the appellant has urged that the compensation awarded is on the lower side as the injured, who was a student, remained admitted in different hospitals for almost two months. He asserts that the appellant is entitled to future medical expenses as also compensation for the pain, suffering and attendant charges etc.

5. On the other hand, counsel for the Insurance Company has urged that the accident has not been proved in as much as neither, Satyavir Singh, the first informant, has been examined, nor the Investigating Officer of the criminal



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case has stepped into the witness box. He asserts that FIR has been registered against an unidentified vehicle.

6. I have heard counsel for the parties and have considered their respective submissions, besides examining the requisitioned record.

7. The claimants have examined Rupesh Kumar, PW-12, who was an eye witness to the accident. He deposed that on the fateful day, he was going to the temple of Shree Shyam Baba at village Jaitpur on his motorcycle, when he saw that the offending car, which was being negligently driven, strike the motorcycle of Pawan Dev. This witness deposed that he tried to chase the car, but the driver sped away. Parveen Kumar, PW-11, appellant, who was injured in the accident, has supported the testimony of the eye witness. Both the witnesses have been extensively cross-examined, but their testimony has remained unimpeachable.

8. Non-examination of the first informant or the Investigating Officer is not fatal to the case of the claimant. It has been settled by the Supreme Court in *Ravi Versus Badrinarayan and others, (2011) 4 SCC 693* that lodging of the FIR proves the factum of the accident and enables a victim to lodge a case for compensation. It could not be denied that the driver of the offending vehicle is facing trial in the criminal case. Evidence is come on the record that after investigation, the final report under Section 173 Cr.P.C., Ex.PB, has been filed against him and he has been charge-sheeted. Although, FIR was lodged against an unknown driver and the vehicle number was also not mentioned, but during the investigation, it was found that the offending vehicle was a Maruti Car bearing No.HR-36C-0549. Therefore, there is no error in the finding of the



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Tribunal that the accident occurred due to the rash and negligent driving of respondent No.1, which resulted in the death of Pawan Dev and injuries to Parveen Kumar, appellant, herein.

9. It has been proved that respondent No.1 had a valid driving license, Ex.R1, the vehicle was registered vide Ex.R2 and it was covered under Insurance Policy, Ex.R3.

10. Appellant sustained multiple injuries and remained under treatment at two different hospitals from 31.05.2012 to 05.07.2012. He was operated upon by a Neurosurgeon and his treatment continued even after his discharge. Medical bills and receipts, Ex.P-1 to Ex.P-51, have been proved on the record to show his hospitalisation as well as the medical expenses. In his testimony, the appellant has also produced bills, Ex.P11/1 to Ex.P11/11 for an amount of Rs.13,003/-. In all, an amount of Rs.2,70,868/- has been spent on his medical treatment, which has been awarded by the Tribunal. Tribunal has awarded loss of income @ Rs.4,800/- per month, which deserves to be enhanced to Rs.7,000/- per month in view of the judgment of this Court in **Santosh Kumari and others Versus Purshotam Singh and others, 2015 (2) ACC 788**. The amount awarded under the other heads viz transportation charges, attendant charges, special diet and on account of pain and suffering deserve to be doubled. Although, it has been urged that the appellant has been undergoing treatment even after his discharge, but counsel for the appellant could not refer to any evidence to support this assertion. Therefore, claim for compensation for post discharge treatment is rejected. There is no evidence on the record to show that the appellant suffered any permanent disability. This Court,



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therefore, cannot grant any compensation on this account.

11. Noticing the nature of injuries suffered by the claimant-appellant and the treatment undergone by him, this Court is of the view that the compensation awarded by the Tribunal deserves to be enhanced. Compensation payable to the appellant under the various heads is computed in a tabular form as follows:-

Sr. No.	Heads	Compensation Awards
1	Loss of Income	Rs.14,000/- (Rs.7000 X 2)
2	Medical Expenses	Rs.2,70,868/-
3	Special Diet	Rs.10,000/-
4	Transportation Charges	Rs.10,000/-
5	Attendant Charges	Rs.6,000/-
6	Pain & Suffering on a/c of injuries	Rs.10,000/-
7	Total compensation	Rs.3,20,868/-
8	Less: Award by MACT	Rs.2,98,468/-
9	Enhancement	Rs.22,400/-

12. In view of the above, appellant is entitled to an enhanced amount of Rs.22,400/-, which is payable by the respondents with interest @ 7% per annum from the date of filing of the claim petition till realisation.

13. Appeals are disposed off.

14. As the main cases have been decided, pending miscellaneous application(s) is/are disposed off.

27.01.2025

Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No