



FAO-2603-2007 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

218

FAO-2603-2007 (O&M)

Date of Decision: 30.04.2025

Rajbir Singh

.....Appellant

Vs.

Ram Bhagat and anr.

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Ms. Rahul Vats, Advocate, for the appellant.

Mr. D.K. Dogra, Advocate, for the respondent -Insurance Company.

\*\*\*\*

**SUDEEPTI SHARMA J.**

1. The present appeal has been preferred against the award dated 13.01.2007 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal'), vide which the claim petition filed by the appellant/claimant was dismissed.

**FACTS NOT IN DISPUTE**

2. The brief facts of the case are that on 25.08.2003, at about 4.00 p.m., claimant/appellant was driving his motor cycle No. HR-20-H-8056 to Bus Stand Petrol Pump for obtaining petrol. When he reached near Punjab National Bank, Talaki Gate, Hisar, a motorcycle bearing registration No. HR-20-H-0347 came from the back side of the claimant/appellant being driven by respondent No.1 in a rash and negligent manner hit against the motorcycle of the claimant/appellant. As a result of impact, claimant/appellant fell down and suffered injuries including fractures. He was taken to Sewak Sabha Hospital, Hisar from where he was shifted to Balaji Hospital, Hisar where he was treated and operated by the doctors.

**FAO-2603-2007 (O&M)**

3. Upon notice of the claim petition, respondents appeared and denied the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

1. Whether the accident resulting into injuries to claimant was on account of rash and negligent driving of motorcycle bearing No. HR-20-H-0347 by respondent No.1 as alleged?

OPP

2. Whether the claimant is entitled to get compensation. If so, to what amount?OPP

3. Whether the petition is based on collusion in between the petitioner and respondent No. 1. If so to what effect? OPR(2)

4. Whether the driver was not holding valid and effective driving license, if so to what effect? OPR 2

5. Relief.

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim-petition. Hence the present appeal.

**SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES**

6. Learned counsel for the appellant contends that the learned Tribunal did not appreciate the evidence on record and wrongly dismissed the claim petition only on the ground that the appellant failed to prove that the accident occurred due to rash and negligent driving of the offending vehicle driven by respondent No. 1. He, therefore, prays that the present appeal be allowed.

7. Per contra, learned counsel for the respondent-Insurance Company, however, vehemently argues that the claim petition has rightly been dismissed. Therefore, he prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

**FAO-2603-2007 (O&M)**

9. Before proceeding further, it is necessary to reproduce the relevant portion of the award, which reads as under:-

*“Issue No.1.*

*10 To discharge his burden the claimant Rajbir appeared as PW5 and deposed that on 25.08.2003 he was going to petrol pump near bus stand to take petrol by his motor cycle bearing registration No.HR-20-H-8056. When he was at some distance from Punjab National Bank, Hisar another motor cycle hit his motor cycle from back side, due to which he fell down and received multiple injuries including the fracture of right leg. The another motorcycle was being driven at high speed. After the accident he was taken to Sewak Sabha Hospital as no doctor was available there so he was taken to Balaji Hospital, Hisar, where he remained admitted at for about 15 days and he spent Rs.1,00,000 at that time including costs of medicines, hospital charges, special diet etc. He lodged FIR about this accident, copy of which is Ex. P1.*

*11. Mukesh Kumar Criminal Ahlmad in the court of Addl. Chief Judicial Magistrate, Hisar as PW2 in his statement has proved the factum that a case titled as State Vs. Ram Bhagat bearing FIR No.432 dated 25.08.2003 under sections 279, 338, 427 IPC at police Station City Hisar is pending in the court of Addl. Chief Judicial Magistrate, Hisar wherein charge under sections 279 and 338 of IPC has been framed against the accused Ram Bhagat Son of Bhim Singh R/o Migni Khera and now the case has been fixed for prosecution evidence. He has also proved the copy of FIR Ex.P11, mechanical report of motor cycle bearing registration No. HR-20-H-8056 Ex.P12*

**FAO-2603-2007 (O&M)**

*mechanical report of motor cycle bearing registration No. HR-20-H-0347 Ex.P13, Registration certificate of motor cycle No.HR-20-H-0347 Ex. P14, copy of driving licence of Ram Bhagat Ex.P15 and copy of site plan Ex. P16.*

12. *Learned counsel for petitioner has argued that the testimony of claimant PW5 Rajbir coupled with PW2 Mukesh Kumar go to show that the accident in question had taken place due to rash and negligent driving of offending vehicle on the part of respondent No.1. Since, criminal case is pending wherein charge has been framed against respondent No.1. This fact also proves that the respondent No.1 was negligent while driving the offending vehicle and the petitioner sustained injuries in the accident in question.*

13. *On the other hand learned counsel for Insurance Company i.e. Respondent No.2 has vehemently argued that the first information report in the present case Ex. P11 was lodged against an un-known vehicle and driver by the claimant. As per version of FIR, Satender @ Satbir Singh son of Roop Chand took the claimant in the hospital who was coming in a three-wheeler, but that Satender has not been examined in the present case. Except PW2 Mukesh Kumar no evidence has been led by the claimant to prove the factum that offending vehicle was being driven by respondent at the time of accident in rash and negligent manner whereas the respondent No.1 in his written statement has specifically denied the factum that he was rash and negligent while driving the offending vehicle.*

14. *I think there is merit in the contention of learned counsel for the respondent No.2 i.e Insurance company. In the present case first*

**FAO-2603-2007 (O&M)**

*information report Ex.P11 was got lodged by the claimant himself wherein he neither mention the name of the driver nor the number of the vehicle. Claimant while appeared as PW5 in his statement has also not disclosed the name of the driver as well as number of offending vehicle. So far as the rash and negligent driving on the part of respondent No.1 is concerned, the claimant has placed sole reliance on the statement of PW2 Mukesh Kumar who has proved the factum that a criminal case is pending against respondent wherein the charge has been framed under sections 279 and 338 of IPC, but mere framing of the charge will not suffice. Even the judgment of conviction or acquittal of criminal courts is not binding on the Tribunal. The onus to prove the negligence is always upon the claimant and he has to discharge it. In this view of the matter I am fortified with the judgment of our Hon'ble High Court reported as Ram Karan son of Shri Nand Lal and others Vs. Zile Singh sonof Sh. Partap Singh and others 2001(3) PLR 125.*

*15. In the present case the claimant has failed to prove the factum that accident in question has occurred due to rash and negligent driving offending vehicle on the part of respondent No.4. So this issue is decided in favour of respondents and against the claimant.*

*16 In new of my findings on issue No. 1, it is clear that the accident did not take place due to rash and negligent driving of offending vehicle by respondent No.1. The claimant could not ask for compensation from respondents as prayed by him. Hence the issue is decided against the petitioner.*

**FAO-2603-2007 (O&M)*****Issue No. 3&4***

*17 Neither any evidence was led qua these issues nor these issues were pressed at the time of the arguments. So these issues are decided against the respondents.”*

10. A perusal of the impugned award reveals that the learned Tribunal has committed a grave error in dismissing the claim petition solely on the ground that the claimant failed to prove rash and negligent driving on the part of respondent No.1 i.e the driver of the offending vehicle.

11. The claimant, Rajbir Singh, appeared in the witness box as PW-5 and furnished a detailed and consistent account of the manner in which the accident occurred. He categorically deposed that on 25.08.2003, while proceeding on his motorcycle near Punjab National Bank, Hisar, another motorcycle, driven at a high speed, struck his vehicle from behind, causing him to fall and sustain grievous injuries, including a fracture in his right leg. His testimony remained unshaken during cross-examination and has not been discredited on any material particular. The oral testimony, of the claimant thus, has credibility and inspires judicial confidence of this Court.

12. The Tribunal has erroneously placed undue emphasis on the fact that the FIR (Ex. P11), lodged on the very date of the occurrence, did not initially disclose the identity of driver or registration number of the offending vehicle. It is trite law that in cases involving motor accidents, particularly those resulting in serious bodily injuries, it is not uncommon for the victim to be unaware of the particulars of the offending vehicle at the initial stage. The law does not require the FIR to be a comprehensive narrative, nor does it mandate precise identification of the vehicle and driver at the inception. The purpose of the FIR is

**FAO-2603-2007 (O&M)**

to set the criminal law into motion, and any subsequent identification emerging from investigation is legally sufficient to establish the involvement.

13. Indeed, the investigative process undertaken by the police culminated in the filing of a charge-sheet against respondent No.1, Ram Bhagat, under Sections 279, 338, and 427 IPC. PW-2, Mukesh Kumar, the Criminal Ahlmad from the Court of the Additional Chief Judicial Magistrate, Hisar, categorically proved that charges have been framed against respondent No. 1 in the said criminal case and the matter is pending trial. He also proved on record the FIR (Ex. P11), the mechanical inspection reports of both motorcycles (Ex. P12 and Ex. P13), the registration certificate of the offending vehicle (Ex. P14), the driving licence of respondent No.1 (Ex. P15), and the site plan (Ex. P16). This documentary corpus, when read in conjunction with the oral evidence, clearly establishes the nexus between the accident and the rash and negligent act of respondent No.1.

14. It is settled law that once a charge-sheet is filed and charges are framed in a criminal case arising from a motor accident, the same may be relied upon by the Tribunal as strong corroborative evidence to support the version of the claimant, particularly where there is no effective rebuttal. Reference at this stage can be made to judgment of this Court in a case of **Smt. Gayatri Devi and others vs. Ashwani Kumar and others**, passed in FAO No. 1866-2007, decided on 21.03.2025. The operative part of the judgment reads as under:-

*“Furthermore, PW3-Raja Ram, Criminal Ahlmad to the CJM, Narnaul, testified that a challan had been duly presented in FIR No. 27 dated 4.2.2005 against Respondent No.1 and the charges were already framed under Sections 279 and 304-A IPC. Jurisprudence in motor accident cases unequivocally*

**FAO-2603-2007 (O&M)**

*holds that once the FIR has been registered and a charge sheet has been filed, it constitutes prima facie evidence of the fact that the accident occurred due to the negligent driving of the accused. The learned Tribunal, however, erroneously disregarded this crucial piece of documentary evidence, which lends substantial credence to the case of the appellants/claimants.*

15. Reference at this stage can further be made to judgment of this Court in a case of ***Manjit Kaur and others vs. Gurdev Singh and others***, passed in FAO No. 349-2006, decided on 31.01.2025. The operative part of the judgment reads as under:-

*“14. Moreover, PW-3 Sh. Ved Parkash (Ahlmad) in the Court of Additional Chief Judicial Magistrate, Sirsa deposed that he brought the summoned file in case State Vs. Gurdev Singh, in FIR No.45 dated 10.06.2003, under Sections 279/304-A IPC, Police Station Nathusari Chopta pending for prosecution evidence. Furthermore, the learned Tribunal has erred in overlooking the well-established legal principle that in proceedings under the Motor Vehicles Act, once a challan has been presented against the driver of the offending vehicle, it constitutes prima facie evidence of his involvement in the accident.*

16. The claim of the claimant/appellant is further fortified by medical evidence. PW-1, Dr. B.B. Nagpal of Balaji Hospital, Hisar, deposed that the claimant was admitted on the date of the accident, i.e. 25.08.2003 and remained hospitalized till 09.09.2003. The claimant/appellant underwent extensive medical treatment, including debridement, external fixation, and ultimately plating of the fibula. The medical records and MLR (Ex. P1) support his deposition and

**FAO-2603-2007 (O&M)**

establish the nature and extent of the injuries sustained. The testimony of PW-1 stands corroborated by the treatment documents on record.

17. Additionally, PW-3, Dr. Reena Jain, Medical Officer, General Hospital, Hisar, proved the Disability Certificate (Ex. P17), which records a permanent disability of 8% in the lower limb of the claimant. Her testimony remained uncontroverted and further affirms the lasting impact of the injuries sustained in the accident.

18. In view of the uncontroverted oral and documentary evidence, including the unimpeached testimony of PW-5 Rajbir Singh, the consistent medical testimony, the police investigation and charge-sheet, and the disability certificate, this Court is of the considered opinion that the accident in question occurred due to the rash and negligent driving of respondent No.1.

19. Accordingly, the findings of the learned Tribunal are liable to be set aside.

20. With regard to determination of compensation, the record contains evidence of hospital admission, the claimant's earning and expenses incurred for medical treatment and hospitalization. Consequently, this Court shall adjudicate the compensation in accordance with the documented evidence on the record.

21. A perusal of the record indicates that the claimant appellant was stated to be running Coaching Centre and his monthly income was stated to be Rs.1,00,000/- per annum. However, no documentary evidence in the form of Income Tax Return was brought before the learned Tribunal to prove the above stated income. Therefore, under the prevailing facts of the present case, the income of the appellant is assessed as Rs.3000/- per month in accordance with the minimum wages prescribed for highly skilled labourer in the State of Haryana at the prevalent time.



FAO-2603-2007 (O&M)

**SETTLED LAW ON COMPENSATION**

22. Hon'ble Supreme Court has settled the law regarding grant of compensation with respect to the disability. The Apex Court in the case of **Raj Kumar Vs. Ajay Kumar and Another (2011) 1 Supreme Court Cases 343**, has held as under:-

***General principles relating to compensation in injury cases***

*5. The provision of the Motor Vehicles Act, 1988 ('Act' for short) makes it clear that the award must be just, which means that compensation should, to the extent possible, fully and adequately restore the claimant to the position prior to the accident. The object of awarding damages is to make good the loss suffered as a result of wrong done as far as money can do so, in a fair, reasonable and equitable manner. The court or tribunal shall have to assess the damages objectively and exclude from consideration any speculation or fancy, though some conjecture with reference to the nature of disability and its consequences, is inevitable. A person is not only to be compensated for the physical injury, but also for the loss which he suffered as a result of such injury. This means that he is to be compensated for his inability to lead a full life, his inability to enjoy those normal amenities which he would have enjoyed but for the injuries, and his inability to earn as much as he used to earn or could have earned. (See C.K. Subramonia Iyer v. T. Kunhikuttan Nair, AIR 1970 Supreme Court 376, R.D. Hattangadi v. Pest Control (India) Ltd., 1995 (1) SCC 551 and Baker v. Willoughby, 1970 AC 467).*

**FAO-2603-2007 (O&M)**

6. *The heads under which compensation is awarded in personal injury cases are the following :*

***Pecuniary damages (Special Damages)***

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

*(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 only 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.*

xxx

xxx

xxx

xxx

***19. We may now summarise the principles discussed above :***

**FAO-2603-2007 (O&M)**

- (i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*
- (ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).*
- (iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.*
- (iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.*

*20. The assessment of loss of future earnings is explained below with reference to the following*

***Illustration 'A'*** : *The injured, a workman, was aged 30 years and earning Rs. 3000/- per month at the time of accident. As per Doctor's evidence, the permanent disability of the limb as a consequence of the injury was 60% and the consequential permanent disability to the person was quantified at 30%. The loss of earning capacity is however assessed by the Tribunal as 15% on*

**FAO-2603-2007 (O&M)**

*the basis of evidence, because the claimant is continued in employment, but in a lower grade. Calculation of compensation will be as follows:*

*a) Annual income before the accident : Rs. 36,000/-.*

*b) Loss of future earning per annum  
(15% of the prior annual income) : Rs. 5400/-.*

*c) Multiplier applicable with reference to age : 17*

*d) Loss of future earnings : (5400 x 17) : Rs. 91,800/-*

***Illustration 'B' :*** *The injured was a driver aged 30 years, earning Rs. 3000/- per month. His hand is amputated and his permanent disability is assessed at 60%. He was terminated from his job as he could no longer drive. His chances of getting any other employment was bleak and even if he got any job, the salary was likely to be a pittance. The Tribunal therefore assessed his loss of future earning capacity as 75%. Calculation of compensation will be as follows :*

*a) Annual income prior to the accident : Rs. 36,000/- .*

*b) Loss of future earning per annum  
(75% of the prior annual income) : Rs. 27000/-.*

*c) Multiplier applicable with reference to age : 17*

*d) Loss of future earnings : (27000 x 17) : Rs. 4,59,000/-*

***Illustration 'C' :*** *The injured was 25 years and a final year Engineering student. As a result of the accident, he was in coma for two months, his right hand was amputated and vision was affected. The permanent disablement was assessed as 70%. As the injured was incapacitated to pursue his chosen career and as he required the assistance of a servant throughout his life, the loss of future*



**FAO-2603-2007 (O&M)**

*earning capacity was also assessed as 70%. The calculation of compensation will be as follows :*

- a) Minimum annual income he would have got if had been employed as an Engineer : Rs. 60,000/-*
- b) Loss of future earning per annum (70% of the expected annual income) : Rs. 42000/-*
- c) Multiplier applicable (25 years) : 18*
- d) Loss of future earnings : (42000 x 18) : Rs. 7,56,000/-*

*[Note : The figures adopted in illustrations (A) and (B) are hypothetical. The figures in Illustration (C) however are based on actuals taken from the decision in Arvind Kumar Mishra (supra)].*

23. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

*“ Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral*

**FAO-2603-2007 (O&M)**

*expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.”*

24. Hon’ble Supreme Court in the case of **Erudhaya Priya Vs. State Express Tran. Corpn. Ltd. 2020 ACJ 2159**, has held as under:-

*“ 7. There are three aspects which are required to be examined by us:*

***(a) the application of multiplier of '17' instead of '18';***

*The aforesaid increase of multiplier is sought on the basis of age of the appellant as 23 years relying on the judgment in National Insurance Company Limited v. Pranay Sethi and Others, 2017 ACJ 2700 (SC). In para 46 of the said judgment, the Constitution Bench effectively affirmed the multiplier method to be used as mentioned in the table in the case of Sarla Verma (Smt) and Others v. Delhi Transport Corporation and Another, 2009 ACJ 1298 (SC) . In the age group of 15-25 years, the multiplier has to be '18' along with factoring in the extent of disability.*

*The aforesaid position is not really disputed by learned counsel for the respondent State Corporation and, thus, we come to*

**FAO-2603-2007 (O&M)**

*the conclusion that the multiplier to be applied in the case of the appellant has to be '18' and not '17'.*

***(b) Loss of earning capacity of the appellant with permanent disability of 31.1%***

*In respect of the aforesaid, the appellant has claimed compensation on what is stated to be the settled principle set out in Jagdish v. Mohan & Others, 2018 ACJ 1011 (SC) and Sandeep Khanuja v. Atul Dande & Another, 2017 ACJ 979 (SC). We extract below the principle set out in the Jagdish (supra) in para 8:*

*"8. In assessing the compensation payable the settled principles need to be borne in mind. A victim who suffers a permanent or temporary disability occasioned by an accident is entitled to the award of compensation. The award of compensation must cover among others, the following aspects:*

- (i) Pain, suffering and trauma resulting from the accident;*
- (ii) Loss of income including future income;*
- (iii) The inability of the victim to lead a normal life together with its amenities;*
- (iv) Medical expenses including those that the victim may be required to undertake in future; and*
- (v) Loss of expectation of life."*

*[emphasis supplied]*

*The aforesaid principle has also been emphasized in an earlier judgment, i.e. the Sandeep Khanuja case (supra) opining that the multiplier method was logically sound and legally well*

**FAO-2603-2007 (O&M)**

*established to quantify the loss of income as a result of death or permanent disability suffered in an accident.*

*In the factual contours of the present case, if we examine the disability certificate, it shows the admission/hospitalization on 8 occasions for various number of days over 1½ years from August 2011 to January 2013. The nature of injuries had been set out as under:*

***"Nature of injury:***

- (i) compound fracture shaft left humerus*
- (ii) fracture both bones left forearm*
- (iii) compound fracture both bones right forearm*
- (iv) fracture 3rd, 4th & 5th metacarpals right hand*
- (v) subtrochanteric fracture right femur*
- (vi) fracture shaft femur*
- (vii) fracture both bones left leg*

*We have also perused the photographs annexed to the petition showing the current physical state of the appellant, though it is stated by learned counsel for the respondent State Corporation that the same was not on record in the trial court. Be that as it may, this is the position even after treatment and the nature of injuries itself show their extent. Further, it has been opined in para 13 of Sandeep Khanuja case (supra) that while applying the multiplier method, future prospects on advancement in life and career are also to be taken into consideration.*


**FAO-2603-2007 (O&M)**

*We are, thus, unequivocally of the view that there is merit in the contention of the appellant and the aforesaid principles with regard to future prospects must also be applied in the case of the appellant taking the permanent disability as 31.1%. The quantification of the same on the basis of the judgment in National Insurance Co. Ltd. case (supra), more specifically para 61(iii), considering the age of the appellant, would be 50% of the actual salary in the present case.*

***(c) The third and the last aspect is the interest rate claimed as 12%***

*In respect of the aforesaid, the appellant has watered down the interest rate during the course of hearing to 9% in view of the judicial pronouncements including in the Jagdish's case (supra). On this aspect, once again, there was no serious dispute raised by the learned counsel for the respondent once the claim was confined to 9% in line with the interest rates applied by this Court.*

**CONCLUSION**

*8. The result of the aforesaid is that relying on the settled principles, the calculation of compensation by the appellant, as set out in para 5 of the synopsis, would have to be adopted as follows:*

| <b><i>Heads</i></b>   | <b><i>Awarded</i></b> |
|---|-----------------------|
| <i>Loss of earning power<br/>(Rs.14,648 x 12 x 31.1/100</i> | <i>Rs. 9,81,978/-</i> |
| <i>Future prospects (50 per</i>                             | <i>Rs.4,90,989/-</i>  |



## FAO-2603-2007 (O&amp;M)

|  |                       |
|--|-----------------------|
| <i>cent addition)</i>  |                       |
| <i>Medical expenses including transport charges, nourishment, etc.</i> | <i>Rs.18,46,864/-</i> |
| <i>Loss of matrimonial prospects</i>                                   | <i>Rs.5,00,000/-</i>  |
| <i>Loss of comfort, loss of amenities and mental agony</i>             | <i>Rs.1,50,000/-</i>  |
| <i>Pain and suffering</i>  | <i>Rs.2,00,000/-</i>  |
| <i>Total</i>   | <i>Rs.41,69,831/-</i> |

*The appellant would, thus, be entitled to the compensation of Rs. 41,69,831/- as claimed along with simple interest at the rate of 9% per annum from the date of application till the date of payment.*

**RELIEF**

25. Accordingly, as per settled principle of law as laid down by Hon'ble the Supreme Court, the present appeal is allowed and award dated 13.01.2007 is set aside. The appellant/claimant is entitled to amount of compensation as calculated below:-

|  |                           |
|--|---------------------------|
| Income   | Rs.3000/-                 |
| Loss of Future Prospect 25%                        | Rs.1200/- (3000X25%)      |
| Annual Income                                      | Rs.4200 X 12= Rs.50,400/- |
| Loss of future earning on account of 8% disability | Rs.4032/- (50400X8%)      |
| Multiplier of 6                                    | 4032X6=Rs.64,512/-        |
| Medical Expenses                                   | Rs.30,000/-               |
| Pain and suffering                                 | Rs.40,000/-               |
| Attendant Charges                                  | Rs.20,000/-               |



## FAO-2603-2007 (O&amp;M)

|                                     |                      |
|-------------------------------------|----------------------|
| Transportation Charges              | Rs.20,000/-          |
| Loss of amenities of life           | Rs.50,000/-          |
| Special Diet                        | Rs.20,000/-          |
| <b>Total compensation awarded:-</b> | <b>Rs.2,44,512/-</b> |

26. So far as the interest part is concerned, as held by Hon'ble Supreme Court in *Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma* 2019 ACJ 3176 and *R.Valli and Others VS. Tamil Nandu State Transport Corporation* (2022) 5 Supreme Court Cases 107, the amount so calculated shall carry an interest @ 9% per annum from the date of filing of the claim petition, till the date of realization.

27. So far as finding on the following issue:-

1. 3. *Whether the petition is based on collusion in between the petitioner and respondent No. 1. If so to what effect? OPR(2)''*
2. 4. *Whether the driver was not holding valid and effective driving license, if so to what effect? OPR 2'',*

The learned Tribunal has held as under:-

*“17. Neither any evidence was led qua these issues nor these issues were pressed at the time of the arguments. So these issues are decided against the respondents.”*

28. A perusal of the record reveals that as per Insurance Policy, the vehicle in question was insured on the date of the accident i.e 25.08.2003. Further the driving licence (Exhibit P-15) of respondent No. 1 is also on record which proves that he was holding a valid and effective driving licence on the date of the accident. Therefore, respondent No.3-Insurance Company is held liable to pay the amount of compensation.

**FAO-2603-2007 (O&M)**

29. Consequently, respondent No. 3-Insurance Company is directed to deposit the amount along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the same to the appellant-claimant in his bank account. The appellant-claimant is directed to furnish his bank account details to the Tribunal.

30. Further Insurance Company is directed to disburse the current scheduled fees to Mr. D.K. Dogra, Advocate, within a period of twenty days from the date of receipt of copy of this judgment, pursuant to order dated 18.07.2024 passed by this Court in FAO No.1682 of 2007.

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

**30.04.2025**

Gaurav Arora

**(SUDEEPTI SHARMA)****JUDGE**

Whether speaking/non-speaking : Speaking

Whether reportable : Yes