



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

(210)

**FAO no.339 of 2002
Reserved on: 23.09.2025
Pronounced on: 25.09.2025**

Mithilesh Prashad Gupta**.....Appellant****Versus****Harun Khan & Others****.....Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Ishan Aggarwal, Advocate for
Mr. Sudhir Aggarwal
for the appellant.

Mr. Vinod Chaudhri, Advocate
for the respondents.

VIRINDER AGGARWAL, J.

1. This Appeal is directed against the award dated 13.10.2001 passed by the Motor Accidents Claims Tribunal, Gurgaon, whereby the learned Tribunal awarded a compensation of ₹75,000/- along with interest at 9% per annum to the appellant/claimant on account of injuries sustained in a motor vehicular accident.

FACTUAL BACKGROUND

2. On 15.09.1999, the appellant Mithilesh Prashad Gupta, aged about 26 years and working as a private tutor earning ₹ 6,000/- per month, was riding his motorcycle (HR-26F-4560), from Sector 14, Gurgaon, to Saraswati Vihar Chakkarpur, Gurgaon. Near Sukhrali village, Tata 407 No. UP-13D-5691, driven rashly and negligently by respondent No. 1 (Harun Khan), came from the opposite direction, overtook another vehicle, and dashed into the appellant's motorcycle. As a result, the appellant's left leg was fractured,



leading to permanent disability, and he also suffered other injuries. The appellant was hospitalized at Kalyani Hospital, Gurgaon, for 8 days, underwent surgery, remained bedridden for over three months, incurred expenses on treatment, conveyance, maid servant, sweeper, and repairs to his scooter, and lost income during the period of recovery. He filed a claim petition under Section 166 of the Act seeking ₹3,00,000/-. The Tribunal held the accident due to the sole negligence of respondent No. 1, fixed joint and several liability on respondents Nos. 1 and 2, with respondent No. 3 (Oriental Insurance Company Ltd.) to pay as the vehicle was insured. However, it awarded only ₹3,00,000/- in a lump sum without a structured breakdown, with 18% interest from the date of the accident.

CONTENTIONS

3. Learned counsel for the appellant has assailed the award primarily on the ground that the compensation is grossly inadequate. Learned counsel for the appellant argues that the learned Tribunal erred in not adopting the structured formula for compensation in injury cases. It is contended that the appellant's income, permanent disability, medical expenses, loss of earning during treatment, future loss of earning capacity, and non-pecuniary damages for pain and suffering were not properly assessed, leading to an arbitrary lump-sum award of ₹75,000. Further, no addition for future prospects or conventional heads was made.

4. On the other hand, learned counsel for the respondent no.3 supports the learned Tribunal's award and prays for dismissal of the appeal.

OBSERVATIONS AND FINDING

5. Having heard the learned counsel for the parties and perused the record, including the evidence led before the Tribunal, this Court finds merit in the



appellant's contentions. The Learned Tribunal's approach in awarding a lump-sum amount of ₹75,000/- without applying the established structured method for injury compensation is erroneous and warrants interference.

6. As far as the quantum of compensation is concerned, the award passed by the learned Tribunal does not fully reflect the settled principles of law and thus warrants reassessment by this Court. The injured claimant, aged 26 years at the time of the accident on 15.09.1999, was a private tutor, and in the absence of documentary proof for the claimed ₹6,000/- monthly income, a notional monthly income of **₹3,000/-** (annual income ₹36,000/-) is assessed based on his testimony. As per guidelines in *National Insurance Company Limited v. Pranay Sethi, 2017 (16) SCC 680* and given his self-employment and age below 40, a **40%** addition towards **future prospects** is applied, which raising the notional annual income to **₹50,400/-**.

7. Further, the claimant suffered a 5% functional disability due to a fracture of the left leg into, requiring surgery and prolonged recovery, which limits his mobility and independence such as inability to drive a motorcycle or go out for, though it minimally impacts his tutoring profession, which is sedentary and does not involve heavy physical labour or extensive travel, aligning with *Raj Kumar v. Ajay Kumar, 2011 (1) SCC 343* for assessing disability based on vocation. For the **future loss of earning capacity**, the annual loss due to 5% functional disability is **₹2,520/-** annual, and applying a multiplier of 17 appropriate for age 26 as per *Sarla Verma v. Delhi Transport Corporation 2009 (6) SCC 121*, it comes to **₹42,840/-**. In addition to it, the loss of income during the treatment and recovery period (hospitalized for 8 days, bedridden for over 3 months) is assessed at **₹3,000/-** per month for 4 months, amounting to **₹12,000/-**.



8. Under other Pecuniary and non-pecuniary damages, the claimant is entitled to **₹35,000/-** towards medical expenses incurred on treatment as per produced bills (Ex. P1 to P6). **₹10,000/-** towards attendant charges as he had to hire a maid servant and sweeper during his recovery period, **₹10,000/-** for special diet and nourishment during hospitalization. **₹25,000/-** for pain and suffering due to the trauma of surgery and extended bed rest, and **₹25,000/-** for loss of amenities due to permanent handicap affecting daily activities and independence. Resultantly, the total enhanced compensation amounts to **₹1,59,840/-**.

COMPARATIVE COMPUTATION:

Particulars	Compensation By Tribunal	Reassessed Compensation (₹)
Income	Monthly- 3,000 Annual- 36,000	Monthly- 3,000/- Annual- 36,000/-
Annual Income With Future Prospects	Nil	50,400/- (40%)
Income With 5% Functional Disability	Nil	2520/- (5% of 50,400)
Multiplier	Nil	17
Loss of Disability/Future Earning Capacity	Nil	42,840/- (2520/- x 17)
Loss of Income During Treatment	12,000/-	12,000/-
Medical Expenses	35,000/-	35,000/-
Pain and Suffering	25,000/-	25,000/-
Special Diet and nourishment	Nil	10,000/-
Attendant Charges	3,000/-	10,000/-
Loss of Amenities of Life	Nil	25,000/-
Total Enhanced Compensation	75,000/- (lump-sum)	1,59,840/-



8. Accordingly, the present appeal is allowed. The impugned award is modified, and the compensation is enhanced to **₹1,59,840/-** with interest as above. The liability and apportionment of compensation shall be applied as per the learned Tribunal's determination, with only the quantum of compensation enhanced based on the reassessed structured formula.

9. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)
JUDGE

25.09.2025

P.Singh

- (i) *Whether speaking/reasoned* : Yes/No
(ii) *Whether reportable* : Yes/No