

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

(101)

FAO no.580 of 1990(O&M)

Reserved on: 24.09.2025

Pronounced on: 29.09.2025

MOHINDER SINGH(SINCE DECEASED) THROUGH HIS LRS**....APPELLANTS****VERSUS****AJAIB SINGH AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. R.K.S. Brar, Advocate
for the appellants.

Mr. I.S.Kingra, Sr. DAG, Punjab
for the respondent no.2 & 3.

VIRINDER AGGARWAL, J.

1. The present appeal has been preferred by the injured-claimant Mohinder Singh against the award dated 11.05.1990 passed by the learned Motor Accident Claims Tribunal, Jalandhar, whereby his claim petition was dismissed.

FACTUAL BACKGROUND

2. On 17.09.1988, the appellant, employed as L/Naik Driver in C.R.P.F., Ropar, was riding a scooter with Harjit Singh as pillion rider. Near Police Station Sadar, Jalandhar, a Punjab Roadways bus No. PJG-739, driven by respondent No.1 Ajaib Singh, came from behind and struck the scooter. The appellant suffered grievous injuries and was admitted in Civil Hospital, Jalandhar, later referred to CMC Ludhiana, where his left leg was amputated



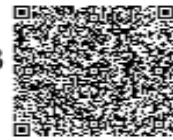
above the knee due to gangrene resulted from the injuries. He remained hospitalized for about two months and was ultimately discharged from service, being rendered unfit to drive any vehicle.

3. The learned Tribunal dismissed the claim petition holding that the accident had not occurred due to rash and negligent driving of the bus but rather due to the claimant's own fault. The testimony of PW6 (Mangat Ram), an eye-witness, was discarded on the ground that he did not produce his bus ticket.

CONTENTIONS

4. Learned Counsel for the appellant contended that the learned Tribunal erred in discarding the testimony of PW6 (Mangat Ram) merely because he did not preserve his bus ticket, which is an unrealistic expectation. It was argued that the testimony of the injured, corroborated by medical evidence, established the rash and negligent driving of the bus. Reliance was placed on ***Bimla Devi v. Himachal Road Transport Corporation, (2009) 13 SCC 530***, where it was held that in accident claim cases the standard of proof is preponderance of probability. Learned Counsel further urged that since the appellant was a driver by profession, amputation of his left leg must be treated in terms of ***Raj Kumar v. Ajay Kumar, (2011) 1 SCC 343***. Thus, the award passed by the learned Tribunal is liable to be set aside, and claimant be awarded with reasonable compensation.

5. *Per Contra*, the learned State counsel appearing for respondents No.2 and 3 (Punjab Roadways & State of Punjab) supported the award of the learned Tribunal, contending that the claimant himself was negligent and that the development of gangrene was an intervening circumstance, not directly attributable to the accident.

**OBSERVATIONS AND FINDINGS**

6. I have considered the rival submissions and perused the record of the case.

7. At the outset, the learned Tribunal below has given too much stress on the production of the bus ticket of the witness who has appeared in favour of the appellant. The testimony of Mangat Ram as PW6 has been ignored only because of the reasons that his name does not figure in FIR, hospital record and claim petition as eye witness, and he belongs to the village to which the pillion rider was belonging and has expired in this accident. On these grounds the testimony of the said witness Mangat Ram cannot be discarded. At the most the same can be viewed with searching examination, but the same cannot be discarded. Testimony of PW6 Mangat Ram shows that he deposed regarding manner of accident with details and has deposed that bus hit the scooter from behind. Thus, the dismissal of testimony of PW6 on the grounds of non-production of the bus ticket, his name being not figured in the FIR, hospital record and claim petition is erroneous, as in the ordinary course, no passenger is expected to preserve a bus ticket for future references or legal proceedings and it is not necessary that name of all passengers may figure in FIR, hospital record and claim petition. Consequently, the impugned award is rendered unsustainable and is liable to be quashed.

8. However, Once the testimony of the injured is corroborated by medical evidence and supported by an independent eye-witness, the version of the accident stands established. The medical record (Ex PW2/A, Ex PW3/A and PW 3/X) and testimonies of the doctors (PW1 & PW 3) proves beyond doubt that the appellant suffered amputation of his left leg above the knee due to gangrene resulting directly from the injuries sustained in the alleged accident by



offending bus. Hence, The evidence clearly establishes that the accident occurred due to the rash and negligent driving of the bus driven by respondent No.1, who struck the scooter from behind without blowing the horn or reducing speed, leading to the appellant's fall and severe injuries resulted in amputation of his left leg.

9. Further, in the present case, as the paper book is a burnt record and the exact age of the appellant could not be ascertained from the entire paperbook, it is difficult to compute compensation strictly on the basis of multiplier method as per settled law. Nevertheless, it is well settled that the duty of the Court is to award just compensation under Section 166 of the Motor Vehicles Act, and strict application of formulae should not defeat substantial justice (***Helen C. Rebello v. Maharashtra SRTC, 1999 (1) SCC 90***). It stands proved on record that the appellant was employed as a L/Naik Driver with the C.R.P.F., Ropar, earning ₹1550/- per month as proved by discharge certificate Ex. PW5/A, and his working capacity has been rendered nil. He suffered amputation of his left leg above the knee resulting in 100% functional disability as explained in ***Raj Kumar v. Ajay Kumar, 2011 (1) SCC 343*** and he was discharged from service on this account and thereby lost his livelihood; and that he has wife, three minor children and old parents dependent upon him. Keeping in view his status as a permanent government employee, the total loss of earning capacity, the prolonged suffering, and the financial as well as social hardship caused to his dependents, this Court finds it just and reasonable to award a lump sum compensation of ₹5,00,000/- (Rupees Five Lakhs only) for loss of future income due to disability.

10. Further, the Hon'ble Supreme Court in ***Rekha Jain v. National Insurance Co., 2013 (8) SCC 389, and K. Suresh v. New India Assurance Co.,***



2012 (12) SCC 274, has emphasized that apart from loss of income, the Court must also consider loss of amenities, pain and suffering, and the inability of the injured to lead a normal life. In the present case, the appellant remained hospitalised for about two months, underwent multiple surgeries, and is now permanently deprived of the amenities and enjoyment of life.

Other heads:

- Medical expenses (proved as per bills): **₹40,000/-**
- Artificial limb expenses: **₹50,000/-**
- Loss of enjoyment/amenities of life: **₹50,000/-**
- Hospitalisation expenses (two months): **₹10,000/-**
- Pain and suffering: **₹25,000/-**
- Special diet and attendant charges: **₹6,000/-**

11. Therefore, the total compensation of **₹6,81,000/-** is awarded to the appellant-claimant with interest at rate of 7% per annum from, the date of claim petition, to be paid by the respondents jointly and severally.

12. Accordingly, the present appeal is allowed and the impugned award dated 11.05.1990 passed by The Motor Vehicle Tribunal, Jalandhar is hereby set aside.

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

29.09.2025
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

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