2025:PHHC:167693

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4735-2013 (O&M)
Date of Decision: December 02, 2025

Master Amit Kumar

...Appellant

VERSUS

Mohan Lal and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Amit Choudhary, Advocate
for the appellant.

Mr.Tushar Gera, Advocate
for respondents No.1 and 2.

Ms.Kanika, Advocate for
Mr.Pardeep Goyal, Advocate
for respondent No.3.

****

ARCHANA PURI, J.

The appellant-claimant has filed the present appeal to assail the judgment of dismissal of the claim petition, filed by him to seek compensation, on account of injuries sustained by him, in a motor vehicular accident.

The essential facts to be noticed are as follows:-

That, on 19.03.2012, at about 12-12.30 noon, the appellant-claimant along with his mother Vibha Devi was proceeding towards City Fatehabad. When they reached at mini bye-pass, Fatehabad, then a school bus bearing registration No.HR-62-3540 being driven in a rash and negligent manner by

respondent No.1-Mohan Lal had come from the Hisar bye-pass side and struck against the appellant-claimant, as a result whereof, his left foot was crushed. The driver of the offending bus fled away towards Bighar road. FIR No.123 dated 23.03.2012 under Sections 279, 337 IPC was registered against respondent No.1. The appellant-claimant had undergone treatment in the hospitals. He had filed the claim petition for seeking compensation, on account of injuries sustained by him, in the accident in question.

In pursuance of the notice issued, respondents No.1 and 2, who are driver and owner of the offending bus had filed the reply, wherein, they denied about taking place of any accident, on account of fault of respondent No.1. In fact, they pleaded that the accident in question, took place, due to fault of the claimant himself, though, they admitted that respondent No.1 is facing trial.

Respondent No.3-insurance company denied about involvement of the vehicle in question and further also pleaded that in the FIR, the registration number of the vehicle was mentioned as HR-62-3548 and name of its driver as Vijay s/o Nihal Singh. Later on, the number of the offending vehicle and name of the driver was changed, in collusion with the police. Further also, the insurance company pleaded no liability, on account of there being violation of the terms and conditions of the insurance policy.

From the pleadings of the parties, following issues were framed:-

> *"1. Whether the accident in question took place due to rash and negligent driving of offending vehicle bearing registration No.HR-62/3540 by respondent No.1 in which the petitioner received injuries?OPP,*

2. *If issue No.1 is proved, whether the petitioner is entitled to compensation, if so to what amount?OPP.*
3. *Whether there is violation of terms and conditions of insurance policy as alleged?OPR3.*
4. *Relief."*

Thereupon, evidence was led by the appellant-claimant and the insurance company. However, respondents No.1 and 2 did not lead any evidence.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about FIR Ex.P8 to have been got recorded, on the statement of Vibha Devi, mother of the appellant-claimant, who stepped into witness box as PW-4. Therein, she had specifically named Vijay s/o Nihal Singh to be driver of the offending bus bearing registration No.HR-62-3548. Further, while filing the claim petition, she mentioned the name of driver as Mohan Lal s/o Mahabir Prasad and also asserted about the number of vehicle as HR-62-3540. In the given circumstances, it is solely on account of respondent No.1-Mohan Lal, to be facing trial, it was held that it does not prove that offending vehicle was involved in the accident in question and thus, finding qua issue No.1 was returned against the appellant-claimant and ultimately, claim petition was dismissed.

Being aggrieved, the appellant-claimant has filed the present appeal.

In pursuance of the notice issued, respondent made appearance through respective counsel.

Counsel for the parties heard.

At the very outset, it is submitted by learned counsel for the

appellant that the findings recorded by learned Tribunal, about there being no evidence, with regard to involvement of the bus bearing registration No.HR-62-3540, driven by respondent No.1 is erroneous. It is submitted that testimony of Vibha Devi, mother of the appellant-claimant, as such, has not been appraised in the correct perspective. In fact, it is submitted that Vibha Devi has categorically stated about the accident to have been caused, due to rash and negligent driving of offending bus bearing registration No.HR-62-3540, driven by respondent No.1-Mohan Lal. No doubt, it is submitted that in the FIR, which was got recorded promptly, there is mention of number of the bus as HR-62-3548 and its driver as Vijay, but however, counsel submits that Vibha Devi, in her affidavit Ex.PW4/A, has categorically assigned the reason for mentioning of the number of bus, at first instance, as HR-62-3548 and also about the driver's name as Vijay. It has been stated that it was subsequently, that the mother of the appellant, came to know about the number of the bus involved in the accident and also name of its driver.

Moreover, it is also submitted that it was during the course of investigation, the police found the registration number of the bus to be HR-62-3540 and name of the driver to be Mohan Lal-respondent No.1 and he was identified by the mother of the appellant. However, this fact, as such, has not been taken into consideration. In fact, counsel submits that the parameters of appraisal of evidence in a case relating to Motor Vehicles Act, which is a benevolent piece of legislation, is quite different, from the appraisal of the evidence, in criminal case. It is pointed out that though respondent No.1 has been acquitted in the criminal case, but however, on account of this acquittal, the claim petition, as such, cannot be dismissed.

The proposed 'work on' of the compensation, while adjudicating on issues No.2 and 3, is also stated to be not as per the prevalent law.

However, on the other hand, learned counsel for the insurance company has laid much emphasis upon the accident, having not been caused by Mohan Lal and non-involvement of the vehicle bearing registration No.HR-62-3540, in the alleged accident. In fact, counsel submits that it was on account of scanty evidence, the Magistrate, in the criminal case, had recorded acquittal of Mohan Lal.

During the course of arguments, counsel has placed on record the copy of the judgment dated 19.09.2014, wherein, respondent No.1-Mohan Lal was acquitted by the criminal Court. In fact, it is submitted that the first version of the fact of accident and the involvement of the accident, is spelt in the FIR Ex.P8, which was got recorded, at the instance of Vibha Devi and therein, she had specifically stated about the number of the offending vehicle as HR-62-3548 and also name of the driver as Vijay s/o Nihal Singh. In the given circumstances, it is submitted that subsequently, stating about the number of the vehicle involved to be HR-62-3540 and name of its driver as Mohan Lal, is only a case of plantation of this vehicle and driver, as an afterthought and as a result of collusion between the interested parties. Consequently, it is submitted that the wrongful role has been assigned to Mohan Lal and also there to be non-involvement of the offending bus.

In view of the submissions aforesaid, it is pertinent to mention that no doubt, from the judgment placed on record, during the course of arguments, it is evident that Mohan Lal was acquitted by the criminal Court, but however, this acquittal so recorded by learned trial Court, should not

weigh in the mind of the Court, as the parameters of appraisal and the extent of evidence, brought on record, to establish the case, is entirely different in criminal proceedings, as compared to the tortious claims/proceedings, in the motor accident claims.

It has been consistently held by the Courts that the Tribunal is to adjudge the case, only on the basis of evidence, produced before it and not to rely, solely on account of material, put forth, before the criminal Court, on the basis whereof, judgment of acquittal is passed. Of course, fundamental facts, ought to be established. Basically, the test is whether a prudent man, under the peculiar circumstances of the case, assume the existence of certain facts, as true or disbelieve it. A judgment of acquittal passed in a criminal case is admissible in a civil matter, only for the purpose of showing that a criminal case was initiated, against some persons and the result of such criminal case. However, the findings of a criminal Court are not binding on the Civil Court, although the converse is true. The Tribunal is to adjudge the case, on the basis of the evidence produced before it and not on the basis of the findings, recorded by the criminal court, though the same may put Tribunal, on some caution for scrutiny purposes. But anyhow, to sum up, there is requirement of independent appraisal of the evidence, as coming forth, before the Tribunal.

In the light of the aforesaid, it is pertinent to mention that FIR was got recorded by Vibha Devi, who was accompanying the appellant-claimant, at the relevant time. She has narrated about the accident having caused by the school bus. The FIR was got registered by Vibha Devi, wherein, she had stated about the number of the bus as HR-62-3548 and name of its driver as Vijay s/o Nihal Singh. No other witness, as such, has

been examined, but the manner of so stating the particulars of the bus and the driver, has been specified by Vibha Devi, in her affidavit. Rather, she has categorically stated about registration number to be HR-62-3540 and name of the driver to be Mohan Lal-respondent No.1, who was identified by the deponent.

Furthermore, it is evident that respondent No.1 faced trial in a criminal case. No doubt, to establish about the manner of involvement of the Mohan Lal in the case, as such, investigating officer has not been examined, but however, the report under Section 173 Cr.P.C. is coming on record, wherein, it is stated about the manner, in which Mohan Lal was arrested in the criminal case and about the number to be HR-62-3540 and not HR-62-3548. Had investigating officer been examined, definitely, he would have been of much help to clear the cobwebs, with regard to the number of the offending vehicle as well as the identity of the driver. However, he has not been examined.

In the light of testimony of Vibha Devi, mother of the injured-claimant, who was the most natural witness, as she was accompanying the appellant-claimant, at the relevant time, it is also further pertinent to mention that respondent No.1 and 2, in their reply to the claim petition, had categorically taken the stand that no accident took place, due to fault of respondent No.1. In fact, they had further taken the plea that the accident had taken place, due to fault of the appellant-claimant. Even, while conducting cross-examination of Vibha Devi, respondents No.1 and 2, had given a suggestion that accident had taken place, due to negligence of her son, who was crossing the road, unmindful of the coming traffic.

In fact, considering the plea so set up, it is also essential to note that

respondents No.1 and 2, in a way, admit about the presence of driver at the place of occurrence, at the relevant time. This is one of the strong factor, which ought to be considered, more particularly, when respondent No.1 had faced trial and had also not stepped into witness box, in the present case.

In the given circumstances, though, at first instance, FIR did not make mention of the number of the vehicle as HR-62-3540 and also about Mohan Lal, to be its driver, but however, this does not matter much, as during the course of investigation, as spelt out from the report under Section 173 Cr.P.C., it is evident that the investigating officer had conducted the investigation and concluded about the involvement of the vehicle bearing registration No.HR-62-3540 as well as driver, being Mohan Lal.

In view of the same, considering the probability of evidence, adduced on record, for the purpose of deciding the tortious case, suffice to consider the testimony of Vibha Devi as well as report under Section 173 Cr.P.C. and more particularly, in the backdrop of respondent No.1, not having stepped into witness box. As such, the findings on issue No.1, recorded by learned Tribunal, are hereby reversed and it stands concluded that the accident had taken place, due to rash and negligent driving of bus bearing registration No.HR-62-3540, driven by respondent No.1-Mohan Lal, resulting into injuries, on the person of appellant-claimant.

Now, arises the question, about the extent of compensation payable to the appellant-claimant.

While adjudicating on issues No.2 and 3, learned Tribunal had made assessment of compensation, while keeping in mind the eventuality of the finding on issue No.1 to be reversed, at any later stage. The compensation worked by learned Tribunal, is reproduced in tabular form, as

herein given:-

Medical Expenses	Rs.35,000/-
On account of disability suffered	Rs.1,20,000/-
On account of loss of earnings and future prospects due to disability	Rs.2,00,000/-
Total	**Rs.3,55,000/-**

Vibha Devi, mother of the appellant-claimant had stepped into witness box as PW-4 and she has categorically stated in her affidavit Ex.PW4/A about the appellant-claimant to be 5 years old and further about serious and multiple injuries sustained by him, in the said accident. Furthermore, the appellant-claimant also examined various doctors.

PW-3 Dr.Manmohan Pahwa, Pahwa Hospital, Fatehabad, as deposed about the appellant-claimant to have remained admitted in the hospital from 20.03.2012 to 24.03.2012 and he also deposed that on examination, he found badly crushed left lower limb with muscular deficiency and infection and contamination was present. The prognosis was cleared over to the attendant and amputation of left lower limb was advised below knee and it was performed by him on 21.03.2012. He also deposed that approximate expenses was to the extent of Rs.25,000/-.

PW-1 Dr.Rajesh Abrol, Abrol Orthopedic Hospital also deposed about the appellant-claimant having brought to his hospital and he conducted medico legal examination of the patient, which is Ex.P1.

Besides the aforesaid, PW-2 Dr.T.R.Mittal, Senior Medical Officer, General Hospital, Fatehabad has deposed that he was member of the medical board, who examined Amit on 03.10.2012, for assessment of permanent disability. The patient had crushed injury of left lower leg, for which amputation was done at lower leg on 20.03.2012 and disability was assessed

to be 60% and he proved the disability certificate, which is Ex.P3.

Considering the evidence, brought on record, as such, it stands amply established that appellant-claimant was 5-6 years old, at the relevant time and he had suffered amputation of left lower limb, on account of the injuries sustained in the accident in question.

While dealing with the case of a minor child suffering from permanent disability, beneficial reference is hereby made to decision rendered in ***Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari & anr., 2025 INSC 1070***, wherein, it was emphasized by the Hon'ble Supreme Court that the monthly income of the child, ought to be taken into account. It is apt to make reference to the observations made by the Hon'ble Apex Court, in this regard, which are herein given:-

> *"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in* ***Kajal v. Jagdish Chand and Ors., (2020) 4 SCC 413*** *and* ***Baby Sakshi Greola v. Manzoor Ahmad Simon and***

> ***Anr., 2024 SCC Online SC 3692****.*
>
> *10. Adverting to the facts at hand, the appellant was an 8- year-old child at the time of the accident. In view of the above exposition of law, we must advert to the prevailing minimum wages, which for the skilled ones, as in the year of accident, i.e., 2012, in Gujarat would be Rs.227.85p. per day, therefore, in the interest of justice, we deem it appropriate to determine the income of the appellant as Rs.6,835.5p. per month, rounding off to Rs.6,836/- per month."*

In the light of the aforesaid dictum, now adverting to the case in hand, it is significant to mention that considering the age of the appellant, at the relevant time, minimum wages payable to the skilled worker, as notified in the State of Haryana, for the relevant period, ought to be taken into consideration. The minimum prevalent wages for the skilled worker was Rs.5237/- per month, which is rounded off as Rs.5250/- per month.

Considering the age of the appellant-claimant, addition has to be made to the extent of 40%, on the count of 'future prospects' and multiplier to be applied has to be '18'.

Coming to the assessment of the disability suffered by the appellant-claimant, he sustained grievous and life altering injury, in the case in hand. The disability certificate duly proved in evidence, states about the patient to have suffered crushed injury on left lower leg, for which, amputation was done at lower leg, on 20.03.2012 and the disability was assessed as 60%. It is not only the extent of disability so suffered, which ought to be taken into consideration, but however, the impact of the injury also ought to be taken into consideration. Having suffered 60% permanent disability, obviously puts the appellant-claimant into handicapped category, which in itself is bound to restrict the chances of settlement in life and shut

many job avenues, which call for highest standards of physical well-being.

In the minimum, the child is bound to be indulging in the labour work, but however, this labour work is also going to be affect the quality of his work and on account of this disability, also his ability to find work.

Suffice to consider the aspect of functional disability to be taken in the case of permanent disability. How the compensation is to be worked upon, which affects the functional disability has been considered by the Courts, time and again. Though, there is no rule of absolute certainty to make assessment of impact of injuries, but however, the metric for consideration is 'just and fair compensation'. In ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, it was held by the Hon'ble Supreme Court that the '**just**' compensation is adequate compensation and the Award must be just that-'**no less and no more**'.

Time and again, the Courts have worked upon about the extent of compensation, while taking into consideration the impact of injury on the functional disability of the person concerned, while considering his source of livelihood and chances of his doing same work or altering his source of livelihood thereafter, on account of constrained circumstances faced by him.

Very true, in the case in hand, the consideration is with regard to the impact of injury, on the future of the child. Though, at the relevant time, he was not having any source of earning, but however, due to the injury suffered, many avenues have been shut for him for all times to come and also he is to live with disability throughout his life, which may also affect, in the minimum, if he does the labour work also, then this field is again going to give him very less choice to follow this kind of work. Taking into consideration the same, the functional disability, as such, can

appropriately be considered as 50%.

Besides the aforesaid, also for the assessment as made by learned Tribunal, various other counts have been given amiss.

First of all, considering the kind of crushed injury sustained by the appellant-claimant and consequential result of amputation of his left lower leg, it is quite obvious, the appellant-claimant must have passed through a traumatic state of mind, during the process of treatment as well as thereafter. Keeping in view the impact of the amputation, it must have put him to lot of stress, which would be carried by him throughout his life and thus, on the count of 'pain and suffering', an amount of **Rs.2,00,000/-** is awarded.

Simultaneously, on account of amputation undergone by the appellant-claimant, more particularly, considering his age, all the time, he must have required constant help to lead assisted living, till he adept to skill of self-dependence. Even then, many a times, he would be bound to take assistance of others, to carry on with his disability. Considering the same, while working upon one person to be attending him and taking the 'attendant charges', in the modest estimate of Rs.1000/- per month, the same ought to be paid for a period of 60 years, considering the prevalent longevity, the amount payable on this count is worked upon as Rs.1000x12x60=**Rs.7,20,000/-**.

Since, the left lower limb has been amputated, there is also need for use of prosthetic limb to carry on with his life. In modest estimate, the cost of prosthetic limb is taken as Rs.1,00,000/-. Considering the age of the appellant-claimant, at the relevant time and considering the longevity, in the minimum, even if the age of the prosthetic limb is stretched a little more than its normal age, the appellant-claimant, during his life-span, is bound to

have eight replacements. Thus, on the count of 'prosthetic limb', an amount of **Rs.8,00,000/-** is awarded. Besides the same, another amount of **Rs.2,00,000/-** is awarded for the maintenance of the prosthetic limb.

During the period of hospitalization and some time thereafter, on account of injuries sustained, many trips must have been made to the hospitals. Also, the appellant-claimant must required such trips to be made in future also, while affixation and taking care of the prosthetic limb. Considering the same, on the count of 'transportation charges', amount awarded is to the extent of **Rs.50,000/-**.

Obviously, during the period of treatment and some time thereafter, the appellant-claimant must have been put on special rich diet, for the healing process. On this count also, the compensation is enhanced to **Rs.30,000/-**.

On account of amputation, the marriage prospects of the appellant-claimant have also drastically reduced. Thus, on the count of '**loss of marriage prospects**', another amount of **Rs.2,00,000/-** is awarded.

Thus, on various counts, as detailed aforesaid, the compensation to be granted to appellant-claimant-Amit Kumar, is re-computed in tabular form, as herein given:-

Monthly income	Rs.5250/- per month, annual whereof is Rs.63,000/-
Future prospects 40%	Rs.63000+25200=Rs.88,200/-
Multiplier '18'	Rs.88,200x18=Rs.15,87,600/-
Disability 50%	50% of Rs.15,87,600=**Rs.7,93,800/-**
Pain and suffering	**Rs.2,00,000/-**
Attendant charges	**Rs.7,20,000/-**
Prosthetic limb and maintenance thereof	**Rs.10,00,000/-**
Transportation charges	**Rs.50,000/-**
Special diet	**Rs.30,000/-**

Loss of marriage prospects	**Rs.2,00,000/-**
Total	**Rs.29,93,800/-**

As such, the appellant-claimant is held entitled to the compensation to the extent of **Rs.29,93,800/-**. The appellant-claimant shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation.

With the above observations, the present appeal stands allowed.

December 02, 2025 **(ARCHANA PURI)**
Vgulati **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**