

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

FAO (MV) No. 209 of 2014

Reserved on: 22.08.2026

Date of decision: 11.09.2026

Date of uploading on Website: 11.09.2026

Sujan Singh

...Appellant

Versus

Ashok Kumar and others

...Respondents

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge

¹ *Whether approved for reporting?* Yes.

For the appellant: Mr. Divya Raj Singh, Advocate.

For the respondents: None for respondents No.1 to 3.

Mr. Surender Sharma, Advocate, for respondents No.4 & 5.

Mr. Pritam Singh Chandel, Advocate, for respondent No.6.

Sushil Kukreja, Judge

The instant appeal is maintained by the appellant-petitioner under Section 173 of the Motor Vehicles Act (for short "M.V. Act"), against award dated 24.03.2014, passed by the learned Motor Accident Claims Tribunal-III, Una District Una, HP, in MAC Petition No.02/2009, with a prayer to quash and set aside the impugned award and allow the claim petition preferred

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

by him. The parties shall be referred to as they were before the learned Tribunal below.

2. Briefly stated the facts of the case, giving rise to the present appeal, are that petitioner-Sujan Singh was working as labourer on truck bearing registration No.HP-20-8658 and on 13.07.2004 at about 10:00 AM when he was coming back to Mehatpur in the said truck, being driven by its driver/respondent No.1-Ashok Kumar, after unloading the truck at Chawari (Chamba), it suddenly struck against a parapet and fell down in a ditch, as a result of which, he sustained injuries. He was taken to BBMB Hospital Nangal (Punjab), where he remained admitted from 14.07.2004 to 27.07.2004 as an indoor patient and he was operated upon for his leg. Thereafter, he was treated in Bharanj Life Care Hospital & Trauma Centre, Jalandhar Road, Hoshiarpur as an indoor patient w.e.f. 03.05.2005 and discharged on 11.05.2005 and steel rods were inserted in his injured leg. He was again admitted in the said hospital on 31.08.2005 and discharged on 10.09.2005 after second operation of extraction of steel rods, for which, he had spent about Rs.1,00,000/-. As per the petitioner, at the time of accident, he was 38 years of age and was earning Rs.10,000/- per month. Hence, he prayed for grant

of compensation to the tune of Rs.10,00,000/- alongwith interest @ 12% per annum.

3. Respondent No.1 & 2, i.e. owner and driver, in their joint reply, averred that respondent No.2 used to pay Rs.75/- per day as wages whenever the petitioner worked as a labourer with him. They denied that the accident had occurred due to rash and negligent driving of respondent No.2. It was admitted by them that the petitioner was travelling in the offending truck as a casual labourer. It was further averred that the accident had occurred due to skidding of the vehicle off the road.

4. In the reply filed by respondent No.3-Insurance Company, preliminary objections regarding violation of terms and conditions of the insurance policy, the petition being filed in collusion with respondents No.1 & 2, locus standi etc. On merits, it was averred that the amount, as claimed, was highly excessive, baseless and imaginary. Hence, prayer for dismissal of the claim petition was made.

5. On the pleadings of the parties, the learned Tribunal below framed the following issues on 16.05.2012:-

“1. Whether petitioner/injured sustained injuries in motor vehicle accident due to rash and negligent driving of truck No.HP-20A-8658 by respondent

N0.1, owned by respondent No.2, at about 10 AM on 13.07.2004 near Malakwal (Khad Nala), Tehsil Nurpur, District Kangra, HP on public road? OPP

- 2. If issue No.1 is proved in affirmative, whether the petitioner is entitled to compensation, if so, how much and from whom? OPP***
- 3. Whether respondent No.1 was not holding effective and valid driving licence at the time of accident? ...OPR-3***
- 4. Relief.”***

6. After parties led their evidence, the claim petition was dismissed. Feeling aggrieved/dissatisfied, the appellant-petitioner preferred the instant appeal against the impugned award dated 24.03.2014 passed by the learned Tribunal below, with a prayer to quash and set aside the impugned award and allow the claim petition.

7. Learned counsel for the appellant contended that the impugned award is based merely on surmises, conjectures and without appreciating the documents. He further contended that the learned Tribunal below ought not to have dismissed the claim petition on the cap of income as the appellant/petitioner had claimed his income Rs.10,000/- per month and it should have converted the petition to the one under Section 166 of MV Act.

8. On the other hand, learned counsel for respondents

No.4 & 5 and respondent No.6 supported the award passed by the learned Tribunal below and contended that the impugned award has been passed by the learned Tribunal below after appreciating the evidence in its proper perspective, hence, prayed for dismissal of the instant appeal.

9. I have heard the learned counsel for the appellant as well as learned counsel for respondents No.4 & 5 and learned counsel for respondent No.6 and also carefully examined the entire record.

10. The only issue to be considered by this Court is whether the Tribunal was justified in dismissing the claim petition filed under Section 163-A of MV Act, as being not maintainable on the ground that income of the petitioner has been pleaded as Rs.10,000/- per month.

11. Section 163-A of MV Act contains special provisions as to payment of compensation on structured formula basis as indicated in the Second Schedule of the Act. As per the Second Schedule of the Act, in order to invoke Section 163-A, the limitation of income is Rs.40,000/- per annum. At this stage, it would be relevant to reproduce Section 163-A of MV Act,

which reads as under:-

“163A. Special provisions as to payment of compensation on structured formula basis

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation : For the purposes of this sub-section, “permanent disability” shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.”

12. Thus, from perusal of Section 163-A and Second Schedule thereunder, it is seen that for filing a petition under the aforesaid Section, income of the person should not be more than Rs.40,000/- per annum, if a claim petition is to be filed under this section.

13. In ***Deepal Girishbhai Soni & others Vs. United Insurance Company Ltd., Baroda, (2004) 5 SCC 385***, the Hon'ble Apex Court has held that if a person invokes the

provisions of Section 163-A of MV Act, the annual income of Rs.40,000/- shall be treated as a cap. The relevant portion of the judgment reads as under:-

"51. The scheme envisaged under Section 163A, in our opinion, leaves no manner of doubt that by reason thereof the rights and obligations of the parties are to be determined finally. The amount of compensation payable under the aforementioned provisions is not to be altered or varied in any other proceedings. It does not contain any provision providing for set-off against a higher compensation unlike Section 140. In terms of the said provision, a distinct and specified class of citizens, namely, persons whose income per annum is Rs.40,000/- or less is covered thereunder whereas Sections 140 and 166 cater to all sections of society."

14. In the case on hand, the petitioner has not appeared in the witness-box in support of his claim. However, in his petition filed under Section 163-A of MV Act, he has pleaded his income as Rs.10,000/- per month. Thus, as per petitioner himself, his income was Rs.10,000/- per month, as such, his annual income was Rs.1,20,000/-. Hence, considering the facts and circumstances of the case, the decision of the Hon'ble Supreme Court in **Deepal Girishibhai Soni** (*supra*) as also the object behind insertion of Section 163-A of MV Act, this Court is of the opinion that the learned Tribunal below has not committed any illegality in dismissing the claim petition being not maintainable.

15. Therefore, in view of my aforesaid discussion, no interference is required in the impugned award dated 24.03.2014, passed by the learned Tribunal below. Consequently, the instant appeal, being devoid of merits, deserves dismissal and is accordingly dismissed.

Pending miscellaneous application(s), if any, shall stand disposed of.

(Sushil Kukreja)
Judge

September 11, 2026
(V. HImalvi)