



2025-01-11 11:51

## HIGH COURT OF JUDICATURE AT ALLAHABAD

### FIRST APPEAL FROM ORDER No. - 1471 of 2012

Mohd. Anwar

.....Appellant(s)

Versus

Satanjay Bharadwaj And Another

.....Respondent(s)

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|                           |                                                                            |
|---------------------------|----------------------------------------------------------------------------|
| Counsel for Appellant(s)  | : Ankit Kapoor, Arvind Agrawal, Hari Shanker Srivastava, Nikhil Srivastava |
| Counsel for Respondent(s) | : Rahul Agrawal, Saurabh Srivastava                                        |

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**Court No. - 50**

**HON'BLE PANKAJ BHATIA, J.**

#### **I.A. No. 21 of 2025**

1. Substitution application has been filed seeking substitution on account of the death of the sole appellant during the pendency of the appeal.
2. The substitution application is allowed.
3. Let necessary incorporation be carried out in the memo of the appeal during the course of the day.

#### **Order on Appeal**

4. Heard Sri Hari Shanker Srivastava the counsel for the appellant in Appeal No.1471 of 2012, Sri Rahul Agarwal the counsel for the owner being Cross Objection No.4 of 2025 and Sri Saurabh Srivastava, the counsel for the respondent no.2 Insurance Company.
5. The present appeal has been filed challenging the award dated 11.01.2012 insofar as it relates to the quantum of compensation awarded by the Tribunal. The owner has filed the objection alleging that the directions for payment of the awarded amount against the owner is unjustified and the amounts should be paid by the Insurance Company and not by the owner.
6. The counsel for the Insurance Company argues that the amount has been rightly awarded against the owner in view of there being no material

to suggest that the driver was not have a valid driving license.

7. Considering the said submissions, the appeal as well as the cross objection are being heard simultaneously.

8. In view of the claim petition filed, it was alleged that the appellant was sitting in a bus and travelling from Delhi to Kanpur when the bus on the way became dysfunctional and was made to stand on the road, the appellant along with other passengers got off from the bus and stood on the left side road, a Truck No.MP 07 HB-1118 being driven rashly and negligently hit the various persons, who were standing on the road, which resulted in substantial injuries to the passengers who are more than ten to twelve. The appellant preferred a Claim Petition at Kanpur Nagar whereas other passengers who were also injured in the accident preferred their claim petition at District Aligarh.

9. The Tribunal by means of the impugned judgment awarded an amount of Rs.1,89,834/-, which was directed to be paid by the owner of the Truck and not by the Insurance Company.

10. While arguing on the quantum of compensation, the counsel for the appellant argues that admittedly the appellant was working as a cleaner in UPSRTC and was drawing the salary of Rs.7500/- per month. Subsequently, his services were terminated and thereafter the appellant started working in a private organization as a technical person and was being paid similar salary of Rs.7500/- per month. The Tribunal admitted that the appellant, prior to his termination in the year 2005, was drawing the salary of Rs.7500/- per month from UPSRTC and thereafter no evidence was adduced to show as to how much salary was being paid by the Private Auto Garage owner, where the appellant was working and thus, his annual income was treated at Rs.15000/- per year as notional income on which the disability at 80% suffered by the appellant was calculated and the loss of income by the appellant assessed at Rs.12000/- per year. As the appellant was aged about 54 years as per the finding recorded by the Tribunal, the multiplier of 11 was added and the financial loss suffered by the appellant was worked at Rs.1,32,000/- and further an amount of Rs.5000/- was awarded towards pain and suffering. The

appellant was also awarded an amount of Rs.52,834/- spent by the appellant for medical treatment in view of the bills submitted by the appellant.

11. Considering the submissions of the appellant on the question of quantum, it is on record that the appellant was drawing a salary of Rs.7500/- per month up to year 2005 and considering and he suffered the accident on 08.06.2007, although there was no income proof with regard to the subsequent engagement in a private workshop, the quantification of the income by the Tribunal at Rs.15000/- per annum, appears to be wholly inadequate. Although there is no evidence on record but some guess work is required for the same and considering the fact that the appellant was a semi skilled worker, the income of the appellant is ascertained at Rs.5000/- per month which works to Rs.60,000/- per year. Accepting the disability ascertained at 80%, the loss of income suffered by the appellant in terms of the quantum is quantified at Rs.48,000/- per year. On the said loss of income, the multiplier of 11 is applied as the appellant was aged about 54 years at the time of death. Thus, the total financial loss suffered by the appellant is assessed at Rs.48000 X 11 = Rs.5,28,000/- On the said amount, an amount of Rs.5000/- was awarded towards pain and suffering for 80% disability suffered, is wholly inadequate, which is enhanced to Rs.1,00,000/- (one lac). In addition thereto, the appellant would be entitled to Rs.52,834/- as awarded by the Tribunal towards medical expenses incurred in the treatment. Thus, the compensation payable to the appellant works as under:

| Sl. No. | Head                                                                  | Compensation awarded               |
|---------|-----------------------------------------------------------------------|------------------------------------|
| 1.      | Annual Income                                                         | Rs.48000/-                         |
| 2.      | Applying multiplier of '11'                                           | 48000x11 =<br><b>Rs.5,28,000/-</b> |
| 3.      | Amount awarded towards pain and suffering for 80% disability suffered | Rs.1,00,000/-                      |
| 4.      | Medical Expenses as awarded by the Tribunal                           | Rs.52,834/-                        |
| 5.      | <b>Total amount of compensation</b>                                   | <b>Rs.6,80,834/-</b>               |

12. The appeal of the claimant is **allowed**.

13. Coming to issue of liability with regard to the payment, the Tribunal has held that the Insurance Company would not be liable for payment of compensation in view of there being no valid driving license produced by the owner authorizing the driver to ply the truck, however, it is not disputed that the same Insurance Company has paid the insurance claim to various claimants arising out of the same accident taking the said plea. Even otherwise, it is clearly well settled that on a plea with regard to non availability of driving license or any other violation of policy, the direction should be given to the Insurance Company to pay and recover the same on the Insurance Company establishing that the owner was not authorized to drive the vehicle.

14. In view thereof, the cross objection/appeal is also **allowed**. The liability of satisfying impugned award is shifted on the Insurance Company leaving it open to the Insurance Company to recover the amount only on its establishing that the driver of the vehicle was not authorised to drive the vehicle and establishing that the payments made in respect of the claim arising out of the same accident were not paid by the Insurance Company.

15. The amount as assessed shall be paid by the Insurance Company to the appellant within a period of three months alongwith interest @ 7% per annum from the date of filing the the claim till actual payment/realisation. The entire amount shall be paid at once without insisting on any FDR as was directed by the Tribunal.

16. The amount shall be paid through RTGS by the Tribunal directly in the account of the claimants. In case, the bank account contains the details of anybody other than the family members of the claimants, the amount shall not be deposited in that account and the claimants would be required to open a bank account either singly or jointly with family members only in view of the law as laid down by the Hon'ble Supreme Court in **para 17.1 of Parminder Singh vs Honey Goyal and others: 2025 LiveLaw (SC) 318 and in para 9 of Suo Motu Writ Petition (C) No.7 of 2024 In**

**Re: Compensation Amounts Deposited with Motor Accident Claims  
Tribunals and Labour Courts.**

**(Pankaj Bhatia,J.)**

**May 12, 2026**

VNP/-