

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-2216-2007 (O&M)  
Date of decision : 27.04.2022

New India Assurance Company Ltd.

..... Appellant

versus

Girdhar

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Neeraj Khanna, Advocate  
for the appellant.

Mr. Vikrant Rana, Advocate  
for the respondent.

\*\*\*\*

**PANKAJ JAIN, J.**

Present appeal is directed against award dated 01.02.2007 passed by MACT, Bhiwani (hereinafter referred to as 'Tribunal') whereby claim petition filed by the respondent (appellant herein) has been allowed granting him compensation of Rs.20,000/- for injuries suffered in a motor vehicular accident.

2. As per the claim petition, on 27.06.2004 a car driven by the claimant suffered an accident owing to sudden appearance of a Cow on the road. In the said accident, the claimant suffered fracture on his left hip resulting into permanent disability and dislocation of left hip. The claimant was operated and later had to take follow up treatment as well. Claimant sought compensation amounting to Rs.11 lakhs.

3. On the basis of pleadings and the evidence on record, Tribunal awarded compensation of Rs.20,000/- which included Rs.15,000/- spent on medicines and Rs.5,000/- on account of special diet, special attendant and hospitalization, loss of income and pain and sufferings.

4. The award has been impugned in appeal by the insurance company. The claimant has neither preferred an appeal nor has opted to file any cross-objection. The solitary contention raised by the counsel for the appellant is that since no permanent disability was suffered by the claimant, he is not entitled to maintain the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act'). He asserts that Section 163-A of the Act can be invoked only in the case of 'death' or 'permanent disability' due to accident arising out of motor vehicle.

5. Having heard learned counsel for the parties and after carefully perusal of the record of the case, I find that the arguments raised by the counsel for the appellant sans merits and deserves to be rejected.

6. Section 163-A of the Act mandates payment of compensation on structured formula basis as indicated in schedule second appended to the Act. Thus, Section 163-A of the Act has to be read alongwith the second schedule. Without doubt, Section 163-A of the Act uses the expression 'the owner of the motor vehicle of 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 --- ----- ----'. However, the second schedule details out the compensation payable. The said schedule provides for compensation payable in the case of:-

- 1. Fatal accident.
- 2. xx xx xx
- 3. General damages (in case of death)
- 4. General damages in case of injuries and disabilities:
  - (i) Pain and sufferings:
  - (a) Grievous injuries Rs. 5,000/-
  - (b) Non-grievous injuries Rs. 1,000/-

- (ii) *Medical expenses – actual expenses incurred supported by bills/vouchers but not exceeding as one time payment* Rs. 15,000/-
- (v) *Disability in non fatal accident.*

7. Thus, the schedule does not indicate that the compensation is structured only for the the cases of 'death' or 'permanent disability' as argued by the counsel for the appellant. It is trite that schedule appended to the statute forms part of the statute. It oftenly contain details and forms for working out of the policy underline the Section of the statute. In view of the fact that schedule explicitly provides for general damages in case of injuries which are non grievous injuries as well, the plea raised by the counsel for the appellant deserves to be rejected. Section 163A of the Act and second schedule have to be read conjointly. MVA being a welfare legislature, any interpretation that restricts the scope needs to be discarded. Injury not resulting in permanent disability or death will also be covered under Section 163A read with 2<sup>nd</sup> schedule appended to the Act.

8. Consequently, the award dated 01.02.2007 passed by the Tribunal does not call for any interference and thus the same is upheld.

9. Appeal stands dismissed.

10. Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed off.

**(PANKAJ JAIN)**  
**JUDGE**

**27.04.2022**

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No