

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****118****FAO-477-2025 (O&M)****Date of decision: 31.01.2025****Magma HDI General Insurance Company Ltd.****...Appellant(s)****Vs.****Gopal Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sanjeev Goyal, Advocate
for the appellant.

*********NIDHI GUPTA, J.****CM-1536-CII-2025**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 62 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant, the same is allowed and the delay of 62 days in filing the accompanying appeal is condoned.

FAO-477-2025 (O&M)

The present appeal has been filed by the Insurance Company laying challenge to the Award dated 13.08.2024 passed by the learned Motor Accident Claims Tribunal, Palwal (hereinafter referred to as "the Tribunal") whereby the claim petition bearing MACP No. 76 dated 08.09.2021 filed by the injured-claimant/respondent No.1 herein, under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act"), has been allowed; and the appellant has been directed to pay



a compensation of Rs.10,45,629/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and oral and documentary evidence adduced before it, concluded that the claimant/respondent No.1 herein had suffered injuries in a Motor Vehicular Accident that took place on 12.02.2021 at about 06:00 a.m. due to the rash and negligent driving of the Tractor bearing registration No.HR-50H-4545 (hereinafter referred to as 'the offending vehicle') by respondent No.2; owned by respondent No.3, and insured by the appellant. The appellant and respondents No. 2 and 3/driver and owner respectively of the offending vehicle, were held jointly and severally liable to pay the said compensation.

3. Learned counsel for the appellant-Insurance Company assails the impugned Award dated 13.08.2024 on the ground that the offending vehicle was a planted vehicle. It is submitted that the respondents No. 2 and 3/driver and owner respectively of the offending vehicle, herein are the uncles of the claimant. The said respondents No. 2 and 3 chose not to contest the claim and were proceeded against exparte before the learned Tribunal. Even the FIR No. 69 dated 12.03.2021 was registered under Sections 279, 337 and 338 IPC at Police Station Hodal after a delay of 29 days (Ex.P3) by Satbir (complainant) brother of the claimant against the uncles of the claimant. Thus, the offending vehicle was planted by the claimant and the accused persons in connivance with each other, with a view to get compensation from



the appellant. It is accordingly prayed that the impugned award be set aside.

4. No other argument is raised on behalf of the appellant.

5. I have heard learned counsel for the appellant and perused the case file in great detail.

6. Perusal of the record of the case shows that the learned Tribunal awarded the compensation of Rs.10,45,629/- keeping in view the fact that prior to accident, the injured-claimant/respondent No.1 herein, was working as Engineer in Foam Pack India Private Limited and drawing a salary of Rs.13,594/- per month. The accident took place on 12.02.2021 at about 6:00 a.m. when the claimant was going for his job on his motorcycle Delux bearing registration No. HR-50F-6784. The complainant (Satbir) and his cousin brother were following behind the claimant. FIR No. 69 dated 12.03.2021 (Ex.P3) was registered on the basis of statement made by eyewitness Satbir.

7. Argument of learned counsel for the appellant that the offending vehicle was a planted vehicle, is without merit as admittedly, above said FIR No. 69 dated 12.03.2021 was registered under Sections 279, 337 and 338 IPC at Police Station Hodal by Satbir (complainant) brother of the claimant against the accused-respondents no.2 and 3 in which they are facing trial. It is further established on record that due to the accident in question, the claimant had suffered serious head injury including multiple fractures, as borne out from the MLR dated 12.02.2021 (Ex.P15) and the discharge summary dated 22.02.2021 (Ex.P16). In the



accident, the claimant has suffered 20% disability on his right lower limb on account of stiffness of right knee. In such a situation, it would be unthinkable that the claimant would file a false claim merely to get compensation. The seriousness of the injuries suffered by the claimant also explain the delay of 29 days in registration of the FIR. As such, there was no ground to disbelieve the version set forth by the claimant. In this regard, the following findings recorded by learned Tribunal in para 14, are relevant:-

“Now coming to the aspect of rash and negligent driving of the offending vehicle by respondent no.1, claimant himself appeared as PW-1 and tendered his duly sworn affidavit Ex.PW-1/A whereby he testified the manner of sustaining injuries in a road side accident, caused by respondent no.1 on 12.02.2021, while driving the offending vehicle in a rash and negligent manner. He was cross-examined at length, but credit of his testimony could not be shattered in any manner particularly on the point of rash and negligent driving of the offending vehicle by respondent no.1. His oral version also stands corroborated from the documentary evidence in the shape of FIR (Ex.P3) attached with the file which was got lodged by his elder brother Satvir mentioning the registration number of the offending vehicle.

*Further perusal of final report under section 173 of Cr.P.C. (Ex.P-19) reveals that respondent no.1 is facing trial for causing the accident which is subject matter of the present petition. It is well settled that where the driver is facing criminal trial for causing the accident, it is always safe to conclude that he was negligent. Reliance in this regard can be placed upon judgment titled as **Girdhari Lal Versus Radhey Shyam, 1993 (2) RCR 109 (P&H)**, where similar observations were made by the Hon'ble Bench of Hon'ble Punjab and Haryana High Court.*

That apart, nothing on record suggests that the Investigating Officer filed a charge sheet against the offending vehicle's driver without conducting a proper investigation. It is also difficult to hold that the Police Officer fabricated a case

just like that. The documents of final report having some probative value, the genuineness of which is not in doubt, can be looked into by the Tribunal for getting preponderance of probable versions as the proceedings under the M.V. Act being summary in nature.”

8. Keeping in view the above facts, the learned Tribunal granted compensation in the following manner: -

Sr. No.	Head under which amount awarded	Amount
1.	Compensation on account of expenditure incurred on medicine and treatment.	Rs.8,72,659/-
2.	Compensation on account of loss of income.	Rs.66,970/-
3.	Compensation on account of pain and sufferings.	Rs.30,000/-
4.	Compensation on account of hospitalization, attendant, transportation, special diet etc.	Rs.35,000/-
5.	Compensation on account of 20% disability	Rs.40,000/-
	Total	Rs.10,45,629/-

9. From the above facts, it is clear that the sole argument raised on behalf of the appellant is misconceived and baseless. Therefore, the impugned Award does not warrant the interference of this Court.

10. Hence, the present appeal is hereby **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

31.01.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No