

2025.PHHC.168869



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Reserved on: 30.10.2025

Pronounced on: 04.12.2025

Uploaded on: 05.12.2025

114 (2 cases)

FAO-2145-2020 (O&M)

PAWAN KUMAR

...Appellant

Versus

THE ORIENTAL INSURANCE COMPANY LIMITED AND ORS.

...Respondent

II)

FAO-3706-2022

MEHAK

...Appellant

Versus

MAYA RAM & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present:- Mr. G.C. Shahpuri, Advocate
for the appellant (in FAO No.2145 of 2020) and
for respondent No.2 (in FAO No.3706 of 2022).

Mr. Krishan Singh, Advocate
for the appellant (in FAO No.3706 of 2022) and
for respondent No.2 (in FAO No.2145 of 2020).

Mr. Akashdeep Singh, Advocate
for respondent No.1 (in FAO No.2145 of 2020) and
for respondent No.3 (in FAO No.3706 of 2022).

VIKRAM AGGARWAL, J.

By way of the instant judgment, this Court shall decide
the afore-titled appeals. FAO-2145-2020 has been instituted by the
owner (Pawan Kumar) of truck/tanker bearing registration No. HR-

58-2493. FAO-3706-2022 has been instituted by the claimant (Mehak).

2. Vide award dated 15.01.2020, the Motor Accident Claims Tribunal, Yamuna Nagar (hereinafter referred to as 'the MACT'), awarded a sum of Rs.10,00,000/- lump sum to the claimant (Mehak) on account of injuries and permanent disability suffered by her in a motor vehicular accident which took place on 10.06.2015. The said claimant seeks enhancement in the same. Further, on account of the driver of the truck possessing a fake driving licence, the liability to pay the compensation was fastened upon the driver and owner of the truck. Aggrieved by the said finding, the owner of the truck has assailed the same.

3. On 10.06.2015, the claimant, along with her mother, had gone to the fields in Village Rukali for digging earth. Thereafter, the claimant was returning on her bicycle. Her mother was behind her on a separate bicycle. At about 05:00 PM, when they reached near a factory towards Village Malikpur Banger, a truck bearing registration No. HR-58-2493 (hereinafter referred to as 'the offending vehicle'), being driven by its driver (respondent No.1) in the claim petition (namely Maya Ram), came from the side of Village Malikpur Banger and hit against the bicycle of the claimant. As per the claim petition, the offending vehicle was being driven by its driver at a very high speed and in a rash and negligent manner. As a result of the impact, the claimant fell down and suffered injuries on her right leg. Her father reached the spot upon which, she was taken to the hospital by her parents and other people.

3(i) She was initially taken to PHC Bilaspur, where she was given first aid and was referred to PGI Chandigarh. On 12.06.2015, her right leg was amputated.

3(ii) The matter was reported to the Police pursuant to which FIR No.132, dated 13.06.2015 was registered at Police Station Bilaspur, under Sections 279, 337 and 338 of IPC.

3(iii) The claimant was 10 years old at the time of the accident and suffered permanent disability of 80 per cent on account of the amputation of her leg. It was claimed that a sum of Rs.2,50,000/- had been incurred on her treatment. It was also averred that further treatment would also involve huge expenditure. Accordingly, a sum of Rs.25,00,000/- was claimed as compensation.

4. The driver and owner filed a joint written statement, denying all averments made in the claim petition, including the factum of the accident. The Insurance Company also raised its usual defences in the written statement and denied all averments, including the factum of the accident.

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

“1. Whether the claimant Mehak (minor) suffered injuries on her person in a motor vehicular accident dated 10.06.2015 caused by respondent No.1 by driving the offending vehicle i.e. truck bearing registration No.HR-58-2493 in a rash and negligent manner? OPP

2. If issue No.1 is answered in affirmative, from whom and what amount of

compensation the claimant Mehak is entitled to ? OPP

3. Whether the vehicle in question was being driven in violation of the terms and conditions of the insurance policy? If so, to what effect? OPR-3

4. Relief.”

6. Parties led their respective evidence.

7. The mother of the claimant stepped into the witness box as PW-1. Dr. Anuj Mangla (PW-2), deposed about the disability. Dr. R.K. Kanojia (PW-4), stated about the treatment undergone by the claimant in PGIMER, Chandigarh. Dr. Amandeep Singh (PW-5), had medico legally examined the claimant in PHC Bilaspur and he deposed about the same.

7(i) Sh. Rameshwar Dayal Sharma, official from the office of ARTO, Mathura, proved that the driving licence possessed by the driver of the offending vehicle had not been issued by their office. The owner of the offending vehicle namely Pawan Kumar, stepped into the witness box as RW-2.

8. The MACT awarded a sum of Rs.10,00,000/- as compensation in lump sum and further fastened the liability of payment of the same on the driver and the owner.

9. Learned counsel for the parties were heard.

10. Sh. G.C., Shahpuri, learned counsel representing the driver of the offending vehicle, submitted that the MACT had erred in fastening the liability upon the driver and the owner. It was submitted that the owner of the offending vehicle had exercised due caution and

care while employing the driver and had taken his driving test etc. and that under the circumstances, in terms of the law laid down by the Supreme Court of India, the liability to pay the compensation could not have been fastened upon the driver and the owner. In support of his contentions, learned counsel placed reliance upon **Rishi Pal Singh vs. New India Assurance Co. Ltd. & Ors. 2022 ACJ 1868; Pepsu Road Transport Corporation vs. National Insurance Company 2013(10) SCC 217; IFFCO Tokio General Insurance Co. Ltd. vs. Geeta Devi & Ors. 2023 AIR (Supreme Court) 5545** and judgment of a Co-ordinate Bench in FAO-1913-2016 titled as **National Insurance Company vs. Gurnam Singh & Ors.** and other connected matters decided on 05.05.2016.

11. Learned counsel for the claimant submitted that the compensation awarded is grossly inadequate and that the same deserves to be enhanced. In support of his contentions, learned counsel placed reliance upon the judgments of the Apex Court in **Master Ayush vs. The Branch Manager, Reliance General Insurance Co. Ltd & Anr. 2022(7) SCC 738; Smt. Sarla Verma and Ors. vs. Delhi Transport Corporation and Anr. 2009 (6) SCC 121; National Insurance Company Limited vs. Pranay Sethi and Ors. 2018 (2) SCC (cri) 205; Baby Sakshi Greola vs. Manzoor Ahmad Simon and Ors. 2024 ACJ 2721; Reshma Kumari and Ors. vs. Madan Mohan and Anr. 2013 AIR SC(civil) 1731 and V. Mekala vs. M. Malathi and Anr. 2014 (11) SCC 178.**

12. Sh. Akashdeep Singh, learned counsel for the Insurance Company submits that there is no illegality in the findings recorded by

the MACT on the issue of liability. It was submitted that nowhere in the written statement was it stated that the owner of the offending vehicle had taken due care and caution, while employing the driver and any evidence led contrary to the pleadings or without there being requisite pleadings in that regard cannot be considered. As regards quantum, it was submitted that adequate compensation has been awarded by the MACT. In support of his contentions, he placed reliance upon judgments of the Apex Court in **Hind Samachar Ltd. vs. National Insurance Company Ltd. 2025(4) RCR (civil) 553; Srinivas Raghavendrarao Desai (Dead) by Lrs. vs. V. Kumar Vamanrao @ Alok and Ors. 2024 AIR Supreme Court 1310; Kalyan Singh Chouhan vs. C.P. Joshi 2011(11) SCC 786; Kashi Nath (Dead) through Lrs. vs. Jaganath 2003(8) SCC 740 and Bhagwati Prasad vs. Chandramaul 1965 SCC Online SC 111.**

13. I have considered the submissions made by learned counsel for the parties.

14. There is no challenge to the finding that the accident, as a result of which the claimant had suffered injuries, had taken place on account of the rash and negligent driving of the offending vehicle by its driver. The said finding is, therefore, affirmed.

15. Coming first to the quantum of compensation awarded, the MACT awarded a lump sum amount of Rs.10,00,000/-. The claimant was 10 years old at the time of the accident. Her right leg got amputated, as a result of which, her permanent disability was assessed at 80 per cent. PW-2, Dr. Anuj Mangla, Medical Superintendent, Government Hospital, Jagadhri, deposed about the said disability and

proved the disability certificate Ex. P-2. He stated that this disability was not likely to improve. He further stated in the cross-examination that artificial prosthesis can be applied and the claimant could do her routine work and walking and sitting. PW-4, Dr. R.K. Kanojia, Addl. Professor, Department of Orthopedics, PGIMER, Chandigarh, proved the discharge and follow up card Ex. PA. He deposed that the patient had been admitted in PGIMER, Chandigarh, with history of mangled right lower limb and amputation above the knee was done. He deposed that with the growing age of the patient and her bones, she may require another surgery as and when required, up to the age of 18 years. In the cross-examination, he stated that the patient could walk freely with the help of some orthotic limb support.

16. In so far as the functional disability is concerned, since the claimant was 10 years old at the time of the accident and her right leg got amputated above the knee and further her permanent disability was assessed at 80 per cent, for all practical purposes, the functional disability can be assessed as 100 per cent. It is clear that the small girl will not be able to live her normal life. Her marriage prospects have practically finished. Mental pain and suffering for the rest of her life will be her only friend. It is difficult to imagine her state of mind, the quality of her life which she would have to lead, the impact on her matrimonial prospects, her general quality of life, her mental well being, her physical well being, the treatment to be incurred on prosthetic limbs, further surgeries, attendants, diet. All this is due to the callousness and rashness of the driver of the offending vehicle.

The penal provisions, in the considered opinion of this Court, are too

mild considering the mental and physical trauma that the small child faced and will face throughout her life.

17. In the case of **Baby Sakshi Greola** (supra), the Apex Court examined the entire law on the grant of compensation in injury cases. In that case, a young girl aged 7 years had met with an accident with a car which was being driven at a high speed and had sustained grievous injuries. She sustained 75 per cent mental moderate retardation. The MACT granted Rs.5,90,750/- as compensation, vide award dated 13.06.2011. The High Court enhanced it to Rs.11,51,000/-. The Hon'ble Apex Court, after examining the entire law on the subject, made enhancement in the compensation under various heads. The notional income was assessed as per the minimum wages for a skilled worker. Accordingly, a sum of Rs.13,18,000/- was granted as loss of earning capacity due to the disability taking the same to be 100 per cent; Rs.15,00,000/- was awarded on account of pain and sufferings; Rs.5 lakhs on future treatment, Rs.9,42,000/- for attendant charges. This was assessed by taking the minimum wages as a skilled worker and then calculating the same for 18 years. Rs.1,00,000/- each was awarded on account of loss of amenities of life and loss of future prospects. Rs.5,00,000/- was awarded on account of loss of marriage prospects. Rs.75,000/- was awarded as special education expenditure and Rs.20,000/- was awarded as conveyance and special diet. Accordingly, the total compensation awarded was Rs.50,87,000/-. The interest @ 9 per cent per annum was maintained.

18. Coming to the present case, the age of the claimant was 10 years at the time of the accident. The minimum wages applicable

to a skilled workman at the relevant time were Rs.7600/-. After adding 40 per cent as future prospects, it would come to Rs.10640/- (Rs.7600+3040). Thus, as the functional disability has been taken to be 100 percent, the loss of income would be Rs.10,640/- per month and Rs.1,27,680/- per annum. As per the ratio laid down in the case of **Smt. Sarla Verma and Ors.**, (supra) a multiplier of 18 would be applicable meaning thereby that the loss of income on account of the permanent disability would come to Rs.22,98,240/- (Rs.1,27,680*18). Apart from that, a sum of Rs.5373/- was spent on the treatment, as per the bills Ex.P-10 to P-20. Though expenses of Rs.2,50,000/- were claimed to have been made, bills for only the above said amount were produced. Accordingly, the amount to be awarded for expenses incurred on treatment would be Rs.5373/-.

19. For the pain and sufferings, a sum of Rs.15,00,000/- is awarded as was awarded in **Baby Sakshi Greola's** case (supra). Rs.5 lakhs is awarded for future treatment. In so far as attendant charges are concerned, they would be payable for a period of 5 years. The claimant was 10 years old at the time of the accident. The minimum wages for a skilled worker, as already noticed were Rs.7600/- per month which comes to Rs.91,200/- per annum. For a period of 5 years i.e., from the age of 10 to the age of 15, it would come to Rs.4,56,000/-. The compensation payable on account of loss of amenities of life and loss of future prospects would be Rs.1,00,000/- each. Rs.20,000/- deserves to be awarded on account of conveyance and special diet. On account of the loss of marriage prospects, a sum of Rs.5,00,000/- is awarded as was awarded in **Baby Sakshi**

Greola’s, case. Thus, the total compensation payable to the claimant would be as under:-

Sr. No.	Heads of Claim	Awarded by the MACT	Enhanced Compensation
1.	Age of the deceased	10 years	10 years
2.	Income	-----	7600 p.m. After adding 40% as future prospects (7600*40%=3040) Rs.10,640/- per month and Rs.1,27680/- per annum
3.	Multiplier	-----	18 Rs.1,27,680x18= Rs.22,98,240/-
3.	Medicines and Medical Treatment	-----	5373
5.	Pain and Suffering	-----	15,00,000
6.	Future Treatment	-----	2,50,000
7.	Attendant Charges	-----	4,56,000
8.	Loss of Amenities of Life	-----	1,00,000
9.	Loss of Future Prospects	-----	1,00,000
10.	Conveyance and Special Diet	-----	20,000
11.	Loss of Marriage Prospects	-----	5,00,000
12.	Total Compensation	10,00,000/-	52,29,613

20. The total compensation therefore, comes to Rs.52,29,613/-. After deducting the amount of Rs.10,00,000/- as awarded by the MACT, the balance amount comes to Rs.42,29,613/-. The aforesaid amount of compensation would be payable in addition to the amount assessed by the learned MACT along with interest @9% per annum from the date of the filing of the claim petition till the actual realization.

21. Coming to the liability to pay the compensation, the factum of the accident was denied in the written statement. However,

the owner of the offending vehicle stepped into the witness box as RW-2 and deposed that he had taken due care and caution while employing the driver. He stated that when he appointed the driver Maya Ram on 08.02.2014, Maya Ram had shown him his original driving licence. A copy of the same had been retained by him. The original driving licence was produced by Maya Ram before him which had the photograph of Maya Ram, his address and details of the issuing authority. He saw the entry of licence regarding the heavy vehicle, the same being valid up to 19.12.2016. He deposed that he had taken the test of respondent No.1 also and he had driven the vehicle in a perfect manner. The driver drove the vehicle for about 20 kilometers and when he was found to be perfect and competent in driving, he was appointed. He also stated that before the accident, the offending vehicle had been driven by the driver in a perfect manner and no accident was caused. Lengthy cross-examination was conducted but nothing came which could have caused any dent in his case.

22. No doubt, no such stand was taken in the written statement. The question which then arises is as to whether evidence which is led beyond pleadings can be considered. The rule is that no evidence beyond pleadings can be considered. The question which then arises is as to whether strict rules of evidence would be applicable to proceeding before the MACT which are almost summary in nature.

23. After considering the issue in its entirety, the only conclusion which can be drawn is that no evidence beyond the

pleadings can be considered. The owner of the offending vehicle did not plead in the written statement that he had taken all precautions while employing the driver; that he had checked the driving licence and that he had taken the driving test as well. Under these circumstances, his statement in the evidence to this effect would be of no relevance and the same would be considered as having been given under legal advice. It is well settled that no evidence beyond pleadings can be considered as has been laid down by the Hon'ble Apex Court in the case of **Srinivas Raghavendrarao Desai (Dead) by Lrs., case (supra); Kalyan Singh Chouhan case (supra); Kashi Nath (Dead) through Lrs. case (supra) and Bhagwati Prasad case (supra).**

24. In view of the aforesaid, no illegality is found in the findings recorded by the MACT that the liability to pay the compensation would be that of the driver and owner of the offending vehicle, who would be jointly and severally liable to pay the same. However, in the first instance, it would be the Insurance Company which would be liable to pay the compensation to the claimants and would then have the right to recover the same from the driver and the owner.

25. The appeals are accordingly disposed of in the above terms.

(VIKRAM AGGARWAL)
JUDGE

04.12.2025

Himanshu

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No