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

**FAO-3733-2024**
**FAO-5172-2024**
Date of Decision: 26.08.2025

**1.**

CHOLAMANDALAM MS GENERAL INSURANCE COMPANY LTD

.... Appellant

Versus

DALJINDER SINGH AND OTHERS .....Respondents

**2.**

DALJINDER SINGH .... Appellant

Versus

MANJIT SINGH JANDA AND OTHERS .....Respondents

**CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. Vishal Aggarwal, Advocate
for the appellant in **FAO-3733-2024** and
for respondent No.3 in **FAO-5172-2024.**

Mr. Jasraj Singh, Advocate
for appellant in **FAO-5172-2024** and
for respondent No.1 in **FAO-3733-2024**

Mr. Vishal Thakur, Advocate
for respondent No.2 in **FAO-3733-2024** and
for respondent No.1 in **FAO-5172-2024**

Ms. Farheen, Advocate for
Mr. Harsh Aggarwal, Advocate
for respondent No.3 in **FAO-3733-2024** and
for respondent No.2 in **FAO-5172-2024.**

**Parmod Goyal, J. (Oral)**

**CM-19572-CII-2024**

The present application has been filed under Section 5 of Limitation Act for condonation of delay of 74 days in filing the accompanying appeal.

In view of the averments made in the application, the same is allowed and the appeal is taken up today itself.

Application stands disposed of.

**Main Case**

This order of mine shall dispose of two appeals, one preferred by insurance company and second preferred by the claimants. Both the parties are aggrieved by the impugned award dated 14.05.2024, passed by the learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as 'Tribunal'). Vide impugned award dated 14.05.2024, respondent No.1/driver-cum-owner of the offending vehicle bearing No.PB-07-BS-3020 was found rash and negligent in causing the accident dated 08.03.2021. Accordingly, the insurance company i.e. respondent No.3 was found liable to pay compensation amounting to Rs.46,20,452/- along with 7.5% interest, from the date of filing of petition till its realization.

2. Respondent No.3-Insurance Company has opposed the finding on issue No.1 recorded by learned Tribunal that it was respondent No.1 who was rash and negligent. Simple case of insurance company is that respondent No.1 was falsely implicated in collusion with claimants as accident had taken place on 08.03.2021, whereas FIR was lodged after 12 days on 20.03.2021. Learned council for insurance company further

submitted that petitioner has resiled in the criminal trial resulting in acquittal of respondent No.1, which also proves collusion between the parties.

3. Learned counsel for claimants-respondents, on the other hand, argued that in accident dated 08.03.2021 Daljinder Singh and Manjinder Singh both were travelling on the ill-fated motorcycle which was hit by vehicle bearing No.PB-07-BS-3020 driven by respondent No.1. Learned counsel for claimants-respondents has pointed out that as far as claim petitioner-Manjinder Singh is concerned, same has attained finality as no appeal against finding recorded by learned Tribunal in Manjinder Singh's case that it was vehicle No.PB-07-BS-3020, driven by respondent No.1 was at fault. He submits that once insurance company has accepted the accident, it is not open for insurance company to prefer the appeal in the present case.

4. On consideration of award dated 14.05.2024 as well as evidence recorded before the learned Tribunal, this Court finds no fault with the conclusion drawn by learned Tribunal. Admittedly, both Daljinder Singh and Manjinder Singh had suffered grievous injuries in the accident dated 08.03.2021. It is also not in dispute that both were admitted in the hospital after the accident. The fact that injured, who had suffered injuries in the accident were undergoing treatment while being admitted in the hospital, justify the delay of 12 days in lodging the FIR. Learned Tribunal has also found delay to be justified in the facts and circumstances placed before it. No exception to the findings of the learned Tribunal can be found.

5. The argument on behalf of learned counsel for the insurance company that since the injured-claimants had not identified driver and their conduct has resulted in acquittal of the driver, goes to show collusion

between the parties. However, no such conclusion can be drawn simply because in criminal case claimants have not supported the case of prosecution, as regards to the identity of offending driver. It is to be noted in the criminal trial, the standard of proof is to prove the case beyond reasonable doubt. In criminal trial it is not only the involvement of vehicle, but identity of its driver needs to be proved and it is all dependent upon the facts and circumstances of each case. In most of the cases identity of driver is not established as in accident cases drivers are unknown and seen for only few seconds and in some cases, it is not even possible to have a look at the driver. The name of driver in Motor Accident Claims cases only appears mostly during investigation, as driver is not known to the claimant, whereas vehicle is identified by its number. Therefore, merely because claimant has not supported the case of prosecution in criminal trial against respondent No.1, no finding of collusion can be recorded.

5. Moreover, in the present case, insurance company has already accepted the conclusion drawn by learned Tribunal in case preferred by Manjinder Singh against the insurance company titled as Manjinder Singh Versus Manjit Singh and Others. Therefore, no interference is warranted in the appeal preferred by the insurance company and the same is liable to be dismissed.

6. Learned counsel for claimants have also sought enhancement of compensation. Following compensation was awarded by learned Tribunal to the claimant on account of injury suffered by him:-

| Sr. No. | Heads of claim | Tribunal Amount (Rs.) |
|---|---|---|
| 1. | Monthly income | 12,109/- |
| 2. | Annual income | 12,109 x 12 = 1,45,308/- |
| 3. | Functional disability 80% and loss of income | (80% of 1,45,308/-) 1,16,246/- |
| 4. | Multiplier 17 | 1,16,246 x 17 = 19,76,188/- |
| 5. | Future Prospects @40% | 7,90,475/- |
| 6. | Medical expenses + ambulance charges | 5,45,473/- |
| 7. | Pain and sufferings: | |
| | (i) Hospitalization (19 days) | 20,000/- |
| | (ii) Fracture/amputation of right leg. | 20,000/- |
| | (iii) Surgery (2) | 20,000/- |
| 8. | Future expenses for prosthetic legs and miscellaneous charges on the process, for three times. | 3,97,772+5,000=4,02,772x3= 12,08,316/- |
| 9. | Attendant charges | 20,000/- |
| 10. | Special diet | 20,000/- |
| 11. | **Total** | **46,20,452/-** |

7. It is to be noted that learned Tribunal after taking into consideration the extent of disability, found functional disability of 80% and has granted the compensation taking monthly income of injured as Rs.12,109/-.Total compensation after awarding future prospects to the extent of 40% was determined as Rs. 27,66,663-. Neither learned counsel for claimant nor for insurance company could show any error in the same. He however states that as far as compensation awarded under 7 heads in the above table is concerned, he is satisfied but he wants enhancement under the head future expenses for prosthetic leg and miscellaneous charges. It is to be noted that Rs.12,08,316/- have been duly awarded by the learned Tribunal, taking cost of prosthetic leg to be Rs.4,02,772/- for three occasions.

7. I do not find any error in the approach of learned Tribunal, as sufficient amount towards future expenses has been awarded to the claimants. No interference is warranted.

8. Both the appeals stand dismissed and disposed of.

9. Pending applications, if any, also stand disposed of.

**(PARMOD GOYAL)**
**JUDGE**

**26.08.2025**
chiranjeev

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|---|---|---|
| Whether Speaking/Reasoned | : | Yes/No |
| Whether Reportable | : | Yes/No |