

**FAO-6812-2014 (O&M)****-1-****IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****(223)****FAO-6812-2014 (O&M)
Date of decision:- 28.04.2025****Oriental Insurance Company Ltd.****... Appellant****Versus****Anil and others****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Rajneesh Malhotra, Advocate
for the appellant.

Ms. Nidhi Dahiya, Advocate for
Mr. Deepender Singh, Advocate
for the respondent No.1.

None for respondents No.2 to 4.

**********SUVIR SEHGAL, J. (ORAL)**

1. Assailing award dated 30.04.2014 passed by the Motor Accident Claims Tribunal, Faridabad (for short "MACT"), insurance company-appellant has filed the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short "the M.V. Act").
2. Mr. Rajneesh Malhotra, counsel for the appellant has urged that Sukhbir, respondent No.2, driver of the offending vehicle, had a valid license to drive a motorcycle/car/jeep and tractor, but he did not possess a license to drive a commercial vehicle. He urges that the Tribunal has ignored this vital fact while fastening the liability upon the appellant. It is his contention that the offending vehicle was being driven in violation of the terms and conditions of the

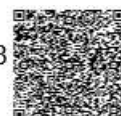


insurance policy as the tractor trolley, which was meant for agricultural purpose, was transporting bricks at the time of the accident. It is also his argument that the Tribunal has erred in awarding an exorbitant compensation on account of the injuries sustained by the claimants in the accident.

3. On the other hand, counsel for claimant-respondent No.1 has opposed the appeal by asserting that driver of the offending vehicle/respondent No.2 possessed a valid driving license and the offending vehicle was duly insured. Therefore, the Tribunal has rightly found appellant-insurance company liable to make the payment of compensation.

4. I have heard counsel for the parties and considered their respective submissions, besides examining the paper-book.

5. Facts leading to the filing of the appeal are not disputed. On 17.02.2011, Mahesh and Sunil alongwith Anil, who was driving a car, were travelling from Palwal to village Bhanguri. When they reached near the KMP, a tractor bearing No. HR-30D-0426 pulling a trolley loaded with bricks being carelessly driven by respondent No.2 hit the car resulting in the injuries to claimant and death of Sunil. Sukhbir, who was driving the offending vehicle, initially stopped the tractor-trolley, but later on, he sped away from the spot. Injured were taken to a local hospital in a private vehicle, where they were medically attended. An FIR bearing No.75 dated 18.02.2011 was lodged under Sections 279, 337 and 338 IPC at Police Station Sadar Palwal on the statement of an eye witness, Mahesh Kumar. Claimant examined himself as PW-2 and deposed on the lines of the claim petition. He was supported by Mahesh Kumar, PW-10. Both the witnesses have deposed that respondent No.2 was driving the offending tractor



at a high speed and collided with the car driven by the claimant resulting in serious injuries and fractures to Anil. Despite extensive cross-examination, respondents could not discredit both the witnesses. Respondent No.2, who was the driver of the offending vehicle, never stepped into the witness box to dispute the accident. Adverse influence has been rightly drawn against him by the Tribunal. FIR, Ex.P-7, has been lodged regarding the incident. Dependents of deceased, Sunil Kumar, had filed a separate claim petition, which was accepted by MACT, Faridabad vide judgment dated 17.09.2012, Ex.P-61, wherein the Tribunal came to the conclusion that the accident had taken place due to the rash and negligent driving of respondent No.2. This finding has become final. This Court, therefore, does not see any reason to interfere with the finding recorded by the Tribunal under Issue No.1 regarding the rash and negligent driving by respondent No.2.

6. In so far as the grant of compensation is concerned, the claimant has produced the Disability Certificate, Ex.P-8, which shows that he has suffered 100% disability qua all the four limbs. Dr. Rajeev, PW-1, Dr. Virender Kumar, PW-2, Dr. Ravi Shankar Gaur, PW-4 and Dr. Pankaj Dawar, PW-7, have been examined. There is evidence on the record that after being discharged from Om Spero Hospital, claimant was treated at AIIMS. It has been proved that he had cervical spine injury with quadriplegia and required ventilator support for respiration. The condition of the claimant has remained static despite aggressive physiotherapy and it did not improve even two years after the accident. Dr. Pankaj Dawar, PW-7, in his evidence has deposed that the patient is unable to perform his normal day to day activities. Although, it had been



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asserted by the claimant that he was running a provisional store and was earning Rs.15,000/- per month, but in the absence of any evidence, Tribunal came to the conclusion that the monthly income of the claimant has to be taken as Rs.5,000/-. Considering his young age of 29 years, Tribunal awarded an amount of Rs.21,79,000/-, inclusive of Rs.1,29,000/-, towards the medical bills, with interest at the rate of 9% per annum from the date of filing of the petition. After examining the various heads under which the compensation has been granted, this Court is of the view that the compensation awarded is adequate and does not require any reduction.

7. Moreover, a Constitution Bench of the Supreme Court in *M/s Bajaj Alliance General Insurance Co. Ltd. Versus Rambha Devi and others, (2025) 3 SCC 95* has held that a driver holding a valid license to drive a Light Motor Vehicle can operate a transport vehicle with a gross vehicle weight under 7,500 kgs. There is no force in any of the contentions raised by counsel for the appellant, which are rejected. Finding no merit in the appeal, it is dismissed with no order as to cost.

8. Pending application(s) is/are stand disposed off.

28.04.2025
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No