

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****232****Date of decision: 13.08.2025****FAO-900-2017(O&M)****ICICI Lombard General Insurance Company Limited****...Appellant(s)****Vs.****Paras Mehra & Others****...Respondent(s)***********FAO-4641-2017(O&M)****Paras Mehra****...Appellant(s)****Vs.****Soraj & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sanjeev Goyal, Advocate
for the appellant-Insurance Company (in FAO-900-2017).

Mr. Sanjeev K. Arora, Advocate
for the appellant-claimant (in FAO-4641-2017).

Ms. Seema Kumari, Advocate for
Ms. Sonia G. Singh, Advocate
for respondents No.2 and 3-driver and owner
(in FAO-900-2017).

*********NIDHI GUPTA, J.****FAO-900-2017**

Present appeal has been filed by the Insurance Company
seeking setting aside of Award dated 14.10.2016 passed by the Motor



Accident Claims Tribunal, Chandigarh (hereinafter referred to as 'the learned Tribunal') in Motor Accidents Claims Case No.416 dated 05.12.2015 filed under Section 166 of the Motor Vehicles Act, 1988, whereby respondent No.1/claimant has been awarded compensation of Rs.3,36,085/-.

FAO-4641-2017

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.3,36,085/- awarded by the learned Tribunal vide Award dated 14.10.2016 passed in MAC Case No.416 dated 05.12.2015 filed under Section 166 of the Motor Vehicles Act, 1988.

Both the above appeals are being disposed of by this common order as both arise out of the same Award dated 14.10.2016; and parties, accident and facts are identical in both the cases. For the sake of convenience, the parties are being referred to and facts are being drawn from FAO-900-2017 filed by the Insurance Company.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the injured-claimant/respondent No.1 had suffered injuries in the motor vehicular accident that took place on 15.04.2015, due to the rash and negligent driving of TATA Magic bearing registration No.CH-45-T-0158 (hereinafter "the offending vehicle") by respondent No.2. The offending vehicle was owned by respondent No.3 and insured by the appellant.



3. Learned counsel for the appellant-Insurance Company submits that the impugned Award deserves to be set aside as the learned Tribunal while passing the Award had wrongly and illegally awarded an amount of Rs.1,83,585/- towards medical expenses allegedly incurred on the treatment of claimant/respondent No.1. It is submitted that the learned Tribunal lost sight of the fact that it has come on record that the employer of father of respondent No.1 had already reimbursed the medical bills of Rs.1,42,023/- out of which a sum of Rs.1,12,023/- was sanctioned under PNB Officers Contributory Hospitalisation Scheme and remaining amount of Rs.30,000/- was sanctioned under payment of hospitalisation relief scheme, reimbursement under staff welfare scheme. It is contended that therefore learned Tribunal has granted double benefit to the claimant for the same treatment expenses, as the claimant has already been reimbursed for the medical expenses, therefore, the question of payment under the Motor Vehicles Act does not arise. The learned Tribunal lost sight of the fact that there are no bills of Rs.1,42,023/- pending, as the same were already paid, therefore, the claim qua the same cannot be given twice.

4. It is also submitted that the amounts awarded by the learned Tribunal under other heads are also on the higher side; or are not made out as no evidence has been produced by the claimant to prove that any amount had been spent towards future treatment, etc. It is accordingly prayed that the impugned Award be set aside.



5. Per contra, learned counsel for the claimant opposes the submissions made on behalf of the appellant-Insurance Company and submits that no amount of medical reimbursement received by the claimant is liable to be deducted as the said amount had been contributed by the father of the claimant. In this regard, learned counsel refers to the findings of the learned Tribunal in Para 22 of the impugned Award.

6. Learned counsel for the injured-claimant further seeks enhancement of impugned compensation by submitting that nothing has been awarded towards future prospects. It is submitted that prior to the accident, the claimant was doing wholesale business of rice for which he had taken a shop on rent on 11.04.2015 @ Rs.9,000/- per month. The claimant had paid regular rent from 01.05.2015 till 31.03.2016; however, had to vacate the shop on 31.03.2016 as he was unable to carry on the business of wholesale rice as he could not put weight on his leg as it could aggravate his injury. In fact, for seven months after the accident, the claimant could do no work at all. Even PW-2 Dr G.S. Bedi, Department of Orthopedic at Govt. Multi-Speciality Medical Hospital, a doctor of the Medical Board which had given 10% Permanent disability to respondent No.1, had categorically stated in his cross-examination that at least a period of two years would be required before respondent No.1 can resume normal work of lifting heavy objects including full bags of rice, the business of which the respondent No.1 was doing before the date of accident. The respondent No.1 had also paid a



security of Rs 18,000/-, equal to two months rent vide Ch. No. 128128, dated 11.04.2015 drawn on Punjab National Bank. The respondent No.1 paid rent of Rs.9,000/- per month from 01.05-2015 to 31.01.2016 vide cheques. The rent security of Rs.18,000/- was adjusted for the period of two months i.e. 01.02.2016 to 31.03.2016, when the shop was vacated. Even the copy of Lease Deed and Bank Account Statements were tendered at the time of evidence. Moreover, for 7 months the claimant could not do anything and from 15.11.2015 he got started the wooden work of the shop, for which a sum of Rs.70,000/- was spent for making a wooden counter and racks, as confirmed by PW-5. So, the respondent No.1 had spent a sum of Rs.99,000/- on rent and Rs.70,000/- for preparing the wooden racks etc, which have completely gone waste as the respondent No.1 could not put the weight on his leg and due to the fear that by putting weight on the injured leg, the injury could be aggravated, the respondent No.1 decided to vacate the shop on 31.03.2016 after the expiry of the lease of 11 months. So, a total sum of Rs.1,69,000/- was spent by the respondent No.1 for which the Ld. Tribunal has not awarded anything to him.

7. It is further submitted that the claimant has spent Rs.15,000/- on special toilet seat, walker, etc. The learned Tribunal has not awarded anything for the same. The claimant had also spent Rs.75,000/- on Physiotherapy and nothing has been awarded by the learned Tribunal under



the said head. It is accordingly prayed that the impugned Award be enhanced and Rs.10 lakh be awarded to the claimant as compensation.

8. No other argument is made on behalf of the parties.

9. I have heard learned counsel and perused the case file in detail.

I find no merit in the submissions made on behalf of either of the parties.

10. It has firstly been contended by learned counsel for the appellant-Insurance Company that the amount of Rs.1,42,023/- reimbursed to the claimant towards medical expenses has to be deducted from the awarded amount of compensation. However, Id. counsel for the Insurance Company is unable to refute, dispute or controvert the finding of the learned Tribunal in Para 22 of the impugned Award, which reads as follows:-

“22. Further, the injured has also placed on record the original medical bills/receipts Ex.P-3 to Ex.P-7 and the total amount of said bills/receipts come to ₹ 1,79,415/-. Further, the contention of learned counsel for claimant was that the father of injured namely Ravinder Kumar Mehra retired as Chief Manager from Punjab National Bank and had submitted medical bills amounting to ₹1,83,585/- including the above said bills with the bank in respect of treatment of his son Paras Mehra, claimant for reimbursement of the same and a sum of ₹1,42,023/- was sanctioned towards the above said total amount, out of which a sum of ₹1,12,023/- was sanctioned under PNB Officers Contributory Hospitalization Scheme and remaining amount of ₹30,000/- was sanctioned under payment of hospitalization relief scheme reimbursement under staff welfare scheme. It was next argued by learned counsel for



*claimant that the amount of ₹1,12,023/- sanctioned to the father of the claimant, from the PNB Officer Contributory Hospitalization Scheme, towards reimbursement of the expenses incurred on the treatment of claimant may not be deducted from the amount claimed by the claimant on account of expenses incurred by him on his treatment as the annual contribution was deducted from the salary of father of claimant under above said scheme. In support of his contention he placed reliance on certificate dated 29.08.2016 Ex.P-Y whereby it was further certified that Sh. Ravinder Kumar Mehra was member of PNB Officer contributory hospitalization scheme and annual contribution was deducted from his salary. Learned counsel for the claimant also placed reliance on the law settled by our **own Hon'ble High Court in FAO No. 2119-2013 (O&M) titled Manoj Kumar Yadav Vs. Azad and Others, decided on 20.04.2015,** wherein it has been held as under :-*

"It is a matter of fact that the appellant/claimant had purchased the medical claim policy by paying premium thereof. It has been held by Karnataka and Kerala High Courts in the cases of Shaheed Ahmed (supra) and Bijumon (supra) respectively, that the amount received under medical insurance policy by the claimant cannot be deducted from the compensation amount to be awarded to the claimant. It was further held that the medical claim policy is taken to cover the medical coverage for particular period on account of ailment one may suffer with certain conditions. A Mediclaim policy is not a pure accidental coverage. It is for the ailment of a person or for a disease of a person on payment of certain premium. In the matter



of Helen C. Rabello v. Maharashtra State Road Transport Corporation, 1998 (4) R.C.R. (Civil) 177, Hon'ble the Supreme Court held that the amount received by the claimant on the life insurance of the deceased is not deductible from the compensation computed under the Motor Vehicles Act. In view of above factual and legal discussion, this Court is of the considered view that the appellant/claimant is entitled to Rs. 1,61,692/-(Rupees one lac sixty-one thousand six hundred and ninety-two) which was deducted by learned Tribunal on the ground that insurance company, which had insured the claimant for medical policy, had paid the said amount to the hospital where the appellant/claimant remained admitted for treatment."

Thus, in view of above said law laid down by our own Hon'ble High Court as well as Hon'ble Supreme Court of India, the claimant is held entitled to a sum of ₹1,53,585/- (₹1,83,585/- minus ₹30,000/-) on account of expenses incurred by him on his medical treatment."

11. From the above findings, it is clear that reimbursement was made to the claimant against the contributions/deductions made from the salary of the father of the claimant. Thus, in a manner of speaking, medical expenses had been incurred by the claimant/his father himself. The same was therefore, correctly not deducted from the compensation awarded to the claimant.

12. It has next been contended on behalf of the claimant that nothing has been awarded by way of future prospects. There is no merit in



the same, as it was the pleaded case of the claimant before the learned Tribunal that he was doing wholesale business of rice. Thus, claimant was self-employed. In this regard, reference may be made to three-Judge Bench judgment of Hon'ble Supreme Court in **"Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379; Civil Appeal No.4646 and 4647 of 2009 decided on 02.04.2013**, wherein after considering the judgment in case of **"Sarla Verma Vs. Delhi Transport Corporation" (2009) AIR (SC) 3104 Law Finder Doc ID # 188882**, in minute detail, learned Apex Court has held as follows:-

"F. Motor Vehicles Act, 1988, Sections 166 and 163A - Death of person in motor accident who had a permanent job - What should be the addition to income for future prospects - Method of addition of income towards future prospects as stated in which Sarla Verma's case (2009(3) RCR (Civil) 77) approved which is reiterated below :-

(i) An addition of 50% of actual salary be made to the actual salary income of the deceased towards future prospects where the deceased had a permanent job and was below 40 years and the addition should be only 30% if the age of the deceased was 40 to 50 years and no addition should be made where the age of the deceased is more than 50 years.

(ii) Where annual income is in the taxable range, the actual salary shall mean actual salary less tax.

(iii) Where deceased was self employed or was on a fixed salary without provision for annual increments, the actual income at the time of death without any addition to income for future



prospects will be appropriate - A departure from the above principle can only be justified in extraordinary circumstances any very exceptional cases. 2009(3) RCR (Civil) 77, Approved.

XXX

35. With regard to the addition to income for future prospects, in *Sarla Verma*, this Court has noted earlier decisions in *Susamma Thomas*, *Sarla Dixit* and *Abati Bezbaruah* and in paragraph 24 of the Report held as under :

"24.....In view of the imponderables and uncertainties, we are in favour of adopting as a rule of thumb, an addition of 50% of actual salary to the actual salary income of the deceased towards future prospects, where the deceased had a permanent job and was below 40 years. (Where the annual income is in the taxable range, the words "actual salary" should be read as "actual salary less tax"). The addition should be only 30% if the age of the deceased was 40 to 50 years. There should be no addition, where the age of the deceased is more than 50 years. Though the evidence may indicate a different percentage of increase, it is necessary to standardise the addition to avoid different yardsticks being applied or different methods of calculation being adopted. Where the deceased was self-employed or was on a fixed salary (without provision for annual increments, etc.), the courts will usually take only the actual income at the time of death. A departure therefrom should be made only in rare and exceptional cases involving special circumstances."

(Emphasis added)



13. Thus, a 3-Judge Bench of the Hon'ble Supreme Court has held that where the deceased was self-employed or was on a fixed salary, the courts will usually take only the actual income at the time of death, and nothing will be added towards future prospects.

14. The other averments made on behalf of the claimant are that he remained unemployed for 7 months; he spent Rs.15,000/- on toilet seat and walker; and Rs.75,000/- on Physiotherapy. However, the said assertions remained unsubstantiated as no bills to this effect have been produced by the claimant. As per the evidence on record, the claimant had produced medical bills only for Rs.1,79,415/- which stand duly reimbursed to him.

15. Further, as per the Claim Petition, in the accident dated 15.04.2015, the claimant had suffered *"...grievous injuries, on his leg besides other parts of the body; that his right leg was fractured and rod was inserted, for removal of which another operation would be required in future..."* As per the evidence of PW2 Dr. G.S. Bedi, Department of Orthopaedic, Government Multi-Speciality Hospital, Sector 16, Chandigarh, the claimant had suffered permanent disability of 10% as is evident from Disability Certificate (Ex.P1). PW2 had further testified that in case the claimant wanted to get the nail removed, then he would require further hospitalisation of 4-5 days and two weeks' rest for rehabilitation. As per the Discharge Summary (Ex.P2), the claimant had remained in hospital from 15.04.2015 to 19.04.2015 i.e. for 5 days. Accordingly, Rs.2,500/- (Rs.500/-



per day) was granted on account of special diet; and Rs.30,000/- for pain & suffering. PW2 had further testified that given the permanent disability of the claimant, it would be at least two years before he could resume normal work of lifting heavy objects including full bags of rice, etc. Keeping in view this fact as also that the claimant was unmarried at the time of accident, the learned Tribunal had awarded lumpsum amount of Rs.1 lakh towards loss of amenities, loss of life expectancy including loss of marriage prospects. As it had been deposed by PW2 that in case claimant wanted to get nail removed by subsequent surgery, he would require further hospitalization of 4-5 days and 2 weeks' rest to rehabilitate, learned Tribunal had awarded Rs.50,000/- towards future treatment; thereby granting total compensation of Rs.3,36,085/-.

16. From the above facts, it is clear that a very just and fair compensation has been awarded to the claimant. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the claimant. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in '**State of Haryana & Another Vs. Jasbir Kaur & Others**' Law Finder Doc ID # 64043 and '**Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty**', (2003) 7 SCC 197, has held that the amount of compensation should be just and reasonable, it should neither be a



bonanza nor a source of profit but at the same time it should not be a pittance. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. In my considered view, in the present case, the learned Tribunal has awarded a very 'just' compensation, which is in accordance with the law laid down by the Hon'ble Supreme Court and therefore, does not warrant the interference of this Court. In the case of **"General Manager, KSRTC Vs. Susamma Thomas & Others" 1994 Volume-II SCC 176**, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

17. The 3-Judge Bench of the Hon'ble Supreme Court in above referred case of **Reshma Kumari supra**, has further held that *"Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case."*

18. Learned counsel for the parties have shown no judgment contrary to the afore-said judgments.



19. In view of the above discussion, both the present appeals stand **dismissed**.

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

13.08.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No