

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****111(2)****Date of decision: 12.09.2025**

Shriram General Insurance Company Limited
...Appellant(s)

FAO-6469-2018(O&M)**Vs.****Resham Singh & Others****...Respondent(s)***********Resham Singh****FAO-6383-2018(O&M)****...Appellant(s)****Vs.****Anil Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Punit Jain, Advocate
for the appellant-Insurance Company
in FAO-6469-2018.

Mr. Sandeep K. Sharma, Advocate
Mr. Utsav Sharma, Advocate
for the appellant-claimant
in FAO-6383-2018.

*********NIDHI GUPTA, J.****CM-22499-CII-2018 IN FAO-6469-2018**

Present application under Section 151 CPC is filed seeking
condonation of delay of 56 days in re-filing the present appeal.



After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 56 days in re-filing the appeal is condoned.

CM-22500-CII-2018 IN FAO-6469-2018

Present application under Section 5 of the Limitation Act is filed seeking condonation of delay of 11 days in filing the present appeal.

After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 11 days in filing the present appeal is condoned.

CM-22501-CII-2018 IN FAO-6469-2018

Present application under Order 41 Rule 27 read with Section 151 CPC is filed for leading additional evidence (Annexure A1), the judgment dated 15.03.2017 passed by learned Sub-Divisional Judicial Magistrate, Dabwali in case titled "State Vs. Anil Kumar" (FIR No.464 dated 18.11.2012, P.S. City Mandi, Dabwali) in the interest of justice.

After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and Annexure A1 is taken on record.

CM-22205-CII-2018 IN FAO-6383-2018

Present application under Section 5 of the Limitation Act read with Section 151 CPC is filed seeking condonation of delay of 25 days in filing the present appeal.



After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 25 days in filing the present appeal is condoned.

MAIN CASE

FAO-6469-2018

Present appeal has been filed by the Insurance Company laying challenge to the Award dated 09.02.2018 passed by Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the learned Tribunal') whereby Claim Petition No.15 dated 26.09.2014 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act") by the injured-claimant/respondent No.1, has been allowed and compensation of Rs.3,53,000/- has been awarded to the respondent No.1.

FAO-6383-2018

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.3,53,000/- awarded by the learned Tribunal vide Award dated 09.02.2018 passed in Claim Petition No.15 dated 26.09.2014 filed under Section 166 of the Act.

Both the above cross-appeals are being disposed of by this common order as both appeals arise out of the same accident dated 30.05.2012; same impugned Award dated 9.2.2018; and parties, facts and offending vehicle in both cases, are identical. However, each matter is individually considered on merits. For the sake of brevity, the parties are



being referred to and facts are being drawn from FAO-6469-2018 titled as “Shriram General Insurance Company Limited Vs. Resham Singh & Others”.

2. Learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the injured-claimant had suffered injuries in a motor vehicular accident that took place on 30.05.2012 due to the rash and negligent driving of canter bearing registration No.HR-56-7922 (hereinafter referred to as “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 has failed to properly appreciate that the accident had taken place on 30.05.2012 at about 6 pm. The claimant was discharged from hospital on 19.06.2012; whereas FIR has been registered after a delay of 5 months on 18.11.2012. Learned counsel submits that there is no explanation whatsoever on record for the said delay in registration of the FIR. It is submitted that it is admitted fact on record that the appellant has not suffered any disability. As such, there is no cause or occasion for there to be such an inordinate delay in registration of the FIR. It is contended that from this fact alone, it is evident that the offending vehicle has been planted at site and Claim Petition has been filed by the respondents in collusion only with a view to procure the Award. Even in the FIR, although number of the



offending vehicle is mentioned, however, identity of the driver of the offending vehicle has not been given. It is submitted that delay in registration of the FIR is also inexplicable on account of the fact that as per the claimants, accident was witnessed by eyewitness PW2, yet statement of said eyewitness has been recorded only on 22.01.2013.

4. It is further submitted that the offending vehicle was not involved in the accident in question is also proven from the fact that the driver of the offending vehicle stands acquitted in the criminal case/ FIR No.464 dated 18.11.2012. Moreover, when the driver Anil Kumar was examined before the learned Tribunal, he has categorically asserted that he was not involved in the accident in question. It is accordingly prayed that the claimant was not entitled to compensation; and therefore, the impugned Award deserves to be set aside.

5. Per contra, learned counsel for the claimant/respondent No.1 vehemently opposes the submissions made on behalf of the appellant-Insurance Company and submits that in the accident in question, the claimant had suffered grievous injuries including head injury. It is submitted that it was the pleaded and proved case of the claimant that on 30.05.2012, when the claimant was returning from his daily work and going from Bathinda Chowk to Malout Road on his motorcycle bearing registration No.PB-15D-1847, the driver Anil Kumar struck his offending canter on the backside of the motorcycle of the claimant due to which he fell down on



the road along with his motorcycle and received serious injuries. It is submitted that thereafter, the claimant remained hospitalised for more than a month and was discharged only on 19.06.2012. It is submitted that the delay in registration of the FIR has been occasioned only on account of the fact that due to the head injury suffered by the claimant he was not in a position to approach the Police. Treatment of the claimant has been going on even after his discharge from the hospital.

6. It is further submitted that in fact the compensation awarded to the claimant is on the meagre side as nothing has been awarded on account of special diet, special care, loss of income, etc. It has not even been considered by the learned Tribunal that prior to the accident, the claimant was working as a Raj Mistri and earning more than Rs.18,000/- per month. However, due to the accident, the claimant is unable to work. As such, income of the claimant ought to have been taken as that of a skilled labourer. However, this aspect of the matter has not been considered by the Tribunal. Even under the conventional heads of transportation, pain and suffering, etc., very meagre amount has been awarded to the claimant. It is accordingly prayed that the impugned compensation be enhanced.

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

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

9. It is admitted fact on record that the claimant had remained hospitalised from the date of accident i.e. 30.05.2012 up to the date of



discharge on 19.06.2012; whereas FIR has been registered on 18.11.2012. No doubt, there is delay in registration of FIR, however, mere delay in registration of the FIR will not prove fatal to the case of the claimant in view of recent judgment of Hon'ble Supreme Court in **New India Assurance Co. Ltd. v. Velu, (SC) : Law finder Doc ID # 2685999 decided on 12.12.2024**. The attendant circumstances are also to be taken into consideration; which, in the present case are that admittedly, the appellant had suffered head injury; and even after discharge, he had to go to the hospital constantly for follow-up treatment. It is the clear pleaded case of the claimant that immediately after the accident, he had become unconscious. This is supported from the evidence of PW2 Dr. V.S. Jha, who had stated that on 30.05.2012, the claimant was admitted in hospital with history of "*unconscious since injury*". As per the medical record, the claimant had suffered fracture left occipital with bilateral frontal contusion. The claimant had also suffered other injuries including injury on his left ankle and left hand. The claimant had also undergone operation. In these circumstances, delay in registration of FIR cannot be held against the claimant. It is also not to be lost sight of that provisions of the Act are beneficial in nature.

10. The second argument of learned counsel for the Insurance Company that the driver of the offending vehicle has been acquitted in the criminal case, can also not be of much help to him. For the reason that it has been held in numerous cases that proceedings before the MACT are



conducted on the preponderance of probabilities; and are not to be construed on the stringent conditions of a criminal trial. A driver's acquittal in a criminal case does not prevent the Tribunal from awarding compensation. This is because civil and criminal proceedings operate under different standards of proof. Criminal trials require proof beyond a reasonable doubt, while MACT cases only need a "preponderance of probabilities," meaning it's more likely than not that the driver was negligent. Therefore, even with an acquittal, the Tribunal can still hold the driver liable if the civil evidence presented in the MACT case establishes negligence on a balance of probabilities. Both proceedings require different standards of proof; inasmuch as standard of proof in a criminal trial is "beyond reasonable doubt," which is much higher than the civil standard of "preponderance of probabilities" used in MACT cases.

11. As regards submission of the claimant that he is entitled to enhancement of compensation, the same is also liable to be rejected. It has been contended on behalf of the claimant that prior to the accident, he was working as a Raj Mistry and earning more than ₹18,000/- per month. However, admittedly, the claimant has failed to produce any proof in support of the said contention. Accordingly, learned Tribunal had correctly taken notional income of the claimant as ₹9000/- per month. Given the nature of injuries suffered by the claimant, learned Tribunal had taken recuperation period of the claimant as six months; and had accordingly



awarded ₹54,000/– (Rs.9000x6), towards loss of income. Admittedly, claimant has suffered no permanent disability. As such amount of ₹40,000/– towards pain and suffering is just and fair. A further amount of ₹10,000/– has been awarded towards conveyance and special diet; and ₹9000/– towards transportation charges. Thus, the Tribunal has awarded compensation to the claimant as follows: –

Head	Amount
Medical bills	Rs.2,40,000/-
Loss of earnings	Rs.54,000/-
Pain and suffering	Rs.40,000/-
Conveyance and special diet	Rs.10,000/-
Transport charges	Rs.9,000/-
Total	Rs.3,53,000/-

12. I find the said compensation to be just and fair in the facts and circumstances of the case. This Court is also mindful of the fact that the learned SDJM while acquitting respondent no.2/Driver, has pointed out material discrepancies in the case of the claimant. The categoric finding of the learned Sub-Divisional Judicial Magistrate, Dabwali in judgment of acquittal dated 15.03.2017 in case FIR No.464 dated 18.11.2012 registered under Sections 279, 337 and 338 IPC at Police Station City Mandi Dabwali, whereby respondent No.2/driver of the offending vehicle has been acquitted, are as follows: –

“Furthermore, there is a strong doubt about identity of the accused as in statement Ex.PW1/A, the complainant has stated that the number of offending vehicle was informed to him by the



witnesses present on the spot and complainant while deposing his evidence as PW1 has stated in his cross-examination that he had himself seen the number of the offending vehicle. On the other hand, stated that he was unconscious immediately after receiving injuries and the fact that PW 4 Munshi has stated in his cross-examination that he had not accompanied the injured for Bhatinda. So, there is material contradictions regarding the identity of accused as well as offending vehicle and accused is entitled for benefit of doubt on this ground also.”

13. Therefore, keeping in view the entirety of the facts and circumstances of the case, and to balance the equities and the law, both the above said appeals, stand **dismissed**.

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

12.09.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No