



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CM-2383-CII-2025 in/and
FAO-91-2025 (O&M)
Date of decision: 14.02.2025**

Oriental Insurance Co. Ltd.

...Appellant(s)

Vs.

Jitender Kumar and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Harsh Aggarwal, Advocate
for the appellant.

NIDHI GUPTA, J.

CM-2383-CII-2025

This is an application under Section 151 CPC for preponing the
date of hearing from 26.09.2025 to some early date of hearing.

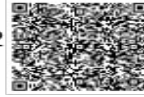
Heard.

In view of averments mentioned in the application, the same is
allowed and the main appeal fixed for 26.09.2025 is preponed for today and
taken on board.

CM-352-CII-2025

Prayer in this application filed under Section 5 of the Limitation
Act is for condonation of delay of 12 days in filing the accompanying appeal.

Heard.



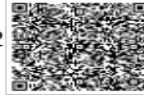
For the reasons mentioned in the application, the same is allowed and delay of 12 days in filing the accompanying appeal is condoned.

FAO-91-2025 (O&M)

The present appeal has been filed by the Insurance Company laying challenge to the Award dated 16.08.2024 passed by the learned Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as “the Tribunal”) whereby the claim petition bearing MACP No. 211 dated 28.04.2023 filed by the injured-claimant/respondent No.1 herein, under Section 166 read with Section 171 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”), has been allowed; and the claimant has been granted compensation of Rs.13,98,000/-.

2. The learned Tribunal on the basis of the pleadings and the evidence adduced before it, concluded that the claimant had suffered injuries in a Motor Vehicular Accident that took place on 01.11.2022 at about 05:30 p.m due to the rash and negligent driving of a Dumper bearing registration No. HR-69D-1228 (hereinafter referred to as ‘the offending vehicle’) which was being driven by respondent No.2; owned by respondent No.3; and insured by the appellant herein. The above said compensation was awarded along with interest @ 7.5% per annum from the date of filing of the claim petition till final realization.

3. Learned counsel for the appellant-Insurance Company assails the impugned Award dated 16.08.2024 firstly by contending that the date of accident is 01.11.2022; whereas the FIR No. 636 in respect of the



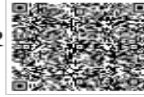
said accident has been registered by the claimant after a delay of 6 days i.e. on 07.11.2022. It is contended that the said delay reflects concoction and manipulation by the claimant.

4. It is further submitted that as per the medical record, Bijender-brother of the claimant has stated before the hospital authorities that he had suffered injuries as he fell down from the motorcycle. It is contended that as such, the learned Tribunal was in error in holding the appellant liable to pay the compensation. It is further submitted that the learned Tribunal has also lost the sight of the fact that the claimant has deposed as PW1, that he had noted down the number of the offending Dumper. It is contended that this is highly unbelievable as claimant was allegedly suffering from multiple injuries.

5. No other argument is raised on behalf of the appellant.

6. I have heard learned counsel for the appellant and perused the case file in great detail.

7. I find no merit in the submissions made on behalf of the appellant. It is the admitted case on record that after the accident, the claimant was in hospital from 01.11.2022 till 09.11.2022. A perusal of the report under Section 173 Cr.P.C Ex.P1 shows that on 01.11.2022 itself upon receipt of information, the police officials visited the spot; and had again visited the hospital on 02.11.2022, 03.11.2022, 05.11.2022 on which dates, the claimant was found to be unfit to make the statement. On 07.11.2022, the claimant had produced his written complaint on the

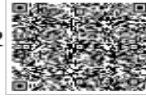


basis of which, the present FIR No. 376 was registered on 07.11.2022.

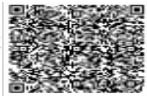
As such, delay in registration of FIR will not go against the claimant.

8. The second contention of learned counsel for the appellant is that as per the medical record, it has been stated by brother of the claimant that he had suffered injuries due to his fall from the motorcycle. The said contention of the appellant is also liable to be rejected. It is the clear pleaded case of the respondent No.1/claimant in the claim petition that on 01.11.2022 at 05:30 p.m., when the claimant was returning home after his duty hours at Manohar Filament Factory, HSIIDC, Barhi and reached near village Moi, the offending vehicle being driven by respondent No.2 at very high speed, in a rash and negligent manner and without observing the traffic rules in a zig-zag manner, had hit the motorcycle of the claimant. It has been clearly stated in the claim petition that due to the said impact, the claimant fell down and suffered multiple serious and grievous injuries all over his body including legs, hips, hand and chest. It was further pleaded by the claimant that after causing the accident, the respondent No.2 fled away from the spot leaving behind the offending vehicle. It is also on record that the police had reached the spot at about 6:00 - 6:30 p.m. where the motorcycle of the claimant and offending vehicle were lying. Thus, the statement of the brother of the claimant cannot be misconstrued.

9. Further, in the accident in question, the claimant had suffered multiple serious and grievous injuries including multiple fractures in leg and hip - describable as RSA/bilateral multiple ribs fracture/left LL



multiple fracture/mild PE with fracture left acetabulum with fracture left subtrochanteric femur with fracture shaft of femur with PCL bony avulsion with fracture left tibia & fibula with fracture phalanx left hand - for which he underwent numerous operations and was continuously under treatment as indoor patient. The claimant had produced extensive medical record duly proved by PW-2 Dr. Vipin Dalal Orthopedic Surgeon, as per which he remained hospitalized from 02.11.2022 to 09.11.2022; 11.11.2022 to 22.11.2022; 03.12.2022 to 12.12.2022; 03.01.2023 to 07.01.2023; 23.01.2023 to 27.01.2023; and in PGIMS, Rohtak from 27.01.2023 to 19.02.2023, where he was again operated. Thus, the claimant had remained in hospital for a period of almost 6 months. The claimant had produced Dr. Vipin Dalal, Orthopedic Surgeon, GH, Sonipat, PW-2, who had proved disability certificate Ex.PW-2/A, as per which the claimant had suffered 60% temporary disability. PW-3 Ashu, Medical Record Keeper, Cygnus Hospital, had proved the discharge summary Ex.PW-3/A; PW-4 Jagbir, had proved the ambulance bills Ex. PW-4/A to Ex. PW-4/O; PW-5 Poonam had proved the in-patient bill of the claimant as Ex.PW-5/A; PW-6 Mamta had proved the blood bank bills Ex. PW-6/A to Ex.PW-6/G etc. Thus, by way of extensive detailed medical evidence, the claimant proved that he had suffered multiple serious and grievous injuries. No evidence to rebut evidence of claimant was produced by the appellant and respondents No. 2 and 3 herein. As such, learned Tribunal, had awarded total compensation of Rs.13,98,000/- in the following manner: Rs.11,15,000/-medical expenses etc. + Rs.80,000/-



pain and suffering + Rs.50,000/- loss of income + Rs.1,50,000/- loss due to temporary disability + Rs.3,000/- repair of motorcycle.

10. From the above facts, it is clear that a very just and fair compensation has been awarded to the claimant. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. The Hon’ble Supreme Court in ‘**State of Haryana and another Vs. Jasbir Kaur and others**’ Law Finder Doc ID # **64043** and ‘**Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty and another**’, (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.

11. In view of the above, present appeal is **dismissed**.

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

14.02.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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