



2025:DHC:10943



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on: 04.12.2025

+ MAC.APP. 824/2018

SACHIN HANS

.....Appellant

Through: Mr. S.N. Parashar & Mr. Ritik
Singh, Advocates.

versus

SATYA PRAKASH GOYAL & ORS

(L & T GENERAL INSURANCE CO LTD)

.....Respondents

Through: Mr. Sameer Nandwani, Advocate
for R-3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. By way of the present appeal, the appellant seeks enhancement of the compensation awarded by the Motor Accident Claims Tribunal [“the Tribunal”] *vide* its judgment dated 04.04.2018 in Petition No. 76911/2016, by which he was granted a sum of Rs.16,000/- alongwith interest at the rate of 9% per annum.

2. The appellant [claimant before the Tribunal] was driving a car bearing Registration No. HR-12T-6162 on 21.01.2013 at about 09:45 PM, when it met with an accident involving another car bearing Registration No. HR-20T-5454 [“the offending vehicle”]. According to the appellant, the said vehicle was being driven at a very high speed, in a rash and negligent manner, and struck the appellant’s car from behind, causing him to sustain injuries. The appellant thereafter instituted a claim



against the driver and owner of the offending vehicle, as well as its insurer, arrayed herein as respondent Nos. 1, 2 and 3, respectively.

3. The Tribunal returned a finding that the appellant's car had indeed been struck from behind by the offending vehicle and, on that basis, held the appellant entitled to compensation. He was awarded a sum of Rs.16,000/-, being Rs.6,000/- towards reimbursement of medical expenses and Rs.10,000/- for pain, suffering, and trauma.

4. Mr. S.N. Parashar, learned counsel for the appellant, relies upon the appellant's disability certificate dated 23.02.2015 issued by Guru Govind Singh Government Hospital, which records that the appellant suffered a traumatic compression fracture at L2 with right lower limb monoparesis [Ex. PW-1/4], and certifies that he has sustained 42% permanent physical disability in relation to his spine and right lower limb. The certificate is signed by Dr. Navneet Rustagi and Dr. Perminder Kaur.

5. The principal contention of Mr. Parashar is that the Tribunal erred in concluding that the appellant's permanent physical disability, assessed as above, was not attributable to the accident in question, and consequently failed to award any compensation towards loss of income, loss of future earning capacity, or other heads arising from the appellant's disability.

6. Mr. Parashar and Mr. Sameer Nandwani, learned counsel for respondent No. 3 – L&T General Insurance Co. Ltd. ["the Insurance Company"], have taken me through the evidence adduced before the Tribunal.

7. Immediately after the accident on 20.01.2013, the appellant was taken to Sanjay Gandhi Memorial Hospital, Mangolpuri, Delhi, where he



remained admitted for one night, and was discharged on 21.01.2013. Extracts of the Medico-Legal Case Sheet [“MLC”] and the discharge card have been placed on record. The MLC notes that the appellant had pain and swelling over the back, was ambulatory, and had tenderness over the L2 vertebra, though no other neurological injury or BB involvement was observed¹. The MLC further records that he was experiencing pain and tenderness in the lower spine and classifies his injuries as “*grievous*”.

8. The discharge card records a diagnosis of a traumatic L2 vertebral fracture (old), with MRI revealing oedema and indentation of the L1 vertebra. It further states that, upon clinical examination and investigation, the appellant was diagnosed with compression of the L2 vertebra without any neurological deficit or BB involvement, and that he was discharged in a satisfactory condition with appropriate advice regarding care and regular follow-up.

9. Dr. Navneet Rustagi, who signed the disability certificate, appeared before the Tribunal as PW-3. He proved the certificate and reiterated its contents, including that the appellant had 42% permanent physical disability in relation to his spine and lower limb. In cross-examination, he stated as follows:

*“ Prior to issuing the disability certificate an x-ray was performed and the neurological assessment was done. The patient has submitted a copy of discharge summary pertaining to his admission in the Sanjay Gandhi Memorial Hospital. **I cannot comment as to since when the person was suffering this disability. On the basis of discharge summary I can say that the disability arose in this case due to injury suffered by the person in a Road Traffic Accident.***

It is correct that as per the discharge summary, MRI shows old fracture of L2 vertebra with oedema and indentation of L1

¹ I am informed that BB refers to “*blood-brain barrier*”.



vertebra. I cannot comment whether this injury could be possible before accident. I cannot admit or deny that the injury which is the cause of permanent disability in this case was suffered by the patient much prior to the accident.

I have brought the complete record of the patient. Copy of the assessment proforma is Ex. PW-3/R3-C1 (OSR - 02 pages). It is wrong to suggest that disability in this case has not been assessed properly.”²

10. On the basis of the above evidence, the Tribunal recorded the following findings:

“16. As per MLC, petitioner/claimant was admitted to Sanjay Gandhi Memorial Hospital was admitted on 21.01.2013 and discharged on 22.01.2013. The MLC reflects that claimant was brought with pain & swelling over back, tenderness over L2 vertebrae and no neurological injury or BB involvement. Hence, he was advised x-ray of spine. After investigation, he was discharged on 22.01.2013. As per Discharge Summary, during MRI it was revealed that the petitioner was detected with old fracture L2 vertebrae oedema & indentation of L1 vertebrae. Meaning thereby, petitioner did not sustain any fracture in his spine as claimed by him due to the accident in question. He was, however, advised regular follow-up. Since he did not sustain any fracture or any injury due to the accident, no compensation can be awarded under this head.

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19. It was claimed by PW1/Sachin Hans that due to the accident he had sustained permanent physical disability to the extent of 42% in relation to his spine and right lower limb. To prove the same, he examined Dr.Navneet Rastogi, Specialist Orthopaedic, Guru Gobind Singh Hospital, who was the sole member to assess the disability of petitioner. He proved certificate of disability qua the petitioner as Ex.PW1/4. It was also claimed by PW1/Sachin Hans in his evidence that he was running a furniture shop at the time of accident, however, due to grievous back injury and other injuries on his body, he was in acute financial crisis. The statement of PW1/Sachin Hans is belied from the admissions made by him in his cross-examination by respondent No.3/Insurance Co. During his cross-examination, he admitted that the furniture shop which he was running at the time of the accident, was a family shop and that earlier his father used to run the said shop. Since last 5-6 years, he had started running the

² Emphasis supplied.



shop along with his brother under the name & style of Navjyoti Furniture. He also admitted that both he and his brother were income tax assessee and that the ITR for the Assessment Years 2013-14 and 2014-15 were Ex.PW1/R-3. The bare perusal of Ex.PW1/R-3 reveals that the income of claimant Sachin Hans is increasing steadily and he has not sustained any loss of income in the subsequent years after the accident. Even otherwise, since it is proved that the alleged fracture in his L2 vertebrae was an old fracture, the disability certificate Ex.PW1/4 has to be ignored.

20. *Therefore, in view of the fact that no disability was caused to the petitioner due to accident dated 20.01.2013 and the fact that petitioner did not sustain any loss of income in the subsequent years, no compensation can be granted under this head as well.”*

11. Having considered the evidence discussed above, I do not find any infirmity in the Tribunal’s findings on this aspect. The MLC and discharge card issued by Sanjay Gandhi Memorial Hospital both record that the L2 vertebral fracture and L1 indentation were old injuries. The MLC specifically notes that the appellant was ambulatory on the day of the accident, and there is nothing in the medical record to indicate that he sustained any fracture due to the accident. The only medical evidence to the contrary pertains to pain and tenderness in the lower spinal region, which is also reflected in the discharge summary.

12. The disability certificate, read together with the testimony of the issuing doctor, also does not advance the appellant’s case. In cross-examination, the medical witness clearly stated that he was unable to comment on the duration of the injury. Although he stated that the disability arose due to an injury suffered in a road traffic accident, he was unable to clarify whether the old L2 vertebral fracture and the oedema and indentation of the L1 vertebra, could have pre-dated the accident in question. Most significantly, he could not indicate whether the permanent



disability may have been caused by an injury sustained much prior to the accident.

13. While the Tribunal is not bound by strict rules of pleadings and evidence, its conclusions must still be based on the preponderance of probabilities³. In the light of evidence discussed above, the Tribunal's conclusion on this aspect does not, in my view, warrant appellate interference.

14. Mr. Parashar, however, submits that the quantum of compensation awarded by the Tribunal under the non-pecuniary heads is inadequate, even in light of the above evidence. On this aspect, I find merit in his submission.

15. The Tribunal had awarded only Rs.10,000/- as a lump sum under the head of pain, suffering, and trauma. The injuries sustained were grievous, even in the absence of any permanent disability attributable to the accident, as reflected in the MLC. The discharge card further notes that the appellant was advised, at least for the period following discharge, to lie on a hard surface and to refrain from sitting, standing, or walking. Such restrictions, even if temporary, would have resulted in a significant loss of amenities and considerable pain and suffering. Although the accident occurred in 2013, when the value of money was higher, this does not mitigate the inadequacy of the award under this head, which, in my view, falls short of providing fair compensation to the appellant.

16. Having regard to the aforesaid evidence, and considering that the

³ *Mathew Alexander v. Mohd. Shafti* [(2023) 13 SCC 510] [paragraph 12]; *Rajwati v. United India Insurance Co. Ltd.* [2022 SCC OnLine SC 1699] [paragraph 20]; *Dr AKB Sadbhavana Mission School of Homeo Pharmacy v. Ministry of Ayush* [(2021) 2 SCC 539] [Paragraph 21]; and *Bimla Devi v. Himachal RTC* [(2009) 13 SCC 530] [Paragraph 11].



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appellant was only 28 years of age at the time of the accident, I am of the view that the amount awarded towards pain, suffering, and trauma deserves to be enhanced to Rs.35,000/-.

17. The Tribunal also failed to award any amount towards attendant charges, despite the medical evidence and clear advice recorded in the discharge card. It is now well settled that even where attendant services are rendered gratuitously by family members, the appellant is entitled to be compensated under this head. An additional Rs.5,000/- is, therefore, awarded towards attendant services.

18. As a result of the foregoing discussion, the compensation awarded to the appellant is enhanced by Rs.30,000/-, i.e. by Rs.25,000/- on account of pain, suffering, trauma, and loss of amenities, and Rs.5,000/- for attendant services.

19. The original amount awarded by the Tribunal has already been paid to the appellant. The balance amount, alongwith interest at the rate of 9% per annum from the date of filing of the petition, as awarded by the Tribunal, shall be deposited by the Insurance Company with the Tribunal within eight weeks from today. The said amount may then be released to the appellant.

20. The appeal stands disposed of with these directions.

PRATEEK JALAN, J

DECEMBER 4, 2025/ 'pv'/SD/