



FAO-3065-2003 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**FAO-3065-2003 (O&M)
Date of decision: 08.05.2026**

BANWARI LAL**....Appellant****Versus****HANS RAJ AND OTHERS****...Respondents****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present : Mr. Bhagwan Singh, Advocate for the appellant.

Mr. Aseem Aggarwal, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 23.05.2003 passed by MACT, Gurgaon (**for short “Tribunal”**) for enhancement of compensation awarded in MACT Case No.116 of 11.12.2001 in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,31,800/- has been awarded as compensation to the claimant/appellant along with interest 9% per annum due to injuries suffered by him in a motor vehicular accident which took place on 20.10.2001, on account of rash and negligent driving by respondent No.1, while driving offending vehicle bearing No.DL-1CG-2262 (**for short ‘offending vehicle’**), owned by respondent No.2, which was insured with respondent No.3.

2. From the pleadings of parties, following issues were framed by the learned Tribunal:-

“1) Whether the accident took place due to rash and negligent driving of respondent No.1 as alleged? OPP.



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- 2) *If issue No.1 is proved, whether the claimant is entitled for compensation, if so how much and from whom? OPP.*
- 3) *Whether respondent No.1 was not holding a valid driving licence at the time of accident, as alleged? OPR.*
- 4) *Whether there is violation of terms and conditions of insurance policy, as alleged? OPR.*
5. *Whether the petitioner has no cause of action to file the petition, as alleged? OPR*
6. *Whether the petition is not maintainable in the present form, as alleged? OPR*
- 7) *Relief.”*

3. Thereafter, the parties led evidence in support of their case.

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,31,800/- as compensation to the claimant, on account of injuries suffered by him along with interest @ 9% per annum from the date of filing of claim petition till realization, payable by respondents No.1 to 3 jointly and severally.

5. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.

6. The only issue required to be determined in the present appeal relates to the assessment of compensation. Therefore, the entire facts regarding the manner of the accident are not required to be reproduced in detail, as the Tribunal has already held under Issue No.1 that the accident had occurred due to the rash and negligent driving on the part of respondent No.1, while driving offending vehicle bearing No.DL-1CG-2262, which was owned by respondent No.2 and insured with respondent No.3. No appeal or cross-objections have been filed by



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the respondents, challenging the said finding and accordingly, finding on issue No.1 is not required to be interfered with and the same is affirmed.

7. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Registry and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned award.

8. Learned counsel for the appellant argued that the claimant had suffered multiple injuries on his face, including mouth. He remained admitted in the hospital. He had suffered fracture of left mandible and fracture of right maxilla and had lost 07 teeth as well as suffered 15% permanent disability but the compensation awarded is meagre. Learned counsel further argued that adequate compensation has not been awarded under pecuniary and non-pecuniary heads and same is liable to be enhanced. In support of his contentions, learned counsel for the appellant has relied upon 2014 (1) RCR (Civil) 914 **Sanjay Verma Vs. Haryana Roadways** and 2017 (16) SCC 680 **National Insurance Co. Ltd Vs. Pranay Sethi and Others.**

9. On the other hand, learned counsel for respondents argued that the award in question is adequate, well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

10. The law is well settled that the compensation to be awarded for injuries suffered by victim in a motor vehicular accident should be just and equitable. Courts have consistently held that while money cannot erase the pain, suffering, or trauma but it is the only legal means to provide restitution and restore



the victim to his previous position as far as possible for which 'just compensation' has to be assessed. It is also well settled that while it is impossible to fully compensate for the loss of limb, life, or quality of life, the compensation must be 'Just', meaning thereby, that it should be fair, reasonable, and equitable based on the evidence and not merely a 'Windfall' or a 'Pittance'. The core objective is to put the injured/victim in the same position he would have been if the accident had not taken place, to the extent money can do so. This approach ensures that the law provides a realistic recompense for the trauma endured, rather than just providing normal relief.

11. Besides this, Hon'ble Supreme Court in 2013 (3) RCR (Civil) 934 - **G.Ravindranath @ R. Chowdary Vs. E. Srinivas and another**, has held that in a case of accident resulting in injuries to the victim, the compensation in personal injury cases should be determined under the following heads:-

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing expenditure, food and miscellaneous

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.



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(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded under heads (i), (ii) (a) and (iv) It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

12. Appellant had suffered injuries in his jaw and he was operated upon and Tribunal after going through the material on file has awarded total compensation of Rs.1,31,800/-, under the following heads:-

“(i) On account of injuries including fracture and disability to the extent of 15%.	Rs.50,000/-
(ii) On account of pain and suffering mental shock, special diet, conveyance charges and loss of enjoyment of future life.	Rs.35,000/-
(iii) On account of treatment expenses (vide bills Ex.P3 & Ex.P13)	Rs.38,973/-
(iv) On account of medicines expenses	Rs.5,760/-
(v) On account of loss of income	Rs.2,100/-
Total : Rs.1,31,833/-	
To make it in round figure it is Rs.1,31,800/-”	

13. Claimant was medico-legally examined at Kalyani Hospital, Gurgaon, vide MLR Ex.P15 and following injuries were found on his person:-



“Alleged history of RTA, history of Unconsciousness + H/o Vomiting. There is severe mouth bleeding + Nasal bleeding. No H/o convulsions/ear bleed.

- 1) There is wound over right eyebrow-2-3 cm.*
- 2) Wound over sternal region- Bleeding 2-3 cm.*
- 3) Wound over the chin 2-3 cm.*
- 4) Fracture mandible left swelling.*
- 5) Fracture right maxilla-swelling”*

14. Claimant while appearing as PW1 deposed that after the accident, he was taken to Kalyani Hospital, Gurgaon and from there he was referred to Sir Ganga Ram Hospital, New Delhi, where he also remained admitted for one day. Thereafter, he was taken to Army Hospital, New Delhi, where he remained admitted from 20.10.2001 to 19.11.2001. He was operated upon for fracture of his jaw and he has spent Rs.1 lakh on his treatment till date. Now, he cannot speak properly and cannot eat or chew and has become permanently disabled.

15. PW5-Sushil Shekhar, Billing Incharge, Kalyani Hospital, Gurgaon produced the summoned record and deposed that on 20.10.2001, claimant-Banwari Lal was admitted in their hospital and was discharged on the same day after treatment. The hospital had charged Rs.12,755/- from him vide bill Ex.P3. He also tendered bills and receipts Ex. P-4 to Ex. P-8 on account of payments towards investigation. PW-6 Govind Jha, Sales Manager, Kalyani Medicos has proved bills Ex. P-9 to Ex. P-12, vide which medicines were purchased.

16. PW7-V.N. Gupta, Senior Pharmacist, Sir Ganga Ram Hospital, New Delhi stated that petitioner was admitted in their hospital on 20.10.2001 and was discharged on 21.10.2001 and during this period, he remained under treatment and hospital had charged Rs.26,233/- from him vide bill Ex.P-13.



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17. The accident in question had taken place on 20.10.2001 and the petitioner also remained admitted in the Army Hospital, New Delhi from 20.10.2001 to 18.11.2001, i.e., for about one month, where he was operated upon for fractures of his jaw, as observed by the Tribunal in para No.28 of the Award. The Board of Doctors of D.C. Medical Board, D.C. Rohtak, has issued disability certificate Ex. P-1, which reads as under:-

“Missing teeth : 4 3 4 1/1 2 3
Mouth opening : Restricted
TMJ Movement : Restricted
Scar Marks : 10 cm oblique scar mark on right middle (ace
starting from right side of Nasal bridge till outer
limit of intra orbital margin.
Scar Marks : 5 cm long scar mark on right angle of Mb. -2 cm.
linear thorhoutal scar mark on chin.
-Occulsion : Normal
-Chronic Generalized superiatives periodentics.
-Poor oral hygiene (generalised).
Based on the above findings, the % residual disability of patient is
about 15% (fifteen percent).”

18. From the disability certificate Ex.P1, it is, thus, established that mouth opening of the claimant was restricted and TMJ movements were also restricted and based on examination, doctors assessed his disability to be 15%. However, it cannot be disputed that the disability in opening the mouth would not in any manner diminish the earning capability of the claimant and Tribunal after taking into consideration the fact that the claimant had suffered fractures in his jaw and was operated upon and had suffered 15% permanent disability, awarded him a



sum of Rs.50,000/- on account of permanent disability, which in my opinion is on the lower side and the same is enhanced to **Rs.70,000/-**. Likewise, the claimant had suffered fractures and was operated upon and he has been awarded a sum of Rs.35,000/- for pain and suffering, special diet, conveyance charges and loss of enjoyment of future life, which too is on the lower side and the claimant is held entitled to a sum of **Rs.40,000/-** on account of **pain and suffering**, besides a sum of **Rs.7,500/-** for **special diet** and **Rs.7,500** towards **transportation expenses**.

19. Tribunal has taken the monthly income of the claimant to be Rs.2,100/- per month and awarded him a sum of Rs.2,100/- on account of loss of income as he remained admitted in the hospital for one month. However, this Court cannot lose sight of the fact that the claimant would not have been able to do any work for at least three months on account of injuries suffered by him and he is accordingly held entitled to a sum of **Rs.6,300/-** on account of **loss of income during treatment**.

20. On the basis of bills proved on file, the Tribunal has awarded a sum of **Rs.44,733/-** towards **expenses incurred on treatment** and no interference in the same is called for.

21. Claimant had suffered fractures, 15% permanent disability and had lost 07 teeth but no amount has been awarded towards loss of amenities and he is accordingly held entitled to a sum of **Rs.25,000/-** for **loss of amenities**.

22. Resultantly, the compensation to be paid to claimant is assessed as under:-

Sr. No.	Head of Compensation	Amount
1.	Compensation on account of injuries and 15% permanent disability	Rs.70,000/-
2.	Pain and suffering	Rs.40,000/-



3.	Special diet	Rs.7,500/-
4.	Transportation charges	Rs.7,500/-
5.	Loss of income during treatment	Rs.6,300/-
6.	Loss of amenities	Rs.25,000/-
7.	Expenses on treatment	Rs.44,733/-
8.	Total	Rs.2,01,033/-

23. As a result of aforesaid discussion, the present appeal is partly accepted with costs and the claimant is held entitled to enhanced compensation of Rs.69,233/- (Rs.2,01,033/- - Rs.1,31,800/-) (rounded to Rs.69,000/-) over and above the compensation awarded by Tribunal, payable by respondents No.1 to 3, jointly and severally, along with interest @ 9% per annum, from the date of filing of claim petition i.e., 11.12.2001, till realization. Since, appellant-Banwari Lal has already died, the compensation will be given to his legal heirs.

24. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of directions issued by the Hon’ble Supreme Court in Writ Petition (Civil) No.534 of 2020 titled “**Bajaj Allianz General Insurance Company Versus Union of India and others**”, decided on 16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said judgment.

25. Pending miscellaneous application(s), if any, shall also stand disposed of.

08.05.2026
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(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No