



**201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

FAO-3871-2003

Date of Decision: 19.02.2026

GURDAS

..... Appellant

VERSUS

RAJESH KUMAR AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Ms. Gursimran, Advocate for
Mr. R.S. Mamli, Advocate for the appellant.

Mr. Sandeep Kumar, Advocate for
Mr. G.C. Shahpuri, Advocate
for respondents No.1 and 2.

Ms. Priya Kaushik, Advocate for
Mr. Mukesh Kaushik, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral

1. This appeal has been instituted against the Award dated 29.11.2002 for enhancement of compensation awarded in MACT case No.57 of 25.07.2001 decided by the Motor Accident Claims Tribunal, Yamuna Nagar (**for short “Tribunal”**) on account of injuries suffered by him in a motor vehicular accident with a vehicle bearing No. DL-4-CE-4228 being driven by respondent No.1 in a rash and negligent manner, which was owned by respondent No.2 and insured with respondent No.3.

2. The only issue required to be determined in the present appeal relates to assessment of compensation on account of the injuries



suffered by appellant- Gurdas and, therefore, the entire facts of the case with regard to the manner of accident are not required to be reproduced here for the sake of brevity as learned Tribunal has come to the conclusion under issue No.1 that accident in question had taken place on account of rash and negligent driving on the part of respondent No.1- Rajesh Kumar, while driving the offending vehicle bearing No.DL-4-CE-4228, which was owned by respondent No.2-Ram Kumar and insured with respondent No.3-Oriental Insurance Company Limited and the said finding has not been assailed by the respondents either by filing any appeal or cross-objections.

3. From the pleadings of parties, following issues were framed:-

- “1. Whether the accident resulting into injuries to Gurdas, Pinki, Anil Kumar and Kajal was caused due to involvement of Trax No.DL-4-CE-4228 driven by respondent No.1, if so, its effect?
OPP
2. Whether the claimants are entitled to compensation, if so, how much and from whom?
OPP
3. Whether the petition is not maintainable? *OPD*
4. Whether the respt. no.1 was not having valid and effective driving licence at the time of accident? *OPD*
5. Relief.”

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

5. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.13,486/- 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.

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

7. The term 'just compensation' has been elaborated by Hon'ble Supreme Court in 2009(1) RCR (Civil) 867 (SC), **Syed Basheer Ahamed and Others Vs. Mohd. Jameel and Another**, and it has been held that while assessing compensation in a motor accident claims case, the Tribunal should award compensation which appears to be just. The expression "which appears to be just" vests a wide discretion in the Tribunal in the matter of determination of compensation. Nevertheless, the wide amplitude of such power does not empower the Tribunal to determine the compensation arbitrarily, or to ignore settled principles relating to determination of compensation. It has been further held that although the Act is a beneficial legislation, it can neither be allowed to be used as a source of profit, nor as a windfall to the persons affected nor should it be punitive to the persons liable to pay compensation and that determination of compensation must be based on certain data establishing reasonable nexus between the loss incurred by the victim or dependents. It has been further held that misplaced sympathy, generosity and benevolence cannot be the guiding factors for determining the compensation.

8. As per version of petitioner/claimant, he had suffered multiple fractures in the accident in question. To prove the same, petitioner has examined PW1 Dr. Narender Kashyap, who deposed that on 02.05.2002, patient namely Gurdas aged 18 years was brought to his



hospital with the history of road traffic accident. Patient had suffered multiple injuries and injury concerned with his specialty was urethral injury. He had also suffered pelvic injury for which consultation of Orthopaedic surgeon was obtained and he was accordingly treated. For urethral injury, patient was treated conservatively and no surgery was performed. Catheter was kept for one and a half month and changed in between and the condition of the patient had improved. He deposed that thereafter, patient was discharged after three days with the advice to follow up the treatment. He had charged Rs.2500/- vide bill Ex.P1 and the other bills are Ex.P2 to Ex.P6 and discharge slip is Ex.P7. During cross-examination, he stated that traction was applied by the Orthopaedic Surgeon and he had to remain on bed for one and a half month and thereafter, he could pass urine himself.

9. PW2-Trilochan Singh had conducted ultrasound on the patient vide report Ex.P13 and had charged Rs.300/- for the same.

10. PW3-Charanjit Singh produced the bills Ex.P14 to Ex.P19 vide which the medicines were purchased from M/s Jeet Medical Hall.

11. PW3(2)-Dr. R.K.Mahajan deposed that patient came to his hospital on 03.05.2001 with fracture pelvis and he was advised rest and he had prescribed medicines. Thereafter, he was treated in OPD vide receipts Ex.P14 to Ex.P19 and Ex.P20 to Ex.P22.

12. Petitioner himself stepped into the witness-box as PW4 and deposed that he had suffered fracture in his pelvis region. Initially, he was taken to Government Hospital, Yamuna Nagar. His urinary bladder was also damaged and he was taken to Hospital of Dr. Kashyap (PW1). He



remained admitted in the said hospital for one week. For pelvic fracture, he got himself treated at Mahajan Hospital and has spent about Rs.28,000/- to Rs.30,000/- on his treatment. He could not walk properly for six months due to the injuries and could not attend his job. He further deposed that he cannot ply bicycle and cannot sit properly and walk for a long distance.

13. Nothing favourable could be extracted during cross-examination of both the aforesaid doctors examined by the appellant and from their testimony, it is established that appellant had suffered fracture pelvic as well as urethral injuries for which catheter was inserted for one and a half month. Learned Tribunal has awarded him only a sum of Rs.5,000/- towards pain and sufferings. It is well known that pain component in such type of injuries is enormous and such injuries take a long time to heal and the compensation on account of pain and sufferings awarded by the Tribunal is thus on lower side. Accordingly, appellant is held entitled to a sum of **Rs.30,000/-** towards ***Pain and Sufferings.***

14. Appellant has been held entitled to a sum of Rs.4,486/- on account of expenses incurred on the treatment but it is a matter of common knowledge that in such type of cases, the injured/patient does not retain all the bills of the medicines purchased and some guesswork has to be applied in assessing the amount spent on treatment and appellant is accordingly held entitled to a sum of **Rs.10,000/-** on account of the **expenses incurred on the treatment.**

15. The injuries must have taken at least six months to heal, during which period, he would not have been able to do any work. The



accident had taken place in the year 2001 and taking the minimum wages to be around Rs.2500/- per month, he is held entitled to a sum of **Rs.15,000/-** on account of **loss of income**.

16. During this period of six months, he must have engaged an **attendant**, spent some amount on **transportation** and on **special diet** and he is also held entitled to a sum of **Rs.10,000/-** under this head.

17. The total compensation payable to the appellant is accordingly assessed as under:-

S.No	Under Head	Compensation awarded by the Tribunal	Compensation awarded by High Court
1.	<i>Pain and sufferings</i>	Rs.5,000/-	Rs.30,000/-
2.	<i>Medical Expenses</i>	Rs.4,486/-	Rs.10,000/-
3.	<i>Loss of income</i>	Rs.4,000/-	Rs.15,000/-
4.	<i>Special diet, on transportation and in engaging an attendant</i>	Nil	Rs.10,000/-
	Total compensation	Rs.13,486/-	Rs.65,000/-

18. As a result of aforesaid discussion, the appeal in hand is partly allowed with costs and appellant is held entitled to compensation of Rs.51,514/- (Rounded to Rs.51,500/-) (Rs. 65,000/- – Rs.13,486/-) as enhanced compensation over and above the compensation awarded by the Tribunal along with interest at the rate of 9% per annum from the date of filing of claim petition i.e. 25.07.2001 till realization payable by respondents No.1 and 2. However, respondent No.3 shall pay the compensation as held by the Tribunal and shall have a right to recover the same from the insured along with interest



@ 6% per annum from the date of deposit till realization without filing a separate suit. The entire of compensation be paid to the appellant in cash as the compensation is meagre.

19. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of direction 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

19.02.2026
Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No