



FAO-1115-2002

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

FAO-1115-2002

Date of Decision: 20.02.2026

SHAM LAL

..... Appellant

Versus

ROHIT KUMAR AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Vimal Kumar, Advocate
for the appellant.

Mr. Vijay Kumar Garg, Advocate
for respondent No.3-Insurance Company (Through V.C.).

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal is directed against the Award dated 24.08.2001 passed by MACT, Ambala vide which a sum of Rs.1,14,550/- (correction made vide order dated 05.12.2001) has been awarded as compensation to the appellant on account of injuries suffered by him in a motor vehicular accident involving the scooter being driven by the appellant and the vehicle bearing No.DL-8C-2246 driven by respondent No.1, owned by respondent No.2 and insured with respondent No.3. However, the Tribunal had come to the conclusion that it was a case of contributory negligence and out of the total compensation of Rs.1,14,550/- as assessed by the Tribunal, only 50% of the amount was ordered to be paid to the claimant.

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

“1. Whether Chamanlal and Sham Lal received injuries in a motor vehicular accident held on 31.10.99 due to rash and negligent driving of Maruti Van bearing registration No.DL-8C-2246 driven by



Rohit kumar, Respondent no.1, owned by Jitender Kumar respondent No.2 and insured by Oriental insurance Co. Ltd. respondent no.37 OPP

2. If issue No. 1 is proved whether Chaman Lal claimant is entitled to a sum of Rs.Four Lacs or to any other amount as compensation for the injuries received by him in the above said accident in MACT Case No. 109 of 24.12.1999 ? OPP

3. If issue No.1 is proved whether Sham Lal claimant in MACT Case No. 110 of 24.12.99 is entitled to a sum of Rs.Ten Lacs or to any other amount for the injuries suffered by him in the above said accident? OPP

4. Whether the car was being driven by a person who was not holding a valid and effective driving licence at the time of alleged accident ? OPR

5. Whether the car was being driven in violation of the terms and conditions of the insurance policy. If so to what effect? OPR”

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

4. After hearing the parties and on going through the material on the file, learned Tribunal awarded a sum of Rs.1,14,550/- as compensation to the claimant, on account of injuries suffered by him alongwith interest @ 9% per annum from the date of filing of claim petition till realization. However, the Tribunal came to the conclusion that it was a case of contributory negligence and out of the total compensation of Rs.1,14,550/- as assessed by the Tribunal, only 50% of the amount was ordered to be paid to the claimant.

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 occurred due to the rash and negligent driving on the part of petitioner who was driving the scooter and respondent No.1 while driving the offending Vehicle No.DL-8C-2246 owned by respondent No.2 and insured with respondent No.3 and all the respondents were held liable to pay compensation jointly & severally. No appeal or cross-objections have been filed by respondents, challenging the said finding and accordingly finding on issue No.1 is not required to be interfered with.

7. Coming to issue No.2, as per the version of the petitioner, he had suffered multiple injuries including grievous injuries in the accident. Initially, he was taken to the Civil Hospital, Ambala Cantt., from where he was referred to PGI, Chandigarh, where he remained admitted for 18 days. Thereafter, he was treated in the hospital of Dr. K.D. Sharma at Ambala Cantt. As per his version, he had spent a huge amount on his treatment, special diet, in engaging an attendant and on transportation during this period. He has become permanently disabled and is not in a position to do any job. Prior to the accident, he was working as a labourer in a carpet factory at village Bihta and was getting a salary of Rs.5,000/- per month.

8. To prove the injuries, the petitioner has examined PW-2 Dr. K.D. Sharma, in whose hospital he was treated. He deposed that the patient remained admitted in his hospital from 18.11.1999 to 20.12.1999. At the time of his admission, he was suffering from open infected



fractures of both bones of the right leg, on which an external fixator had been applied and there was deformed fracture of right lower radius. He stated that Illizarov operations were done on 25.11.1999, 01.12.1999 and 08.12.1999 and he has proved the bills Ex.P2 and Ex.P3. He further stated that medicines purchased vide bills Ex.P4 to Ex.P54 were prescribed by him and the bills Ex.P55 to Ex.P70 pertain to transportation charges. He further stated that an ambulance was made available to petitioner-Sham Lal from his hospital.

9. Learned Tribunal came to the conclusion that from the evidence led on file, it is established that petitioner had suffered multiple injuries including fractures of both bones of right leg. However, it was held that there is no evidence to prove his hospitalization at PGI, Chandigarh for 18 days or at Civil Hospital, Ambala Cantt., as no doctor from PGI or from Civil Hospital, Ambala Cantt. had been produced to prove this fact. However, learned Tribunal has not taken into consideration slips Mark-C, Mark-D, Mark-E, Mark-F and Mark-G issued by PGI, Chandigarh, which show that petitioner was treated at PGI, Chandigarh and he had even purchased implants for Rs.4,775/- from Dentsur Clinic, Sector 15, Chandigarh against receipt Mark-A and had also paid Rs.5,000/- at Dentsur Clinic, Sector 15, Chandigarh against receipt Mark-B for purchase of implant. Various bills Mark-J to Mark-S have also been placed on file, which show that petitioner had purchased medicines from the chemist shop situated in PGI, Chandigarh against these bills. Even PW-2 Dr. K.D. Sharma has stated that when the patient was brought to his hospital, he was suffering from open infected fractures of both bones of right leg on which an external fixator had been affixed,



meaning thereby, petitioner had received treatment at some hospital, prior to his admission in the hospital of PW-2. This fact is further established from the admission and discharge card of PGI, Chandigarh, which is on the file and it shows that the petitioner was admitted at PGI, Chandigarh on 31.10.1999. The record of the Tribunal has got burnt in the Branch of the High Court in a fire incident and some part of the said documents have also got burnt and it is, thus, not verifiable whether it was exhibited or marked in evidence. However, its perusal shows that the petitioner had suffered the following injuries:-

- (i) *Fractures both bones right leg.*
- (ii) *Fracture femur right leg.*
- (iii) *Fractures both bones forearms left hand.*
- (iv) *Fracture Colles left hand.*
- (v) *Fracture second finger distal phalanx crushing injury.*

10. No doubt the documents have only been marked in evidence and have not been exhibited and no doctor has been examined to prove that the patient was admitted at PGI, Chandigarh, but it is well settled that inquiry proceedings before the Claims Tribunal are of a summary nature. If there is some evidence before the Tribunal in order to prove a fact, then no nicety, doubt, or suspicion should weigh with it in declining the claim. The claimant is only required to establish his case on the touchstone of preponderance of probability and the standard of proof beyond reasonable doubt cannot be applied in such a case. It is also well settled that the Motor Vehicles Act is a beneficial piece of legislation enacted to give solace to the victims of motor accidents who suffer bodily injury or die untimely. The Act is designed in a manner which relieves the victims from ensuring strict compliance with the provisions of law which are



otherwise applicable to suits and other proceedings while prosecuting claim petitions filed under the Act for claiming compensation for the loss sustained by them in the accident. Reference in this regard can be made to 2019 ACJ 454 titled ***Vimla Devi and others vs. National Insurance Co. Ltd. and others*** and 1990 ACJ 127 titled ***National Insurance Company vs. Saloni Dargan and others***, wherein it has been held that proceedings before the Motor Accidents Claims Tribunal are of a summary nature and strict provisions of the Indian Evidence Act are not applicable to it and the probative value of the documents should not be suspected without any reasonable cause. In 1995 ACJ 366 (SC) titled ***R.D. Hattangadi vs. Pest Control (India) Pvt. Ltd.***, it has been held that the assessment of compensation involves guesswork, hypothesis, consideration and sympathy of the Tribunal. In these circumstances, the Tribunal should not have come to the conclusion that the petitioner has failed to prove that he was treated at PGI, Chandigarh or at Civil Hospital, Ambala Cantt.

11. As such, from the evidence on file, it is established that the appellant had suffered multiple fractures and he was operated upon at PGI, Chandigarh. Thereafter, he was operated upon thrice at the hospital of PW-2 Dr. K.D. Sharma and implants were inserted. It is well known that the pain component in such type of injuries is enormous and such injuries take a long time to heal. However, the Tribunal has awarded only a sum of Rs.15,000/- for pain and suffering, which is grossly inadequate, and the same is enhanced to Rs.40,000/-.

12. The Tribunal has awarded Rs.28,800/- on account of expenses incurred on the treatment while relying upon bill Ex.P-1. In



addition to this, the petitioner has also been held entitled to a sum of Rs.60,750/- for purchase of medicines and other articles for his treatment on the basis of bills Ex.P4 to Ex.P54 and Ex.PA and Ex.PA/1. In all, he has been held entitled to a sum of Rs.89,550/- as compensation for expenses incurred on the treatment. However, various bills issued by chemist shops of Chandigarh and for purchase of implants from Dentsur Clinic, Sector 15, Chandigarh, are on the file and have been marked in evidence, but the same have not been taken into consideration. The total of the bills Mark B to Mark T comes out to Rs.17,405/-. The petitioner is an illiterate person and a labourer and it can be assumed that he may not have even retained all the bills of medicines and merely because the aforesaid bills had been marked could not have been a ground to decline the same to the petitioner. Accordingly, it is held that the petitioner is entitled to a sum of Rs.17,405/- spent by him on purchasing implants and medicines while getting treatment at PGI, Chandigarh and the total expenses incurred on treatment, thus, come out to Rs.1,06,955/- (Rounded to Rs.1,07,000/-).

13. The petitioner had suffered multiple fractures and he remained under treatment for a long time. He was operated upon at PGI, Chandigarh and thereafter thrice at the hospital of Dr. K.D. Sharma. As such, it must have taken at least 09 months for the injuries to heal. During this period, he would not have been able to do any work and must have suffered loss of income. The accident had taken place on 24.12.1999 and during those days, even labourers used to earn about Rs.2,000/- per month and he is accordingly held entitled to a sum of Rs.18,000/- for loss of income.

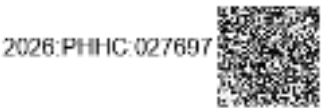


14. During this period, the petitioner must have engaged an attendant and he must have spent some amount on special diet as well as on transportation. The learned Tribunal has awarded him a sum of Rs.5,000/- for special diet and Rs.5,000/- towards transportation and no amount has been awarded for engaging an attendant. Accordingly, the petitioner is held entitled to a sum of Rs.25,000/- in all under the aforesaid heads.

15. PW-2 Dr. K.D. Sharma has deposed that he had assessed the disability suffered by the petitioner and has issued disability certificate Ex.P3. The learned Tribunal has not relied upon the disability certificate issued by the private doctor on the ground that the petitioner had not got himself medico-legally examined before a Medical Board for assessment of disability and PW-2 Dr. K.D. Sharma has also not stated about the criteria adopted by him in assessing the disability. No doubt the petitioner should have got the disability assessed from a Board of doctors at Civil Hospital, Ambala and he has not done so, but the disability certificate Ex.P3 proved by PW-2 cannot be ignored as a whole. According to the testimony of PW-2, the patient had suffered the following disability:-

- “1. Shortening (R) Leg 2.1/2”
2. Absence of (R) ankle joint.
3. Absence of a larger segment of fibula.
4. Restriction of motion (R) ankle complete and (R) knee moderate.
5. Wasting, scarring and disfiguration (R) leg.
6. Deformity (R) wrist.

On the basis of the above mentioned infirmities I assess his permanent physical disability as 40%. This does



include the reversible features of his infirmities.”

16. The aforesaid certificate issued by Dr. K.D. Sharma shows that the petitioner had suffered shortening of the right leg by 2½ inches besides absence of the right ankle and absence of a large segment of fibula. He had also suffered complete restriction of motion of the right ankle and moderate restriction of the right knee with wasting, scarring and disfigurement of the right leg, as well as deformity of the right wrist. Shortening of the right leg has, thus, resulted in deformity and the petitioner shall have to limp while walking throughout his life and on account of shortening of the right leg, the petitioner is held entitled to a sum of Rs.50,000/- as compensation on account of permanent disability and loss of amenities suffered by him.

17. As a result of aforesaid discussion, the compensation to be awarded to the appellant is assessed as under:-

<i>S.No</i>	<i>Under Head</i>	<i>Compensation awarded by the Tribunal</i>	<i>Compensation awarded by High Court</i>
1.	<i>Expenses incurred on treatment.</i>	<i>Rs.89,550/-</i>	<i>Rs.1,07,000/-</i>
2.	<i>Permanent Disability, loss of amenities.</i>	<i>NIL</i>	<i>Rs.50,000/-</i>
3.	<i>Pain and Sufferings</i>	<i>Rs.15,000/-</i>	<i>Rs.40,000/-</i>
4.	<i>Loss of income</i>	<i>NIL</i>	<i>Rs.18,000/-</i>
5.	<i>Special diet, on transportation and in engaging an attendant</i>	<i>Rs.10,000/-</i>	<i>Rs.25,000/-</i>
	<i>Total compensation</i>	<i>Rs.1,14,550/-</i>	<i>Rs.2,40,000/-</i>

18. Resultantly, the appeal in hand is partly allowed with costs and the appellant is held entitled to enhanced compensation of Rs.1,25,450/- (Rs.2,40,000/- – Rs.1,14,550/-). It is pertinent to mention that the Tribunal has come to the conclusion that the accident had taken



place due to contributory negligence of the driver of the offending vehicle as well as the petitioner and a 50% deduction was made and accordingly, 50% of the enhanced compensation i.e. Rs.62,725/- shall be payable to the petitioner along with interest @ 9% per annum from the date of filing of the petition i.e. 24.12.1999 till realization payable by respondents jointly and severally.

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

20.02.2026
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No