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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1253-2005 (O&M)
Date of Decision: 02.02.2026

VIRENDER KUMAR .... Appellant

Versus

DAROGA AND ORS. ..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Gourav Tyagi, Advocate for
Mr. Ashok Tyagi, Advocate
for the appellant.

Mr. Gopal Mittal, Advocate and
Mr. Gaurav Gupta, Advocate
for the respondent-National Insurance Company.

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YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 15.10.2004 passed by the Motor Accident Claims Tribunal (for short 'Tribunal'), Faridabad, in MACT case No.42 dated 18.09.2000 for enhancement of compensation in a petition under Section 166 of the Motor Vehicle Act, 1988, vide which a sum of Rs.39,896/- has been awarded as compensation to the claimant along with interest @ 6% per annum from the date of filing of petition till the date of realization on account of injuries suffered by him and respondent Nos.1 and 2 have been held liable to pay the same jointly and severally and the Insurance Company has been exonerated of its liability.

2. The only issue required to be determined in the present appeal relates to the assessment of compensation on account of the injuries suffered by the appellant 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 the Tribunal has come to the conclusion under Issue No.1 that the accident, in question, had taken place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing TATA-407 No. HR-29GA-0225, which was owned by respondent No.2 and insured with respondent No.3-Insurance Company. The said finding has not been assailed by the respondents either by way of filing any appeal or cross-objections.

3. I have heard learned counsel for the parties and have gone through the material placed on the file.

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

> *(1) Whether the accident occurred due to rash and negligent driving of TATA-407 No. HR-29GA-0225 by respondent No.1? OPP*
> *(2) If issue No.1 is proved, then to what amount of compensation the petitioner is entitled and from whom? OPP*
> *(3) Whether the respondent No.1 was not holding a valid driving licence. If so to what effect? OPR.*
> *(4) Relief.*

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

6. After hearing the parties and going through the material on

the file, the learned Tribunal awarded a sum of Rs.39,896/- as compensation to the claimant alongwith interest @ 6% per annum from the date of filing of the claim petition till realization. However, the Insurance Company was exonerated of its liability to pay the amount of compensation to the claimant, as it was held that the appellant was a gratuitous passenger in the offending vehicle and the driving licence produced by the driver was found to be fake.

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

8. Learned counsel for the appellant argued that the compensation awarded by the Tribunal is grossly inadequate. The appellant had suffered multiple injuries, including grievous injuries, but only a sum of Rs.10,000/- has been awarded towards pain and suffering. The appellant remained bed-ridden for a number of days and had spent a huge amount in engaging an attendant, on transportation, as well as on special diet, but the amount awarded for engaging an attendant and on transportation is inadequate, while no compensation has been awarded for expenses incurred on special diet. Learned counsel prayed that the compensation be adequately enhanced. Learned counsel further contended that the Insurance Company should not have been exonerated of its liability to pay compensation and that the Insurance Company be directed to pay compensation to the claimant with a right to recover the same from the owner/insured. In support of his contentions, learned counsel has cited the judgment dated 17.07.2025 passed by the Hon'ble Supreme Court in Civil Appeal No.9538 of 2025 titled ***Sunita and others***

Vs. United India Insurance Company Ltd. and others and 2004 (1) T.A.C. 366 (SC) titled ***M/s National Insurance Company Limited Vs. Baljit Kaur and others.***

9. On the other hand, learned counsel for the respondent–National Insurance Company argued that the compensation awarded by the Tribunal is adequate and compensation has been awarded under the relevant heads. Learned counsel contended that while assessing compensation in Motor Accident Claim cases, the Tribunal should award compensation which appears to be just. The compensation cannot be determined arbitrarily and misplaced sympathy, generosity and benevolence cannot be the guiding factors for determining the compensation. Learned counsel further contended that the Motor Vehicles Act is a beneficial legislation and 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. Learned counsel next contended that the claimant was a gratuitous passenger, as he had taken a lift in the offending vehicle and no premium had been paid for carrying passengers and the Insurance Company has, thus, rightly been exonerated of its liability. Learned counsel lastly contended that the driving licence produced by the driver was also found to be fake and, in such cases, the Insurance Company cannot be fastened with the liability to satisfy the award and thereafter recover the awarded amount from the insured/owner and he prayed that the appeal in hand be dismissed.

10. As per the version of the petitioner, he had suffered grievous injuries and while appearing as PW-3, he deposed that he suffered serious injuries in his stomach, left thigh and hip. He suffered a fracture of the

left side femur and remained admitted in the hospital for five days. Stitches were applied to the injuries suffered in the stomach and left thigh. The petitioner has also got examined PW-1, Dr. A.K. Gupta, who proved his MLR Ex. P-1, according to which he had suffered the following two injuries:—

> 1. *Multiple lacerated wounds on forehead and cheek on left side, muscle deep. There was bleeding from the wounds.*
>
> 2. *Lacerated wound 5.2 x 2.0 cm muscle deep on posterio lateral aspect of left thigh. There was angulation of left thigh. This injury was advised X-ray.*

11. No evidence to prove the contrary was led by the respondents and believing the version of the petitioner and the medical evidence on the file, the learned Tribunal came to the conclusion that the petitioner had suffered fracture of the femur and multiple injuries on various parts of the body, including the stomach, thigh and hip and awarded him a sum of Rs.10,000/- as compensation for "pain and suffering". However, it is a matter of common knowledge that such injuries take a long time to heal and the pain component in such injuries is also enormous and accordingly, the petitioner is held entitled to a sum of Rs.15,000/- towards pain and suffering.

12. The petitioner has been awarded attendant charges worth Rs.6,000/- as well as transportation charges of Rs.3,000/-, which, in my opinion, are adequate. However, the petitioner has not been awarded anything towards expenses incurred on special diet. Since he suffered grievous injuries, he must have remained bed-ridden at least for three months and during this period, he must have taken some special diet. Accordingly, he is held entitled to a sum of Rs.3,000/- under the head

"special diet".

13. Besides this, petitioner has been awarded loss of income for three months @ Rs.2100/- per month which too is adequate and no enhancement in the same is called for. Accordingly, the compensation under various heads is assessed as under:-

Sr. No.	Under Head	Compensation awarded by the Tribunal	Compensation awarded by the High Court
1.	Medical Expenses	Rs.14,596/-	Rs.14,596/-
2.	Pain and Suffering	Rs.10,000/-	Rs.15,000/-
3.	Attendant Charges	Rs.6,000/-	Rs.6,000/-
4.	Transportation Charges	Rs.3,000/-	Rs.3,000/-
5.	Special Diet	Nil	Rs.3,000/-
6.	Loss of Income for a period three months	Rs.6,300/- (2100x3)	Rs.6,300/-
	Total Compensation	Rs.39,896/-	**Rs.47,896/-**

14. Resultantly, appellant is held entitled to a sum of **Rs.8,000/- (Rs.47,896/- − Rs.39,896/-)** as enhanced compensation over and above the compensation awarded by the Tribunal alongwith interest at the rate of 9% per annum from the date of filing of claim petition i.e. 18.09.2000 till realization.

15. The next question to be determined is as to whether the Insurance Company has rightly been exonerated of its liability to satisfy the award or not. The answer is certainly in the affirmative. The respondents, in support of their case, had examined RW-1 Vijay Pal Singh, who stated that the driving licence Ex.R-1 relied upon by the driver has neither been issued nor renewed by the Licensing Authority, Dehradun and that the same is forged and fictitious. A Coordinate Bench of this Court, while deciding FAO Nos.5788 and 5789 of 2011 titled

Mukesh Khosla Vs. Amandeep Kaur and others, vide judgment dated 30.05.2014, has held that in case the licence produced by the driver is found to be fake, the Insurance Company is not liable to indemnify the insured/owner and no recovery rights were also to be granted. In 2014 (2) PLR 836 (P&H) titled ***United India Insurance Company Limited Vs. Lajwanti Kaur and others***, a Coordinate Bench of this Court dealt with the issue as to whether the Insurance Company can be fastened with liability to make payment of compensation in a case where the driving licence held by the driver of the offending vehicle is found to be fake or whether the Insurance Company is entitled to recover the amount of compensation so paid to the victim or his legal heirs in pursuance of the award passed by the Tribunal. This Court absolved the Insurance Company of its liability and fixed the liability of the driver and owner of the offending vehicle jointly and severally. The case law relied upon by learned counsel for the appellant is not applicable to the facts of the case in hand, as in those cases, the victim was a gratuitous passenger and the Insurance Company was directed to satisfy the award with the right to recover the same from the insured whereas in the present case, the driving licence of the driver has also been found to be fake. Since the driving licence has been found to be fake, the Insurance Company is not liable to indemnify the insured or to pay the amount to the claimant and thereafter recover the same from the insured/owner. Therefore, the findings of the Tribunal on this issue stands affirmed and the owner/driver are held liable to pay the enhanced compensation jointly and severely.

17. Resultantly, the appeal in hand is partly allowed with cost

and the appellant is held entitled to a sum of Rs.8,000/- as enhanced compensation over and above the compensation awarded by the Tribunal alongwith interest @ 9% per annum from the date of filing of the claim petition i.e. 18.09.2000 till realization, payable by respondents No.1 and 2 jointly and severally.

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

(YASHVIR SINGH RATHOR)
JUDGE

02.02.2026
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Whether speaking/reasoned Yes/No
Whether Reportable Yes/No