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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****104****FAO-4017-2005****Date of decision: 06.04.2026****KRANTI KUMAR****....APPELLANT****VERSUS****BALJIT & ANR.****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. Gaurav Antwal, Amicus Curiae
for the appellant.

Mr. R.C. Gupta, Advocate
for respondent No.2-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. The matter is being taken up in the post lunch session.
2. This appeal has been instituted against the Award dated 01.06.2005 passed by MACT (**hereinafter referred to as 'Tribunal'**), Narnaul, under Section 163-A of the Motor Vehicles Act, 1988 (**hereinafter referred to as 'Act'**) for grant of compensation on account of injuries suffered by him in a roadside accident which took place on 17.11.2004, vide which the claim petition has been dismissed.
3. The file of the present case has got burnt in a fire incident in the High Court Branch. However parties have placed on record copies of grounds of appeal and award. Thus, the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned award.
4. As per version of claimant, he was going to his house after closing his shop on 17.11.2004 at about 7:00-8:00 P.M., while riding as a pillion rider on motorcycle bearing No.HR-35-C-0851, which was being driven by his brother Baljit at a normal speed and on the left side of the road. When the

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motorcycle reached near Old Mandi, Narnaul, one cow suddenly came running and started crossing the road and in order to save the cow, their motorcycle struck against the cow and he fell down and suffered injuries. Prior to the accident, he used to earn Rs.40,000/- per annum and was 34 years of age. He took treatment from a private doctor and then he was taken to Civil Hospital, Narnaul and thereafter, to Dr. Goel at Pooja Hospital Narnaul and then to Jaipur. He spent Rs.1,00,000/- on his treatment and he is still under treatment. Appellant claimed a sum of Rs.10,00,000/- as compensation for the injuries suffered by him.

5. Respondent No.1 in his written statement admitted the contents of the petition and the factum of accident was also admitted.

6. Respondent No.2-New India Insurance Company Limited in its written statement has alleged that there is collusion between the claimant and respondent No.1. It is further submitted that the driver was not having a valid and effective driving licence on the date of accident. The remaining contents of the petition have been refuted to be wrong and dismissal of the claim petition was sought.

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

- “1. Whether the petitioner received injuries in a road-side accident which took place on 17.11.2004 at about 7/8 P.M. in the area of Old Mandi Narnaul on account of being struck against a cow, as alleged? OPP.*
- 2. If issue No.1 is proved, whether the petitioner is entitled to any amount as compensation, if so to what amount from whom? OPP.*
- 3. Whether the petition is quite vague, false, frivolous and indefinite, as alleged? OPR.*
- 4. Whether the petitioner has no locus-standi to file this*



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petition? OPR

5. *Whether the petition has been filed by the petitioner in collusion with respondent No.1? OPR2.*
6. *Whether the driver of the offending vehicle was not having a valid and genuine driving licence at the time of accident. If so its effect? OPR2*
7. *Whether the petition is not maintainable in the present form? OPR1*
8. *Relief.”*

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

9. The Tribunal, after going through the pleadings and evidence on file came to the conclusion that accident in question had taken place on account of use of vehicle resulting in grievous injuries to the claimant as he had suffered fracture of the left clavicle. It was further held that claimant has not suffered any permanent disability which was the requirement for seeking compensation under Section 163-A and as such, he is not entitled to any compensation. However, it was further held that petitioner would have been entitled to compensation of Rs.35,000/-, if he had been successful in proving his case. Ultimately, the petition in hand was dismissed.

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

11. The present petition has been instituted under Section 163-A of the Act, which is reproduced as under:-

“163A. Special provisions as to payment of compensation on structured formula basis.-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorized insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as



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indicated in the Second Schedule, to the legal heirs or the victim, as the case may be.

Explanation. For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Workmen's Compensation Act, 1923 (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule."

12. A perusal of the aforesaid provision makes it clear that the compensation under Section 163-A of the Act can be claimed if a person suffers permanent disability due to accident arising out of use of motor vehicle as indicated in Second Schedule. No evidence was led by the claimant to establish that he had suffered any permanent disability and as such, the claimant was non-suited on this ground. However, Section 163-A of the Act has been replaced by Section 164 of the Act vide Act No.32 of 2019 and under the amended provision, a claimant who has suffered grievous injury too is entitled to compensation under no fault liability. Section 164 of the Motor Vehicles Act, 1988 as amended is reproduced as under:-

164. Payment of compensation in case of death or grievous hurt, etc. - (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a



compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2).In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3).Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.

13. A perusal of the aforesaid provision thus makes it clear that for claiming compensation under no fault liability, the owner of the motor vehicle or the authorized insurer are liable to pay compensation to the tune of Rs.2,50,000/- in case a victim suffers grievous hurt due to an accident arising out of use of motor vehicle. As such, the condition of suffering permanent disability for claiming compensation under Section 163-A of the old Act has been repealed and now a person who suffers grievous injury can also claim compensation under Section 164 of the Act.

14. Hon'ble Supreme Court in 2023 ACJ 631 **Ram Murti and Others Vs. Punjab State Electricity Board** has held as under:-

"7. The provisions of Section 140 which formed a part of Chapter 10 of the Motor Vehicles Act 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter 11 was substituted of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5,00,000/- and in the case of grievous hurt of



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Rs.2,50,000/-.

8. We are inclined to give the appellants the benefit of the beneficial provisions which have been enacted by Parliament. Hence, in modification of the order of the High Court, we direct that the appellants shall be entitled to an amount of Rs.5,00,000/- as compensation. However, if the amount of Rs.50,000 which has been awarded by the High Court has already been paid over, the balance (or the entirety of Rs.5,00,000/- if no amount has been paid) shall be paid over to the appellants by 30 November 2022."

15. In **Ram Murti's case (supra)**, the petition was filed under Section 166 of Motor Vehicles Act, 1988, which had been dismissed and the accident had taken place when Section 164 of Act had not come into existence and the accident had infact taken place prior to the said amendment. However, Hon'ble Supreme Court observed that the Motor Vehicles Act is a beneficial provision and applied the beneficial provision of Section 164 of Motor Vehicles Act retrospectively in cases of no-fault liability under Section 163-A and awarded a lump sum compensation of Rs.5,00,000/- to the claimants in a death case.

16. In the present case also, the claimant had suffered grievous injuries/fracture clavicle as per the x-ray report Ex.P1 as has also been held by the learned Tribunal. The Tribunal has further held that the claimant would have been entitled to a sum of Rs.35,000/- as compensation, in case, he had been able to prove his case. The claim petition was filed under Section 163-A of the Act and claimant was non-suited only on the ground that he had not suffered permanent disability which was sine qua non for claiming compensation under Section 163-A of the Act. However, as per amended provision contained in Section 164 of the Act, it is not necessary that a person who has suffered



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permanent disability only can claim compensation under no fault liability and a person who has suffered grievous injury is also entitled to compensation under the said provision and since provision under Section 164 of the Act is a beneficial provision and by following law laid down in **Ram Murti's case (supra)**, claimant is accordingly held entitled to compensation to the tune of Rs.35,000/- as has been assessed by the learned Tribunal along with interest @ 9% per annum from the date of filing of claim petition till realization.

17. As a result of the aforesaid discussion, the present appeal is allowed and the appellant is held entitled to compensation of **Rs.35,000/-** along with interest @ 9% per annum from the date of filing of claim petition i.e. 20.12.2004 till realization payable by respondents No.1 and 2, jointly and severally.

18. Registry is directed to email the authenticated copy of the award to the respondents/Insurance Companies 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 Companies shall comply with the directions as issued under Clause (F) of the said judgment.

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

(YASHVIR SINGH RATHOR)
JUDGE

06.04.2026
Vishal Vardhan

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