



FAO-2694-2017 (O&M)

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

FAO-2694-2015 (O&M)

Reserved on : 19.12.2025

Date of Pronouncement : 09.02.2026

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The Oriental Insurance Company Limited

.....Appellant

Vs.

Gurmeet Singh and others

.....Respondents

*Whether only the operative part of the judgment is pronounced?**NO**Whether full judgment is pronounced?**YES***CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Sahej Mahajan, Advocate,
for the appellant.

Mr. Jaideep Verma, Advocate,
for respondent No.1.

None for respondent No.5.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 14.12.2016 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal'), whereby the appellant-Insurance company as well as respondents No.2 and 5 were held liable to pay the compensation to the claimant/respondent No.1 to the tune of Rs.4,76,220/- along with interest @ 7.5% per annum on account of injuries sustain by claimant/respondent No.1,



jointly and severely, on the ground that negligence is not proved. And on the ground that the compensation awarded is on the higher side.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on the intervening night of 04/05.10.2008, the claimant was driving the truck bearing registration No.PB-10-BP-7511, accompanied by his cleaner, from Sitapur to Lucknow (U.P.). At about 12:30 a.m., when they reached near Village Alapatpur, Police Station Ettonja, a truck bearing registration No. HR-69-A-1270, being driven by respondent No.2 in a rash and negligent manner, came from the opposite direction while attempting to overtake another vehicle and collided with the truck of claimant. As a result of the impact, the truck of claimant/respondent No.1 was badly damaged and the claimant sustained multiple grievous injuries. The matter was reported by the father of the claimant/respondent No.1 to Police Station Ettonja on 07.10.2008.

3. Upon notice of the claim petition, all the respondents, except respondent No.3, appeared and contested the claim petition by filing their separate written replies and denied the factum of the accident/compensation. Respondent No.3 was, accordingly, proceeded against *ex parte*.

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

- “1. *Whether claimant had suffered injuries in a motor vehicle accident at about 12.30 AM on 5.10.2008 due to rash and negligent driving of Truck No. HR-69A1270 by respondent No.2 near Village*



*Alapadpur, PS Ettonja on Seetapur-Lucknow Road,
in UP?OPP*

- 1A. *If issue No.1 is proved, whether claimant is entitled to compensation? If so, from whom and to what extent.OPP 2- Whether the present petition is not maintainable as alleged ? OPR*
3. *Whether petition is bad for mis-joinder of parties as alleged? OPR4*
4. *Whether owner and driver of Truck No. HR-69A-1270 did not have valid travel documents?OPR4*
5. *Relief ”*

5. In support of their pleadings, both the parties led their respective evidence.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to claimant/respondent No.1 to the tune of Rs.4,76,220/- along with interest @ 7.5% per annum on account of injuries sustain by him and appellant-Insurance Company as well as respondents No.2 and 3 was held liable to pay the compensation to claimant/respondent No.1 jointly and severally. Hence, the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellant-Insurance Company contends that negligence on the part of respondent No.3 driver is not proved since father of the claimant/respondent No.1 moved an application to the concerned police authorities admitting the factum that tyre of the truck bearing registration No.PB-10-BP-7511 got brusted, which was result of the



accident. He further contends that the learned Tribunal totally ignored the evidence of eye-witness CW2-Avtar Singh i.e. cleaner of the truck, who admitted in his cross-examination that whatever was told by him was written in the application (Exhibit C-1). He further contends that no DDR/FIR was registered against the driver of the offending vehicle. On quantum, he contends that disability certificate has not been proved. Therefore, he prays that the present appeal be allowed.

8. *Per contra*, learned counsel for respondent No.1 contends that respondents (driver and owner of the offending vehicle) have admitted the factum of accident. He further contends that driver of the offending vehicle did not appear to prove that there was no negligence on his part. He further contends that claimant/respondent No.1 himself stepped into the witness box and stated about the negligence. He further submits that so far as the quantum is concerned, he has filed an appeal i.e. **FAO-2807-2017** titled as **‘Gurmeet Singh Vs. Anil Kumar and others’** for enhancement of compensation awarded by the learned Tribunal. He, therefore, prays that the present appeal be dismissed.

9. I have heard learned counsel for the parties and carefully perused the whole record of this Court with their able assistance.

10. Before proceeding further, it is relevant to reproduce the relevant portion of the award dated 14.12.2016 passed by the learned Tribunal:-



“Issues No.1 and 1-A.

12. Both these issues are interconnected, and, therefore, are being taken up together for disposal to avoid repetition of discussion.

13. To prove these issues, the onus of which was placed on claimant, claimant himself testified as CW1 and also examined his Truck Cleaner Avtar Singh as CW2. Their examinations-in-chief are detailed 6 reiteration of version in the petition. They also detailed out that they were on Truck No. PB-10 BP-7511. Claimant was driving that Truck. In the intervening night of 4/5.10.2008 they were on the way from Sitapur to Lucknow in U.P. and at about 12.30 AM they reached in the area of Village Alapatpur, in PS Ettonja. Their truck was at slow speed and on correct side of the road. The offending Truck No. HR-69-A-1270 came from opposite side while overtaking another vehicle. This on-coming Truck was being driven by respondent No.2 in a rash and negligent manner due to which it banged into the Truck of claimant badly damaging it. Claimant also suffered multiple grievous injuries. His right foot was crushed and he ultimately suffered 40% permanent disability. Soon after the accident he was taken to Lucknow Hospital where he remained admitted from 5.10.2008 till 7.10.2008. His father (who now is no more) came there and approached the police of P.S Ettonja. Application Ex C1 was moved in this context. Claimant then shifted to G.T.B Hospiotal, Ludhiana where he remained admitted from 7.10.2008 to 15.10.2008. He remained admitted in Apollo Hospital at Ludhiana from 15.10.2008 till 25.10.2008 and again



from 30.10.2008 till 10.11.2008. He was operated upon four times.

14. Both these witnesses CW1 and CW2 were duly crossexamined by appearing respondents where, except for unsubstantiated suggestions, nothing supporting the version of respondents could be extracted. Claimant CW1, however, stated that the application Ex C1 did not contain the correct facts as it was just signed by his father and police did not take any action against the offending party. In cross-examination of CW2 Cleaner Avtar Singh it came out that he does not have any document to show that he was employed as such cleaner on the Truck of complainant. It is argued by Ld. Counsel for respondents that this name has been planted to support the version of claimant. In reply it is submitted by Ld. Counsel for claimants that reference of such cleaner categorically is made in para No.24 of the petition though his name was not mentioned but it was CW2 only who was the cleaner on the Truck of claimant on the fateful day. As is settled proposition of law, the MACT proceedings are in the nature of inquiry. Para No.24 of the petition categorically refers to the presence of a cleaner on the Truck of claimant. The depositions of CW1 and CW2 are in consonance with the version in the said para of the petition. Presence of CW2 as cleaner therefore seems not doubtful. Application EX C1 is dated 7.10.2008 came into existence soon after the referred occurrence dated 5.10.2008. It bears the stamp of concerned Police Station Ettonja as well. It contains the registration numbers of both involved Trucks as well as the exact place of occurrence. It also contains the nature



of injuries suffered by claimant. Therefore, these are sufficient circumstances on file which establish the taking place of referred occurrence at the given time and place. The Judgments of our own Hon'ble High Court Bansi and another Vs. Vikas, FAO No.7213 of 2010 decided on 29.8.2012 and Smt. Sadhna Nagpal and Ors vs. Life Insurance Corporation of India and another, FAO No.3863 of 2008 decided on 1.6.2011 also support this outcome. The statements of CW1 and CW2, recorded on oath in court, have to prevail upon the contents of application EX C1 where though it was mentioned that occurrence was resulted by bursting of tyre of vehicle. These depositions of CW1 and CW2 and the outcome of application EX C1 do establish that this occurrence had taken place. Concerned Offending Truck owner and its driver i.e. respondents No.1 and 2 have not dared to step into the witness box. The inference, therefore, has to be drawn from the unimpeached statements of C.Ws that this occurrence was caused by rash and negligent driving of Truck No. HR-69A-1270 by respondent No.2. By virtue of insurance policy Ex R1 it is obvious that this offending Truck No. HR-69-A-1270 belongs to respondent No.1 and was insured with respondent No.4. Document i.e copy of driving licence of respondent No.2, produced on file on 08.12.2011, shows that respondent No.2 had a valid driving licence at the time of occurrence. These respondents No.1 and 2 and 4, therefore, are jointly and severally liable to answer the claim in question in favour of claimant as no liability of respondent no.5 (insurance company relating to truck of claimant) is made out.



15. To prove the quantum of his income the claimant could lead only oral evidence by virtue of his deposition as CW1 and of his Truck Cleaner Avtar Singh as CW2. It is vaguely pleaded in the petition and is deposed about in these statements by them that the claimant was earning Rs.20,000/- per month. There is no documentary evidence in this regard. So much so even his bank record is not part of file which might reflect his monthly deposits to help in assessing the quantum of his such income. However, as his driving licence Ex C3 (which suggests that he is a trained heavy motor vehicle's driver) and documents EX RA to EX RD (which show that the above referred Truck No. PB-10-BP-7511 was in the name of this claimant and it had a valid permit and insurance) all show that claimant owned and was competent/authorised to drive the said Truck. The incident took place far away from his place of residence i.e in the middle of U.P. State. All these factors infer, though by way of sheer guess work, that he must had been earning Rs. 15,000/- per month because otherwise owning and then plying such heavy vehicle would not be viable for a Truck owner. His monthly income is assessed accordingly. The uncontroverted medical record brought on file by him as EX C6 to Ex C245 infers that claimant remained hospitalized for almost a month and thereby had suffered loss of such income of Rs. 15,000/-. In addition to it the claimant is found entitled to compensation of these medical expenses worth Rs. 3,34,220/- (after excluding amount of bills EX C 216, EXC 224, EX C225 to EX C240 as some of these bills are repeated bills or are part of main bill or are



receipts with regard to advance payment) which amount claimant is entitled to receive from abovesaid respondents No.1,2 and 4. He has claimed that he had suffered permanent disability to the extent of 40% due to crushing/amputation of his right foot in the occurrence. In this regard, he has brought on file a notary attested copy of his claimed disability certificate as EX C2. He has not produced the concerned Doctor who had examined him. Judgment **Pinder Singh Vs.Devinder Singh and others 2006(3) PLR 346** relied upon by respondent no.4 holds that mere production of such certificate will not be taken as proving any fact in favour of injured unless the concerned Doctor is examined. Therefore, this certificate EX C2 has to be ignored.

16. Besides abovedetailed compensation, claimant is found entitled to Rs. 30,000/- for special diet, attendant charges and transportation charges. In addition to this, he is granted Rs. 50,000/- for pain and suffering he had to undergo. He also is granted another Rs. 50,000/- on account of loss of enjoyment of life.

17. Resultantly, both these issues are decided in favour of claimant and against respondents No.1,2 and 4. Latter jointly and severally are held liable to pay the abovesaid compensation of Rs. 4,79,220/- to claimant. No liability of respondent no.5, the insurance company of Truck of claimant, and of respondent no. 4,financer of truck of respondent no. 1, has been established.

ISSUE NO.2

18. The objection regarding non-maintainability of this petition was taken by all appearing respondents in their written statements. By virtue of my findings on



issues no.1 and 1-A, this petition for compensation on behalf of claimant is held maintainable against respondents No.1,2 and 4 but is not found maintainable against respondents No.4 and 5. This issue is decided in his favour and against the respondents No.1,2 and 4.

ISSUE NO.3

19. Onus to prove this issue was upon respondent No.4. It neither led any evidence on this issue nor this issue was pressed during arguments. Resultantly, and in view of my findings under issues No.1 and 1-A, this issue is decided against respondent No.4 and in favour of claimant.

ISSUE NO.4:

20. By virtue of my findings on issues No.1 and 1-A, this issue also is decided against the respondent no.4 and in favour of claimant.”

11. A perusal of the impugned award reveals that claimant/respondent No.1 entered the witness box as CW-1, while Avtar Singh, the cleaner of the truck, was examined as CW-2. Both witnesses categorically deposed that the accident occurred solely due to the rash and negligent driving of the driver of the offending vehicle. Their testimonies were subjected to detailed cross-examination by the appellant–Insurance Company as well as by respondents No.2 to 5; however, nothing material could be elicited therefrom so as to discredit their version or to lend support to the plea of the appellant–Insurance Company that the accident did not occur in the manner alleged by the claimants. On the contrary, the oral



evidence of CW-1 and CW-2 remains consistent, cogent, and in complete consonance with the averments made in the claim petition.

12. The appellant–Insurance Company has placed reliance upon Exhibit C-1, being a statement allegedly made before the police. It is well settled that statements recorded by the police during investigation do not constitute substantive evidence. The depositions of CW-1 and CW-2, recorded on oath before the Tribunal and tested on the anvil of cross-examination, carry far greater evidentiary value and would necessarily prevail over the contents of Exhibit C-1. Consequently, the appellant–Insurance Company cannot draw any benefit from the said document to contend that negligence was not proved or that the accident was the result of a tyre burst.

13. In view of the aforesaid discussion and the settled position of law, this Court finds no infirmity or perversity in the finding recorded by the learned Tribunal holding that the accident occurred due to the sole negligence of the driver of the offending vehicle. The said finding is based on proper appreciation of evidence and does not warrant any interference. Accordingly, the same is hereby affirmed.

14. So far as the contention of the appellant-Insurance Company with respect to quantum is concerned, the same is dealt with in the appeal i.e. **FAO-2807-2017** titled as ‘**Gurmeet Singh Vs. Anil Kumar and others**’ which is filed by claimant/respondent No.1 for enhancement of the



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compensation awarded by the learned Tribunal vide its award dated 14.12.2016.

15. Consequently, the present appeal, being devoid of merits, stands **dismissed**.

16. The statutory amount of Rs.25,000/- deposited by the appellant at the time of admission of the appeal, is ordered to be refunded to it.

17. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

09.02.2026

Virender

Whether speaking/non-speaking	: Speaking
Whether reportable	: Yes/No