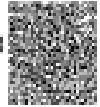




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111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-425-1995

Date of decision : 27.03.2025

BIJENDER SINGH

....Appellant

Versus

RAJ KUMAR AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Varun Parkash, Advocate for the appellant.

Mr. Sandeep Kotla, Advocate for the respondents.

PANKAJ JAIN, J. (ORAL)

Claimant is in appeal aggrieved of the award passed by MACT, dated 17.12.1994 whereby he has been awarded compensation to the tune of Rs.62,564/- in the claim petition filed under Section 166/140 of the Motor Vehicles Act, 1988.

2. Claimant approached MACT claiming that he was rendered disable to the extent of 50% owing to the injuries suffered in an accident dated 11.12.1193 caused due to rash and negligent driving of respondent No.1. Claimant along with his brother Vijay Pal were travelling in Jugaad when they were hit by offending vehicle i.e. bus owned by U.P. Transport Corporation bearing registration No.UP-80E-9860. Right leg of the claimant was crushed and had to be amputated leaving him crippled and disabled to the extent of 50%.



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3. Claim petition was contested by the respondents. Respondents No.2 and 3 filed written statement denying involvement of the bus in the accident.

4. On the basis of the pleading of the parties, following issues were framed:

- “1) Whether injuries to petitioner were caused in Motor Accident which took place on 11.12.93 in the area of V. Sikri due to rash negligent driving of Bus No.UP 80 E9860 being driven by respondent No.1 as alleged? OPP.
- 2) To what amount of compensation, if any, the petitioner is entitled to and from whom?OPP.
- 3) Whether the petition is bad for misjoinder and nonjoinder of parties? OPR.
- 4) Whether the claim petition is not maintainable? OPR.
- 5) Whether the petitioner has no locus-standi to file the petition?OPR.
- 6) Relief.”

5. Tribunal while returning finding on issue No.1 held the claimant as well as the driver of the offending vehicle both negligent to the extent of 50% and having caused the accident. While calculating the quantum of compensation, Tribunal observed as under:

“16. xxx Petitioner is a young man of 22 years of age. He is not having driving licence and as such it may be presumed that he was capable of earning at the rate of minimum wages for unskilled workers in the State of Haryana. The minimum wages for such workers in the State of Haryana at the relevant point of time are stated to be Rs.1000/- per month. In death case of man of such age as that of the petitioner, normally fifteen (15) ears factor may be applied to compute the compensation amount. Computing at this



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rate, the total compensation amount for the death case would come to be $1000 \times 12 \times 15 = 1,80,000/-$ in all. As such, for the present case of 50% infirmity the total compensation amount would come to the Rs.90,000/-. However, as has been analysed and held under issue no.1, the accident had taken place because of contributory negligence of the petitioner himself as well as of the respondent no.1, so in such a case the petitioner would be entitled only for half of the total compensation amount of Rs.90,000/- to be recovered from the respondents as driver and owner of the offending bus. As such, the compensation amount because of infirmity caused to the petitioner in the said accident comes to be only at Rs.45,000/- for which the petitioner is held to be entitled.

17. In addition, petitioner is to be entitled for half of the amount of his expenses on his treatment for the said injuries. The petitioner has led in evidence the receipts/bills Ex.P1 to Ex.P10 for Rs.5818/-. Ex.P18 for Rs.14,310/- and Ex.P21 for Rs.5000/- total amounting to Rs.25,128/-. The half of this amount would come to be Rs.12,564/- for which the petitioner is held to be entitled.

18. The petitioner also would have suffered expenses for travelling and the connected heads for which it would be equitable and just to assess Rs.10,000/- in lumpsum covering for pain and sufferings, travelling expenses of Rs.1000/-, under the rules of apportionment of contributory negligence, the petitioner is awarded a sum of Rs.5000/- to be paid by respondents as driver and owner with their joint and several liability.

19. As a net result, it is held that respondent no.1, as driver and respondents no.2 and 3 as owner of the U.P. Roadways Bus No.UP80 E9860 are jointly and severally responsible to pay the above said compensation amount to the petitioner.

20. This issue is hereby decided accordingly and to the effect that petitioner Bijender Singh is entitled for a compensation amount of Rs.62,564/- ($45,000 + 12,564 + 5000$), from the respondents as driver and owner of the said vehicle in question with their joint and several responsibility to pay the same.”

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6. Counsel for the appellant has assailed the findings recorded by the Tribunal on two grounds. He is disputing the finding recorded w.r.t. negligence and is also seeking enhancement of the compensation. Counsel for the appellant submits that the fact w.r.t. the offending vehicle being the solitary cause of accident, was fully proved. The same was also incorporated in the FIR. FIR was proved on record, yet the appellant has been held contributory negligent merely for the reason that he was driving Jugaad i.e. the vehicle without any registration. He further submits that nothing has been paid on account of future prospects. Multiplier of 15 was applied despite the fact that it was proved on record that the claimant was aged 22 years at the time of accident. Nothing has been paid for pain & suffering, special diet, attendant charges and future medical expenses.

7. Per contra, Mr. Kotla submits that the claimant himself was negligent driving an unsafe unregistered Jugaad vehicle. Tribunal has thus rightly held him negligent and contributor to the accident to the extent of 50%. He further submits that the compensation awarded is sufficient as the Tribunal was required to grant just compensation and not to order unlawful enrichment to the benefit of the claimant.

8. I have heard counsel for the parties and have carefully gone through records of the case.

9. It is not in dispute that the FIR was registered against the driver of the U.P. Roadways bus. It has come on record that the claimant as well as his brother were travelling only at the speed of 20 Kilometre per hour when



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they were hit by the offending vehicle which was being driven at a very high speed. Merely for the reason that the claimant was driving a Jugaad vehicle without there being any overt act attributable which led to cause of accident, the Tribunal ought not have held the appellant negligent. In view thereof, this Court finds that the findings recorded by the Tribunal on issue No.1 need to be modified. Respondent No.1 is held to be responsible for causing accident which led to injuries to the claimant.

10. So far as issue w.r.t. quantum of compensation is concerned, the same is tabulated hereunder:

	Heads	Amount awarded by Tribunal	Compensation modified
1.	Monthly income	1000	1000
2	Multiplier	15	18
		1000X12X15=1,80,000/-	1000X12X18=2,16,000/-
3.	Future prospects	Nil	40% (Rs.86,400/-)
4.	Disability	50%	50%
5.	Loss of future earnings	Rs.1,80,000 - 50% = 90,000/-	Rs.3,02,400 – 50% = Rs.1,51,200/-
6.	Treatment expenses	Rs.25,128,	Rs.25,128/-
7.	Travelling expenses	10,000	Rs.10,000/-
		Rs.90,000+Rs.25,128+Rs.10,000 = Rs.1,25,128/- Further 50% deducted for contributory negligence Rs.1,25,128 – 50% = Rs.62,564/-	Rs.1,51,200+Rs.25,128+ Rs.10,000/- = Rs.2,76,328/-
8.	Pain & Suffering	Nil	Rs.50,000/-
9.	Special Diet	Nil	Rs.5,000/-
10.	Attendant charges	Nil	Rs.10,000/-
11.	Future medical expenditure	Nil	Rs.10,000/-
	Total	Rs.62,564/-	Rs.3,51,000/-



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11. The interest awarded by Tribunal is maintained up to the date of award. For future, the respondents shall be liable to pay interest @ 9% per annum from the date of award till the date of actual realization on the enhanced compensation.
11. Needless to say, any amount already paid to the claimant/ appellant shall be set off.
13. The instant appeal is allowed accordingly.

March 27, 2025				(Pankaj Jain)
Dpr				Judge
	Whether speaking/reasoned	:		Yes/No
	Whether reportable	:		Yes/No