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

**FAO No.1807 of 2025 (O&M)
Date of decision : 21.03.2025**

Shriram General Insurance Company Limited

....Appellant

Versus

Manoj Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sanjeev Kodan, Advocate
for the applicant/appellant.

PANKAJ JAIN, J. (ORAL)

CM No.5624-CII of 2025

This is an application filed under Section 5 of Limitation Act seeking condonation of delay of 33 days in filing the instant appeal.

For the reasons recorded in the application, this Court is satisfied that the applicant/appellant has made out a sufficient cause for condonation of delay.

Consequently, the present application is allowed. The delay of 33 days in filing the instant appeal is hereby condoned.

FAO No.1807 of 2025 (O&M)

Insurance Company is in appeal aggrieved of the award dated 07.11.2024 passed by MACT, Nuh whereby claimant has been awarded



compensation of Rs.30,26,920/- for the permanent disability suffered by him in a motor-vehicular accident.

2. Claimant approached Tribunal claiming that on 13.11.2020 while he was riding his motor-cycle, he was hit by offending vehicle being driven in a rash and negligent manner by respondent No.1.

3. Claim petition was contested by respondent No.1/driver of the offending vehicle on merits, denying the factum of there being any accident.

4. Claim petition was also contested by respondent No.3/Insurance Company - the appellant claiming false implication of the offending vehicle.

5. On the basis of the pleadings, following issues were framed:

- “1. Whether the respondent No.1 caused accident in question on 13.11.2020, by driving offending vehicle Mahindra bearing registration No. HR-66B-2851, in a rash and negligent manner resulting into causing injuries to Manoj Kumar son of Ram Kumar, as alleged? OPP.
2. If issue No. 1, is proved, to what amount of compensation petitioner is entitled to and from who? OPP.
3. Whether the respondents No.1 and 2 have violated the terms and conditions of insurance policy, if so, to what effect? OPR.
4. Relief.”

6. While deciding issue No.1, Tribunal found that the offending vehicle being driven by respondent No.1 caused accident due to rash and negligent driving. Disability suffered by the claimant was proved. Tribunal held that claimant having suffered 63% disability on account of fracture and dislocation of right hip with fracture of shaft right femur with fracture of



right patella with fracture of distal end of bilateral radius with fracture of right ulna with fracture of right radial head, was entitled for compensation which has been tabulated as under :

1.	Treatment expenses	Rs. 3,85,000/-
2.	Conveyance charge	Rs. 14,000/-
3.	Special diet	Rs. 10,000/-
4.	Attendant Charges	Rs. 2,00,000/-
5.	Loss of Amenities	Rs. 1,00,000/-
6.	Pain and suffering	Rs. 60,000/-
7.	Loss of earnings	Rs.22,57,920/-
	Total	Rs.30,26,920/-

7. Mr. Kodan while assailing the impugned award has relied upon testimony of PW-2 Dr. Naseem Ahmed, Member of the Board, who assessed the disability of the claimant. He submits that the expert admitted that the disability pertains to a particular limb of the body and not the whole body. He thus submits that the disability being confined to a limb and not to the whole body, the same ought to have been assessed at 50%.

8. I have heard Mr. Kodan and have carefully gone through records of the case.

9. Testimony of PW-2 Dr. Naseem Ahmed reads as under :

“Stated that on 03.11.2021, I along with other members of medical board examined Major Kumar 33 years male and assessed his disability as 63% which was on account of post-traumatic operated case of fracture dislocation of right hip with fracture of shaft of right femur with fracture of right patella with fracture of distal end of bilateral radius with fracture of right ulna with fracture of right radial head with moderate restrict of movements at



right hip joint and right knee joint with foot drop with inability to squat and sit cross legged. The disability certificate regarding this is Ex. PW2/A which bears my signatures as well as signatures of other members of medical board. This certificate was uploaded online on 16.11.2021.

xxxx by Sh. R.K. Chhonkar, Adv. For respondent no. 1 & 2 and Sh. S.K. Mittal, Adv. For respondent no. 3.

Above mentioned injured never remained under my treatment. The disability pertains to particulars limbs of the body and not for the whole body. Chances of reduction in percentage of disability are nil. Today I have not brought the hard copy of guidelines on which basis disability was assessed. Volunteered stated that I have brought the soft copy of these guidelines. It is incorrect that the disability was assessed on higher side to help the petitioner.

RO&AC

SD/- Dr. Naseem”

10. Even though the expert opined that the disability pertains to the limb only and not to the whole body, yet this Court finds that no fault can be found with the Tribunal having assessed compensation treating the disability of the claimant to the extent of 63%. The claimant is a young man in the early 30s. The injury suffered by him reads as under:

“fracture dislocation of right hip with fracture of shaft of right femur with fracture of right patella with fracture of distal end of bilateral radius with fracture of right ulna with fracture of right radial head”

11. The net effect thereof is that he is neither able to move right hip joint nor right knee. He is not able to squat or sit cross leg. On this



reliance can be safely placed upon ratio of law laid down by Four Judges Bench of Supreme Court in the case of **Pratap Narain Singh Deo v. Srinivas Sabata, (1976) 1 SCC 289.**

12. In view of above, finding no fault in the findings recorded by the Trial Court while assessing the disability suffered by the claimant to the extent of 63%, this Court does not find any reason to interfere in the instant appeal. Resultantly, the same is ordered to be dismissed.

13. Pending application, if any, shall also stand disposed off.

March 21, 2025

(Pankaj Jain)

Dpr

Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No