



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

**230**

**Date of decision: 22.09.2025**

	<b>FAO-2243-2014(O&amp;M)</b>
<b>United India Insurance Co. Ltd</b>	<b>...Appellant(s)</b>
<b>Vs.</b>	
<b>Ashok Kumar &amp; Others</b>	<b>...Respondent(s)</b>
<b>***</b>	
	<b>FAO-4151-2014(O&amp;M)</b>
<b>Ashok Kumar</b>	<b>...Appellant(s)</b>
<b>Vs.</b>	
<b>Satish Kumar &amp; Others</b>	<b>...Respondent(s)</b>
<b>***</b>	

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Amardeep Sheoran, Advocate  
for the appellant-Insurance Company  
in FAO-2243-2014.

Mr. Pardeep Goyal, Advocate  
for the appellant-claimant  
in FAO-4151-2014.

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**NIDHI GUPTA, J.**  
**FAO-2243-2014**

Present appeal has been filed by the Insurance Company seeking setting aside of the Award dated 17.01.2014 passed by Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'the learned Tribunal') whereby MACT Case No.9 dated 09.09.2010 filed under Sections 166/163-A and 147 of the Motor Vehicles Act (hereinafter "the Act") by the



injured-claimant/respondent No.1 herein, has been allowed and claimant has been granted lumpsum compensation of Rs.1 lakh.

**FAO-4151-2014**

Present appeal has been filed by the injured-claimant seeking enhancement of compensation of Rs.1 lakh awarded by the learned Tribunal vide Award dated 17.01.2014 passed in MACT Case No.9 dated 09.09.2010 filed under Sections 166/163-A and 147 of the Act.

Both the above appeals are being disposed of by this common order as both appeals arise out of the same accident dated 30.04.2009; same impugned Award dated 17.01.2014; and parties, facts and offending vehicle in both cases, are identical. However, each matter is individually considered on merits. For the sake of brevity, the parties are being referred to and facts are being drawn from FAO-2243-2014 titled as "United India Insurance Co. Ltd. Vs. Ashok Kumar & Others".

2. The pleaded case of the claimant in his Claim Petition before the Tribunal was that on 30.04.2009 at about 4 pm, he was riding the offending vehicle and going from Rewari to Sulkha. When he reached near the Canal, a TATA 407 came from behind being driven by its driver in a rash and negligent manner and struck against the motorcycle of the claimant, causing grievous injuries to him. The claimant was taken to the Paras Hospital, Gurgaon; where he remained admitted from 30.04.2009 to 02.05.2009 where he was treated for fracture on right hand and head injury. Thereafter, the claimant was admitted in SMS Jaipur from 02.05.2009 to



04.06.2009. It was further pleaded by the claimant before the learned Tribunal that at the time of accident, claimant was aged about 23 years and working as Mechanical Engineer at Neemrana with salary of Rs. 6800/- per month. However, due to the accident he has become permanently disabled person and is unable to work and can do no job now. His personality has changed, and his speech is defective due to head injury and now he cannot join any service due to 100% disability. He had a bright future which is ruined. It is further averred that the registration number of Tata 407 could not be noted down as he fled away with speed after causing the accident.

3. The Id. Tribunal upon appraisal of pleadings and oral & documentary evidence adduced before it had concluded that the injured-claimant was entitled for impugned lump sum compensation of ₹1 lakh as he had suffered injuries in the motor vehicular accident that took place on 30.04.2009 at about 4 pm due to the use of motorcycle bearing registration No.RJ-14-51M-3695 (hereinafter “the offending vehicle”) being driven by the claimant; owned by respondent No.2; and insured by the appellant.

4. It is submitted by learned counsel for the appellant-Insurance Company that the injured-claimant is a tortfeasor as he was driving the motorcycle with which the accident was caused. As such, he had stepped into the shoes of the owner of the motorcycle i.e. respondent No.2. It is accordingly submitted that in terms of judgments of this Court in **National Insurance Company Ltd. v. Sarita (P&H) : Law Finder Doc ID # 595864**, and



**Harnam Kaur v. Kanwaljeet (P&H) : Law Finder Doc ID # 535368**, claimant was not entitled to any compensation.

5. Per contra, learned counsel for the injured-claimant submits that in the accident in question, the claimant has suffered 40% permanent disability as evident from Disability Certificate (Ex.P6/A). The claimant had spent more than Rs.2 lakh on his treatment. It is submitted that although compensation of Rs.4,12,900/- has been assessed by the learned Tribunal, however, only an amount of Rs.1 lakh has been awarded to the claimant as per Policy (Ex.P7). Even the rate of interest of 7% is on the lower side and the same ought to have been 18% per annum. It is accordingly prayed that the compensation be enhanced.

6. No other argument is made on behalf of the parties.

7. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of both the parties.

8. It is proved on record that in the accident dated 30.4.2009, the claimant had sustained head injury along with other multiple grievous injuries as a result of which the claimant has suffered 40% disability as per the Disability Certificate (Ex.P6-A), duly proved from the evidence of Dr. Harsh Yadav PW3. It has also come on record that the claimant remained admitted in Paras Hospital, Gurgaon from 30.04.2009 to 02.05.2009; and thereafter at SMS Jaipur from 02.05.2009 to 04.06.2009; where he was treated for plastered right hand and head injury. Learned Tribunal has



correctly held that the permanent disability of 40% of the claimant was linked towards loss of income. The claimant had failed to produce any Salary Certificate. As such, the learned Tribunal had taken his monthly income as that of an unskilled labourer as Rs.4,200/- per month; thereby calculating annual income of the claimant to be Rs.50,400/- (Rs.4,200/- x 12). Given the 40% disability of the claimant, loss of future earning per annum is (40% of the annual income) Rs.20,160/-. As claimant was 23 years old, the learned Tribunal had applied multiplier of 18; thereby calculating total loss of future earning to be Rs.3,62,880/- (Rs.20,160/- x 18). The learned Tribunal has awarded Rs.15,000/- under the head of pain and suffering and Rs.15,000/- for transportation and special diet; and reimbursed medical bills Ex. P-3 and Ex.P-4 for total amount of ₹20,020/-; and awarded total compensation of Rs.4,12,900/-. However, keeping in view the law as enunciated by the Hon'ble Supreme Court in "**Ningamma & Another Vs. United India Insurance Company Limited**" 2009(3) RCR (Civil) 435, that legal heirs of borrower of vehicle would not be entitled to compensation under Section 163-A of the Act as, a claimant cannot be both owner of offending vehicle as well as claimant, Id. Tribunal had held that the claimant could not be treated as a third party. There can be no dispute with the said pronouncement of law. The learned Tribunal had accordingly awarded only Rs.1 lakh for the following reasons: -

*"19. However, as per perusal of the policy Ex. P7 would make it clear that for providing the personal accident covered to drive*



*by any person including insured provided that the person driving holds an effective driving licence at the time of accident and is not disqualified from holding or obtaining such a licence. The upper limit of the liability of the insurance company was fixed for Rs. 1,00,000/-. Learned counsel for the insurance company would argued that considering the extent of disability (40%) suffered by the claimant, he should be entitled to Rs. 40,000/- being 40% of the upper limit of Rs. 1,00,000/-."*

9. Keeping in view of the above, as also the entire conspectus of facts of the present case, I find no ground is made out to interfere in the impugned Award. Both the above said appeals accordingly stand **dismissed**.

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

**22.09.2025**

Sunena

**(Nidhi Gupta)**  
**Judge**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No