IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

136 **FAO-234-2025 (O&M)**
Date of decision: 23.01.2025

TATA AIG General Insurance Company Ltd.

...Appellant(s)

Vs.

Deepak and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vishal Aggarwal, Advocate
for the appellant.

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NIDHI GUPTA, J.

The appellant-Insurance Company is in appeal against the Award dated 07.10.2024 passed by the learned Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as "the Tribunal") whereby in a claim petition filed by the injured-claimant/respondent No.1 herein, under Section 166/140 of the Motor Vehicles Act, compensation of Rs.19,97,000/- along with interest @ 9% per annum from the date of filing of the claim petition till realization has been awarded. The said compensation is payable jointly and severally by the appellant-Insurance Company, respondent No.2-driver and respondent No.3-owner.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and oral and documentary evidence adduced before it, concluded that the claimant had suffered injuries in a Motor Vehicular Accident that took place on 01.12.2022 at about 06:30 p.m. due to rash and negligent driving of motorcycle bearing registration No.

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RJ-32SH-8290 (hereinafter referred to as "offending vehicle") being driven by respondent No.2; owned by respondent No.3 and insured by the appellant.

3. Learned counsel for the appellant-Insurance Company assails the impugned Award dated 07.10.2024 primarily on the ground that there is a delay of almost 3 weeks in the registration of the FIR. It is submitted that the date of accident is 01.12.2022. However, FIR in this regard was registered by the claimant on 18.12.2022. Moreover, no independent eye witness has been examined by the learned Tribunal to establish the involvement of the offending vehicle. Even the deposition of the claimant is contradictory *in-as-much* as in the FIR, it has been stated that the offending vehicle hit the claimant and ran away; whereas in his cross-examination, the claimant has stated that the offending vehicle hit the claimant and the driver of the offending vehicle ran away from the spot. It is submitted that thus, there is a false involvement of the offending vehicle. Even a bare reading of the FIR would reveal that the offending vehicle was wrongly involved; and there is nothing on record to show that the offending vehicle was negligent.

4. Learned counsel challenges the impugned Award also on the ground of quantum by submitting that the claimant has suffered only temporary disability in the accident in question; and therefore, the excessive amount of compensation has been award to him, which was not warranted in the facts and circumstances of the case.

5. No other argument is raised on behalf of the appellant.

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6. I have heard learned counsel for the appellant and perused the case file in great detail.

7. It was the pleaded case of the injured-claimant before the learned Tribunal that on 01.12.2022 at 06:30 p.m. when the claimant was going on his motorcycle, the offending vehicle driven by respondent No.2 came on the wrong side of the road and hit the motorcycle of the claimant. As already noted above, the learned Tribunal on the basis of the evidence and pleadings before it, concluded that the claimant had suffered injuries in the Motor Vehicular Accident that took place on 01.12.2022 at about 06:30 p.m. due to rash and negligent driving of motorcycle bearing registration No. RJ-32SH-8290 being driven by respondent No.2; owned by respondent No.3 and insured by the appellant.

8. It has firstly been contended on behalf of the appellant-insurance company that shadow of doubt is cast on the accident in question as there is delay in the registration of FIR. However, admittedly the claimant had remained admitted in hospital from date of accident/01.12.2022 till 14.12.2022; whereafter the FIR was registered on 18.12.2022. As such, it cannot be said that there was any delay in registration of FIR; and the claim of the injured-claimant cannot be rejected on this ground. In fact the record reveals that the claimant remained hospitalised from 01.12.2022 to 14.12.2022; 17.04.2023 to 25.04.2023; and 09.05.2023 to 16.05.2023. As such, the long stay of the

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claimant in the hospital shows that there is no false implication of the offending vehicle in the accident in question.

9. The second argument on behalf of learned counsel for the Insurance Company is that there are contradictions in the testimony of the injured-claimant. However, I find no merit in the said argument as with the passage of time there are bound to be minor contradictions in the statement of the complainant. Nothing has been brought to the notice of this Court which is of such great import which would falsify the case of the claimant. By cogent evidence the involvement of the offending vehicle and respondent No.2 has been established.

10. It has next been submitted by learned counsel for the appellant that the compensation awarded is on the higher side as the claimant had suffered only 40% temporary disability. The 40% disability suffered by the claimant is proved from the disability certificate Ex.PW3/A duly proved by PW3 Medical Officer indicates that the claimant had suffered 40% disability "*on account of moderate left hip ROM restriction with difficulty in stability component sitting, squatting kneeling cross leg.*" Claimant was also operated upon twice. From the above, it is clear that the claimant is suffering from locomotive disability and shall have considerable difficulty in movement. Despite the above facts, the learned Tribunal has taken the disability of the claimant to be only 30% in computation of the compensation. As such, I find no merit in the said argument of the appellant.

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2025.01.27 17:16
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11. Admittedly at the time of accident, the claimant was a 25-year-old, and prior to accident, the claimant was working as a carpenter. Although it had been stated by the claimant that he was earning Rs.30,000/- p.m. However, the learned Tribunal took the income of the claimant as that of the labourer as Rs.16,000/- p.m. As already noticed above, the learned Tribunal took the functional disability of the claimant as 30% and, therefore, the assessed loss of future earning to be 30% of the total income i.e. Rs.4,800/- p.m. Accordingly, the annual income of the claimant was calculated to be Rs.74,880/. As the claimant was 25 years, multiplier of 17 was applied, thus taking loss of earning capacity, as Rs.12,72,960/-. Learned Tribunal further granted Rs. 1 lakh towards pain and sufferings and special diet etc. On the basis of the evidence produced by the claimant, a sum of Rs.6,24,000/- was granted towards medical expenses, thus granting total compensation of Rs.19,96,960/-.

12. From the above facts, it is clear that very just and fair compensation has been awarded to the injured/claimant/respondent No.1. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. The Hon'ble Supreme Court in '**State of Haryana Vs. Jasbir Kaur' Law Finder Doc ID # 64043** and **'Divisional Controller K.S.R.T.C. Vs. Mahadev Shetty and another' (2003) 7 SCC 197,** has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, all

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2025.01.27 17:16
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that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. In my considered view, in the present case, the learned Tribunal has awarded a very 'just' compensation, which is in accordance with the law laid down by the Hon'ble Supreme Court and therefore, does not warrant the interference of this Court.

13. In view of the above, present appeal is **dismissed.**

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

23.01.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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

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