



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

**Reserved on 28<sup>th</sup> of January, 2025  
Pronounced on 25<sup>th</sup> of March, 2025**

**FAO No.756 of 1996**

Jai Pal Singh .....Appellant

Versus

State of Haryana and others .....Respondents

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Mr. Parveen Sharma, Advocate for  
Mr. Vineet Chaudhary, Advocate  
for the appellant.

Mr. S.S. Mann, Addl. A.G., Haryana.

Mr. Lalit Garg, Advocate  
for respondent No.4.

**PANKAJ JAIN, J.**

Present appeal is directed against award dated 15.09.1995 passed by MACT, Gurgaon whereby claim petition filed by the claimant, stands dismissed.

2. Claimant filed petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries suffered by him in a motor-vehicular accident. As per the case of the claimant, on 01.01.1992, he along with Ved Parkash was going on scooter when a mini bus driven in rash and negligent manner by respondent No.3 Tirlok Chand hit him from back side. The petitioner suffered injuries. His left leg had to be amputated through the knee.



3. Claim petition was contested by respondents, who denied involvement of bus in any accident.

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

- “1. Whether the accident resulting into injuries to the petitioner had occurred on 1.1.92 due to rash and negligent driving of Bus No.HR-26-3958 by Tirlok Chand, respondent?
2. Whether the petitioner is entitled to compensation, if so, to what amount and from whom?
3. Whether Tirlok Chand respondent was not holding a valid driving licence and was not acting in the course of employment under insured. If so, to what effect? OPR
4. Relief.”

5. The claimant appeared as PW-5 and reiterated the averments made in the claim petition. The pillion rider Ved Parkash appeared as PW-1 and stated that FIR was lodged on his statement. Tribunal relying upon contents of FIR (Exhibit PA) held that the FIR was registered on the statement made by Ved Parkash, an injured witness. In his statement given to the police, he claimed that they were hit by a truck which was being rashly and negligently driven. He further claimed that after causing the accident driver of the truck sped away the vehicle. It being night, he could not record the number of the truck. Tribunal held that in the FIR, Ved Parkash himself mentioned truck whereas claim petition has been filed implicating mini bus. Accident took place at around 6.00 PM. Truck on which Tirlok Chand was deployed, left work shop at around 5.30 PM and was parked near the Wireless Station and Veterinary Hospital, Gurgaon due



to some defect. Passengers of the bus were taken by bus No.HNG-1381 of Haryana Roadways. Since the offending vehicle never reached the place of accident on the fateful day, the bus has been falsely implicated.

6. Counsel for the appellant submits that standard of proof in MACT cases is 'preponderance of probabilities' and not to prove 'beyond reasonable doubt'. It is matter of record that driver of the offending vehicle was tried for negligence pertaining to same accident. The eye-witness Ved Parkash as well as the injured/claimant have fully proved their version of accident, yet the Tribunal has ignored the aforesaid facts merely for the reason that while recording statement at the time of registration of FIR police authorities noted the offending vehicle as truck.

7. Per contra, counsels for the respondents have supported the award passed by the Tribunal submitting that the Tribunal analyzed the entire evidence threadbare. Ved Parkash himself made statement to the police authorities that they were hit by an unknown truck. The truck is entirely different from the mini bus of the State Transport Corporation. It has been proved on record that the alleged bus never reached at the spot but rather broke down even before the place of incident. It has been thus submitted that pure findings of fact have been recorded by the Court below. In the absence of there being any evidence to prove involvement of the bus owned by respondents, no fault can be found with the findings recorded by the Tribunal.

8. I have heard counsel for the parties and have carefully gone



through records of the case.

9. The primary issue relates to negligence. Laying down the proposition regarding the scope of inquiry and the standard of proof to be applied by the Tribunals, Supreme Court in the case of '**United India Insurance Co. Ltd. Vs. Shila Datta & Ors.**', (2011)10 SCC 509 observed as under :-

“5. A claim petition for compensation in regard to a motor accident (filed by the injured or in case of death, by the dependent family members) before the Motor Accidents Claims Tribunal constituted under Section 165 of the Act is neither a suit nor an adversarial lis in the traditional sense. It is a proceedings in terms of and regulated by the provisions of Chapter XII of the Act which is a complete code in itself. We may in this context refer to the following significant aspects in regard to the Tribunals and determination of compensation by the Tribunals:

(i) Proceedings for award of compensation in regard to a motor accident before the Tribunal can be initiated either on an application for compensation made by the persons aggrieved (the claimants) under Section 166(1) or Section 163-A of the Act or suo motu by the Tribunal, by treating any report of accident (forwarded to the Tribunal under Section 158(6) of the Act as an application for compensation under Section 166(4) of the Act).

(ii) The rules of pleadings do not strictly apply as the claimant is required to make an application in a form prescribed under the Act. In fact, there is no pleading where the proceedings are suo motu initiated by the Tribunal.

(iii) In a proceedings initiated suo motu by the Tribunal, the owner and driver are the respondents. The insurer is not a respondent, but a noticee under Section 149(2) of the Act. Where a claim petition is filed by the injured or by the legal representatives of a person dying in a motor accident, the



driver and owner have to be impleaded as respondents. The claimants need not implead the insurer as a party. But they have the choice of impleading the insurer also as a party-respondent. When it is not impleaded as a party, the Tribunal is required to issue a notice under Section 149(2) of the Act. If the insurer is impleaded as a party, it is issued as a regular notice of the proceedings.

(iv) The words “receipt of an application for compensation” in Section 168 refer not only to an application filed by the claimants claiming compensation but also to a suo motu registration of an application for compensation under Section 166(4) of the Act on the basis of a report of an accident under Section 158(6) of the Act.

(v) Though the Tribunal adjudicates on a claim and determines the compensation, it does not do so as in an adversarial litigation. On receipt of an application (either from the applicant or suo motu registration), the Tribunal gives notice to the insurer under Section 149(2) of the Act, gives an opportunity of being heard to the parties to the claim petition as also the insurer, holds an inquiry into the claim and makes an award determining the amount of compensation which appears to it to be just. (Vide Section 168 of the Act.)

(vi) The Tribunal is required to follow such summary procedure as it thinks fit. It may choose one or more persons possessing special knowledge of and matters relevant to inquiry, to assist it in holding the enquiry. (Vide Section 169 of the Act.)

(vii) The award of the Tribunal should specify the person(s) to whom compensation should be paid. It should also specify the amount which shall be paid by the insurer or owner or driver of the vehicle involved in the accident or by all or any of them. (Vide Section 168 of the Act.)

(viii) The Tribunal should deliver copies of the award to the parties concerned within 15 days from the date of the



award. (Vide Section 168(2) of the Act.)

9.1 The aforesaid proposition laid down by 3 Judges Bench was relied upon by Supreme Court in the case of **‘Dulcina Fernandes vs. Joaquim Xavier Cruz’ (2013) 10 SCC 646**, to observe as under :-

“xxx xxx However, there are certain other features of the case which are more fundamental and, therefore, have to be specifically noticed. CW-2, who was at the relevant time working as the Head Constable of Main Eurtorim Police Station, had deposed that a criminal case was registered against the first respondent in connection with the accident and that after investigation he was charge-sheeted and sent up for trial. Though it is submitted at the Bar that the first respondent was acquitted in the said case what cannot be overlooked is the fact that upon investigation of the case registered against the first respondent, prima facie, materials showing negligence were found to put him on trial.”

(emphasis supplied)

10. Applying the aforesaid ratio of law to the present case, FIR No.4 dated 02.01.1992 related to the accident in question stands proved on record as Exhibit P-A. It has come on record that after investigation, police authorities found that the bus was involved in the accident and Trilok Chand, driver of the offending vehicle was charge-sheeted. The Tribunal heavily relied upon contents of the FIR but totally discarded the police report, on the strength of which, Trilok Chand faced trial. Trite it is that FIR though is a cogent piece of evidence but is not an encyclopedia of the incident. The statement made by Ved Parkash which led to registration of FIR needs to be considered in the light of the fact that on the date the



accident occurred i.e. 01.01.1992, he was opined to be unfit to give statement. He gave statement to the police authorities on 02.01.1992. The scooter was hit by the offending vehicle from behind. Considering it was 06.00 PM in Gurgaon on 02.01.1992, the Court can safely take note of the fact that places in the northern India in early January are not only dark but also foggy. Thus, Tribunal instead of being swayed away by the contents of the FIR should have taken a more holistic view and should not have ignored the investigation report of the police which led to criminal trial against Tirlok Chand.

10. In view of above, this Court finds that the Tribunal erred in dismissing the claim petition recording finding on issue No.1 against the claimant. Thus, findings recorded by the Tribunal on issue No.1 being unsustainable in the eyes of law, are hereby reversed. It is held that the appellant proved that the accident in question in which he sustained injuries was caused because of rash and negligent driving of bus No.HR-26-3958 by Tirlok Chand.

### **QUANTUM OF COMPENSATION**

While deciding issue No.2, Tribunal held claimant entitled to compensation of Rs.4,51,000/-. It has been proved on record that appellant who was 45 years of the age at the time of accident was earning salary of Rs.2,821/-. Having been rendered permanently disabled to the extent of 70% after losing his left leg he was released from services on medical ground and earned pension of Rs.589/-. Thus he suffered loss of Rs.2,232/-



per month and has been rendered crippled for rest of his life. His functional disability is taken to be 100%. He is entitled for multiplier of 14 in view of law laid down by Supreme Court in the case of 'Smt. Sarla Verma & others vs. Delhi Transport Corporation & another' (2009) 6 SCC 121.

He is also entitled for future prospects @30%. Rs.50,000/- is awarded as Attendant Charges. Rs.50,000/- is awarded for special diet. For pain and sufferings the claimant is awarded a sum of Rs.2.00 lakhs. Lower Court Record is stated to have been lost in the fire. The record is burnt, applying guess work, medical expenses are awarded to the tune of Rs.50,000/-

12. The instant appeal is allowed accordingly.

**March 25, 2024**

**Dpr**

**(Pankaj Jain)**

**Judge**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No