

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

2025:PHHC:109352



Reserved on: 07.08.2025

Date of pronouncement: 20.08.2025

FAO-5291-2013 (O&M)

UNITED INDIA INSURANCE COMPANY LTD.

... APPELLANTS

VERSUS

KALA SINGH AND OTHERS

... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE PARMOD GOYAL

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

Ms. Vamika Johar, Advocate for
Mr. Pritam Singh Saini, Advocate for respondent No.1.

Mr. Tarunveer Vashisht, Advocate for respondent No.2.

PARMOD GOYAL, J.

CM-22573-CII-2013

This is an application that has been filed under Section 5 of Limitation Act read with Section 151 CPC for condonation of delay of 24 days in filing the appeal.

For the reasons stated in the application, the same is allowed.

Delay of 24 days in filing the appeal is condoned.

Main case

1. Present appeal has been preferred by appellant-Insurance Company being aggrieved by the award dated 30.03.2013 passed by learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') vide which injured-claimant was granted compensation of Rs. 4,78,407/- along

with interest @ 7% p.a. from the date of filing of the petition till realisation.

2. Learned counsel for the Insurance Company has argued that learned Tribunal has erred in recording finding of negligence on the part of respondent No.1 only on the basis of interested witness Charaht Singh, PW3 who happens to be cousin of claimant. He further argued that the finding of negligence has been wrongly recorded only on the basis of registration of FIR. It is further asserted that even compensation so awarded is excessive.

3. Claimant - Kala Singh in his claim petition had asserted that on 29.11.2008 when he along with his cousin Charaht Singh was going from old bus stand, Samana to Aggarsain Chowk, Patiala road, Samana and was on foot on the left hand side of the road on the kacha berm, in the meanwhile offending vehicle owned by respondent No.1 and driven by respondent No.2 rashly and negligently came from back side and struck against the claimant resulting into multiple injuries. It was asserted that his right leg was badly crushed by the offending vehicle. He stated that at the time of accident he was accompanied by his cousin Charaht Singh who was also going on foot and the accident was witnessed by him. He further claimed that initially driver of the truck had stopped the vehicle. However, when people started gathering, he ran away. He was taken to Civil Hospital, Samana by Charaht Singh and was referred to Rajendra Hospital but was taken to Amar Hospital where he remained under treatment. He further claimed that FIR bearing No. 334 dated 06.12.2008 under Section 279 and 338 IPC was registered.

4. Learned Tribunal after considering the evidence of injured-claimant as PW1 and that of Charaht Singh, cousin of the injured who had witnessed the accident, concluded the accident to be result of rash and

negligent driving of respondent No.2 while driving offending vehicle. Perusal of evidence of PW1 and PW3 goes to show that both have stated the manner of occurrence in a consistent and trustworthy manner. I do not find any defect or error in the statements of PW1 and PW3 as to doubt the manner of occurrence stated by them on oath. The manner of occurrence stated by PW1 and PW3 is in line with manner of occurrence stated at the time of lodging of FIR No. 334 dated 06.12.2008. The argument raised on behalf of Insurance Company that PW3 being cousin of injured cannot be held to be an independent witness and is an interested witness and therefore, his evidence is liable to be rejected is without any merit. PW3 cannot be held to be an interested witness for a simple reason that nothing has been shown by the Insurance Company as to conclude that he had any interest in falsely implicating offending truck and its driver i.e. respondent No.2. Merely because he is the cousin of injured is no ground to discard his evidence specially when it is consistent and trustworthy. In the present case, it is not only the evidence of PW3 but even PW1 who himself had suffered injuries, had stated the manner of occurrence in a consistent manner which is in line with evidence of PW3 and contents of FIR. Therefore, reliance upon evidence of PW1 and PW3 by learned Tribunal cannot be faulted with.

5. Learned counsel for Insurance Company has tried to create doubt over the testimony of PW1 and PW3 on the basis of delay of 07 days in lodging the FIR. The accident had taken place on 29.11.2008, whereas FIR was lodged on 06.12.2008. Admittedly, in the present case, injured-claimant Kala Singh had suffered serious injuries. His leg was crushed. He was initially taken to Civil Hospital, Samana, from there he was referred to

Rajendra Hospital and from there he was referred to PGI, Chandigarh and brought back to Rajendra Hospital and ultimately, got treatment at Amar Hospital. He remained admitted in Rajendra hospital, Amar Hospital and K.D. Hospital. These facts clearly goes to show that the injured was busy in getting treatment and was not expected to lodge FIR with the police. Delay in the present case is, therefore, fully explained. It is worth noticing that lodging of FIR is not mandatory in claim petition. It is the quality of evidence which matters. Accordingly, no fault with the findings recorded by learned Tribunal on issue no.1 can be found. The findings of learned Tribunal on issue no.1 are affirmed.

6. Learned counsel for Insurance Company has also challenged the quantum of compensation awarded to the respondent. Following compensation was awarded by learned Tribunal :-

Rs. 2,83,000/- towards medical and transportation expenses,
Rs. 1,75,000/- towards loss of earning capacity on account of
60% permanent disability qua right leg and
Rs. 20,000/- towards pain and suffering.

7. On consideration, I find compensation awarded by learned Tribunal is in consonance with evidence led by respondent. It is worth noticing that vide hospital bills as well as medicine bills Exs.P10 to P21, Ex. P22 to P50, Ex. P51 to P61, Ex. P62 to P78 & P80 & Ex. P81, Ex. P83 to P91, Ex. P94 to P109,109/C and P110 to P114, Ex. P130 to P141, Ex. P208 to P210 and Ex. P211 to P213, an amount of Rs. 1,57,507/- and Rs.85,200/- was spent on treatment by the claimant. There is no rebuttal to the evidence led by claimant. Award of Rs. 2,42,707/- towards medical treatment expenses cannot be faulted with. Similarly, claimant has duly proved expenses incurred by him on transportation by examining PW2 who has duly

placed on record transport bills as Ex. P144 to P191. Again there is no rebuttal to this evidence by respondents. Therefore, award of Rs. 40,700/- on account of transport expenses by learned Tribunal cannot be faulted with learned Tribunal has granted Rs.20,000/- as pain and suffering. Claimant has suffered crush injuries which resulted in amputation of his leg. The amount, therefore, cannot be held to be excessive and has been rightly determined by learned Tribunal.

8. Similarly, award of Rs. 1,75,000/- towards loss of earning capacity on account of 60% permanent disability is again based upon evidence led by claimant. Claimant has duly proved that his leg was crushed in the accident and resultantly, it was amputated on 24.04.2010. He has duly proved the disability certificate as Ex.P116 which shows 60% permanent disability qua right leg. Though claimant has claimed to be an agriculturist earning Rs.40,000/-, however, learned Tribunal in the absence of any other material concluded that claimant was an able-bodied person doing manual labour and therefore, earning Rs.4,000/- p.m. Claimant has claimed to be 46 years of age.

9. Keeping in view the nature of work which claimant was carrying out i.e. manual work and fact that his one leg was amputated on account of accidental injuries, it is clearly made out that claimant must have suffered functional disability to the extent of 30% resulting into loss of income. The annual loss would be Rs. 14,400/-, $(4000 \times 30/100) \times 12$ and if it is multiplied by multiplier of 13, it would come to Rs.1,87,200/- whereas learned Tribunal has granted Rs. 1,75,000/-. Therefore, the same cannot be held to be excessive. Accordingly, compensation awarded by learned

Tribunal cannot be held to be excessive. The findings of learned Tribunal on all issues are upheld.

10. In view of the above findings, I do not find any error in the impugned judgement. Appeal is without any merit. Hence, the same is dismissed.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

20.08.2025
Janki

(PARMOD GOYAL)
JUDGE

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