

**FAO-2624-2003 (O&M)**

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH****233****FAO-2624-2003 (O&M)
Date of decision: 23.03.2026****SUNDER SINGH****....APPELLANT****VERSUS****MUKESH KUMAR****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Ms. Kamaldeep Kaur, Advocate for
Mr. Adarsh Jain, Senior Advocate
for the appellant.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate
for respondent No.4-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 04.02.2003 passed in MACT Case No.18 of 2001 decided by the Motor Accident Claims Tribunal, Faridabad (**for short “Tribunal”**) vide which the claim petition filed by the claimant under Section 166 of Motor Vehicles Act, 1988 (**hereinafter referred to as ‘Act’**) for compensation on account of injuries suffered by him in a motor vehicular accident has been dismissed.

2. The file of the present case has got burnt in a fire incident in the High Court Branch. Learned counsel for the appellant has placed on record certified copies of the statements of witnesses recorded before the Tribunal, which are taken on record. Registry is directed to tag the same at an appropriate place.

3. The present claim petition was instituted by claimant-Sunder Singh seeking compensation for the injuries suffered by him in a roadside accident which took place on 02.01.2001 within the area of village Gadpuri on account of rash and negligent driving on the part of respondent No.3 while driving offending

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vehicle bearing No.HR-21-A-8409 owned by respondents No.1 and 2 and insured with respondent No.4. As per his version, he suffered grievous injuries in the accident in question. He was initially treated at Civil Hospital, Ballabgarh from where he was referred to B.K. Hospital, Faridabad and thereafter, to Safdarjung Hospital, Delhi. He was operated upon and one rod was inserted and another surgery was advised. Thereafter, he remained admitted in Dhariwal Nursing Home, Palwal from 04.01.2001 to 06.02.2001, where another surgery was performed for fracture of left femur and fracture of left lateral malleolus. He had incurred a sum of Rs.1,00,000/- on his treatment and had suffered a lot of pain and sufferings. Petitioner claimed a sum of Rs.5,00,000/- as compensation for the injuries suffered by him.

4. Respondents No.1 to 3 in their joint written statement have refuted the contents of the claim petition. It has been denied that accident took place due to rash and negligent driving on the part of driver of the said offending vehicle. It is submitted that vehicle in question was insured with respondent No.4, which is liable to indemnify the insured.

5. Respondent No.4 in its written statement has denied the factum of accident. It is further submitted that claimant wants to take benefit of his own wrong. The driver was not holding a valid and effective driving licence and as such, insurance company is not liable to indemnify the owner/insured. Dismissal of the claim petition was sought.

6. From the pleadings of parties, following issues were framed by the learned Tribunal:-

“1. Whether the accident, which took place on 2.1.2001 in the area of village Gadpuri, was caused due to rash and negligent driving of



Jeep No. HR-21/A-8409 being driven by respondent no.3 and which resulted in causing injuries to the petitioner. If so to what effect? OPP

2. If issue no.1 is proved, whether the claimant is entitled to compensation for the injuries received in the accident. If so, how much and from whom? OPP

3. Whether the petition is bad for mis-joinder and non-joinder of necessary parties? OPR

4. Whether the petitioner has no cause of action and locus standi to maintain this petition? OPR.

5 Whether the respondent No.3 was not holding a valid the time of and effective driving licence accident. If so, its effect? OPR4 at

6. Relief.”

7. Thereafter, the parties led evidence in support of their case.

8. The Tribunal, while deciding issue No.1 held that the accident had not taken place due to rash and negligent driving on the part of driver of the offending vehicle and infact, accident occurred due to bursting of tyre and decided issue No.1 against the claimant. In view of finding on issue No.1, it was held that petitioner is not entitled any compensation. However, under issue No.4, it was held that vehicle was insured with respondent No.4 vide policy Ex.R1 and insurance company has failed to lead any evidence to prove that driver was not holding any valid and effective driving licence and held that insurance company would have been liable to pay compensation. However, in view of finding on issue No.1, the claim petition was dismissed.

9. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.

10. Learned counsel for the appellant argued that the impugned award is



liable to be set aside as the same is based on conjectures and surmises. Learned counsel next contended that Tribunal has erred in law in dismissing the claim petition and instead of dismissing the claim petition, the Tribunal ought to have awarded some amount of compensation under Section 163-A of the Act or under the principle of no fault liability as it was established from the evidence on file that claimant had suffered grievous injuries in the accident in question. Learned counsel further contended that now the provision of Section 163-A of the Act has been replaced by Section 164 of the Act vide Act No.32 of 2019 and under Section 164 of the Amended Act, petitioner is entitled to compensation to the tune of Rs.2,50,000/- as he had suffered grievous injuries. Learned counsel next contended that the benefit of beneficial provision enacted by the Parliament should be given to the appellant and he should be awarded compensation to the tune of Rs.2,50,000/-. In support of his contention, learned counsel has also relied upon the judgment of Hon'ble Supreme Court in 2023 ACJ 631 **Ram Murti and Others Vs. Punjab State Electricity Board.**

11. On the other hand, learned counsel for the respondents argued that the award passed by the learned Tribunal is legal and valid and does not call for any interference.

12. The Tribunal under issue No.1 came to the conclusion that the accident in question had taken place as tyre of the offending vehicle had got burst in which the claimant was travelling and there was no rash and negligent driving on the part of offending vehicle. The file of the present case has burnt in a fire incident. Learned counsel for the appellant has placed on file certified copy of the statements of witnesses recorded before the Tribunal. Claimant in support of his case had examined PW1 Dr. Lokesh Kumar, Private Medical Practitioner at

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Dhariwal Nursing Home, Palwal and PW2 Dev Raj, Clerk, General Hospital, Ballabgarh, to prove the injuries suffered by him and in addition to this, claimant also stepped into the witness-box as PW3.

13. PW2 Dev Raj, Clerk produced the MLR Mark-A, which was issued by Dr. Divya. He deposed that patient was examined on 02.01.2001 by Dr. Divya and thereafter, he was referred to B.K. Hospital, Faridabad after above said MLR was prepared.

14. PW1 Dr. Lokesh Kumar deposed that claimant was brought to his hospital on 04.01.2001, where he was remained admitted as an indoor patient upto 06.02.2001. He was brought with a history of roadside accident on 02.01.2001 at Ballabgarh. He was given first aid at General Hospital, Ballabgarh and thereafter, he was referred to Safderjang Hospital, Delhi. Patient had suffered multiple injuries with fracture shaft femur left side with tibial pin already inserted with fracture first lumbar vertebra with fracture lateral malleolus left side. Patient was operated upon for fracture left femur and fracture left lateral malleolus and he tendered the discharge summary Ex.P2. He further stated that the x-rays were conducted at Kanchan X-ray Lab which is situated in the premises of hospital and bills of the x-rays are Ex.P3 and Ex.P4. Nothing to shatter his veracity could be elicited during his cross-examination to prove to the contrary and it is thus established that claimant had suffered grievous injuries.

15. The claim petition was dismissed as it had been filed under Section 166 of the Act and claimant had failed to prove that the accident took place due to rash and negligent driving on the part of the driver of the offending vehicle. The Tribunal came to the conclusion that tyre of the vehicle had got burst as a result of which it turned turtle resulting in injuries to the claimant. However, no

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compensation was awarded under Section 163-A of the Act or under no fault liability despite the fact that the claimant had suffered grievous injuries.

16. Hon'ble Supreme Court in **Ram Murti's case (supra)** has held as under:-

"7. The provisions of Section 140 which formed a part of Chapter 10 of the Motor Vehicles Act 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter 11 was substituted of which Section 164 provides for payment of compensation in the case of death in the amount of Rs.5,00,000/- and in the case of grievous hurt of Rs.2,50,000/-.

8. We are inclined to give the appellants the benefit of the beneficial provisions which have been enacted by Parliament. Hence, in modification of the order of the High Court, we direct that the appellants shall be entitled to an amount of Rs.5,00,000/- as compensation. However, if the amount of Rs.50,000 which has been awarded by the High Court has already been paid over, the balance (or the entirety of Rs.5,00,000/- if no amount has been paid) shall be paid over to the appellants by 30 November 2022."

17. In **Ram Murti's case (supra)**, the petition was filed under Section 166 of Motor Vehicles Act, 1988, which had been dismissed and the accident had taken place when Section 164 of Act had not come into existence and the accident had infact taken place prior to the said amendment. However, Hon'ble Supreme Court observed that the Motor Vehicles Act is a beneficial provision and applied the beneficial provision of Section 164 of Motor Vehicles Act retrospectively in cases of no-fault liability under Section 163-A and awarded a lump sum compensation of Rs.5,00,000/- to the claimants in a death case.

18. In the present case, the accident took place on 02.01.2001 in which claimant had suffered grievous injuries on account of use of vehicle. The claim

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petition was initially filed under Section 166 of the Act and since the provision under Section 164 of the Act is a beneficial provision and by following the law laid down in **Ram Murti's case (supra)**, claimant is held entitled to compensation of Rs.2,50,000/- along with interest @ 9% per annum from the date of filing of claim petition till realization.

19. As a result of the aforesaid discussion, the present appeal is partly allowed and the appellant is held entitled to compensation of **Rs.2,50,000/-** along with interest @ 9% per annum from the date of filing of claim petition i.e. 20.02.2001 till realization payable by respondents No.1 to 4, jointly and severally.

20. Registry is directed to email the authenticated copy of the award to the respondents/Insurance Companies in terms of directions issued by the Hon'ble Supreme Court in Writ Petition (Civil) No.534 of 2020 titled **Bajaj Allianz General Insurance Company Versus Union of India and others**, decided on 16.03.2021 and Insurance Companies shall comply with the directions as issued under Clause (F) of the said judgment.

21. Pending misc. application (s), if any, shall also stand disposed of.

23.03.2026
Vishal Vardhan

(YASHVIR SINGH RATHOR)
JUDGE

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