



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

FAO-5564-2002

Date of Decision: 16.07.2026

RAJBIR

..... Appellant

VERSUS

RAJU KUMAR AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Abhinav, Advocate for
 Mr. Madan Pal, Advocate for the appellant.

Respondents No.1 and 2 proceeded ex parte
before the Tribunal.

Mr. Rajneesh Malhotra, Advocate and
Ms. Manvi Verma, Advocate
for respondent No.3-Oriental Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted by claimant against the Award dated 14.05.2002 passed by Motor Accident Claim Tribunal, Karnal (**for short “Tribunal”**) for enhancement of compensation awarded in MACT Case No.108 of 1999 in a petition under Section 166 of Motor Vehicles Act, 1988 (**for short “Act”**) vide which a sum of Rs.34,000/- has been awarded as compensation to the claimant/appellant along with interest @ 12% per annum on account of injuries suffered by him in a motor vehicular accident which took place on 08.03.1999, due to rash and negligent driving by respondent No.1, while driving car bearing No.HR-02-E-1980 (**for short ‘offending vehicle’**), owned by respondent



No.2, which was insured with respondent No.3.

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

- “1) Whether the claimant Rajbir had sustained multiple injuries on his person in a roadside vehicular accident which had occurred on 8.3.1999 near Shamgarh in the area of police station Butana on account of rash and Negligent driving of car no.HR-02-E-1980 by respondent No.1 Raju? OPP.*
- 2) If issue no.1 is proved, whether the petitioner is entitled to be compensated for the injuries sustained by him. If so, to what extent and by whom?*
- 3) Whether the respondent no.1 was not holding a valid licence and was driving the vehicle in contravention of terms of insurance policy at the time of accident. If so its effect? OPP-3.*
- 4) Relief.”*

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

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.34,000/- as compensation to the claimant, on account of injuries suffered by him along with interest @ 12% per annum from the date of filing of claim petition till realization.

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

6. The only issue required to be determined in the present appeal relates to the assessment of compensation. Therefore, the entire facts regarding the manner of the accident are not required to be



reproduced in detail, as the Tribunal has already held under Issue No.1 that the accident had occurred due to the rash and negligent driving on the part of respondent No.1, while driving offending vehicle bearing No.HR-02-E-1980, which was owned by respondent No.2 and insured with respondent No.3. No appeal or cross-objections have been filed by the respondents, challenging the said finding and accordingly, finding on issue No.1 is not required to be interfered with and the same is affirmed.

7. Learned counsel for the appellant argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation which is grossly inadequate. The claimant had suffered 25% disability and he has been awarded a total compensation of Rs.34,000/- for disability, pain and suffering, special diet and loss of income during treatment. Learned counsel further argued that the compensation has not been awarded for the pecuniary and non-pecuniary damages as per settled law. Learned counsel prayed that impugned award is thus liable to be modified and appellant is entitled to enhanced amount of compensation.

8. On the other hand, learned counsel for respondent No.3- Insurance Company argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

9. As per version of claimant, he had suffered multiple injuries on his person and his teeth were broken and he suffered fractures in neck



and left hand. His eye sight was also affected and he spent Rs.1,00,000/- on his treatment. The MLR of claimant Ex.P3 led in evidence which shows that he had suffered contusion on right upper eyelid, lacerated wound on left side of face, swelling on the left side of face, a lacerated wound on left side of chest, a number of reddish abrasions on knees, abdomen, right medial malleolus thoracic region and diffuse swelling over the dorsal surface of the left hand. In addition, his right central and upper incisor teeth were found to be missing. The said report has been proved by PW5 Dr. B.L. Dhall, Medical Officer as Ex.P3.

10. PW3 Dr. Rakesh Girdhar, Medical Officer has proved the disability certificate Ex.P1 and deposed that claimant has suffered 5% permanent disability on account of mild stiffness in the wrist joint and left shoulder joint with fracture of clavicle bone and fourth metacarpal of left hand.

11. PW4 Dr. Pawan Kumar Chaudhary has proved the disability certificate Ex.P2 vide which he gave the opinion that claimant has sustained 20% visual disability in his eye.

12. Learned Tribunal on appreciation of evidence awarded him a sum of Rs.34,000/- as compensation which included a sum of Rs.12,000/- for pain and sufferings, Rs.5,000/- for special diet, Rs.4,000/- for loss of income for two months and Rs.13,000/- for permanent disability which in my opinion is grossly inadequate. The accident had taken place on 08.03.1999. The claimant has suffered fractures in his wrist, clavicle and his two teeth were broken. The claimant has thus suffered grievous injuries and it is a matter of common knowledge that pain component in



such injuries is enormous and such injuries take a long time to heal. It must have taken at least three months for the injuries to heal and taking into consideration the severity of injuries, claimant is held entitled to a sum of **Rs.25,000/-** on account of '**pain and sufferings**'.

13. The claimant has not been awarded any amount for his treatment on the ground that he got treated in Civil Hospital where the treatment is given free of cost. However, his two teeth were broken and he will have to get the artificial teeth affixed, which will also require periodic replacement in future and he is accordingly held entitled to a sum of **Rs.10,000/-** for **affixation of the artificial teeth**.

14. No material was produced to prove the monthly income and Tribunal while considering him to be a daily wager assessed his income to be Rs.2,000/- per month. However, the accident had taken place on 08.03.1999 and as such, some amount of guesswork thus has to be applied while assessing his monthly income and taking into consideration the minimum wages prevalent during those days, the monthly income of the claimant is taken as Rs.3,000/- per month. It must have taken at least three months for the injuries to heal. During this period, he would not have been able to do any work and accordingly, he is held entitled to a sum of **Rs.9,000/-** on account of **loss of income during the period of treatment**.

15. Claimant has been awarded Rs.5,000/- for special diet and conveyance, which is adequate but no amount has been awarded for engaging an attendant. Since, the claimant must have bedridden for three



months, he is accordingly held entitled to a sum of **Rs.6,000/-** under this head.

16. So far as disability is concerned, he has suffered 5% disability on account of mild stiffness in the wrist and his shoulder and 20% disability on account of visual disability. This disability is not going to diminish his earning capability in any manner but since he has suffered 25% disability in all, he is held entitled to a sum of Rs.35,000/- on account of permanent disability suffered by him.

17. Resultantly, the compensation to be awarded by this Court is assessed as under:-

Sr. No.	Head	This Court (₹)
1.	Pain & sufferings	Rs.25,000/-
2.	Affixation of the artificial teeth	Rs.10,000/-
3.	Loss of income during treatment	Rs.9,000/-
4.	Special diet and conveyance	Rs.5,000/-
5.	Attendant charges	Rs.6,000/-
6.	Loss of income due to permanent disability	Rs.35,000/-
	Total	Rs.90,000/-

18. As a result of afore-said discussion, the present appeal is partly accepted with costs and the claimant is held entitled to enhanced compensation of Rs.56,000/- (Rs.90,000/- - Rs.34,000/-) over and above the compensation awarded by Tribunal along with interest @ 9% per annum, from the date of filing of claim petition i.e. 07.06.1999, till realization.



19. It is pertinent to mention that the driving licence of the driver was not valid and Insurance Company has been directed to pay the entire amount to the claimant with a right to recover the same from the owner/insured and driver. However, the contract of insurance is between the owner and the Insurance Company and not between the driver and the Insurance Company and as such, Insurance Company can recover the amount only from the owner and it is ordered that Insurance Company after making payment of the compensation including enhanced compensation shall be entitled to recover the same from the owner/insured alongwith interest @ 6% per annum, from the date of deposit till realization, without filing a separate suit.

20. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company 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 Company shall comply with the directions as issued under Clause (F) of the said judgment.

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

(YASHVIR SINGH RATHOR)
JUDGE

16.07.2026
Priyanka Thakur

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