



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO (MVA) No. : 119 of 2013
Reserved on : 28.02.2026
Decided on : 31.03.2026

Ram LalAppellant

Versus

Narain Singh (deceased) & AnotherRespondents

Coram:

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹ Yes.

For the appellant : Mr. Surya Chauhan, Advocate.

For the respondents : Name of respondent No.1 stands deleted.

Mr. Tejasvi Sharma and Mr. Pankaj Chauhan, Advocates for respondent No.2.

Virender Singh, Judge

Appellant Ram Lal, has filed the present appeal, under Section 173 of the Motor Vehicles Act, 1988 as amended upto date, (hereinafter referred to as the 'M.V. Act'), against the award dated 31.12.2012, passed by learned Motor Accident Claims Tribunal, Bilaspur H.P., (hereinafter referred to as the 'learned MACT'), in MAC Petition No.19 of 2009, titled as Ram Lal Versus Narain Singh & Another.

¹

Whether reporters of Local Papers may be allowed to see the judgment?



2. By way of award dated 31.12.2012, the learned MACT has allowed the claim petition filed by the appellant, by awarding a sum of Rs.29,000/-, along with interest, at the rate of 7.5% per annum, from the date of filing the petition till the amount is deposited with the learned MACT.

3. During the pendency of the lis before this court, owner of the truck Shri Narain Singh has expired and considering the fact that his LR, his wife, is already on record as respondent, his name was ordered to be deleted from the array of parties, vide order dated 29.10.2024.

4. Parties to the present appeal, are hereinafter referred to, in the same manner, in which, they were referred to, by the learned MACT.

5. Brief facts, leading to filing of the present appeal, before this Court, may be summed up, as under:-

5.1. Claimant Ram Lal, had filed the claim petition, under Section 166 of the M.V. Act, seeking compensation on account of the disability/injuries suffered/sustained, on account of the accident, which had taken place on 26.10.2008, at about 5.15 p.m., near Navodya School Kothipura, on Bilaspur-Shimla road, involving Truck No.HP11-0599 (hereinafter referred to as 'the offending vehicle'), owned by respondent No.1 and driven by Suraj Kumar, who was initially impleaded as respondent No.2, in



the *lis*, however, on account of his death, his name was ordered to be deleted from the array of parties, by the learned MACT, vide order dated 03.05.2011.

5.2. According to the claimant, the accident, in question, had taken place due to the rash and negligent driving of respondent No.2 Suraj Kumar (since deceased). The information regarding the accident was given to Police Station Sadar Bilaspur, where FIR No.349 of 2008, dated 26.10.2008, has been registered.

5.3. Elaborating his stand, it is the case of the claimant that on the fateful day, i.e., on 26.10.2008, at about 5.15 p.m., he, along with his son and wife, was coming back from Solan to Lakhanpur (Bilaspur), in his vehicle No.HP24A-0648, and reached near Navodya School, Kothipura, on Bilaspur-Shimla road, meanwhile, the offending vehicle came from opposite direction, being driven, in a rash and negligent manner and hit the car. Resultantly, the claimant sustained injuries.

5.4. After the accident, the driver of the offending vehicle fled away from the spot and left the offending vehicle on the spot. The claimant was firstly taken to the Zonal Hospital Bilaspur, where he remained admit from 26.10.2008 to 30.10.2008. Thereafter, for further treatment, he was referred to IGMC Shimla/PGI Chandigarh, but, he was taken to Silver Oak



Hospital Mohali, where, he remained admit from 03.11.2008 and was operated there.

5.5. According to the claimant, he was forced to spent Rs.1,83,353/- on his treatment. Highlighting his bright past and bleak future, the claimant has sought compensation of Rs.50,00,000/-.

6. When put to notice, the owner and driver of the offending vehicle had contested the claim petition, by filing their joint reply, in which, they have taken the preliminary objections that the petition is not maintainable; claimant has not disclosed the true facts and the claim petition is bad for non-joinder or mis-joinder of necessary parties.

6.1. On merits, the contents of the claim petition, have been denied, however, the accident has impliedly been admitted by pleading that contents of para 9 need no reply. It is their further case that the offending vehicle was not involved in the accident, however, the car of the claimant was hit by another truck.

7. Thus, the respondents have prayed for the dismissal of the claim petition.

8. The claimant has filed the rejoinder to the reply filed by the respondents, by denying the preliminary objections, as



well as, the factual position, which has been contested and controverted by the respondents.

9. From the pleadings of the parties, learned MACT has framed the following issues vide order dated 02.08.2010 :

1. Whether the accident, in question, was the result of rash and negligent driving of respondent No.2 and the petitioner sustained injuries in this accident? OPP
2. If issue No.1 is proved, in affirmative, whether the petitioner is entitled to compensation, if so from whom and to what extent? OPP
3. Whether the petition is not maintainable, as alleged? OPR
4. Whether petition is bad for non joinder and mis-joinder of necessary parties, as alleged? OPR
5. Relief.

10. After framing the issues, the parties to the claim petition, were directed to adduce evidence.

11. After closure of the evidence, the learned MACT has decided the claim petition and has awarded the amount, as mentioned above.

12. Aggrieved from the said award, the claimant has preferred the present appeal before this Court, seeking enhancement of the amount of compensation. According to the claimant, the learned MACT has not awarded any compensation for 5% permanent disability, as well as, on account of loss of



earning capacity. Similarly, the award has also been assailed on the ground that the learned MACT has not awarded adequate compensation.

13. On the basis of the above facts, Mr. Surya Chauhan, Advocate, has prayed that the compensation awarded by the learned MACT, does not fall within the definition of 'just compensation'.

14. Per contra, Mr. Tejasvi Sharma and Mr. Pankaj Chaudhary, Advocates, appearing for respondent No.2, have supported the award, and submitted that the learned MACT has taken into consideration the entire facts and circumstances, as well as, the evidence, so adduced, by the parties and has rightly awarded the compensation. According to them, the award passed by the learned MACT, does not require any interference by this Court.

15. In this case, the appeal has now been filed by the claimant, with a prayer to enhance the amount of compensation. Meaning thereby, the findings of learned trial Court on issue No.1, have now attained finality being not challenged by the respondent. As such, now, this Court would proceed straightway to ascertain the fact as to whether the amount, awarded to the claimant, falls within the definition of 'just compensation' or not.



16. The Hon'ble Apex Court in ***Oriental Insurance Company Limited*** versus ***Mohd. Nasir and another, (2009) 2 SCC (Cri.) 987***, has held that the provisions of M.V. Act are beneficial piece of legislation and the endeavour of the Court should be to provide "just compensation" to the claimants. The relevant paras 23 and 24 of the judgment are reproduced as under:-

"23. Both, the 1923 Act and 1988 Act are beneficent legislation insofar as they provide for payment of compensation to the workmen employed by the employers and/or by use of motor vehicle by the owner thereof and/or the insurer to the petitioners suffering permanent disability. The amount of compensation is to be determined in terms of the provisions of the respective Acts. Whereas in terms of the 1923 Act, the Commissioner who is a quasi judicial authority, is bound to apply the principles and the factors laid down in the Act for the purpose of determining the compensation, Section 168 of the 1988 Act enjoins the Tribunal to make an award determining the amount of compensation which appears to be just.

24. Both the Acts aim at providing for expeditious relief to the victims of accident. In these cases, the accidents took place by reason of use of motor vehicles. Both the statutes are beneficial ones for the workmen as also the third parties. The benefits thereof are available only to the persons specified under the Act besides under the Contract of Insurance. The statutes, therefore, deserve liberal construction. The legislative intent contained therein is required to be interpreted with a view to give effect thereto."

(self emphasis supplied)



17. In this case, learned MACT has not awarded the compensation under two major heads i.e. pecuniary damages, as well as, non-pecuniary damages. In such situation, being the First Appellate Court, it is the duty of this Court to determine the entitlement of the claimant under various heads, on the basis of the evidence, so adduced, by the claimant.

18. In order to prove his case, the claimant has examined PW-1 Dr. M.I. Ahmad, Orthopedic Surgeon, Regional Hospital, Bilaspur, who has issued the disability certificate Ex.PW-1/A. According to him, on 30.07.2011, the claimant had appeared before the Medical Board and disability on the person of claimant was assessed by the Board and the certificate Ex.PW-1/A, was issued, according to which, there is permanent disability to the extent of 5%. In the cross-examination, he has admitted that a person with 5% permanent disability can easily drive the vehicle and can travel also. Similarly, he has stated that the requirement of attendant is not there for a person having 5% permanent disability. According to him, 5% permanent disability has no concern with the paralysis report.

19. PW-4 K.R. Chauhan, is the Manager of Himachal Pradesh Gramin Bank. According to him, claimant is working with them as Assistant Manager and due to the accident, he remained on earned leave for 97 days and 3 days casual leave.



In this regard, he has issued certificate Ex.PW-4/A. He has further deposed that monthly salary of the claimant at the relevant time was Rs.30,796/- and in this regard, he has issued salary certificate Ex.PW-4/B. He has further deposed that the claimant is working as Manager with the Bank.

20. Claimant Ram Lal, when appeared in the witness-box, has deposed that his date of birth is 13.05.1955. On 26.08.2008, at about 5.00-5.15 p.m., he sustained injuries in the road side accident, involving the offending vehicle, which, according to him, was being driven in a rash and negligent manner. After the accident, he was taken to hospital at Bilaspur, where, he remained admit from 26.10.2008 to 30.10.2008. Thereafter, he was referred to IGMC Shimla, however, he was shifted to Shivalik Hospital & Trauma Centre, Mohali, Chandigarh. He has specifically stated that due to the accident, he remained on leave for about 100 days and joined on 01.02.2009. He has further deposed that due to the injuries sustained in the accident, he became permanently disabled. He has also tendered the medical bills Ex.P-1 to Ex.P-16. He has also hired the services of attendant-cum-driver, to whom, he used to pay a sum of Rs.3,000/- per month. The said driver was hired for two months i.e. November and December, 2008. Thereafter, he used to pay Rs.5,000/- per month to the driver for



the period 1.1.2009 to 31.03.2009. He has further deposed that he is still under treatment and facing difficulty in walking. This witness, in the cross-examination, has admitted that in the year 2003, he got treatment from Mohali for Brain tumor. He has also admitted that he got salary for leave period also.

21. The person who has been engaged as driver, by the claimant, appeared in the witness-box as PW-7 and deposed that his services, as driver, were hired by the claimant from the month of November and December and received a sum of Rs.6000/-, (@ Rs.3000/- per month). Thereafter, from January 2009 to 31.03.2009, he has received a sum of Rs.5,000/- per month from the claimant. He has further deposed that his services were hired by the claimant till his joining for about 15 months, as, after joining the services, he used to take the claimant to the Bank.

22. On the basis of the evidence discussed above, this Court is of the view that the learned MACT has to award the compensation, under the various heads, as culled out by the Hon'ble Apex Court in ***Raj Kumar versus Ajay Kumar & Another, (2011) 1 Supreme Court Cases, 343***, whereas, the learned MACT has discussed the evidence and awarded the compensation, under different heads, in para 24 of the impugned award.



23. The findings, should have been recorded by the learned MACT under the different heads. In such situation, this Court has to venture to grant the compensation under various heads, which is assessed, as under:-

1. NON PECUNIARY DAMAGES:

(a) PAIN AND SUFFERINGS:

24. Learned MACT has granted only Rs.5,000/-, under the head pain and sufferings, whereas, according to the evidence, so adduced, by the parties, after the accident, the claimant was firstly, taken to Hospital at Bilaspur, where, he remained admit from 26.10.2008 to 30.10.2008. Those initial period of hospitalization comes to five days. Thereafter, he had taken treatment from Shivalik Hospital & Trauma Centre, Mohali. In this regard, he has relied upon certificate Ex.PW-6/B. He was admitted on 3.11.2008 and operated on 04.11.2008 and thereafter, discharged on 06.11.2008. The said period of hospitalization comes to four days. Thus, the total period of hospitalization comes to nine days.

25. The period of hospitalization and convalescence, must be painful and traumatic for the claimant, for which, he is held entitled to a sum of Rs.1000/- per day. As such, the amount



of compensation awarded by learned MACT is liable to be enhanced and the appellant is held entitled to a sum of Rs.1000x9= Rs.9,000/-, under this head.

(b) LOSS OF ENJOYMENT OF LIFE:

26. The period of hospitalization, is held to be 10 days and as per the certificate issued by the Bank Ex.PW-4/A, the claimant, thereafter, remained on earned leave for 97 days and 3 days casual leave. Meaning thereby, from the date of accident, i.e., 26.10.2008, till 05.03.2009, the claimant could not enjoy the life of a normal human being, on account of his hospitalization and the time taken for convalescence.

27. In this case, there is disability to the extent of 5% permanent in nature. As per Ex.PW-1/A, although it has also been proved, in this case, that on account of permanent disablement neither the promotional avenues of the claimant have diminished, nor, his salary has been decreased, however, for 5% permanent disability, which has adverse impact on the day-to-day life of the claimant, he is also entitled to some amount as compensation.

28. Considering the period of convalescence, along with the fact that he was forced to live with 5% permanent disability,



this Court is of the view that he is entitled to a sum of Rs.1,00,000/-, under the head 'loss of enjoyment of life'.

(c) SHORTEN EXPECTANCY OF LIFE:

29. There is no evidence on the record to prove or to suggest that due to disability and injury suffered, the life span of the claimant has been shortened. As such, no amount of compensation is being awarded, under this head.

2. PECUNIARY DAMAGES:

(a) LOSS OF EARNING AND EARNING CAPACITY:

30. There is no evidence on the record to demonstrate that on account of injury sustained and disability suffered, the promotional avenues of the claimant have been diminished and there is any loss of earning capacity. However, the claimant was forced to take earned leave for a period of 97 days i.e., 27.10.2008 to 31.01.2009. The employee is entitled to encashment of earned leave to the extent of 300 days. When, the claimant was forced to take earned leave, on account of injury suffered by him, he was held entitled to the salary of 3 months and 7 days, under this head. The salary of the claimant



at the relevant time was Rs.30,796/-. Thus, the claimant is held entitled to a sum of Rs.99,573/- (Rs.1026x97).

(b) MEDICAL EXPENSES:

31. As per the certificate Ex.PW-6/B, the claimant remained admit in Shivalik Hospital and Trauma Centre Mohali, for about four days, where, he was operated and he may have attended the hospital for follow up. The claimant has annexed the medical bills Ex.P-1 to P-16, the total of which comes to Rs.8994/-. Hence, by rounding off, the learned MACT has awarded a sum of Rs.9,000/- to the claimant.

(c) TRAVELLING EXPENSES:

32. The claimant had taken treatment in Shivalik Hospital and Trauma Centre Mohali, and to visit Mohali from his native place, he might had hired the services of driver. Considering the said fact, this Court is of the view that the claimant is entitled to some amount, under this head. Although, in the statement of PW-7 Manoj Kumar, he has deposed that his services, as driver, had been engaged for about 15 months, but, the said fact cannot be taken as a gospel truth. However, it can be held that the services of a driver might have been hired for atleast five months. As such, the claimant is held entitled to a sum of



Rs.3,000/- for the month of November, 2008 and Rs.3,000/-, for the month of December, 2008 and thereafter Rs.5,000/- per month for three months, i.e. Rs.15,000/-. Thus, the claimant is held entitlement to a sum of Rs.21,000/-, under the head 'travel expenses'.

(c) SPECIAL DIET AND ATTENDANT CHARGES:-

33. At the time of accident, the age of the claimant was 54 years and on account of the accident, he had sustained injuries and suffered disability. His period of hospitalization, as well as, convalescence has been held to be 129 days. During that period, the claimant might have taken a special diet and might have engaged services of some attendant, for which, it would be just and appropriate to award a sum of Rs.100/- per day, under this head. Thus, the compensation, under this head, comes to $Rs.129 \times 100 = Rs.12,900/-$

34. Considering all these facts, the petitioner is held entitled to a sum of Rs.2,51,473/- (Rs.9,000/-+ Rs.1,00,000/-+ Rs.99,573/- + Rs.9,000/- + Rs.21,000/- + Rs.12,900/-), along with interest @ 7.5% per annum, from the date of filing of the petition till its realization from respondent No.1.

35. With these observations, the appeal is allowed by modifying the award passed by the learned MACT and the



amount of compensation is enhanced from Rs.29,000/- to Rs.2,51,473/-, along with interest @ 7.5% per annum, from the date of filing of the petition, till the realization of the whole amount, with upto date interest.

36. However, keeping in view the facts and circumstances, there shall be no order so as to costs.

37. Memo of costs be prepared.

38. Pending application(s), if any, are also disposed of.
Record be sent back.

March 31, 2026 (ps)

**(Virender Singh)
Judge**