

**IN THE HIGH COURT OF HIMACHAL PRADESH**  
**SHIMLA.**

***FAO No. 127 of 2005***

**Date of Decision : October 30, 2009**

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Bhajan Singh	...Appellant.
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vs:

Manohar Lal & Ors.	...Respondents.
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***Coram:***

**The Hon'ble Mr. Justice Sanjay Karol, Judge.**

*Whether approved for reporting?<sup>1</sup> No*

For the appellant : Mr. K. B. Khajuria, Advocate.

For respondents 1 & 2: None.

For respondent No.3 : Mr. Deepak Bhasin, Advocate.

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**Sanjay Karol, J. (Oral)**

The claimant has assailed the impugned award dated 28.7.2004 passed by the Motor Accident Claims Tribunal, Bilaspur, H.P. in M.A.C. Case No. 3 of 2002. The challenge is on the ground that the compensation awarded is on the lower side which ought to be enhanced.

The facts necessary for adjudication of the present appeal are as under.

The claimant filed a petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'), inter alia pleading that on 10.2.1994, while travelling on

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment?

Scooter No.HPG-3461 he was hit by the vehicle (truck) No. HP-20-1326 which was being driven in a rash and negligent manner by Shri Amar Singh, respondent No.2 herein. In the said accident, the claimant sustained injuries and became permanently crippled having 60% permanent disability. At the time of the accident, he was 32 years of age and having a monthly income of Rs.2000/-. The vehicle was owned by Shri Manohar Lal, respondent No.1 herein and insured with the Oriental Insurance Co., respondent No.3 herein.

The petition was opposed by the respondents on various grounds and based on the pleadings of the parties, the Tribunal framed the following issues:-

- "1. Whether the petitioner had suffered injuries on account of rash and negligent driving of respondent No.2 of truck No.HP-20-1326?  
.....OPP
2. If issue No.1 is proved to what amount of compensation and from whom is the petitioner entitled to?  
.....OPP
3. Whether respondent No.2 had not been in possession of a valid and effective driving licence at the time of the accident, if so with what effect?  
.....OPR-3
4. Whether the petition is bad for non-joinder?  
.....OPR-3
5. Whether the accident had taken place as a result of contributory negligence of drivers of vehicles No.HP-20-1326 and HPG-3461, if so, with what effect?  
.....OPR-3
6. Relief."

Appreciating the material on record, the Tribunal found that the petitioner had sustained some injuries in an accident which took place due to the rash and negligent driving on the part of Shri Amar Singh. The driver was possessed with a valid and effective driving licence and it was found that there was no contributory negligence on the part of the driver which resulted into the occurrence of the accident.

While deciding issue No.2, the Tribunal awarded compensation of only Rs.25,000/- (under Section 140 of the Act) and keeping in view the fact that the vehicle was insured, the insurer was directed to pay the said amount.

I have heard the learned counsel for the parties and also perused the record.

I am of the view that no case for interference is made out.

In support of his case the petitioner examined himself as PW-1 and Dr. G. D. Khullar as PW-2.

No doubt, the petitioner has proved the disability certificate Ext.PW-2/A which indicates the disability to be of permanent nature to the extent of 60%, but however, there is nothing on record to prove that the said disability acquired by the claimant was as a result of the injuries sustained in a motor accident which took place on 10.2.1994. Importantly, the claim petition was filed on 31.12.2001. There appears to be no justification for such long delay. The petitioner has not been able

to plead or establish that he continued to remain under medical treatment and in any manner was handicapped from approaching the Court in filing the petition with promptitude. In any event, there is no causal connection of the accident with the injury sustained and proved on record. In fact the oral testimony of the claimant that he had spent Rs.40,000/- to 45,000/- on his medical treatment is unsubstantiated and uncorroborated by any documentary evidence. The petitioner has also not been able to substantiate the loss of income as sustained by him as a result of the said accident. As such, no ground for interference is made out. The Tribunal has found the certificate to be vague and fictitious. However, I am not going into this aspect of the matter.

The Tribunal has awarded a sum of Rs.25,000/-. This part of the award has not been assailed by any person. There is no illegality, perversity or irregularity in the impugned award.

No case for interference is made out.

The appeal is dismissed.

**( Sanjay Karol ),**  
**Judge.**

**October 30, 2009.**  
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