

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

Case:- MA No. 71/2010  
IA No. 69/2015  
c/w  
CCROS No. 17/2010  
IA No. 1/2015

National Insurance Co. Ltd., Divisional Office-  
III, Last More, Gandhi Nagar, Jammu acting  
through its Assistant Divisional Manager,  
Sh. S. N. Koul, Age 56 years. ....Appellant(s)

Through: Mr. Suneel Malhotra, Advocate.

**Vs**

1. Bhagat Singh Bhatia, S/o Late Sh. Than  
Chand Bhatia, R/o H. No. 71, Shastri Nagar,  
Jammu. .... Respondent(s)
2. Gurmeet Singh Sudan, S/o Sh. Dayal Singh  
Sudan, R/o Rani Bagh, Opp. Air Port, Air  
Port Road, Jammu. (Driver of Auto  
Rickshaw No. JK02E-2348).
3. Sanjeev Kohli, S/o Sh. Bishamber Dass, C/o  
Choudhary Chamb Pvt. Ltd., Nehru Market,  
Jammu. (Owner of Auto Rickshaw No.  
JK02E-2348).

Through: Mr. R. K. Bhatia, Advocate.

**Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

**ORDER**  
**(30.04.2024)**

**1.** The Motor Accidents Claims Tribunal (MACT), Jammu came to entertain a claim petition on file No. 60/Claim filed by the respondent No. 1-Bhagat Singh Bhatia (who is now deceased) on account of physical disability suffered by him as a result of motor vehicle accident which took place on 18.12.2004 when he came to be hit by offending vehicle of Auto Rickshaw No. JK02E-2348. The Auto Rickshaw above numbered was owned by the respondent No. 3-

Sanjeev Kohli herein and driven by the respondent No. 2-Gurmeet Singh Sudan herein.

**2.** The offending vehicle was carrying an insurance cover issued by the appellant herein i.e. National Insurance Company. The injury left the respondent No. 1 to suffer hip replacement and the medical treatment availed by him was from Dr. Hardas Singh Sandhu Hospital Amritsar lasting from 19.12.2004 to 25.12.2004 after he was shifted from the Government Medical College, Jammu on 18.12.2004 having not received due medical attention from the Government Medical College, Jammu.

**3.** The respondents No. 2 & 3 as being the driver and owner of the offending vehicle did not join the claim petition to contest the same, as such, it was only the appellant as insurer which came to contest the claim petition from every aspect.

**4.** The Motor Accidents Claims Tribunal (MACT), Jammu came to hold that the respondent No. 1 was a victim of rash and negligent driving of the offending vehicle by the respondent No. 2 and that the offending vehicle was of duly insured by the respondent No. 3 from the appellant-Insurance Company.

**5.** With respect to the quantum of compensation, the Motor Accidents Claim Tribunal (MACT), Jammu came to reckon the respondent No. 1 making a monthly income of Rs. 6,000/- in his occupation as Registered Medical Practitioner (RMP), although, no such proof was tendered on record as against the claim of the respondent No. 1 that he was earning Rs. 10,000/- per month.

The respondent No. 1's permanent physical disability was medically assessed to be 28%.

**6.** The Motor Accidents Claims Tribunal (MACT), Jammu came to compute the annual loss of income of the petitioner at Rs. 1680/- per month and which on annually basis came to be Rs. 20160/- with respect to which applying multiplier of 5 given the age of the respondent No. 1 to be 62 years, the compensation of amount of Rs. 1,00,800/- came to be awarded in favour of the respondent No. 1.

**7.** In addition to said compensation, on account of pain and suffering, the Motor Accidents Claims Tribunal (MACT), Jammu came to grant compensation of Rs. 56,000/- in favour of the respondent No. 1 and on account of loss of amenities of life, the respondent No. 1 came to be awarded an amount of Rs. 56,000/- thereby totalling the compensation payable in favour of the respondent No. 1 to be Rs. 4,22,800/- to be satisfied by the appellant-Insurance Company as being the insurer of the offending vehicle and the compensation was to be payable @ 7.5% per annum minus future loss of income from the date of filing of the claim petition till realization.

**8.** The claim petition was filed on 27.04.2005 and came to be decided by the award dated 23.10.2009.

**9.** Against this award, the appellant-Insurance Company has come up with the challenge through the medium of the present appeal, during the pendency of which, the respondent No. 1 came to demise thereby bringing on record his legal

representatives namely his widow-Jatinder Kour and two sons Manmohan Singh and Gurmeet Singh in term of order dated 27.11.2021.

**10.** In the memo of appeal, the appellant has taken an exception to the grant of compensation in favour of the respondent No. 1 firstly on the ground that the monthly income of the respondent No. 1 was taken by the Motor Accidents Claim Tribunal (MACT), Jammu without any basis in relation to the nature of the occupation being pursued by the respondent No. 1 and that the monthly income of the respondent No. 1 ought not to have been taking more than Rs. 3,000/- per month.

**11.** The appellant has also joined issues with respect to the assessment of the physical disability of the respondent No. 1 by reference to the fact that the medical evidence suggested that the hip replacement of the respondent No. 1 and only restricted effect on his daily routine of life and, as such, did not hamper him from pursuing normal way of life including pursuing his occupation.

**12.** As per learned counsel for the appellant, the Motor Accidents Claims Tribunal (MACT), Jammu had erred on each and every aspect in the matter of assessment of compensation payable in favour of the respondent No. 1 and even the rate of interest of 7.5% per annum granted by the Motor Accidents Claims Tribunal, Jammu was not in sync with the rate of interest at the relevant point of time which used to be 6% per annum.

**13.** Having heard learned counsel for the parties, this Court finds no perversity in the award of the Motor Accidents Claims Tribunal (MACT),

Jammu in assessing the monthly income of the respondent No. 1 to be Rs. 6,000/- which at the relevant point of time would come to be Rs. 200/- per day wage of a person and the respondent No. 1 being an able-bodied person being 62 years of age having competence to earn Rs. 200/- per day for vocation of life in whatever he may have been engaging himself with or without any proof in the context of being a registered medical practitioner would not mean to belittle his livelihood.

**14.** Therefore, for the learned counsel for the appellant to submit that the income of the respondent No. 1 ought to have been computed @ Rs. 3,000/- per month would be to say that his daily income ought to have been Rs. 100/- per day at the relevant point of time when the respondent No. 1 came to suffer accident. Obviously, the respondent No. 1 was having wife and two sons to look after and that means that Rs. 100/- per day would not have been sufficient for him to take care of his own person as well as family of three being his wife and two sons.

**15.** Insofar as, grant of compensation on account of medical expenses is concerned, the very fact that for almost 15 days, the respondent No. 1 remained hospitalized in a private hospital in Amritsar with his entire family engaged with him providing to the best of their capability and best medical treatment to the respondent No. 1, as such, by no stretch of reasoning the compensation of amount of Rs. 2,10,000/- can be said to be an exaggerated one be it with or without any medical bill supporting thereto although the medical bills to said

effect are there. On account of pain and suffering and loss of amenities, the compensation awarded is reasonable.

**16.** Insofar as, the plea of Mr. Suneel Malhotra, learned counsel appearing on behalf of the appellant with respect to rate of interest is concerned. Mr. Suneel Malhotra cites AIR 2007 Supreme Court 1243 that even the Hon'ble the Supreme Court at the relevant point of time used to grant 6% per annum rate of interest on the compensation awarded.

**17.** In view of the said judgment, the rate of interest admissible to the compensation awarded by the Motor Accidents Claims Tribunal (MACT), Jammu shall also be 6% per annum and accordingly, the compensation to be worked out for the sake of its payment to the legal representatives of the deceased-respondent No. 1.

**CCROS No. 17/2010**

**18.** In view of the above, cross appeal, accordingly, is rejected.

**(RAHUL BHARTI)**  
**JUDGE**

**JAMMU**  
**30.04.2024**  
*Shivalee*

Whether the order is speaking:	Yes
Whether the order is reportable:	No