

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

**MA No. 101/2011 c/w
MA No. 107/2013**

***Pronounced on : 30.01.2026
Uploaded on : 02.02.2026***

MA No. 101/2011

**New India Assurance Co. Ltd., Divisional Office No. II, ...Appellant(s)
Aquaf Market, Gandhi Nagar, Jammu, through
its Divisional Manager,
Smt. Suman Gupta.**

Through :- Ms. Ishna Vaid, Advocate

v/s

- 1. Swaran Kour, W/o Late S. Gurcharan Singh. Respondent(s)
2. Rajinder Singh, S/o Late S. Gurcharan Singh.
3. Narinder Singh, S/o Late S. Gurcharan Singh.
4. Ram Kour, W/o late S. Nand Singh.**

**Respondents 1 to 4 are the residents of
Village Kotli, Arjan Singh, Tehsil R S Pura,
District Jammu.**

- 5. Gardhara Singh, S/o Sardar Singh,
R/o Village Khir Pind, Tehsil R S Pura, District Jammu.**

Through :- Mr. A S Azad, Advocate
Mr. Kamal Gupta, Advocate
Mr. Hardev Singh, Advocate

MA No. 107/2013

**New India Assurance Co. Ltd., Divisional Office No. II, ...Appellant(s)
Aquaf Market, Gandhi Nagar, Jammu, through
its Manager, TP Legal Hub, Sh. R S Negi.**

Through :- Ms. Ishna Vaid, Advocate

v/s

- 1. Sucha Singh, S/o Partap Singh, ...Respondent(s)
R/o Village Dewan Garh, Tehsil R S Pura,
District Jammu.
2. Gardhara Singh, S/o Sardar Singh,
R/o Village Khir Pind, Tehsil R S Pura, District Jammu.**

Through :- Mr. Amrit Sarin, Advocate
Mr. Ajay Bakshi, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER (ORAL)

30.01.2026

MA No. 101/2011

1. Impugned in this appeal, filed by New India Assurance Co. Ltd., is an award dated 30.04.2009 passed by the Motor Accidents Claims Tribunal, Jammu [**“the Tribunal”**] in case titled *“Swaran Kour & Ors. Vs. Gardara Singh & Anr.”* bearing File No. 560/Claim, whereby the Tribunal has allowed the claim petition filed by Respondents 1 to 4 and awarded compensation of ₹ 4,52,000/- along with interest @ 7.5% per annum in their favour.
2. The impugned award is assailed by the Appellant/Insurance Co., primarily on the ground that the Tribunal has not correctly decided the Issue No. 1, the onus whereof, was on respondents/claimants.
3. It is argued that, it was the specific case of the Appellant/Insurance Co. that Gurcharan Singh did not die in any motor vehicle accident involving Motorcycle bearing No. JK02S-8388 insured with the Appellant/Insurance Co. It is submitted that the deceased Gurcharan Singh, who was driving the scooter, rammed into a cart and sustained fatal injuries. The Appellant/Insurance Co. has, however, not disputed the quantum of compensation awarded by the Tribunal in favour of the claimants.
4. **Having heard learned counsel for the parties at length and perused the material available on record, I am of the considered opinion that Issue No. 1 has been correctly decided by the Tribunal**

on the basis of evidence that was brought on record by the respondents/claimants.

5. **PW S. Sucha Singh**, claiming to be an eye witness of the accident, has clearly stated during this examination before the Tribunal that, on the fateful day at about 08:45 AM, he was standing in front of Bias Sat Sang Ghar, waiting for a vehicle to go to his village. The deceased Gurcharan Singh was driving a scooter towards R S Pura, on reaching opposite Sat Sang Ghar, he was hit by the offending motorcycle which was being driven at a high speed. He has been put to cross-examination by the Appellant/Insurance Co., but nothing adverse has been elicited during his cross-examination. To corroborate his version, made before the Tribunal, the claimants have also produced a photocopy of the Police Challan filed against Joginder Singh-the driver of the offending motorcycle. This evidence led by the respondents/claimants has not been rebutted by the Appellant/Insurance Co. by leading any evidence in defence/rebuttal.

6. The oral plea of the Appellant/Insurance Co. that the deceased did not die in a motor vehicle accident occurred due to collision of his scooter with the offending motorcycle driven by Joginder Singh could not have been accepted by the Tribunal in the absence of any evidence led to prove such plea. Before this Court also, there is bald assertion by Appellant/Insurance Co. that the death of the deceased Gurcharan Singh has not happened in a motor vehicle accident involving the offending motorcycle insured with the Appellant/Insurance Co., whereas the evidence of the eye witness S.

Sucha Singh coupled with Police Challan clearly proves that the accident occurred due to the negligence and rash driving of the offending motorcycle driven by Joginder Singh.

7. For the foregoing reasons, this Court is not inclined to accept the ground of challenge urged on behalf of the Appellant/Insurance Co. to challenge the impugned award passed by the Tribunal. As such, **this Court finds no merit in the instant appeal and the same, is according, dismissed.**
8. The amount, if any, deposited by the Appellant/Insurance Co. before this Court shall be released in favour of the claimants in terms of the order impugned, after due verification and identification.

MA No. 107/2013

- 1) Impugned in this appeal, filed by New India Assurance Co. Ltd., is an award dated 21.11.2012 passed by the Motor Accident Claims Tribunal, Jammu [**“the Tribunal”**] in case titled *“Sucha Singh Vs. New India Assurance Co. Ltd. & Anr.”* bearing File No. 717/Claim, whereby the Tribunal has allowed the claim petition filed by Respondent No. 1 and awarded compensation of ₹ 2,05,000/- along with interest @ 7.5% per annum in his favour by way of compensation for the injuries suffered by him in the motor vehicle accident that took place on 03.09.2003 at Baga Marh, near R S Pura, due to rash and negligent driving of driver Joginder Singh who was driving the offending motorcycle bearing No. JK02S-8388.

- 2) The issue which has been raised by the Appellant/Insurance Co. in this appeal has been considered and dealt with in MA No. 101/2011 and, therefore, no further debate or discussion on the issue is called for in this appeal. Suffice it to say that the Issue No. 1, the onus whereof, was on the respondent/claimant has been sufficiently proved by way of oral as well as documentary evidence, as taken note of, in the judgment (supra).
- 3) For the foregoing reasons, **this Court finds no merit in this appeal and the same, is accordingly, dismissed.**
- 4) The amount so deposited by the Appellant/Insurance Co. before this Court shall be released in favour of the claimants in terms of the order impugned, after due verification and identification.

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