

*FAO-1547-2025 (O&M) and another connected matter**-1-*

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

Reserved on :- 13.07.2026**Pronounced on :- 20.07.2026****Date of Uploading :- 22.07.2026****(1)****FAO-1547-2025 (O&M)**

Smt. Santosh and others

...Appellants

Versus

Paramjeet Singh and others

...Respondents

(2)**FAO-4760-2025 (O&M)**

New India Assurance Company Ltd.

...Appellant

Versus

Smt. Santosh and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Vipul Sharma, Advocate
for the appellants/claimants (in FAO-1547-2025) and
for respondent Nos. 1 to 5 (in FAO-4760-2025).

Mr. Aseem Aggarwal, Advocate
for the appellant-insurance company
in FAO-4760-2025 and
for respondent No. 3 (in FAO-1547-2025).

Mr. Nitesh Dalal, Advocate
for respondent Nos. 1 and 2 (in FAO-1547-2025) and
for respondent Nos. 6 and 7 (in FAO-4760-2025).



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AMARJOT BHATTI, J.

CM-4839-CII-2025 in FAO-1547-2025

This is an application filed under Section 151 of CPC for condonation of delay of 07 days in re-filing the instant appeal. It is pointed out that certain objections were raised by Registry and in clearing the same, delay of 07 days occurred.

In view of the averments made in the application and in the light of the settled position that a party should not be denied access to justice on hyper technical grounds, delay of 07 days in re-filing the appeal is condoned.

CM is accordingly, allowed.

Main case(s)

1. Both FAOs referred above arising out of common Award dated 09.10.2024 passed by learned Motor Accident Claims Tribunal, Chandigarh in MACP Registration No. 584 dated 30.08.2022, are taken up together for disposal.

2. Appellants/Claimants – Santosh, Sonam, Master Manish, Nandni and Ramwati in FAO-1547-2025 and appellant/Insurance Company in FAO-4760-2025 have filed separate appeals against common impugned Award dated 09.10.2024 passed by learned Motor Accident Claims Tribunal, Chandigarh (**for short ‘Tribunal’**) in MACP Registration No. 584 dated 30.08.2022, vide which claim petition was partly allowed with costs and awarded compensation to the tune of Rs.20,81,720/- along with interest @7.5% per annum, as detailed therein, fixing the liability of the New India Assurance Company Ltd. to deposit the



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said compensation amount.

3. Brief facts of the case are, on 15.07.2022 at about 04:00 am, deceased Suneel @ Sunil @ Suneel Kumar was going in a Mahindra Pickup along with other passengers from Karnal to Sonipat. When they reached in the area of village Larsauli, ahead of flyover, there was Toll. In the meantime, Traula bearing Registration No.HR-69-C-3069 was found wrongly parked by its driver Paramjeet Singh in the middle of road without any indicator or warning to the ongoing traffic, as a result, accident took place. In the accident, Suneel @ Sunil @ Suneel Kumar died due to injuries sustained in the accident. Postmortem was conducted at Civil Hospital, Sonipat. Accident had taken place due to negligent and wrong parking of offending Traula in the middle of road. FIR No. 231 dated 15.07.2022 was registered under Section 283, 304-A, 337 of IPC Police Station HSIIDC, Barhi, District Sonipat. At the time of accident, deceased was having good health and was 36 years of age. He was to lead a long life. He was self employed and was vegetable seller. All the claimants were dependent upon him and have suffered great loss on account of his untimely death. Claimants had claimed compensation to the tune of Rs.75 lacs along with interest.

4. Claim petition was contested by respondents No. 1 and 2 (driver and owner), who filed their joint written reply taking preliminary objections. On merits, it was claimed that false FIR was lodged and respondent No. 1 Paramjeet Singh was falsely implicated in the case by local police. It was confirmed that respondent No. 1 Paramjeet Singh was driver, respondent No. 2 Harender Singh was registered owner of offending



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vehicle and it was duly insured with respondent No. 3-New India Assurance Co. Ltd. All the other averments in claim petition were denied. It was prayed that claim petition may be dismissed.

5. Respondent No. 3-Insurance Company filed separate written reply taking preliminary objections regarding mis-joinder and non-joinder of necessary parties, cause of action, locus standi and maintainability. On merits, it was claimed that it was a case of hit and run by some unknown vehicle. A false FIR has been registered against the offending vehicle to grab compensation. No accident took place as alleged. Driver of Mahindra Pickup also contributed in said accident, thus, he was to be held responsible for contributory negligence.

6. From the pleadings of the parties, following issues were framed by the Tribunal on 06.07.2023 :-

(1) Whether accident dated 15.07.2022, resulting in death of Suneel @ Sunil @ Suneel Kumar, occurred on account of rash and negligent driving of vehicle no. HR-69-C-3069 by respondent no.1? OPP

(2) Whether the claimant is entitled for compensation on account of death of Suneel @ Sunil @ Suneel Kumar, if so, to what extent? OPP

(3) Whether the driver of offending vehicle was not holding a valid & effective driving license on the date of accident and the vehicle was being driven in violation of terms and conditions of the insurance policy? OPR3

(4) Relief.

7. In order to prove the claim petition, claimant No.1 Santosh widow of deceased victim herself stepped into the witness box as PW-1



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and deposed through duly sworn affidavit Ex.PW1/A. Thereafter, learned counsel for claimants closed the evidence on behalf of claimants after tendering documents vide separate statement dated 09.11.2023.

8. In order to rebut the case of claimants, no oral evidence was led by respondents No.1 to 3. However, learned counsel representing respondents after tendering into documentary evidence documents i.e. Ex.R1 to Ex.R7 closed the evidence on behalf of respondents No. 1 and 2 on dated 21.03.2024 and on behalf of respondent No. 3 on dated 11.07.2024.

9. After hearing the arguments advanced by learned counsel for the parties, claim petition filed by claimants was partly allowed with costs by passing impugned Award dated 09.10.2024, as detailed therein.

Feeling aggrieved of this Award, appeal bearing FAO-1547-2025 has been preferred by appellants/claimants for enhancement of the compensation amount, whereas, appeal bearing FAO-4760-2025 has been preferred by appellant/Insurance Company on quantum of compensation and contributory negligence of driver of Mahindra Pickup.

10. I have heard the arguments advanced by learned counsel for appellants/claimants (in FAO-1547-2025) as well as learned counsel representing appellant/Insurance Company (in FAO-4760-2025) along with learned counsel representing driver and owner of offending vehicle.

11. Firstly, I will take up appeal preferred by appellants/claimants in FAO-1547-2025. Learned counsel representing appellants/claimants argued that quantum of compensation awarded by learned Tribunal is towards the lower side. In this case, deceased victim Suneel @ Sunil @



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Suneel Kumar was about 36 years of age. He was a vegetable seller. It was alleged that he was earning Rs. 20,000/- per month. To prove the income of deceased victim, his wife Santosh-claimant No. 1 stepped into the witness box as PW-1. Even though, there was no documentary proof to establish the earnings of late Suneel, the income of deceased victim was wrongly assumed as Rs. 9,542/- per month as that of a daily wager according to Deputy Commissioner rate prevailing at that time. Learned counsel representing appellants/claimants has placed on record Consumer Price Index Number of Chandigarh Centre for the half year ending September, 2022 as declared by Assistant Labour Commissioner, Union Territory, Chandigarh which was to the tune of Rs. 11,895/- per month for unskilled worker. Therefore, the compensation has been awarded by assuming income of deceased towards lower side. The appellants/claimants are entitled to receive enhanced amount of compensation.

12. On the other hand, learned counsel representing appellant/Insurance Company (in FAO-4760-2025) pointed out that in the absence of any documentary proof regarding the income of deceased victim, his monthly income was rightly assumed to the tune of Rs. 9,542/- per month, as that of a daily wager. The compensation awarded by the Tribunal does not require any interference.

13. I have considered the arguments and have gone through the record carefully. At the time of filing of claim petition, claimants have given their address of their native village Ghanghosi, Rudeina, District Badaun (UP) and alternate address is given of village Bhukhri, Tehsil Kharar, District SAS Nagar (Mohali). In order to prove the facts of case,



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Santosh widow of deceased victim stepped into the witness box as PW-1. During the course of evidence, she could not produce any documentary proof to establish the income of her husband as Rs. 20,000/- per month as vegetable seller. There is nothing on record to show that deceased victim was working in Union Territory of Chandigarh, therefore, minimum rates of wages applicable in Chandigarh cannot be applied to the present case. In the light of this, monthly income of deceased victim was rightly assumed as Rs. 9,542/-. At the time of accident, deceased victim was about 36 years of age. He was rightly granted 40% increase in income and his monthly income was taken as Rs. 13,359/-. Considering the number of family members, 1/4th income was deducted towards personal expenditure. Deceased victim was 36 years of age, therefore, multiplier of 15 was rightly applied. All the claimants were granted compensation under conventional heads i.e. loss of consortium, loss to estate as well as funeral/transportation expenses. By applying the ratio of judgments of Supreme Court of India in “Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr.”, cited in *2009 ACJ 1298* and “Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram & Ors.” cited in *2018(18) SCC 130*, the total amount of compensation awarded by the Tribunal to the tune of Rs. 20,81,720/- is just and adequate and same does not require any interference. Therefore, the findings given on Issue No. 2 do not require any modification.

14. Learned counsel representing appellant/Insurance Company in FAO-4760-2025 raised the arguments that Mahindra Pickup bearing Registration No. PB-65-AS-5574 had hit the alleged offending Traula



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bearing Registration No. HR-69C-3069 which was parked by the side of road near the area of Toll Plaza. Therefore, there must be adequate lighting arrangement at Toll area and it cannot be said that driver of Mahindra Pickup bearing No. PB-65-AS-5574 could not see the stationary Traula parked on the road. Therefore, there was some negligence on the part of driver of Mahindra Pickup which has been totally ignored by learned Tribunal. In fact, it is a case of contributory negligence. Therefore, entire burden of payment of award amount cannot be imposed on insurance company of said Traula No. HR-69C-3069.

15. I have considered this aspect of present case. While filing written reply by Insurance Company, stand was taken that it was a case of contributory negligence. As per record, FIR was lodged against the driver of offending Traula i.e. Paramjeet Singh (respondent No. 1 in claim petition). Therefore, onus was heavily on respondents to rebut the facts narrated in claim petition. Neither said Paramjeet Singh stepped into the witness box nor any evidence was led by learned counsel representing Insurance Company. Only documents were tendered and closed their respective evidence. The manner in which accident took place is not disputed. The accident took place on 15.07.2022 at about 04:00 am. The offending Traula No. HR-69C-3069 was parked on the road, when Mahindra Pickup bearing No. PB-65-AS-5574 had hit the said stationary Traula. In the absence of any evidence on record, it cannot be assumed that spot where the accident took place, there was adequate light or Traula was visible on the road. There is nothing on record to show that there was any indicator or warning sign displayed by the driver of offending Traula so



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that ongoing traffic could see the Traula parked on the road. Even otherwise, it is not the case of respondents No. 1 and 2 in claim petition that there was any mechanical defect in Traula and for that reason it was stationary on the road.

Considering the aforesaid factual position, I do not find any reason to interfere in the findings given by learned Tribunal while deciding Issue No. 1 holding that accident had occurred due to wrong parking of offending Traula on the road by respondent No.1 Paramjeet Singh (in claim petition).

16. In the light of this, the appeal (FAO-1547-2025) filed by appellants/claimants Santosh and others seeking enhanced amount of compensation and the appeal (FAO-4760-2025) filed by appellant/Insurance Company, both stands dismissed by upholding the aforesaid judgment passed by learned Motor Accident Claims Tribunal, Chandigarh.

17. Pending application(s), if any, in both cases, also stands disposed of accordingly.

18. Copy of this judgment be sent to concerned trial Court for necessary information.

19. A photocopy of this order be placed on the file of connected case mentioned above.

20.07.2026

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No