

*FAO-3421-2024 (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-3421-2024 (O&M)

New India Assurance Company Ltd., Regional Office SCO No. 36-37,
Sector 17-A, Sonipat, through its Deputy Manager

...Appellant

Versus

Ram Kishor and others

...Respondents

(2)

FAO-864-2025 (O&M)

Ram Kishor and others

...Appellants

Versus

Paramjeet Singh and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Aseem Aggarwal, Advocate
for the appellant-Insurance Company in FAO-3421-2024
and for respondent No. 3 in FAO-864-2025.

Mr. Kapish Singla, Advocate and
Ms. Diksha, Advocate
for the appellants in FAO-864-2025 and
for respondent Nos. 1 to 4 in FAO-3421-2024.

Mr. Nitesh Dalal, Advocate
for respondent Nos. 5 and 6 in FAO-3421-2024 and
for respondent Nos. 1 and 2 in FAO-864-2025.



AMARJOT BHATTI, J.

CM-2566-CII-2025 in FAO-864-2025

This is an application filed under Section 5 of Limitation Act for condonation of delay of 269 days in filing the instant appeal. Applicants claimed that due to financial problem, they were not in a position to approach this Court for filing appeal. Applicants arranged some funds and thereafter, filed present appeal. There is no intentional or willful delay on their part.

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 269 days in filing the appeal is condoned.

CM is accordingly, allowed.

Main case(s)

1. Both FAOs referred above arising out of common Award dated 06.02.2024 passed by learned Motor Accident Claims Tribunal, Sonipat in MACP/300/2022, are taken up together for disposal.

2. Appellant/Insurance Company in FAO-3421-2024 and appellants/claimants – Ram Kishor, Sandeep, Bikas and Manju in FAO-864-2025 have filed separate appeals against common impugned Award dated 06.02.2024 passed by learned Motor Accident Claims Tribunal, Sonipat (**for short ‘Tribunal’**) in MACP/300/2022 dated 22.08.2022, vide which claim petition was allowed with costs and awarded compensation to the tune of Rs. 25,97,000/- alongwith interest @9% per annum, as detailed therein, fixing the liability of the New India Assurance Company Ltd. to



deposit the said compensation amount.

3. Brief facts of the case are, on 14.07.2022, Ram Kishor alongwith his wife Anaukhi and their children i.e. claimants no. 2 to 4 were going from Una, Himachal Pradesh to their native village Rudayanpati Ajabsingh, District Budaun, Uttar Pradesh. They took lift in Mahindra Pickup bearing Registration No. PB-65-AS-5574 from Karnal. On 15.07.2022, when they reached in the area of village Larsauli, ahead of flyover, there was Toll within the jurisdiction of Police Station HSIIDC Barhi, District Sonipat, where Traula bearing Registration No.HR-69-C-3069 was found wrongly parked by its driver Paramjeet Singh in the middle of road without any reflector, parking sign or indicator, as a result, their Mahindra Pickup bearing Registration No. PB-65-AS-5574 dashed in the backside of said offending Traula. At the time of accident, Paramjeet Singh (respondent No. 5 in FAO-3421-2024 and respondent No. 1 in FAO-864-2025) was sleeping in the offending vehicle. In the accident, Anaukhi wife of Ram Kishor (claimant No. 1) sustained serious injuries on her body. She was taken to PGIMS Rohtak, where she was declared 'brought dead'. Accident had taken place due to wrong and negligent parking of offending Traula in the middle of road by Paramjeet Singh. FIR No. 231 dated 15.07.2022 was registered under Section 283, 304-A, 337 of IPC Police Station HSIIDC, Barhi. At the time of accident, deceased Anaukhi was having good health. She was to lead a long life. She was skilled tailor and was doing labour work, thus, earning Rs. 50,000/- per month approximately. She used to handover her entire income to her family. All the claimants have suffered great loss on account of her untimely death.



Claimants had claimed compensation to the tune of Rs.1 crore.

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

6. From the pleadings of the parties, following issues were framed by the Tribunal on 01.05.2023:-

(1) *Whether the petitioner is entitled to compensation of Rs.1,00,00,000/- along with interest @18% per annum from the date of petition till realization from the respondents jointly or severally on **account of death of Anaukhi w/o Ram Kishor** in the accident? OPP*

(2) *Whether the petition is not maintainable? OPP*



(3) *Whether the driver of the vehicle bearing No. HR-69C-3069 was not holding any valid and effective driving license at the time of accident? OPR*

(4) *Whether the owner of the vehicle has violated the terms and conditions of the Insurance Policy? OPR*

(5) *Relief.*

7. In order to prove the claim petition, claimant No.1 Ram Kishor husband of deceased victim himself stepped into the witness box as PW-1 and deposed through duly sworn affidavit Ex.PW1/A. He further examined ASI Anil as PW-2. Thereafter, learned counsel for claimants closed the evidence on behalf of claimants vide separate statement dated 19.09.2023.

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 tendered documents i.e. Ex.R1 to Ex.R6 and closed the evidence on behalf of respondents on dated 29.01.2024.

9. After hearing the arguments advanced by learned counsel for the parties, claim petition filed by claimants was allowed with costs by passing impugned Award dated 06.02.2024, as detailed above.

Feeling aggrieved of this Award, appeal bearing FAO-3421-2024 has been preferred by appellant/Insurance Company on quantum of compensation and contributory negligence of driver of Mahindra Pickup, whereas, appeal bearing FAO-864-2025 has been preferred by appellants/claimants for enhancement of the compensation amount.

10. I have heard the arguments advanced by learned counsel for appellants/claimants (in FAO-864-2025) as well as learned counsel



representing appellant/Insurance Company (in FAO-3421-2024) alongwith learned counsel representing driver and owner of offending vehicle.

11. Firstly, I would take up appeal preferred by appellants/claimants in FAO-864-2025. Learned counsel representing appellants/claimants argued the appeal regarding Issue No. 1 i.e. quantum of compensation awarded in favour of claimants. It is pointed out that in order to prove the facts of case, Ram Kishor – husband of deceased victim stepped into the witness box as PW-1. His testimony has been totally ignored by learned Tribunal. Appellant/Claimant No. 1 categorically stated that his wife was earning Rs. 50,000/- per month by doing the work of tailoring and labour work, however, the Tribunal has overlooked his testimony and assumed the income of deceased wrongly as Rs. 10,000/- per month. She was skilled lady tailor. She was to lead a long life. Apart from doing the work of tailoring and labour work, she was doing household work, looking after her husband and three minor children. Learned counsel representing appellants/claimants referred to the judgment of **Supreme Court of India** in case titled “**Shishu Pal @ Shish Ram & Ors. Versus Surjeet & Ors.**” cited in **2026 AIR Supreme Court 2886 : Law Finder Doc Id #2921176**, wherein rightly great emphasis was given on the role of homemaker. It was observed that ‘*in fact, earning members and other family members are solely dependent on the homemaker which is usually not acknowledged and undervalued while assuming her income for the purpose of awarding compensation. In this case, monthly income of homemaker was assumed to the tune of Rs. 30,000/-.*’

Therefore, in the case in hand, income of deceased victim who



was a housewife was wrongly taken as Rs. 10,000/- per month. On this account, appellants/claimants are entitled to the enhanced amount of compensation.

12. Learned counsel representing appellant/Insurance Company (in FAO-3421-2024) pointed out that in the case in hand, compensation awarded in favour of claimants is towards the higher side. While calculating the amount of compensation, 1/4th income was not deducted towards personal expenditure and without said deduction, quantum of compensation was awarded to the tune of Rs. 25,97,000/- along with interest as detailed therein. Error in calculating the quantum of compensation requires rectification.

13. I have considered the arguments advanced before me and have gone through the record carefully. Issue no. 1 is pertaining to the quantum of compensation which the claimants are entitled on account of untimely death of Anaukhi, the deceased victim in motor vehicle accident. Anaukhi died, leaving behind her husband Ram Kishor – claimant No. 1/appellant No. 1 in FAO-864-2025 and three minor children – claimants No. 2 to 4/appellants No. 2 to 4 in FAO-864-2025. To prove the said issue, Ram Kishor-husband has stepped into the witness box as PW-1, where he alleged that his wife was a skilled lady tailor and was doing a labour work. She was also doing household work. Therefore, he mentioned her income as Rs. 50,000/- per month. Apart from sole testimony of appellant/claimant No. 1 as PW-1, no other witness is examined. During cross-examination, he conceded that he did not have any documentary proof regarding the alleged occupation and income of his deceased wife. Facts of case indicate



that when the accident took place, appellants/claimants were going to their native place in village Rudayanpati Ajabsingh, District Budaun (UP). In the absence of any direct evidence with regards to income of deceased victim, the same is to be assumed by way of guess work.

14. With regards to status of homemaker, in order to assess the quantum of compensation, gainful reference can be made to the judgment of **Supreme Court of India** in case titled “**Kirti & Anr. Etc. Versus Oriental Insurance Company Ltd.**”, cited in **2021(2) SCC 166 : Law Finder Doc Id #1795020**, relevant para Nos. 32, 35 and 42 runs as under :-

“32. Returning to the question of how such notional income of a homemaker is to be calculated, there can be no fixed approach. It is to be understood that in such cases the attempt by the Court is to fix an approximate economic value for all the work that a homemaker does, impossible though that task may be. Courts must keep in mind the idea of awarding just compensation in such cases, looking to the facts and circumstances.

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35. However, it must be remembered that all the above methods are merely suggestions. There can be no exact calculation or formula that can magically ascertain the true value provided by an individual gratuitously for those that they are near and dear to. The attempt of the Court in such matters should therefore be towards determining, in the best manner possible, the truest approximation of the value added by a homemaker for the purpose of granting monetary compensation.

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42. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarized as follows:

a. Grant of compensation, on a pecuniary basis, with respect to a



homemaker, is a settled proposition of law.

b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.

c. Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.

d. The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.

e. The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”

15. Considering the social status and surrounding circumstance, in my opinion, learned Tribunal rightly considered the income of deceased victim as Rs.10,000/- per month. At the time of accident, deceased victim was 37 years of age. Considering her age, learned Tribunal has granted 40% increase in income i.e. Rs. 14,000/- per month and annual income as Rs.1,68,000/-. However, while assessing the quantum of compensation, there is no deduction on account of personal expenditure. Learned Tribunal straightway applied multiplier of 15 to grant quantum of compensation. On this account, compensation awarded by learned Tribunal requires rectification. By applying ratio of judgment in “**Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr.**”, Civil Appeal No.

3483 of 2008 (Arising out of SLP [C] No. 8648 of 2007), decided on

15.4.2009, cited in 2009 ACJ 1298 : Law Finder Doc Id #188882, considering number of family members 1/4th income is required to be deducted towards personal and living expenses of deceased.

Secondly, while granting compensation under the head of loss of consortium, only Rs. 44,000/- has been granted without considering the minor children who were claimants No. 2 to 4 in main case. As per the judgment of Supreme Court of India in “Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram & Ors.” cited in 2018(18) SCC 130, all dependents are entitled to compensation on account of loss of consortium, be it ‘filial’, ‘spousal’ or ‘parental’ which also comprehends loss of love and affection.

On account of this, compensation awarded by learned Tribunal requires modification and compensation is, accordingly recalculated as under:-

SR. No.	Head	Enhanced amount of compensation (Rs.)	Awarded by Tribunal (Rs.)
1.	Monthly Income	Rs. 10,000/-	Rs. 10,000/-
2.	40% increase on account of future prospects	Rs. 10,000/- +4,000/- = Rs.14,000/-	Rs. 14,000/-
3.	Annual Income	Rs. 1,68,000/-	Rs. 1,68,000/-
4.	1/4 th income deduction on personal expenditure	Rs. 1,26,000/-	--
5.	Compensation after applying multiplier of 15	Rs. 1,26,000/- X 15 = Rs. 18,90,000/-	Rs. 25,20,000/-
6.	Loss of Consortium/Filial Consortium	Rs. 44,000/- X 4 = Rs. 1,76,000/-	Rs. 44,000/-

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7.	Loss to Estate	Rs. 16,500/-	Rs. 16,500/-
8.	Funeral Expenditure and Transportation	Rs. 16,500/-	Rs. 16,500/-
	TOTAL	Rs. 20,99,000/-	Rs. 25,97,000/-
Difference of compensation Rs. 4,98,000/- (Rs. 25,97,000/- - Rs. 20,99,000/-)			

Thus, compensation awarded by the Tribunal is towards the higher side to the tune of Rs. 4,98,000/-. On this account, learned Tribunal has awarded excess amount of compensation which appellant/Insurance Company (in FAO-3421-2024) is entitled to recover along with interest as awarded by the Tribunal i.e. @9% per annum from the date of filing of appeal (FAO-3421-2024) till realization of amount. The findings on Issue No. 1 are, accordingly modified.

16. Learned counsel representing appellant/Insurance Company in FAO-3421-2024 raised the arguments that Mahindra Pickup bearing Registration No. PB-65-AS-5574 had hit the alleged offending Traula 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.



17. 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 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).

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18. In the light of this, **FAO-864-2025** filed by appellants/claimants Ram Kishor and others seeking enhanced amount of compensation is, accordingly, disposed of with aforesaid modification in compensation amount.

Whereas, **FAO-3421-2024** filed by appellant/Insurance Company taking the ground of contributory negligence is also dismissed. The claim of Insurance Company is accepted to the extent of quantum of compensation awarded by learned Tribunal and same is modified as referred above.

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

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

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

20.07.2026*lalit***(AMARJOT BHATTI)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No