



FAO-2190-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-2190-2023

Reserved on:- 15.07.2026

Pronounced on: 23.07.2026

Date of uploading: 24.07.2026

Gaurishankar and Others

....Appellants

Versus

Suresh Kumar and Ors.

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Aditya Dassaur, Advocate for the appellants.

Mr. Sarthak Mehta, Advocate for
Mr. PHS Pannu, Advocate
for respondent No.4-Insurance Company.

AMARJOT BHATTI, J.

1. The appellants/claimants – Gaurishankar and others filed present appeal against impugned award dated 01.07.2022 passed by Motor Accident Claims Tribunal, Ludhiana whereby inadequate amount of compensation has been awarded in favour of the claimants.

2. Brief facts of the case are, at the time of accident Rohit (deceased victim) was working as a Conductor with Balram Singh on his Truck No.UP-94-T-5991. On 13.10.2020, Balram Singh along with Rohit (deceased victim) loaded their truck with the bundles of wires and they were coming towards Ludhiana. At about 8:20 AM when they reached near village Sahni, the tyre of the truck got punctured. Balram Singh stopped the truck on the left side of the road, kept bushes around the truck and Rohit (deceased victim) started changing the tyre. In the meantime, the offending truck/container No.PB-10-HE-3450 came from Doraha side



driven by Suresh Kumar (respondent No.1) at a high speed in rash and negligent manner and struck against truck No.UP-94-T-5991. In this accident, Rohit suffered serious injuries and was taken to ESI Hospital, Ludhiana but he was declared brought dead. Regarding this accident, FIR No.184 dated 13.10.2020, under Sections 279, 304-A, 337, 338, 427 of IPC at Police Station Sahnewal was registered. At the time of accident, Rohit (deceased victim) was 23 years of age. He was hale and healthy and was working as Conductor with Balram Singh. He was given salary of Rs.16,000/- per month and Rs.200/- per day towards tour and diet etc. He was earning Rs.22,000/- per month. The claimant No.1 being father and claimants No.2 to 5 being brothers and sister of Rohit (deceased victim) filed present claim petition for grant of compensation.

3. Upon notice, respondents No.1 to 3 filed their joint written reply taking preliminary objection denying the accident between truck No.UP-94-T-5991 and truck/container No.PB-10-HE-3450. Rohit (deceased victim) did not suffer any injury on account of accident as claimed in the claim petition. The respondent No.1 was holding a valid driving license. The respondent No.2 had ensured the truck/container with respondent No.4 and the insurance policy was valid at that time. By denying all the averments in the claim petition, it was submitted that the claim petition may kindly be dismissed.

4. The respondent No.4-Insurance Company filed separate written reply denying the accident and raised preliminary objections regarding maintainability of claim petition as well as the driver of offending truck/container for not having a valid effective driving license.

The Insurance Company denied its liability to pay any compensation by



alleging that owner and driver failed to comply with the terms and conditions of insurance policy. The Insurance Company denied the facts detailed in the claim petition and prayed for dismissal of the claim petition.

5. From the pleadings of the parties, following issues were framed by the Tribunal on 22.03.2021:-

1. *Whether Rohit died due to injuries sustained in a motor-vehicle accident which was caused by respondent No. 1 while driving offending vehicle bearing No. PB-10-HE-3450 in a rash and negligent manner on 13.10.2020 in the area of PS Sahnewal, Ludhiana ? OPA.*

2. *Whether present claim petition is not maintainable ? OPR*

3. *Whether the petition is bad for non-joinder and mis-joinder of necessary parties? OPR4*

4. *Whether at the time of accident, driver of offending vehicle was not holding a valid and effective driving license, if so, its effect? OPR4*

5. *Whether vehicle in question was being driven in violation of terms and conditions of insurance policy, if so, its effect ? OPR4*

6. *Whether the claimants are entitled for compensation. If so, to what extent and from whom? OPA*

7. *Relief.*

6. In order to prove the claim petition, the claimant No.1 Gaurishankar stepped into the witness box as PW-1 and examined Balram Singh as PW-2 and after tendering documents closed the evidence.



7. In order to rebut the evidence of the claimants, the respondents No.1 to 3 tendered documents Exhibit R1 to Exhibit R8, Mark 1 and closed the evidence.

8. After hearing the arguments advanced by learned counsel for both the parties, the claim petition filed by the claimants Gaurishankar and others was allowed by passing impugned award dated 01.07.2022 vide which the compensation was awarded to the tune of Rs. 18,93,200/- as detailed therein by holding the liability of respondent No.4-Insurance Company along with interest @ 7 ½% per annum from the date of filing of the petition.

Feeling aggrieved of this Award, the present appeal has been preferred by appellants/claimants.

9. Learned counsel representing appellants/claimants has argued present appeal on the ground that income of Rohit (deceased victim) was taken towards the lower side. He was working as a Conductor and getting salary of Rs.16,000/- per month and Rs.200/- per day towards the tour and diet etc. To prove this fact, claimant/appellant No.1 Gaurishankar had stepped into the witness box as PW1 and further examined Balram Singh as PW-2. The learned Motor Accident Claims Tribunal wrongly assessed the income of deceased as Rs.11,000/- per month. Secondly, it is pointed out that while granting compensation, Motor Accident Claims Tribunal has failed to grant compensation for loss of filial consortium as it was prevailing at the time of accident. Therefore, compensation awarded by the Motor Accident Claims Tribunal is inadequate and requires modification. No other argument was advanced in this case.



10. On the other hand, learned counsel appearing on behalf of respondent No.4-Insurance Company raised the issue that the facts of the case and the evidence on record were rightly considered by the Motor Accident Claims Tribunal. In the absence of any documentary evidence, Rohit (deceased victim) was considered as skilled worker and as per Punjab Government Notification dated 30.11.2021 his monthly income was taken as Rs.11,000/-. The compensation was rightly calculated by considering all the norms and it is already deposited by the Insurance Company.

11. I have considered the arguments and have gone through the record with the able assistance of both the counsels. The main dispute raised by learned counsel for the appellants is that income of Rohit (deceased victim) was taken towards lower side. In the claim petition, it is alleged that he was drawing salary of Rs.16,000/- per month and daily @ Rs.200/- towards tour and diet etc. being Conductor on the truck of Balram Singh. Both claimant No.1 as PW1 and Balram Singh as PW-2 stepped into the witness box. Both the witnesses during cross-examination could not produce any documentary proof to establish the income of Rohit (deceased victim). There is no statement of bank account to show that he was receiving salary of Rs.16,000/- per month. At the time of accident Rohit (deceased victim) was a young boy of 23 years of age. Therefore in the absence of any evidence on record his income was assumed as that of a skilled labourer in October, 2020 in view of Punjab Government Notification dated 30.11.2021 and the compensation was awarded by assuming his income as Rs.11,000/- per month. He was given 40% increase in income, thereafter $\frac{1}{2}$ income was deducted since the deceased



victim was a bachelor. Considering his age multiplier of 18 was applied and the quantum of compensation came out to be Rs.16,63,200/-. The said compensation has been awarded as per the criteria laid down in **“Sarla verma and others versus Delhi Transport Corporation & Anr. 2009 (3) RCR (Civil) 77**, as well as **“National Insurance Co. Ltd. Vs. Pranay Sethi & others, (2017) 16 SCC 680**, duly referred by the Tribunal in the impugned award.

12. However, while granting compensation under the head of loss of consortium reference is made to the judgment **“Magma General Insurance Co. Ltd. Vs. Nanu Ram alias Chuhru Ram and Ors. 2018 RCR (Civil) 333”** and on that basis for loss of estate and funeral expenses compensation was awarded @ Rs.15,000/- in each head and for loss of consortium Rs.40,000/- for each claimant. In this regard, it cannot be ignored that after every three years, there was 10% increase in the aforesaid quantum of compensation on conventional heads. The accident took place on 13.10.2020, therefore after giving 10% increase, the compensation was required to be calculated for loss of consortium @ Rs.44,000/- for each claimant and Rs.16,500/- each for loss of estate and funeral expenditure. By calculating the compensation under aforesaid conventional heads, the quantum of compensation comes out to be Rs.2,53,000/- whereas the Motor Accident Claims Tribunal has awarded compensation under these heads to the tune of Rs.2,30,000/-. Therefore, the claimants are entitled to receive balance of **Rs.23,000/- (Rs.2,53,000–2,30,000)** from the respondents in terms of award dated 01.07.2022 along with interest @ 6% per annum from the date of filing of appeal till realization of the amount in equal shares.



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13. The appeal preferred by the appellants-claimants is partly accepted as referred above. Copy of order be sent to the Tribunal concerned.

14. The copy of record received from the Tribunal be sent back to the concerned quarter.

23.07.2026
Sunil Devi

(AMARJOT BHATTI)
JUDGE

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