



107 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2426-1998
Reserved on : 22.07.2026
Pronounced on: 30.07.2026

PARVINDER SINGH ...Appellant

Versus

NIRBHAI SINGH & ORS ...Respondents

FAO-2427-1998

AVTAR SINGH ...Appellant

Versus

NIRBHAI SINGH & ORS. ...Respondents

FAO-2428-1998

ONKAR SINGH ...Appellant

Versus

NIRBHAI SINGH & ORS. ...Respondents

FAO-2526-1998

SURINDER KAUR & ANR ...Appellants

Versus

NIRBHAI SINGH & ORS ...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Ms. Bhagyashri, Advocate
for appellant(s) in FAO-2426-1998, FAO-2427-1998 and
FAO-2428-1998.

Mr. Munish Gupta, Advocate
Mr. N. S. Gill, Advocate
for the appellant in FAO-2526-1998.

None for respondent No.3/insurance company.

PARMOD GOYAL, J.

Present appeals have been filed by the appellants-claimants
being aggrieved by award dated 04.03.1998 passed by learned Motor

Accidents Claims Tribunal, Hoshiarpur (hereinafter referred to as ‘**Tribunal**’) against dismissal of claim petitions filed under Section 166 of the Motor Vehicles Act, 1988. Since the present appeals have arisen from common impugned award passed by learned Tribunal vide which separate four claim petitions preferred on account of same motor vehicular accident dated 11.05.1995 caused by rash and negligent driving of respondent-driver while driving bus bearing registration No.PAB-7348, were decided and as dispute involved in all the appeals is more or less identical, they are being decided by way of this common judgment.

2. Details of four claim petitions decided by the learned Tribunal vide common award dated 11.05.1995 are as under:

Sr. No.	Case Title before MACT	MACT Case No.	FAO No.	Claim Pertains To	Compensation Awarded by Tribunal
1.	Surinder Kaur & Ors Vs. Nirbhai Singh & Ors	61 of 1995	FAO No.2526 of 1998	Death of Harbhajan Singh Mann by wife, mother and children (4)	Dismissed
2.	Parvinder Singh Vs. Nirbhai Singh & Ors	60 of 1995	FAO No.2426 of 1998	Injured Parvinder Singh	Dismissed
3.	Avtar Singh Vs. Nirbhai Singh & Ors	62 of 1995	FAO No.2427 Of 1998	Injured Avtar Singh	Dismissed
4.	Onkar Singh Vs. Nirbhai Singh & Ors	59 of 1995	FAO No.2428 of 1998	Injured Onkar Singh	Dismissed

3. It is the case of appellants-claimants that on 11.05.1995

appellants-claimants (Parvinder Singh, Avtar Singh, Onkar Singh & deceased-Harbhajan Singh) were going from Garhdiwala to Hoshiarpur in their maruti car bearing No.PB-07C-2454 and at about 11:00 AM when they had crossed the bridge near Bhangi cho, in the meanwhile, PAB-7348, belonging to respondent No.2-Anand Highways Express Transport Company being driven at high speed rashly and negligently came from opposite side and had hit the car after coming to the wrong side. Harbhajan Singh died at the spot, whereas, other three had suffered multiple injuries. Parvinder Singh claimed to have lodged FIR No.101 dated 11.05.1995 under Section 304-A, 279 & 337 IPC registered with Police Station Sadar, Hoshiarpur.

4. Injured-Parvinder Singh appeared as AW-1, Omkar Singh appeared as AW-2 and Avtar Singh appeared as AW-3 and had reiterated the manner of occurrence as was stated in FIR as well as in claim petition being injured occupants of car who had seen the occurrence.

5. Driver of the offending bus Nirbhai Singh appeared as RW-1, he admitted the accident, however, stated that accident was result of rash and negligent driving of the driver of maruti car. He asserted that maruti car came from opposite side at very high speed in zig-zag manner and after coming on the right side of the road it had struck against the bus, despite the fact that RW-1 had taken bus to extreme left at katch berm to avoid accident. He fairly admitted that it is he who has been challaned under Section 304-A IPC and facing trial. He had also claimed that deceased-Harbhajan Singh was driving car under the influence of liquor. However, this assertion made by RW-1 was ignored and rejected by learned Tribunal, in absence of any

evidence to this effect.

6. From the evidence of both the sides, it is clear that as far as accident involving maruti car and offending bus is concerned, same is not in dispute. The only issue is as to who out of these two vehicles was at fault. Whether it was maruti car which had gone towards wrong side or it was offending bus which had gone to its wrong side and had struck against the car.

7. Learned Tribunal had taken in consideration statement Avtar Singh, wherein Avtar Singh had admitted that driver of car namely deceased-Harbhajan Singh had returned from Abu Dhabi where driving of right side of road is prevalent. Learned Tribunal has also noticed contradiction in the statement of AW-1 Parvinder Singh and that of AW-2 Onkar Singh & AW-3 Avtar Singh. As per AW-2 and AW-3, the offending bus while overtaking another vehicle had come to the wrong side of the road i.e. on its right side and had struck against the car.

8. On one hand, AW-2 stated that offending bus was overtaking another vehicle without disclosing make and type of said vehicle which was being overtaken by respondent-driver. AW-3 stated that offending bus was overtaking a tractor trolley. Learned Tribunal had further noticed that FIR as well as in the statement of AW-1, the fact that bus was overtaking another vehicle is not stated either at the time of lodging of FIR or by AW-1. It has also noticed that this fact regarding overtaking of another vehicle by offending bus is not mentioned by appellants-claimants in their claim petitions. In addition to above discrepancies, learned Tribunal had also taken in consideration photographs Ex.R1 and Ex.R2 wherein offending bus is

shown to have been parked on the extreme left side of the road and admission of AW-3 Avtar Singh that bus was standing in photographs where accident took place. By above-noted facts, the learned Tribunal had concluded that it was not offending bus which was at fault but rather it was maruti car being driven by deceased, which was rash and negligent in causing the accident.

9. Merely from photographs Ex.R1 and Ex.R2, the conclusion drawn by learned Tribunal cannot be held to be correct conclusion as Ex.R1 and Ex.R2, photographs only depicts position of one vehicle after the accident. It would not result in conclusion that offending bus was being driven correctly at the time of accident.

10. It is well-known that after the accident, in order to clear the road, the vehicles are parked on the katch berm to allow the traffic. In the present case, the person who had taken the photographs was not examined. The time and date of photographs have not come on record. Even the second vehicle i.e. vehicle of deceased is neither shown nor is made out from photographs. Therefore, reliance upon photographs by learned Tribunal to conclude negligence on the part of car driver is totally misplaced.

11. The version regarding manner of occurrence by appellants-claimants has come in public domain immediately after the accident on the same day by way of statement of AW-1 Parvinder Singh who himself was one of the occupants of the car and had suffered injuries in the accident. He had duly disclosed the manner of occurrence by stating that accident had resulted as driver of offending bus came on the wrong side of the road and had struck his vehicle against the car. The manner of occurrence as stated by

AW-1 was reiterated by AW-2 and AW-3.

12. Both have also stated that it was offending bus which had come on the wrong side.

13. It is also not in dispute that it is respondent-driver who is facing trial under Section 304-A for causing the accident. However, respondent-driver had made no protest or complaint against his involvement in criminal case. Version of respondent-driver only came in light upon filing written statement and at the time of appearing as RW-1. The claim in written statement on behalf of respondent-driver was that accident had taken place as deceased was under influence of liquor and was driving his maruti car in zig-zag manner and had struck his car against the bus as he could not control the same. In written statement it was nowhere asserted that it was car which had come to the wrong side.

14. Similarly, the alleged contradiction in statement of AW-1 on one side and AW-2 and AW-3 on the other side that AW-1 had not stated that the offending bus was in the process of overtaking vehicle whereas AW-2 had stated that offending bus was overtaking a vehicle and AW-3 had stated that offending bus was overtaking a tractor is again of no consequence as all the three AWs have clearly stated that accident had taken place when offending bus came to its right side i.e. on the wrong side and had struck against the car.

15. The standard of proof in Motor Vehicles Act, 1988 is preponderance of probabilities and not to prove case beyond reasonable doubt. Evidence led by appellants-claimants needs to be appreciated in light of standard meant for motor vehicles claim. It is clearly made out that in

FIR, which was lodged on the same day promptly, accident was stated to be result of rash and negligent driving of offending bus which had come on the wrong side of the road and had struck the car in which appellants-claimants and deceased were travelling. The said version was reiterated by appellants-claimants in claim petitions as well as all the three injured witnesses namely AW-1 to AW-3.

16. It is respondent-driver who is facing trial for causing the accident without protest and no effort to challenge the version stated in FIR was made by him. The alleged contradiction in the statement of AW-1, AW-3 being minor discrepancy is bound to come with passage of time as it is human tendency to miss out and exaggerate manner of an incident, if he is examined after lapse of time. It is only when discrepancy goes to the root of the cause then only the discrepancy/contradiction may raise doubt over testimony of witnesses. Again photographs taken after the accident showing only one vehicle would not lead to the conclusion that said vehicle shown in photographs was not at fault. Photographs are generally taken after the accident. Unless date and time of taking photographs is proved and the position of other vehicle is also shown such photographs can lead to no conclusion regarding manner of accident. The manner of accident, therefore, has to be considered and decided on the basis of testimony of the witnesses. The alleged statement of AW-3 in his cross that accident had taken place where bus is standing is a general statement referring to area and not exact position. It is smart way of putting things in mouth of witness. The right way was to refer to site maps along with photographs. The question is ambiguous and reply to such ambiguous question is required to be ignored.

17. In the present case, evidence of AW-1 to AW-3 is consistent and reliable over the sole testimony of RW-1. The testimony of AW-1 to AW-3 finds support and corroboration from lodging of FIR and fact that it is respondent-driver who is facing trial without any protest or claim. Therefore, in the present case, learned Tribunal has erred in deciding issue No.1. Findings of learned Tribunal on issue No.1 is set aside. It is held that accident dated 11.05.1995 was result of rash and negligent driving of offending bus being driven by respondent-driver. Issue No.1 is accordingly decided in favour of appellants-claimants.

FAO No.2526 of 1998

18. Appellants-claimants being wife, three daughters and mother of deceased have sought compensation claiming that deceased was 51 years old and was working at International Airport, Abu Dhabi as an Engineer and was earning 7,000/- Dirhams equivalent to Rs.64,000/- per month. Apart from salary, he was further entitled to free conveyance, accommodation and air passage once a year. In order to show income of her husband, appellant-claimant-Surinder Kaur had duly appeared as PW-3 and stated that Rs.6,00,000/- per annum was being saved by deceased-Harbhajan Singh and had placed copies of FDR as A6 to A12. She had also placed salary certificate issued by Department of Civil Aviation showing gross salary of deceased as 6960 Dirhams per month as per Ex.A2 and that deceased was employed since 01.09.1970. Deceased was stated to be 51 years old at the time of his death. His visa was going to expire on 14.08.1995 and it was claimed that it gets validated every five years. Passport of deceased as well as sale deed of property purchased by deceased from his earning were also

placed on record as Ex.A5 and Ex.A4 respectively.

19. No doubt in the present case, the employer who had issued salary certificate Ex.A2 has not been examined. However, the earning capacity of deceased is made out from fact that he was having long term work permit/visa for Abu Dhabi as made out from Ex.A5 and had made considerable fixed deposits in his or his wife's name. Apart from FDRs large number of shares and immovable property in the name of appellant-claimant No.1 were also purchased and placed on record. Therefore, sufficient material is available on record to determine income of deceased. Even, the bank account shows deposit of various amounts. Even in absence of examination of employer of deceased, it is clearly made out that deceased had work permit at Abu Dhabi and was earning good amount as he has made substantial savings and invested the money in FDRs, property as well as in bank account. If the entire material placed on record by appellants-claimants is taken in consideration, it can safely be concluded that deceased was earning at least **Rs.45,000/- per month** at the time of his death (i.e. about 4,900 Dirhams).

20. Keeping in view age of deceased to be 51 years at the time of accident, **10%** towards **future prospects** needs to be added. Deceased is survived by six dependents i.e. wife, four children and mother. Therefore, **deduction** of **1/4th** is required to be made for determining loss of dependency and **multiplier** of '**14**' would be applicable in view of judgment passed by Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009(6) SCC 121.

21. Apart from compensation for loss of dependency, appellants-

claimants shall also be entitled to **Rs.15,000/-** towards **funeral expenses** and **Rs.15,000/-** towards **loss of estate**. Appellant-claimant No.1 shall be entitled to compensation @ **Rs.40,000/-** towards **spousal consortium**, claimants No.2 to 5 shall be entitled to compensation @ **Rs.40,000/-** each towards **parental consortium** and claimant No.6 shall be entitled to compensation @ **Rs.40,000/-** towards **filial consortium**. It is however made clear that in case Hon’ble Supreme Court answers the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants, appellants shall be free to seek said amount by moving appropriate application in this regard.

22. Reworked compensation payable to appellants-claimants is as under:-

Income	Rs.45,000/- per month	Rs.45,000/- per month
Future Prospects	10% (45,000 + 4,500)	Rs.49,500/-
Deduction	1/4th (49,500 - 12,375)	Rs.37,125/-
Multiplier	14	14
Total loss of dependency	Rs.37,125 x 12 x 14	Rs.62,37,000/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		Rs.15,000/-
Loss of spousal consortium to appellant-claimant No.1		Rs.40,000/-
Loss of parental consortium to appellants-claimants No.2 to 5	40,000/- x 4	Rs.1,60,000/-

Loss of filial consortium to appellant-claimant No.6		Rs.40,000/-
Compensation awarded by Tribunal	Rs.6,72,000/-	
Compensation awarded in appeal		Rs.65,07,000/-
Enhancement of compensation	Rs.65,07,000/- (awarded in appeal) – Rs.6,72,000/- (awarded by Tribunal)	Rs.58,35,000/-

FAO No.2426 of 1998

23. Appellant-claimant though had claimed that he had suffered fracture of ribs, however, had not led any substantial evidence to prove grievous injuries. Dr. Dalip Kumar PW-2 who had treated appellant-claimant, had only stated about admission of appellant-claimant in hospital from 11.05.1995 to 13.05.1995 and had also duly stated that no expenses were incurred as treatment in hospital was given free. He had not stated anything regarding the nature of injuries suffered by appellant-claimant or as regards to fact regarding fracture of ribs as was claimed by appellant-claimant. Even in discharge certificate Ex.A2, no grievous injuries on the person of Parvinder Singh had been shown. He had advised bed rest only for seven days. Therefore, it is clearly made out that appellant-claimant had suffered only simple injuries and had not suffered any grievous injuries/fracture etc., and there was no permanent disability. Injury suffered by appellant-claimant was simple and no expenses on medical treatment have been proved on record.
24. Accordingly, appellant-claimant is granted consolidated amount of **Rs.10,000/-** under all the heads i.e. medical expenses, transportation,

special diet, attendant charges etc, pain & sufferings and loss of income during treatment instead of Rs.2,500/- as assessed by learned Tribunal.

FAO No.2428 of 1998

25. Appellant-claimant had claimed that he had suffered multiple injuries on his head and he claimed to have spent Rs.30,000/- on his medical treatment. Appellant-claimant-Onkar Singh while appearing as AW-4 stated that he had received injuries on his jaw as well as on his head. Initially, he remained admitted in Civil Hospital, Hoshiarpur and thereafter, he remained under treatment of Dental College, Amritsar where he was operated upon and had remained admitted for eight days. He had claimed compensation for expenses incurred by him, pain and sufferings and loss of income.

26. In order to prove nature of injuries suffered by him. Appellant-claimant had examined Dr. Sukhwinder Pal as AW-5 who stated that appellant-claimant was treated for fracture of mandible, left canine region and right angle of the mandible. He was admitted on 15.05.1995 and was discharged on 19.05.1995 and thereafter, he came up for follow up till 07.06.1995. From evidence of AW-5 as well as discharge certificate Ex.A4, it is clearly proved that injured appellant-claimant-Onkar Singh had suffered fracture of mandible as well as damage to his teeth. No permanent injury was pleaded or has been proved on record. No evidence to show expenses incurred on medical treatment/hospitalization has been placed on record by the appellant-claimant. However, appellant-claimant had suffered grievous injury in the name of fracture mandible, therefore, must have spent some amount on medicines, transportation, special diet and attendant charges. Therefore, consolidated compensation of **Rs.15,000/-** is awarded under the

head of **medical expenses, transportation, special diet, attendant charges etc.**

27. Appellant-claimant had also suffered immense pain and sufferings on account of fracture of mandible, therefore, an amount of **Rs.25,000/-** is awarded under the head **pain and sufferings**. Appellant-claimant must have lost income during the period of treatment which is for about two months. Accordingly, appellant-claimant is entitled to compensation for **loss of income** during treatment which is quantified as **Rs.6,000/-** (Rs.3,000/- x 2).

28. Accordingly, re-worked compensation is as under:-

Compensation for medical expenses, transportation, special diet, attendant charges etc.	Rs.15,000/-
Compensation for pain and sufferings	Rs.25,000/-
Compensation for loss of income	Rs.6,000/-
Total compensation awarded	Rs.46,000/-

FAO No. 2427 of 1998

29. Appellant-claimant-Avtar Singh had claimed that in accident, he had suffered multiple and grievous injuries i.e. fracture on his shoulder and arm dis-location as well as injuries on his forehead. He claimed that he had spent Rs.30,000/- to Rs.35,000/- on his treatment. AW-2 was examined to prove admission of appellant-claimant in hospital, AW-2 had duly stated that appellant-claimant had remained admitted on 11.05.1995 to 13.05.1995. Discharge certificate of appellant-claimant was also placed as Ex.A3 by AW-2, however, discharge certificate does not show any grievous injury on the person of Avtar Singh. No fracture is mentioned in the discharge certificate.

30. Learned Tribunal had rightly taken injuries suffered by appellant-claimant-Avtar Singh to be minor and simple. Accordingly, appellant-claimant is granted consolidated amount of **Rs.10,000/-** under all the heads i.e. medical expenses, transportation, special diet, attendant charges etc, pain and sufferings and loss of income during treatment instead of **Rs.2,500/-** as assessed by learned Tribunal.
31. Appellants-claimants in FAO No.2526 of 1998 shall be entitled to compensation (except for conventional heads i.e. loss of consortium, funeral expenses, loss of estate) along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Interest on compensation under conventional heads shall be payable from August 2017 onwards till realization. Appellants-claimants in FAO No.2426 of 1998, FAO No.2427 of 1998 and FAO No.2428 of 1998 shall also be entitled to interest @ 7.5% on the compensation awarded from the date of filing of claim petition till realization. Liability to pay compensation shall be of respondents jointly and severally.
32. Impugned award passed by learned Tribunal is set aside. Present appeals and claim petitions are allowed in above terms.
33. Photocopy of this judgment be placed on the files of connected cases.
34. Pending application(s), if any, is/are disposed of accordingly.

30.07.2026
Ravinder

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No