

2026:PHHC:103352



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

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(1) **FAO-789-2002**
Date of decision :27.07.2026

UNITED INDIA INSURANCE COMPANY LTD. ... APPELLANT

VERSUS

JYOTI SHARMA AND ORS. ...RESPONDENTS

(2) **FAO-3666-2001**

JYOTI SHARMA AND ORS ... APPELLANTS

VERSUS

DARSHAN SINGH AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Shiv Kumar, Advocate
for the appellants (in FAO-3666-2001) and
the respondents (in FAO-789-2002).

Mr. Diwan S. Adlakha, Advocate
for the appellant-Insurance Company (in FAO-789-2002)

Mr. Vinod Chaudhary, Advocate
for respondent No. 3-Insurance Company.

PARMOD GOYAL, J. (ORAL)

1. The present appeals have been preferred against the common Award dated 12.03.2001 passed by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as the 'Tribunal') whereby claimants were awarded compensation of Rs. 23,65,600/- on account of death of Dr. Shyam Parsad Sharma (hereinafter referred to as 'deceased'), who died in motor

vehicular accident dated 19.08.1997 cased due to the rash and negligent driving of respondent/driver while driving truck bearing registration No. DL-1LC-4239.

In present case, learned Tribunal had awarded the following compensation:

Income	Rs. 15,000/- per month
Deduction	1/3 rd
Multiplier	16
Medical expenses	Rs. 5,95,600/-
Loss of dependency	(Rs.1,10,000x16) = Rs.17,60,000/-
Funeral expenses	Rs. 10,000/-
Total compensation awarded	Rs. 23,65,600/-

2. FAO No. 3666 of 2001 has been preferred by the appellants-claimants seeking enhancement of compensation awarded by the learned Tribunal, whereas FAO No. 789 of 2002 has been preferred by the Insurance Company (respondent No.3 before the Tribunal) challenging the findings recorded by the learned Tribunal on issue of negligence as well as the quantum of compensation.

3. The case of the claimants was that on 19.08.1997 at about 7:40 A.M., when deceased was going to his office at Delhi on his motorcycle bearing registration No. DDX-6500 and had reached near Sushant Lok, Gurgaon, in the meanwhile, offending truck bearing registration No. DL-1LC-4239 being driven rashly and negligently without caring for the safety of others came from Mehrauli side in a zig-zag manner and had hit the motorcycle of the deceased, resulting into multiple injuries to deceased. The FIR against respondent-driver

registration No. HNG-2577 who had witnessed the occurrence.

4. Learned Tribunal had taken notice of the evidence of Jagmal, whereas no evidence was adduced by the respondents. Respondent-driver did not dare to step into the witness box to deny the manner of occurrence as stated by Jagmal. The fact that the FIR was promptly lodged by Jagmal on the same day as well as the fact that it was respondent-driver who was facing trial for causing the accident were also duly taken into notice of by the learned Tribunal.

5. On the basis of evidence of PW-5, learned Tribunal concluded that the accident was the result of rash and negligent driving of respondent-driver Darshan Singh. I do not find any error in the conclusion drawn by the learned Tribunal. The learned Tribunal had duly taken note of the evidence led by the parties in detail and had concluded that the accident had taken place on account of sole rash and negligent driving of respondent-driver namely Darshan Singh while driving the offending truck bearing registration No. DL-1LC-4239.

6. Learned counsel for the appellant-Insurance Company has argued that the testimony of Jagmal before the Court is at variance with the contents of the FIR and despite noticing this fact, the learned Tribunal had wrongly relied upon his evidence to conclude that the accident had taken place on account of rash and negligent driving of respondent-driver. Learned counsel further argued that it was a case of head-on collision and, therefore, both the drivers ought to have been held negligent.

7. Though on the first look, the arguments raised by learned counsel for the appellant-Insurance Company appear to be attractive, however, on consideration of the evidence led by the parties, the same are liable to be

the same would not lead to conclusion of contributory negligence. Contributory negligence has to be proved by showing an act of omission or commission on the part of the other vehicle which contributed towards causing the accident.

8. There can be a head-on collision even when a vehicle comes to the wrong side of the road and hits the vehicle coming from the opposite direction moving on its correct side. In such a situation, it would not be a case of contributory negligence but a negligent act on the part of the vehicle which had gone to the wrong side of the road.

9. In the present case, respondent-driver had not even stepped into the witness box and, therefore, no case of contributory negligence is made out, especially when the eyewitness appearing before the Court had categorically stated that it was respondent-driver who was rash and negligent in causing the accident.

10. First Information Report (FIR) has a limited role to corroborate or contradict its author. It is the statement made before the Court which has evidentiary value and has to be considered by the Court. Contents of FIR are generally recorded immediately after the accident or shortly thereafter when the witness as well as the victims are under the shock of the accident and, therefore, in some cases there can be minor contradictions. However, only those contradictions which goes to the root of the case can be taken into consideration. Minor discrepancies between the FIR and statement made before the Court are liable to be ignored.

11. Accordingly, the statement made before the Court shall prevail over the contents of FIR. In present case discrepancies so pointed out are of no consequence and minor in nature. PW-5 is consistent about manner of accident

and about rash and negligent driving of offending vehicle by respondent-driver and had stood the rigor of cross examination. The conclusion drawn by the learned Tribunal regarding rash and negligent driving of respondent-driver does not call for any interference. The said finding is accordingly upheld.

12. Both sets of appellants i.e. the appellants-claimants as well as the appellant-Insurance Company have claimed enhancement/reduction in the amount awarded by the learned Tribunal.

13. The appellant-Insurance Company along with its appeal has also sought to lead additional evidence regarding payment of bill Ex.P-1. It is the case of the Insurance Company that bill Ex.P-1 amounting to Rs.5,86,086/- was never paid by the claimants in totality and only the amount actually paid by the claimants could have been awarded towards medical expenses.

14. For the reasons stated in the application as well as in view of the fact that the evidence sought to be led by way of additional evidence consists of subsequent documents/certificate issued by Apollo Hospital, New Delhi, which had issued Ex.P-1, and the said documents are required for just and effective decision of the case, the application for additional evidence is allowed. Documents Annexure A to Annexure D are taken on record as Ex.RA/1 to Ex.RA/4 respectively.

15. Learned counsel appearing for the appellants-claimants fairly accepts the contents of Annexure D/Ex. RA/4 issued by Apollo Hospital to the effect that an amount of Rs.3,66,086/- out of total bill of Rs. 5,86,086/- was never paid by the claimants to the hospital and stated that no rebuttal to additional evidence is needed. Bill was raised in the year 1997 and the same has

claimants. Therefore, the claimants would be entitled to the amount which they have actually paid towards hospital expenses.

16. The claimants have placed on record other bills amounting to Rs.9,000/-. Therefore, total expenses which were incurred by the claimants on medical treatment of deceased were Rs.2,30,000/-. Apart from treatment expenses, appellants-claimants must have spent some amount on transportation, special diet as well as expenses on attendant. Accordingly, an amount of Rs.2,60,000/- is awarded towards medical expenses, transportation, special diet and attendant charges etc.

17. Before his death, deceased had remained admitted in the hospital for about 20 days and died during the course of treatment, which duly establishes the fact that deceased had undergone immense pain and suffering on account of injuries suffered in the accident. Accordingly, an amount of Rs.75,000/- is awarded towards pain and suffering.

18. Learned counsel for the appellant-Insurance Company has also challenged the finding of learned Tribunal vide which Tribunal has taken monthly income of deceased to be Rs.15,000/-. Learned counsel for the Insurance Company has made reference to the evidence of PW-2, the witness from the employer of deceased, who had duly stated that deceased was getting Rs.11,800/- per month as salary, Rs.7,400/- per annum towards leave concession assistance, Rs.7,400/- per annum towards medical allowance and Rs.908/- per month towards P.F. contribution. Annual contribution towards P.F. which comes to be Rs.10,896/-.

19. However, learned Tribunal has taken income of deceased to be Rs.15,000/- without taking into consideration the evidence of PW-2. Since PW-

2 had duly proved the income of deceased, therefore, learned Tribunal ought to have taken income of deceased as was stated by PW-2, accordingly, income of deceased is taken as Rs.1,67,296/- per annum (i.e. Rs.1,41,600/- + Rs.7,400/- + Rs.7,400/- + Rs.10,896/-).

20. Learned counsel for the Insurance Company further submits that income tax was also payable on the amount. Learned Tribunal has taken Rs.10,000/- towards income tax liability of deceased. Accordingly, the annual income of deceased for determining loss of dependency is taken as Rs.1,57,296/- which comes to Rs.13,108/- per month. The conclusion drawn by learned Tribunal is accordingly modified. Income of deceased is taken as Rs.13,108/- per month as per evidence of PW-2.

21. Admittedly, deceased was 32 years old and was survived by five dependents namely wife, two children and parents. In view of judgments of Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009 (6) SCC 121 and **National Insurance Company Ltd. Vs. Pranay Sethi and others**, 2017 (16) SCC 680, keeping in view age of deceased, claimants are entitled to addition of 50% towards future prospects as deceased was in regular job and having stable income. Similarly, multiplier which needs to be applied would be '16'. Since deceased was survived by five dependents, deduction towards personal expenses to the extent of 1/4th has to be made to calculate loss of dependency.

22. Loss of dependency has to be determined by taking monthly income of deceased as Rs.13,108/- by applying multiplier of '16' by adding 50% future prospects and by deducting 1/4th towards personal expenses.

23. Appellant-claimant No. 1 shall be entitled to compensation of

Rs.40,000/- under the head loss of spousal consortium, appellant -claimant Nos. 2 and 3 shall be entitled to **Rs. 40,000/-** each under the head loss of parental consortium and appellant-claimant Nos. 4 and 5 shall be entitled to **Rs.40,000/-** towards loss of filial consortium. Appellants-claimants shall also be entitled to **Rs.15,000/-** for loss of estate and **Rs.15,000/-** for funeral expenses. It is, however, made clear that in case Hon’ble Supreme Court answers the reference regarding quantum of compensation under conventional heads made in **Hasina Yasmin and Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants-claimants, appellants-claimants shall be free to seek said amount by moving appropriate application in this regard.

24. Accordingly, the reworked compensation payable to appellants-claimants is as under:-

Income	Rs.13,108/- per month	Rs.13,108/- per month
Future Prospects	50% (13,108 + 6554)	Rs.19,662/-
Deduction	1/4 th (19,662 – 4,915)	Rs. 14,747/-
Multiplier	16	16
Total loss of dependency	Rs. 14,747 x 12 x 16	Rs. 28,31,424/-
Pain and sufferings		75,000/-
Medical expenses, transportation, special diet, attendant charges etc.		Rs. 2,60,000/-
Loss of estate		Rs. 15,000/-
Funeral expenses		Rs. 15,000/-
Loss of spousal consortium to claimant No. 1		Rs. 40,000/-
Loss of parental consortium to claimant Nos. 2 and 3	Rs. 40,000/- x 2	Rs. 80,000/-
Loss of filial consortium to claimant Nos. 4 and 5	Rs. 40,000/- x 2	Rs. 80,000/-

Total compensation awarded in appeal		Rs. 33,96,424/-
Total compensation awarded by the Tribunal	Rs. 23,65,600/-	
Enhanced amount of compensation	Rs. 33,96,424/- (awarded in appeal) – Rs. 23,65,600/- (awarded by the Tribunal)	Rs. 10,30,824/-

25. Appellants-claimants shall be entitled to enhanced compensation of Rs.10,46,328/- along with 7.5% interest from the date of filing of claim petition till realization of the entire amount (except under the conventional heads i.e. loss of consortium, funeral expenses and loss of estate). Under conventional heads, interest shall be payable from August 2017 onwards till realization. Apportionment and liability to pay compensation shall be as per award.

26. In view of the aforesaid discussion, appeal preferred by the Insurance Company challenging the finding on Issue No.1 and issue No. 2 is dismissed. However, appeal preferred by the appellants-claimants seeking enhancement of compensation is allowed in above terms and the Award dated 12.03.2001 passed by learned Motor Accident Claims Tribunal, Faridabad is modified to the extent indicated above.

27. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

28. A photocopy of this order be placed on the file of the connected case.

27.07.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No