



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

241

**Reserved on : 20.08.2026
Pronounced on: 27.08.2026**

241(1)

FAO No.2179 of 2005 (O&M)

ANARPATI AND OTHERS

...APPELLANTS

VERSUS

JAI PAL SINGH AND ANOTHER

...RESPONDENTS

241(2)

FAO No.1920 of 2005 (O&M)

BAJAJ ALLIANZ GENERAL INSURANCE CO.

...APPELLANT

VERSUS

ANARPATI AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Dhruv Singh, Advocate
for appellants-claimants in FAO No.2179 of 2005.

Mr. D.K. Dogra, Advocate
for appellant-Insurance Company
in FAO No.1920 of 2005 and
for respondent No.2-Insurance Company
in FAO No.2179 of 2005.

PARMOD GOYAL, J. (ORAL)

Present appeals have been preferred by appellants-claimants and appellant-Insurance Company being aggrieved by award dated 24.11.2004 passed by learned Motor Accident Claims Tribunal, Panchkula (hereinafter referred to as '**Tribunal**'), whereby claim petition preferred under Section 166 of Motor Vehicles Act, 1988 by appellants-claimants on account of death of Rameshwar (hereinafter referred to as '**deceased**') in motor vehicular accident dated 31.12.2001

allegedly caused due to rash and negligent driving of respondent-driver while driving motorcycle bearing registration No.HR-03-C-6915 (hereinafter referred to as ‘**offending vehicle**’), was partly allowed and compensation of Rs.50,000/- was awarded on account of no fault liability and liability was fixed upon appellant-Insurance Company.

2. Gist of appeals being decided are as under:-

Sr. No.	Case title before the MACT	MACT case number/ appeal number	Claim pertain to/claim by	Compensation awarded by learned Tribunal
1.	Smt. Anarpati and Ors. Vs. Jai Pal Singh and Anr.	MACT No.54 of 2022/FAO No.2179 of 2005	Compensation on account of death of Rameshwar by wife, son, daughter and mother	Rs.50,000/-
2.	Bajaj Allianz General Insurance Co. Vs. Anarpati and Ors.	FAO No.1920 of 2005	Has challenged the liability to pay compensation to appellants-claimants	-NA-

3. It was the case of appellants-claimants that on 31.12.2001, deceased was going from Manimajra to Sector 19, Panchkula as pillion rider on offending vehicle being driven by respondent-driver-Jaipal Singh rashly and negligently and at about 10 p.m. when they reached near round about of Sector 6, Panchkula, the offending vehicle, on account of rash and negligent driving of respondent-driver, had gone out of control and fell on its side. It was claimed that on account of said accident deceased had suffered multiple and grievous injuries and was firstly left at his house by Jaipal and then was shifted to PGI,

Chandigarh. It was further claimed that deceased was discharged from hospital on 04.01.200, however had died on his way while he was being taken to Sapra Hospital. That postmortem could not be done on account of illiteracy of legal heirs and deceased was cremated at his native place. It was claimed that deceased was only earning member in the family and an amount of Rs.50,000/- was spent on his treatment.

4. Respondent-driver had denied accident and fact that deceased was travelling with him as pillion rider and had died due to his rash and negligent driving. Respondent-Insurance Company also took similar stand and additionally denied liability to pay compensation on the ground that driver was not holding valid and effective license.

5. Learned Tribunal had concluded that appellants-claimants had failed to prove rash and negligent driving on the part of respondent-driver and accordingly had granted compensation of Rs.50,000/- under no fault liability.

6. In order to prove their case, appellants-claimants had placed reliance upon testimony of PW4, who claimed to be eyewitness of the accident.

7. To counter the evidence of appellants-claimants, respondent-driver had appeared as RW1 and had denied the accident and his involvement.

8. Admittedly, in present case, no FIR was lodged regarding accident dated 31.12.2001. Only DDR No.7 dated 02.01.2002 was lodged on the statement of deceased. In his statement before the police, upon which DDR was lodged, deceased had claimed that he is resident

of Sector 19, Panchkula and working in private company, namely Rubicon Fasteners, Phase II, Industrial Area, Panchkula. Deceased further stated that on 31.12.2021 at about 9/10:00 p.m. he was going back to his home from Mani Majra on the motorcycle owned by Jaipal along with Jaipal. That when they reached near Sector 6 round about, their motorcycle slipped suddenly and he had received injuries on his shoulder. He further stated that none was at fault. DDR No.7 was recorded on the basis of statement made by deceased at about 11 a.m. on 02.01.2002 recorded by Head Constable from police-post, Sector 6, Panchkula.

9. PW4-Ranjit Singh, in his testimony before the Court, had asserted that in the month of December 2001, at about 10 p.m., while he was coming back from his employer's house and had reached near round about of Sector 6, 7, 5 & 8, Panchkula, in the meantime, offending vehicle being driven by its driver rashly and negligently came from dividing road of Sector 6 and 7, Panchkula, tried to cross round about without slowing down and due to same, the motorcycle/offending vehicle had gone off the road and had fallen down. That both occupants of motorcycle had sustained injuries. That pillion rider was not wearing helmet and therefore he sustained head injuries but was conscious. PW4 also stated that he stopped his truck and inquired about their health and whereabouts. Driver of offending vehicle disclosed his name as Jaipal and also disclosed that pillion rider was Rameshwar, his neighbour and friend. PW4 further stated that driver of offending vehicle had also disclosed that they both are resident of house No.1014 and 1019,

Housing Board Colony, Panchkula and they decided to take injured to his house and thereafter to proceed for hospital. That in the meanwhile, a three-wheeler came and driver of three-wheeler, Jaipal and PW4 had put injured in three-wheeler and had gone towards bus stand side. PW4 further deposed that after 20 to 25 days, when he was passing through Housing Board Colony, Sector 19 Panchkula, he went to the house of deceased for inquiring well-being of Rameshwar, where he come to know that Rameshwar had died on account of injuries sustained by him in the accident. He duly disclosed the manner of accident to the wife of deceased. In his cross-examination, PW4 admitted that he was not known to deceased previously. PW4 also admitted that he did not visit hospital to inquire well-being of deceased. PW4 further admitted that Jaipal was known to him and he had not gone to him after the accident. PW4 also admitted that police had neither recorded his statement nor had he visited the police station. PW4 further admitted that he had not accompanied Rameshwar to the hospital.

10. RW1-respondent-driver Jaipal simply denied his involvement and that of motorcycle in the accident.

11. Learned Tribunal, after considering evidence of PW4, had concluded that evidence of PW4 is not reliable and he is a setout witness only to seek compensation. The conduct of PW4 was noted in detail in paragraph No.11 of the award to conclude that his presence at the time of occurrence is doubtful.

12. On consideration of evidence led by both the sides as well as finding of learned Tribunal, it is clearly made out that as far as

accident is concerned, same had resulted on 31.12.2001 while deceased was going on offending vehicle. The statement of deceased upon which DDR No.7 dated 02.01.2002 was lodged, in fact pertains to circumstances in which death of deceased had occurred and therefore would be fully admissible under the provisions of Section 32 of Indian Evidence Act, 1872. From the statement of deceased recorded as DDR No.7 dated 02.01.2002 (Ex.P16), it is clearly made out that accident dated 31.12.2001 had occurred when deceased and respondent driver were going on offending vehicle, which had slipped near Sector 6, Panchkula round about resulting into injuries to deceased. Therefore, the evidence of RW1 that his motorcycle was not involved is totally falsified by DDR (Ex.P16).

13. Though in DDR involvement and use of offending vehicle is duly stated, however, in the same DDR deceased had clearly stated that none was responsible for causing the accident. Deceased had not found fault with driving of respondent-driver and stated that accident took place suddenly. Therefore, it was necessary for appellants-claimants to prove rash and negligent driving on the part of respondent-driver for which they had relied upon testimony of PW4.

14. I am in agreement with the findings of learned Tribunal that the evidence of PW4 to prove rash and negligent driving of respondent-driver is not reliable in view of his strange and improbable conduct. PW4 was not known to deceased. PW4 after the accident had allowed the respondent-driver to take deceased along with him. PW4 was known to respondent-driver but not to deceased, however, strangely, instead of

visiting house of respondent-driver, he visited the house of deceased after 20-25 days and had never approached the police to make his statement. The conduct of PW4 is totally strange as it was not expected from a stranger to inquire about well-being of another stranger who had nothing in common with him and had not suffered visual serious injuries at the time of accident. The conduct of PW4 to visit house of deceased is improbable and is an attempt to introduce PW4 only to take away the effect of statement made by deceased himself regarding manner of accident. Therefore, the evidence of PW4 is not reliable and has rightly been rejected by learned Tribunal.

15. Learned Tribunal has rightly held that accident had occurred by driving of offending vehicle by respondent-driver which had met with an accident but not due to rash and negligent driving of respondent-driver. Learned Tribunal has also rightly concluded that as per nature of injuries i.e. head injuries as well as proximity of death of deceased with accident, absence of postmortem report, goes to prove that deceased had died on account of injuries suffered in accident as prior to that deceased was a healthy person.

16. Learned Tribunal had awarded compensation of Rs.50,000/- under Section 140 of Motor Vehicles Act, 1988 (hereinafter referred to as '1988 Act').

17. Faced with above, learned counsel for appellants-claimants has argued that in view of changed circumstances, especially with enactment of Section 164 of 1988 Act with effect from 01.04.2022, appellants-claimants are entitled to compensation under Section 164 of

1988 Act once it is proved that deceased had died on account of use of motor vehicle.

18. I find merit in the contention raised on behalf of appellants-claimants. Under un-amended Motor Vehicles Act, 1988, in a case of death, legal representatives of deceased were/was entitled to receive compensation under Section 140 of 1988 Act on the principle of no-fault liability. The second remedy available to legal representatives of victim was under Section 163A of 1988 Act, where structured compensation was payable as per Schedule II to the claimants who were eligible. The eligibility to seek compensation under Section 163A of 1988 Act was that deceased was not having annual income of Rs.40,000/-. The compensation under Section 163A of 1988 Act was also based upon no-fault liability, however it was subject to above noted two conditions. The third remedy available to claimants was under Section 166 of 1988 Act by proving fault on the part of offending driver. Since, Sections 163A and Section 166 of 1988 Act were dependent upon pleadings of the parties, especially as regards to eligibility that deceased should not be earning more than Rs.40,000 per year, it was mandatory for appellant-claimants to plead their case specifically under Section 163A or under Section 166 of 1988 Act. Vide amendment made in 1988 Act in the year 2019, Section 163A of 1988 Act was omitted and Section 164 of 1988 Act was re-enacted, whereby all the conditions required to seek compensation under Section 163A of 1988 Act were waived off and no-fault liability was made applicable to all cases where use of vehicle is proved, mandating compensation of Rs.5,00,000/- to be paid to legal

heirs/dependents of victim in case of death of victim.

19. Therefore, with the enactment of Section 164 of 1988 Act and omission of Section 163A of 1988 Act, it is clear that all cases under Section 166 of 1988 Act, where claimants had failed to prove rash and negligent driving will attract fault liability by default and will be covered by provisions of Section 164 of 1988 Act, if use of vehicle is proved on record. As no other condition is required to be established, except for use of vehicle, for compensation under Section 164 of 1988 Act. Therefore, in present case also, even if appellants-claimants have failed to prove their case under Section 166 of 1988 Act, they would be entitled to compensation under no-fault liability.

20. Under unamended Act the option to seek no fault liability or fault liability was required to be made and exercised. However, after amendment use of vehicle attracts no fault liability in absence of proof of negligence on part of offending driver and vehicle, therefore, in all cases under Section 166 of 1988 Act where negligence is not proved, however use only is proved, then compensation under Section 164 of 1988 Act shall be payable.

21. As far as applicability of Section 164 of 1988 Act to cases where the accident had taken place prior to 01.04.2022 is concerned, same is not *res integra*.

22. Hon'ble Supreme Court in **Roopa Vs. The Manager, Orix Auto Infrastructure Service Ltd. and Anr.**, Civil Appeal No.6797 of 2026 decided on 27.04.2026; **The New India Assurance Co. Ltd. Vs. Urmila Halder**, 2025 ACJ 244; and **K.R. Jagadish and Anr. Vs. M/s.**

National Insurance Company Ltd. And Anr., 2025 ACJ 188 has dealt this very issue and has concluded that since 1988 Act is beneficial legislation and amendment under Section 164 is procedural in nature, therefore, the compensation as amended under Section 164 can be awarded to appellants-claimants who had filed their petition for compensation in accident which had occurred prior to 01.04.2022. In view of authoritative pronouncement by Hon'ble Supreme Court, it is clearly made out that Section 164 of 1988 Act being procedural amendment would be retrospective in nature and appellants-claimants would be entitled to receive compensation amended therein.

23. Since Hon'ble Supreme Court has already held that provisions of Section 164 of 1988 Act are enacted w.e.f. 01.04.2022 being procedural and retrospective in nature, the provisions of Section 164 are applicable to the accident which had taken place prior to 01.04.2022. Therefore, in present case also appellant-claimants are entitled to benefits accrued to them under Section 164 of 1988 Act and are entitled to compensation of Rs.5,00,000/-.

24. Accordingly, appeal preferred by appellants-claimants (**FAO No.2179 of 2005**) is allowed. It is held that appellants-claimants are entitled to Rs.5,00,000/- as compensation. The same be paid after adjusting amount already awarded and paid. The enhanced compensation shall be payable along with interest @ 6% per annum from the date of filing of claim petition till its realization as was awarded by Hon'ble Supreme Court in case titled **K.R. Jagadish and Anr. Vs. M/s. National Insurance Company Ltd. And Anr. (supra)**. Apportionment and

liability to pay compensation shall be as per award.

FAO No.1920 of 2005 (O&M)

25. Appellant-Insurance company has filed present appeal being aggrieved by impugned award, whereby Rs.50,000/- were granted under no-fault liability and liability to pay compensation to appellants-claimants was fixed upon appellant-Insurance Company. The award was challenged on the ground that appellants-claimants have failed to prove that deceased have died on account of injuries suffered in accident dated 31.12.2001 and that learned Tribunal has wrongly concluded that offending vehicle was involved in accident as there is no evidence in that regard, especially when evidence of PW4 was rejected by learned Tribunal.

26. The above noted grounds have been duly considered while deciding appeal of appellants-claimants. Learned Tribunal as well as this Court had found involvement of offending vehicle on the basis of DDR No.7 recorded on the statement of deceased recorded prior to his death, as same is admissible under Section 32 of Indian Evidence Act, 1872. From the DDR No.7, which had gone unrebutted, the use of offending vehicle stands proved beyond doubt. Similarly, the death of deceased is clearly made out from fact that deceased had suffered head injuries and had died when he was got discharged by his family members from PGIMER, Chandigarh on 04.01.2002 against medical advice and was being taken to other hospital. The fact that deceased was admitted in PGIMER, Chandigarh on account of injuries, which included head injury and fact that he was got discharged against medical advice, is clearly

made out from medical records (Ex.P18 to Ex.P22) placed by claimants.
Therefore the objection raised by appellant-insurance company are without any merit and was rightly rejected by learned Tribunal.

27. Accordingly, FAO No.1920 of 2005 preferred by appellant-Insurance Company is dismissed being without any merit.

28. Pending application(s), if any, stands disposed of.
Photocopy of this order be placed on the file of connected case.

27.08.2026
Sunil Chander

(PARMOD GOYAL)
JUDGE

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