



FAO-717-2015 and another connected matter

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

Reserved on :- 20.07.2026

Pronounced on :- 27.07.2026

Date of Uploading :- 29.07.2026

(1)

FAO-717-2015

Oriental Insurance Co. Ltd.

...Appellant

Versus

Dr. Jarnail Singh Dhaliwal through his son and next friend Balwinder
Singh Dhaliwal and others

...Respondents

(2)

FAO-4199-2015

Dr. Jarnail Singh Dhaliwal through his son and next friend Balwinder
Singh Dhaliwal

...Appellant

Versus

Ram Lal and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Harsh Aggarwal, Advocate
for the appellant/insurance company (in FAO-717-2015) and
for respondent No. 3 (in FAO-4199-2015).

Mr. Harpreet Pal Singh Bunger, Advocate
for the appellant/claimant (in FAO-4199-2015) and
for respondent No. 1 (in FAO-717-2015).

Respondents No. 2 and 3 (in FAO-717-2015)
proceeded against *ex parte* vide order dated 30.07.2015.

**AMARJOT BHATTI, J.**

1. Both FAOs referred above arising out of common Award dated 16.10.2014 passed by learned Motor Accident Claims Tribunal, Patiala in MACP No. 20-T of 04.02.2013/31.10.2013, are taken up together for disposal.

2. Appellant/Insurance Company in FAO-717-2015 and appellant/claimant Dr. Jarnail Singh Dhaliwal through his son and next friend Balwinder Singh in FAO-4199-2015 have filed separate appeals against common impugned Award dated 16.10.2014 passed by learned Motor Accident Claims Tribunal, Patiala (**for short 'Tribunal'**) in MACP No. 20-T of 04.02.2013/31.10.2013, vide which claim petition was allowed and awarded compensation to the tune of Rs. 22,91,040/- along with interest @9% per annum, as detailed therein, fixing the liability of driver, owner and insurance company of car No. PB-08-AG-6871 jointly and severally to deposit the said compensation amount.

3. As per the facts of case, Dr. Jarnail Singh Dhaliwal through his son and next friend Balwinder Singh Dhaliwal filed claim petition under Section 166 of Motor Vehicles Act, 1988 for grant of compensation on account of injuries suffered by him in a motor vehicular accident. As per claim petition, Dr. Jarnail Singh Dhaliwal was about 53 years of age at the time of accident and he was practicing as Registered Medical Practitioner (RMP) at Dhaliwal Medical Hall, Bhadson. He was self-employed and earning Rs. 50,000/- per month from medical practice as well as from agriculture. On the fateful day of 15.08.2012, Dr. Jarnail Singh Dhaliwal/claimant was returning from Nabha to Bhadson after visiting his



3357. When he reached near village Rohti Channa on main Nabha-Bhadson road, one Indica car bearing Registration No. PB-08-AG-6871 came from the side of Nabha and was going towards Bhadson road. The claimant was riding his motorcycle on the left side of road and in the meantime, aforesaid Indica car, driven rashly and negligently at a high speed came and hit rear side of motorcycle. On account of this accident, claimant suffered diffused traumatic brain injuries, multiple fractures including right clavicle fracture. He was taken to Civil Hospital, Nabha, from where he was referred to Rajindra Hospital, Patiala. On account of his serious medical condition, he was taken to Columbia Asia Hospital, Patiala, where he remained admitted for a period of about one and a half months. He remained unconscious and was in ICU for about four weeks. Regarding this accident, FIR No. 77 dated 02.10.2012 was lodged at Police Station Bakhshiwala under Section 279, 337, 338 of IPC against Ram Lal. Despite spending huge amount on his treatment, he suffered permanent disability. He suffered loss of memory, unable to speak and understand and unable to perform his daily chores of life. He cannot identify any of the family members. One of the son of injured is a Doctor in California, USA, whereas, other son is Computer Engineer (B.Tech). The medical practice and agricultural work have become stand still. He became totally dependent on his family. The claimant through his son and next friend claimed compensation to the tune of Rs. 75 lacs along with interest as detailed therein.

4. Notice of claim petition was given to respondents.

Respondents No. 1 and 2 i.e. driver and owner of offending car without



10.12.2013. However, when the case was fixed for claimant's evidence, learned counsel representing respondents No. 1 and 2 again joined the proceedings.

On the other hand, respondent No. 3-Insurance Company filed written reply taking preliminary objections regarding maintainability of claim petition. It is alleged that respondent No. 1 Ram Lal was not holding valid effective driving license at the time of accident, therefore, insurance company was having no liability to pay any amount of compensation. The vehicle was not having valid Registration Certificate. Claim petition was bad for mis-joinder and non-joinder of necessary parties. In fact, said offending car was being driven in contravention of traffic rules. On the merits of case, it was submitted that claimant may be put to strict proof of the facts detailed in claim petition. Facts narrated in claim petition were denied on all the points. It was further alleged that Indica car bearing No. PB-08-AG-6871 was not involved in accident. Injuries sustained by claimant as well as his medical condition was also declined. Insurance company while denying all the facts submitted that claim petition was liable to be dismissed.

5. From the pleadings of the parties, following issues were framed by the Tribunal on 10.12.2013 :-

1. *Whether the claimant Dr. Jarnail Singh had sustained injuries in a motor vehicular accident, which took place on 15.8.2012 near village Rohti Chhanna on main Nabha Bhadson road due to rash and negligent driving of Indica car No. PB-08AG-6871 by respondent No. 1? OPP*
2. *Whether the claimant is entitled to compensation, if so, to what extent and from whom? OPP*



3. *Whether the present claim petition is not maintainable?*
OPR

4. *Whether respondent No. 1 was not having any valid and effective driving license at the time of alleged accident?* OPR

5. *Whether this petition is bad for misjoinder of the necessary parties?* OPR

6. *Whether the claim petition is false and frivolous to the knowledge of the claimant?* OPR

7. *Whether the claim petition is bad for non joinder of necessary parties of i.e. owner, driver and insurer of motor cycle No. PB-11N-3357?* OPR

8. *Relief.*

6. In order to prove the claim petition, claimant examined Dr. R.K. Bangar, Medical Officer, Civil Hospital, Nabha as PW1, Sohan Lal, Multipurpose Health Supervisor as PW2, Dr. Harbhag Singh, Associate Professor, Neurology, R.H. Patiala as PW3, Navdeep Singh, Record Keeper, Colombia Asia Hospital, Patiala as PW4, Dr. Bhanu Partap Singh, Internal Medicine Physician, Colombia Hospital, Patiala as PW5, Balwinder Singh Dhaliwal (son of claimant) as PW6, Gurdeep Singh, Criminal Ahlmad as PW7 and Gurjit Singh as PW8. Thereafter, learned counsel representing claimant after tendering certain documents vide separate statement closed evidence on behalf of claimant on dated 03.07.2014.

7. In order to rebut the case of claimant, learned counsel representing respondent No. 3-insurance company examined Bharat Bhushan, Sr. Tax Assistant, Nabha as RW1, Ram Lal as RW2, Gurdeep Singh, Ahlmad as RW3, and Gurtej Singh, M.T.C., Licensing Authority, Nabha as RW4. Thereafter, learned counsel representing respondent No. 3



dated 14.08.2012.

8. After hearing the arguments advanced by learned counsel for the parties, claim petition filed by claimant was allowed by passing impugned Award dated 16.10.2014, as detailed therein.

Feeling aggrieved of the Award passed by learned Tribunal, Insurance Company filed FAO-717-2015, whereas, claimant Dr. Jarnail Singh Dhaliwal through his son and next friend Balwinder Singh also filed FAO-4199-2015.

9. I have heard the arguments advanced by learned counsel representing both the sides and have gone through the trial Court record with their able assistance.

10. Firstly, I will deal with FAO-4199-2015 filed by appellant/claimant Dr. Jarnail Singh Dhaliwal through his son and next friend Balwinder Singh claiming enhanced amount of compensation. It is argued that compensation awarded by learned Tribunal is grossly inadequate. Dr. Jarnail Singh Dhaliwal at the time of accident was 53 years of age. He was RMP doctor and was also looking after agricultural work. In order to prove the income of claimant, Income Tax Return for the year 2011-12 has been exhibited as Ex. C100, where his gross income is reflected as Rs. 1,78,542/-, whereas, in Income Tax Return for the year 2012-13, his gross income has been shown as Rs.1,92,591/-. Without considering the income of Dr. Jarnail Singh Dhaliwal and his age, compensation awarded by learned Tribunal is grossly inadequate with regards to loss of future earnings on account of 100% permanent disability.

It is further pointed out that no compensation has been awarded under other conventional heads like loss of amenities, attendant charges, future medical



care, compensation for special diet and transportation. Learned Tribunal has granted inadequate compensation of Rs. 22,91,040/- along with interest and findings given by learned Tribunal on issue No. 2 requires modification.

11. On the other hand, learned counsel representing respondent No. 3-Insurance Company (in FAO-4199-2015) has also assailed findings on quantum of compensation awarded in favour of claimant in issue No. 2. It is pointed out that learned Tribunal failed to consider the evidence on record. No doctor has been examined by claimant to justify the medical treatment provided to him in USA. It is not the case that medical treatment which was available in USA was not available in India, to justify taking the claimant to USA for further treatment. In the absence of any such evidence, medical expenses granted on the basis of Ex.C12 and Ex.C13 to the tune of Rs. 13,83,047/- and expenditure of Air Tickets (Ex.C14) to the tune of Rs.1,11,601/- are liable to be deleted from the quantum of compensation awarded by the Tribunal. On this issue, no other argument is advanced. It is submitted that quantum of compensation awarded by learned Tribunal is liable to be reduced accordingly.

12. I have considered the arguments and have gone through the record carefully. The claimant/injured Dr. Jarnail Singh Dhaliwal met with an accident on 15.08.2012 while going on his motorcycle, when he was hit by Indica car bearing No. PB-08-AG-6871, driven by Ram Lal (respondent No. 1 in claim petition). Regarding this accident, FIR No. 77 dated 02.10.2012 (Ex.C92) was lodged at Police Station Bakhshiwala under Section 279, 337,338 of IPC against Ram Lal @ Ramu. To prove the



Hospital, Nabha as PW-1, who confirmed admission of claimant/injured in hospital on 15.08.2012 by Baru Ram and on this, information was sent to police. After giving initial medical aid, he was referred to higher medical centre. The injured was taken to Columbia Asia Hospital, Patiala, where he remained admitted from 15.08.2012 to 13.09.2012. Medico Legal Report prepared by Columbia Asia Hospital, Patiala (Ex.PW7/5) shows following injuries on the person of Dr. Jarnail Singh Dhaliwal, which are as under:-

- “⇒ *Multiple abrasions on face (maxillary area) + nose, on forehead both sides.*
- ⇒ *Abrasions about 3 cm X 4 cm on both knees.*
- ⇒ *7 cm X 4 cm abrasion on right arm and forearm around the elbow joint on medial surface.*
- ⇒ *Swelling with bruise on right clavicular region, fracture clavicle X-ray done.*
- ⇒ *Fresh right ear bleed +ve, Nasal bleed +ve.”*

Navdeep Singh, Record Keeper of Columbia Asia Hospital was examined as PW-4, who produced medical record along with final bills which are Ex.PW4/1 and Ex.PW4/2 respectively. In Discharge Summary (Ex.PW4/2), the Admission Diagnosis: Diffuse traumatic brain injury and Discharge diagnosis as under :-

- “Diffuse traumatic brain injury*
- Contusion and laceration of left cerebrum*
- Traumatic subarachnoid hemorrhage*
- Traumatic cerebral edema*
- Multiple fractures of ribs*
- Fracture of unspecified part of right clavicle*
- Hypo-osmolality and hyponatremia*
- Bacterial meningitis, not elsewhere classified...rt clavicle fracture”*



Dr. Bhanu Partap Singh examined as PW-5 confirming the medical record produced on file as Ex.PW4/1.

In order to prove the disability certificate, claimant examined Sohan Lal, Multipurpose Health Supervisor as PW-2 as well as Dr. Harbhag Singh, Associate Professor, Neurology as PW-3 from Rajindra Hospital, Patiala, who have proved the disability certificate dated 30.09.2013 of injured Dr. Jarnail Singh Dhaliwal as Ex.PW2/4, according to which it was observed that there was permanent damage to the brain as per MRI and same was not recoverable and patient was not likely to recover in future. It was further observed that he required attendant for the whole of his life. He was having no control on his urine and stool and there was no physical or mental activity.

13. Balwinder Singh Dhaliwal son of the injured also stepped into the witness box as PW-6 to confirm the aforesaid factual position. In his affidavit (Ex.PW6/A), he has mentioned the hospitals where his father Dr. Jarnail Singh Dhaliwal remained admitted from time to time i.e. Civil Hospital, Nabha, Rajindra Hospital, Patiala, Columbia Asia Hospital, Patiala. After his discharge, he was taken to Silver Oak Hospital, Mohali, Ashadeep Clinic, Sharma Psychiatry Clinic, Patiala and Amar Hospital, Patiala, where he remained admitted from 06.03.2013 to 13.03.2013. The treating doctor of Columbia Asia Hospital recommended for further treatment to some good hospital in USA. His father along with his mother went to USA for treatment of his father in "CLINICAS" at Ventura CA 93007, where he was treated by Dr. Kolar N. Murthy, M.D., F.R.C.P., Dr. Ju-Sung Wu, M.D., Rolling Oaks Radiology Ventura. During his cross-



USA was not available in Patiala/India. His father could not recover or received any benefit from the treatment received in USA, as doctor recommended to put stunt in the brain, but due to his bad health condition, said treatment could not be performed and finally, they returned back to India. He further clarified that no medical reimbursement was claimed from any insurance company on account of medical treatment abroad.

14. Learned Tribunal on account of 100% permanent disability granted compensation to the tune of Rs. 2 lacs. Learned Tribunal further granted compensation of Rs. 20,000/- for pain and suffering. After considering the medical bills including medical expenditure abroad, granted total amount of compensation of Rs. 22,91,040/-. It is rightly pointed out by learned counsel representing appellant/claimant in FAO-4199-2015 that no compensation has been awarded under other conventional heads and compensation awarded for 100% permanent disability is also grossly inadequate. So far as the objection raised by learned counsel for insurance company for grant of compensation on account of medical treatment abroad along with air tickets is concerned, claimant suffered 100% permanent disability and remained under treatment in Columbia Asia Hospital, Patiala for a long time. He also remained under treatment in various hospitals i.e. Civil Hospital, Nabha, Rajindra Hospital, Patiala, Silver Oak Hospital, Mohali, Ashadeep Clinic, Sharma Psychiatry Clinic, Patiala and Amar Hospital, Patiala. There was no improvement in his condition. Considering his medical condition as referred above, taking the patient abroad for advance medical treatment is not unjustified. One of the son of claimant/injured is a doctor settled in America. Therefore, it is

possible treatment to the patient to save a precious life. The entire medical record of claimant from “CLINICAS” at Ventura CA 93007 is Ex. C11. He along with his wife went to USA on 24.06.2013 and returned India on 02.09.2013. Thereafter, he was medically examined to assess his permanent disability. In the light of aforesaid facts, arguments advanced by learned counsel for insurance company to delete the expenditure for medical treatment abroad or for deleting expenditure of air tickets are not justified. Learned Tribunal has totally ignored acute physical agony, mental trauma and emotional distress faced by the claimant. No compensation is awarded for loss of amenities on account of serious medical condition of claimant/injured. Considering the aforesaid factual position, appellant/claimant in FAO-4199-2015 is granted enhanced amount of compensation under the following heads:-

SR. No.	Head	Enhanced amount of compensation (Rs.)	Awarded by Tribunal (Rs.)
1.	Compensation for loss of future earnings with 100% permanent disability Annul Income X Disability X Multiplier	Rs. 21,18,490/- (Rs. 1,92,590/- X 100/100 X 11)	Rs. 2,00,000/-
2.	Medical expenses abroad	Rs. 13,83,047/-	Rs. 13,83,047/-
3.	Other bills	Rs. 5,76,392/-	Rs. 5,76,392/-
4.	Air Tickets	Rs. 1,11,601/-	Rs. 1,11,601/-
5.	Pain and suffering	Rs. 3,00,000/-	Rs. 20,000/-
6.	Loss of amenities	Rs. 2,00,000/-	--
7.	Attendant charges	Rs. 3,00,000/-	--
8.	Future medical care	Rs. 50,000/-	--
9.	Special diet	Rs. 1,00,000/-	--
10.	Transportation charges	Rs. 25,000/-	--
TOTAL		Rs. 51,64,530/-	Rs. 22,91,040/-



15. In the light of this, claimant is entitled to enhanced amount of compensation to the tune of **Rs. 28,73,490/- (Rs. 51,64,530/- - Rs. 22,91,040/-)** along with interest @ 6% per annum from the date of filing of present FAO-4199-2015 till the realization of amount, which respondent No. 3- Insurance Company is liable to pay and same to be deposited in the account of claimant through his son and next friend Balwinder Singh. It is further directed that the interest amount will be utilized for the maintenance and upkeep of appellant/claimant Dr. Jarnail Singh Dhaliwal (in FAO-4199-2015). In case, any substantial amount is required for the treatment of appellant/claimant, then his son and next friend Balwinder Singh may approach the Tribunal for withdrawal of amount.

In view of above, findings given by learned Tribunal pertaining to issue No. 2 as well as in relief clause are, accordingly, modified.

16. Now, I will be dealing with FAO-717-2015 filed by appellant/Insurance Company. The appellant/insurance company has taken the stand that findings given by learned Tribunal pertaining to issue No. 4 are not justified. Accident was caused by Ram Lal (respondent No. 1 in claim petition), who on the fateful day was driving Indica car bearing No. PB-08-AG-6871 and as a result of his rash and negligent driving, accident took place in which Dr. Jarnail Singh Dhaliwal sustained serious injuries. Insurance company has taken the stand that on the day of accident, driver Ram Lal (respondent No. 1 in claim petition) was not holding a valid driving license. It is pointed out that accident took place on 15.08.2012. driving license (Ex.R1) was issued on 23.08.2012, valid up to 03.03.2032.



confirmed that prior to this, he was having learner's driving license issued at Serial No. 2596 dated 01.02.2012, valid up to 31.07.2012. Therefore, after the expiry of learner's driving license and before the issuance of regular driving license on 23.08.2012, he was having no driving license. It is pointed out that learned Tribunal wrongly observed that regular driving license was obtained on 23.08.2012 within 30 days from the expiry of driving license on 31.07.2012. It is pointed out that it was not a case of renewal of regular driving license. On this point, he has relied upon the judgment of **Supreme Court of India** cited in **2009(5) SCC 136 : Law Finder Doc Id #183056** in case titled "**Bhuwan Singh Versus M/s Oriental Insurance Company Ltd. and Anr.**" and referred to para No. 14, where it was observed as under:-

"14. The Act provides for grant of a learner's licence. It indisputably is a licence within the meaning of provisions thereof. A person holding a learner's licence is also entitled to drive a vehicle but it is granted for a specific period. The terms & Conditions for grant of a learner's licence are different from those of a regular licence. Holding of a learner's licence is imperative for filing an application for grant of licence as provided for in Rule 4 of the Rules. Converse however is not true. Only because the appellant held a learner's licence which had expired and was not valid on the date of accident, he cannot be said to be duly licensed. It is true that despite expiry of a regular licence, it may be renewed, but no provision has been brought to our notice providing for automatic renewal of learner's licence."

Therefore, it is pointed out that on the date of accident, driver Ram Lal (respondent No. 1 in claim petition) was not holding any driving license. In case the liability is fastened on the insurance company, then



insurance company may be granted recovery rights against the insured.

17. In order to oppose present appeal, despite service of notice to the driver and owner of offending car, nobody turned up to oppose it. Even before learned Tribunal, respondents No. 1 and 2 i.e. driver and owner of offending car did not file any written reply and after framing of issues, counsel had joined proceedings on their behalf.

18. I have considered the arguments and have gone through the record carefully. Appellant/Insurance Company has challenged the findings given by learned Tribunal pertaining to issue No. 4. Learned Tribunal came to the conclusion that driver Ram Lal (respondent No. 1 in claim petition) was having valid driving license and on that basis decided issue No. 4 against Insurance Company.

Admittedly, Ram Lal was earlier having learner's driving license. Gurtej Singh RW4, M.T.C, Licensing Authority confirmed that Ram Lal was issued learner's driving license at serial No. 2596 dated 01.02.2012. Chapter II of Motor Vehicles Act, 1988 deals with issuance of license to the drivers of motor vehicles. Section 3 of the Act requires that no person shall drive a motor vehicle in any public place unless he holds an effective driving license issued to him authorising him to drive the vehicle, as detailed therein. Section 8 of the Act deals with grant of learner's license. Section 9 of the Act deals with grant of driving license as per the procedure prescribed therein. Section 14 of the Act deals with currency of licences to drive motor vehicles, where it is specifically mentioned that a learner's license issued under this Act shall, subject to the other provisions of this Act, be effective for a period of six months from the date of issue of the licence. Section 15 of the Act deals with renewal of driving license.



19. In the case in hand, learner's driving license of Ram Lal was effective from 01.02.2012 to 31.07.2012 i.e. for the period of six months. Before issuance of regular driving license, he caused accident on 15.08.2012. At that point of time, he was neither having learner's driving license nor he was having regular driving license. The driving license was issued to him on 23.08.2012, valid up to 03.03.2032 (Ex.R1). Learned Tribunal has dealt with the issue as if it was a case of renewal of driving license, which Ram Lal (respondent No. 1 in claim petition) was already holding. In fact, situation is altogether different. After expiry of six months, learner's driving license was not in force. It is rightly pointed out by learned counsel representing appellant/insurance company (in FAO-717-2015) that there is no provision for automatic renewal of learner's license.

Therefore, findings given by learned Tribunal pertaining to issue No. 4 are not on sound footing and same are, accordingly reversed by holding that on the day of accident i.e. 15.08.2012, Ram Lal (respondent No. 1 in claim petition) was not holding any valid driving license to drive the offending car bearing No. PB-08-AG-6871. This issue is, accordingly, decided in favour of appellant/Insurance Company (in FAO-717-2015).

Since, the vehicle was insured with appellant/insurance company for the period 06.09.2011 to 05.09.2012 (Ex.RX), insurance company cannot escape its liability to pay the amount of compensation to the claimant Dr. Jarnail Singh Dhaliwal. However, in view of findings on issue No. 4, insurance company is granted recovery rights by accepting the present appeal bearing FAO-717-2015.

20. In view of my findings as referred above, appeal (FAO-717-2015) filed by appellant/insurance company and appeal (FAO-4199-2015)



filed by appellant/claimant Dr. Jarnail Singh Dhaliwal through his son and next friend Balwinder Singh, both are, accordingly, allowed and impugned Award passed by learned Tribunal dated 16.10.2014 is, accordingly, modified to the above extent.

- 21. Pending application(s), if any, in both cases, also stands disposed of accordingly.
- 22. Copy of this judgment be sent to concerned trial Court for necessary information.
- 23. A photocopy of this order be placed on the file of connected case mentioned above.

27.07.2026
lalit

(AMARJOT BHATTI)
JUDGE

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