

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

**FAO No.8634 of 2015 (O & M)**  
**Date of Decision: *December 22, 2015***

**ICICI Lombard General Insurance Company Ltd.**  
..... APPELLANT

*VERSUS*

**Smt. Barasri Devi & others**  
..... RESPONDENT(S)

. . .

**CORAM:     HON'BLE MR. JUSTICE JASPAL SINGH**

. . .

1.     Whether Reporters of local papers may be allowed to see the judgment?
2.     To be referred to the Reporters or not?
3.     Whether the judgment should be reported in the Digest?

. . .

**PRESENT:** -   Mr. R.S. Dhull, Advocate, for the appellant.

. . .

**Jaspal Singh, J**

**CM No.27235-CII of 2015**

For reasons stated in the application, delay of 41  
days in re-filing the appeal is condoned.

Application is allowed.

**FAO No.8634 of 2015 (O & M)**

1.                    ICICI   Lombard   General   Insurance   Company  
Limited (for short, 'Insurance Company') has preferred this

appeal against Award dated July 8, 2015 passed by the Motor Accident Claims Tribunal, Narnaul (for brevity, 'Tribunal'), whereby an amount of ₹ 13,55,728/- has been awarded to the claimants on account of death of Rama Nand who succumbed to injuries sustained in a vehicular accident on December 21, 2013 and the appellant – Insurance Company alongwith respondent Nos.4 & 5 (driver & owner of Motor cycle No.HR-35H-5911) has been held liable to pay the amount of compensation, jointly and severally.

2. While assailing the impugned award, learned counsel for the appellant – Insurance Company has vehemently argued that findings recorded by the Tribunal are erroneous. The Tribunal did not appreciate the evidence available on file and wrongly and illegally fastened liability upon the Insurance Company. No accident was taken place on December 21, 2013. Accident is not the result of rash and negligent driving of respondent No.1. The amount awarded on account of compensation is on higher side. Accordingly, learned counsel has prayed that award passed by the Tribunal, being against the evidence and legal proposition, is liable to be set aside qua Insurance Company – appellant.

3. After having heard learned counsel for the appellant, analyzing evidence and bestowing consideration to impugned award, this court is of the considered view that findings recorded by learned Tribunal are absolutely in consonance with the evidence available on file and settled canons of law.

4. It has been established on record from the testimony of PW-3 Vinay Kumar (eye witness) that the alleged accident took place due to rash and negligent driving of offending motorcycle bearing No.HR-35H-5911 by respondent No.1. Moreover, FIR No.372 dated December 21, 2013 (Ex.PW1/A) was registered on the date of accident, wherein, name of respondent No.1 has been specifically mentioned. Respondent No.1 failed to appear in the witness box to controvert the allegations levelled against him. Hence, it is established that the accident took place due to rash and negligent driving of respondent No.1.

5. As far as income of Rama Nand (deceased) is concerned, from the perusal of Ex.PX i.e. copy of Pass Book, maintained by State Bank of Patiala, Narnaul, it has revealed that he was getting ₹ 20,013/- as pension on the date of accident. The Tribunal has deducted 1/3<sup>rd</sup> of the monthly

income on the ground of personal expenses as he was married and was having liability of three dependents. After deducting 1/3<sup>rd</sup> of total income, the monthly dependency came to ₹ 13,342/- and annual dependency came to ₹ 1,60,104/-. As per copy of PMR Ex.PW2/B, the age of Rama Nand was taken as 65 years at the time of accident and multiplier of 7 has been rightly applied. An amount of ₹ 25,000/- was awarded on account of funeral expenses and ₹ 10,000/- were awarded towards transportation. ₹ 50,000/- each were awarded in favour of claimant – petitioner Nos.2 and 3 towards love & affection. ₹ 1 lac has been awarded as loss of consortium which cannot be faulted with, in view of the latest law. Rather, this court is of the considered view that there is no infirmity or illegality in the impugned award and same is absolutely in consonance with law applicable to the facts and circumstances of the case as well as evidence available on file.

6. In the light of what has been discussed above, finding no merit in the instant appeal, same is dismissed whereby the impugned award is upheld.

7. No order as to costs.

**December 22, 2015**  
avin

**(Jaspal Singh)**  
**Judge**