

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

1. **FAO No. 2036 of 2018 (O&M)**
Date of decision : August 13, 2018

The New India Assurance Company LimitedAppellant

Versus

Smt. Sunita and othersRespondents

2. **FAO No. 2040 of 2018 (O&M)**

The New India Assurance Company LimitedAppellant

Versus

Smt. Kavita and othersRespondents

3. **FAO No. 2041 of 2018 (O&M)**

The New India Assurance Company LimitedAppellant

Versus

Jaideep and othersRespondents

4. **Civil Revision No. 2785 of 2018 (O&M)**

The New India Assurance Company LimitedPetitioner

Versus

Parshant and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Deepak Suri, Advocate
for the insurance company.

LISA GILL, J.

Present appeals have been filed by The New India Assurance
Company Limited challenging award dated 27.09.2017 passed by the
learned Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as

the 'Tribunal'). Learned Tribunal vide consolidated award dated 27.09.2017 has decided four claim petitions arising out of the same accident.

Brief facts which are common to all the cases are that Devender (since deceased) alongwith his family members Sunita – his wife, Kavita wife of Jatin, Parshant son of Jaideep, Kamlesh wife of Ram Parshad, Sunita wife of Jaideep were proceeding to Kurukshetra in a three wheeler, which was driven by Jaideep son of Dharambir. When they reached near Kambopura, District Karnal on G.T. Road, a truck/trala bearing registration No. HR-69B-8997 came to the G.T. Road from a side driven by respondent – Anil in a rash and negligent manner, hit the three wheeler being driven by Jaideep. Due to this impact, they fell on the road and received multiple injuries. They were taken to the Trauma Centre, General Hospital, Karnal. Devender succumbed to his injuries. All the other occupants sustained serious injuries.

Respondents Nos. 1 to 3 (in FAO No. 2036 of 2018) filed MACT Petition No. 78 of 2017 under Section 166 of the Motor Vehicles Act seeking compensation on account of death of Devender on 14.11.2016 in a motor vehicle accident caused due to driving of the offending vehicle bearing registration No. HR-69B-8997 by respondent – Anil in a rash and negligent manner.

Respondent – Kavita in FAO No. 2040 of 2018 filed MACT Petition No. 79 of 2017 sought compensation on account of injuries suffered by her in the motor vehicle accident.

Respondent – Parshant in CR No. 2758 of 2018 filed MACT Petition No. 80 of 2017 sought compensation on account of injuries suffered by him in the motor vehicle accident.

Respondent – Jaideep in FAO No. 2041 of 2018 filed MACT Petition No. 81 of 2017 claimed compensation on account of injuries suffered by him in the motor vehicle accident.

Claim was resisted by the respondents. Following issues were framed in claim petition Nos. 78 to 81 of 2017 arising out of the common award by the learned Tribunal:-

1. Whether Kavita, Parshant and Jai Deep (injured) and Devender (deceased) met with motor vehicular accident on 14.11.2016 due to rash and negligent driving of Truck bearing registration No. HR-69B-8997, driven by respondent No. 1 ? OPP
2. If issue No. 1 is proved in favour of the petitioner Kavita (injured), to what amount of compensation petitioner is entitled to and from whom? OPP.
3. If issue No. 1 is proved in favour of the petitioner Parshant (injured), to what amount of compensation petitioner is entitled to and from whom? OPP.
4. If issue No. 1 is proved in favour of the petitioner Jai Deep (injured), to what amount of compensation petitioner is entitled to and from whom? OPP.
5. If issue No. 1 is proved in favour of the petitioners Sunita and others, to what amount of compensation petitioners are entitled to and from whom? OPP.
6. Whether respondent No. 1 Anil was not holding valid and effective driving license? OPR-3
7. Whether respondents No. 1 and 2 have violated term and condition of insurance policy, if so, to what effect? OPR-3
8. Relief.

Learned Tribunal held that the accident in question took place due to rash and negligent driving of the offending vehicle by respondent – Anil.

Compensation to the claimants/legal heirs of Devender afforded

by the learned Tribunal is as under:-

Sr. No.	Heads	Calculations
(i)	Net Income	₹3,64,200/- per annum (₹30,350x12)
(ii)	1/3 rd of (i) deducted as personal expenses of the deceased	₹3,64,200/---₹1,21,400/-= 2,42,800/-
(iii)	Compensation after multiplier of 11 is applied	₹2,42,800/- x 11 = ₹26,70,800
(iv)	Loss of consortium (to petitioner no. 1)	₹1,00,000/-
(v)	Loss of love and affection (to petitioners No. 2 & 3)	₹1,00,000/-
(vi)	Funeral and Transportation expenses	₹25,000/-
	Total	₹28,95,800/-

Compensation to the claimant-injured Kavita afforded by the learned Tribunal is as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Medicines Bills	₹19,213/-
(ii)	Pain Suffering	₹ 5,000/-
	Total	₹24,213/-

Compensation to the claimant-injured Parshant afforded by the learned Tribunal is as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Medicines Bills	₹3279/- say ₹3280/-

Compensation to the claimant-injured Jaideep afforded by the learned Tribunal is as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Calculation</i>
(i)	Medicines Bills	₹68,151/-
(ii)	Pain Suffering	₹15,000/-
	Total	₹83,151/-

Present appeals and Civil Revision have been filed challenging the liability of the insurance company to pay compensation.

Learned counsel for the appellant argues that the evidence on record does not prove that the accident in question took place due to rash and negligent driving of the offending vehicle by respondent – Anil. It is contended that FIR in question was lodged by Jaideep, one of the injured on 14.11.2016 at 9.00 p.m. It is mentioned in the FIR that it was a case of hit and run in which the passengers of the three wheeler sustained injuries. The number of the vehicle or the name of its driver has not been mentioned in the FIR. There is nothing on record to show as to how the vehicle in question came to be identified. It is further contended that compensation awarded to the claimants is on the higher side. It is, thus, prayed that impugned award be set aside.

I have heard learned counsel for the appellant and have gone through the record with his able assistance.

There is no dispute that in respect to the accident which took place on 14.11.2016, FIR (Ex. P23) was registered on the statement of Jaideep on 14.11.2016 itself. Jaideep testified as PW5 before the learned Tribunal. The driver of the offending vehicle was arrested on 16.11.2016. Final report under Section 173 Cr.P.C. (Ex. P3) was duly filed against the said driver after proper investigation. Charge sheet (Ex.P35) is on record to show that the driver was facing the trial in question. PW5 Jaideep specifically stated that the number of vehicle in question was revealed to him by the person at the petrol pump. The matter was thoroughly investigated by the police authorities and action taken against the driver of the offending vehicle. There is nothing on record to show that the

investigation in question was tainted in any manner. Learned counsel for the appellant is unable to point out any evidence on record, which would indicate false implication of a driver of the offending vehicle in this case. The claimants have successfully proved their case on the basis of preponderance of probabilities.

In this view of the matter, learned Tribunal has rightly decided issue No. 1 and held that accident in question was caused due to the rash and negligent driving of offending truck/trala by its driver respondent – Anil.

A perusal of the compensation afforded to the legal heirs of the deceased Devender as well as injured – claimants themselves by the learned Tribunal reveals that no ground is made out for reduction thereof in any manner.

Learned counsel for the appellant is unable to point out any illegality, infirmity or perversity in the impugned award dated 27.09.2017 passed by the learned Motor Accident Claims Tribunal, Jhajjar which calls for any interference by this Court.

Accordingly, all the appeals as well as revision petition filed by the insurance company are hereby dismissed with no order as to costs.

August 13, 2018
rts

(Lisa Gill)
Judge

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