

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

**Date of decision: 13.9.2019**

1. **FAO No. 5670 of 2019(O&M)**

The Oriental Insurance Co. Ltd. ....Appellant

VERSUS

Smt. Harjinder Kaur and others .....Respondents

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2. **FAO No. 5675 of 2019(O&M)**

The Oriental Insurance Co. Ltd. ....Appellant

VERSUS

Satnam Singh and others .....Respondents

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3. **FAO No. 5680 of 2019(O&M)**

The Oriental Insurance Co. Ltd. ....Appellant

VERSUS

Sanjeev Singh and others .....Respondents

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4. **FAO No. 5684 of 2019(O&M)**

The Oriental Insurance Co. Ltd. ....Appellant

VERSUS

Gurwinder Singh and others .....Respondents

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5. **FAO No. 5661 of 2019(O&M)**

The Oriental Insurance Co. Ltd. ....Appellant

VERSUS

Harjit Singh and others .....Respondents

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**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Mayank Mathur, Advocate for the appellant.

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**REKHA MITTAL, J.(Oral)**

This order will dispose of FAO Nos.5670, 5675, 5680, 5684 and 5661 of 2019 as these have emerged out of the same award dated 09.05.2019 passed by the Motor Accidents Claims Tribunal, Ambala whereby compensation has been assessed on account of death of Mehar Singh and injuries sustained by Harjit Singh, Sanjeev Singh, Satnam Singh and Gurwinder Singh, in a motor vehicular accident that took place on 27.11.2016. For facility of reference, facts are taken from FAO No.5670 of 2019.

Counsel for the insurance company would inform that appeal has been filed to assail findings of the Tribunal on issue no.1 with regard to rash and negligent driving of offending truck by Balkar Singh who died during pendency of the proceedings before the Tribunal and to assail quantum of compensation awarded qua death of Mehar Singh and injuries sustained by Harjit Singh. It is argued that the present is a case of contributory negligence qua death of Mehar Singh and composite negligence qua injuries sustained by Harjit Singh and others. To bring home his contention, it is submitted that ill-fated car driven by Mehar Singh was following the alleged offending tanker bearing No.PB-11-AC-3913. The driver of aforesaid Skoda car did not maintain safe distance from the truck and as a result, car driven by Mehar Singh struck behind the truck driven by Balkar Singh and as such negligence to an extent is liable

to be attributed to Mehar Singh. As a result, Harjinder Kaur and other claimants shall not be entitled to compensation to the extent of negligence attributable to him.

With regard to compensation, it is argued that the Tribunal has wrongly assessed income of deceased Mehar Singh and injured Harjit Singh at the rate of Rs.9300/- per month which is more than the minimum wage of unskilled worker in the State of Punjab at the relevant time.

I have heard counsel for the appellant, perused the paper-book particularly the award impugned.

At the very outset, it is pertinent to mention that even if it is accepted that the present is a case of composite negligence of two vehicles involved in the occurrence, the insurance company cannot escape its liability to pay compensation assessed in favour of injured Harjit Singh, Sanjeev Singh, Satnam Singh and Gurwinder Singh.

Counsel for the appellant has fairly conceded that the insurance company has not challenged quantum of compensation allowed in favour of Sanjeev Singh, Satnam Singh and Gurwinder Singh. That being so, appeals filed by the insurance company in the cases of Sanjeev Kumar, Satnam Singh and Gurwinder Singh are bereft of merit and accordingly dismissed.

The contention of the insurance company with regard to contributory negligence of Mehar Singh, driver of the car, is not meritorious and liable to be rejected when examined in the light of facts elicited in cross examination of Harjit Singh and Sanjeev Singh and judgment of Hon'ble the Supreme Court **Nishan Singh and others Vs.**

**Oriental Insurance Co. Ltd. through Regional Manager and others,**  
**2018(2) RCR (Civil) 891.**

Harjit Singh, in his cross examination, had stated that there was distance of 20-25 feet between their car and the offending truck. Their driver tried to stop the car but could not control it and thus it struck in the rear portion of tanker. Sanjeev Singh in his cross examination had stated that they were following the truck in question for the last about 3-4 KMs. There is nothing in cross examination of the injured witnesses that driver of ill-fated car did not take reasonable care to avoid collision with the truck going ahead. Hon'ble the Supreme Court in **Nishan Singh and others's case** (supra) in para 10 of the judgment has held that the expression 'sufficient distance' has not been defined in the Regulations or elsewhere. The thumb rule of sufficient distance is at least a safe distance of two to three seconds gap in ideal conditions to avert collision and to allow the following driver time to respond. The distance of 10-15 feet between the truck and maruti car was certainly not a safe distance for which driver of the maruti car must take the blame. It must necessarily follow that finding on the issue under consideration ought to be against the claimants. However, in the case at hand, distance between the two vehicles is stated to be 20-25 feet. It has also been stated by Harjit Singh that driver of the car tried to stop it but could not help. In the given scenario, I find it difficult to accept contention of the insurance company that findings recorded by the Tribunal regarding issue No.1 are faulty and need intervention. I would hasten to add that on the basis of FIR lodged against Balkar Singh, challan was presented in the Court and he was put to trial. Balkar Singh did not appear in the witness

box as he unfortunately died during pendency of the claim proceedings. In the given scenario, contention raised by the appellant that it is a case of contributory negligence of the deceased is not meritorious and accordingly rejected. That being so, plea of the insurer that it is a case of composite negligence in respect of cases of the injured is also not tenable.

This brings the Court to quantum of compensation assessed in respect of death of Mehar Singh and injuries sustained by Harjit Singh. The sole submission made by counsel is with regard to assessment of monthly income at the rate of Rs.9300/-. Mehar Singh was admittedly driver of ill-fated car. Taking a clue from minimum wage of a skilled worker at the relevant time, I do not find any reason to interfere in assessment of income of Mehar Singh.

So far as income of Harjit Singh, it has been proved that Harjit Singh was owner of agricultural land and copy of jamabandi in this regard was produced on record. In the given circumstances, income of Harjit Singh assessed by the Tribunal cannot be faulted with. In view of the above, there is no ground for intervening in assessment of compensation by the Tribunal.

No other point has been raised.

For the foregoing reasons, finding no merit, the appeals fail and are accordingly dismissed in limine. However, nothing stated hereinbefore shall cause prejudice to the claimants if they file an appeal(s) for enhancement of compensation.

**SEPTEMBER 13, 2019**  
'D. Gulati'

**(REKHA MITTAL)**  
**JUDGE**

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | yes/no |
| Whether reportable        | : | yes/no |