



FAO-2546-2003(O&M)
& XOBJC-11-CII-2005

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

(234)

**FAO-2546-2003(O&M)
& XOBJC-11-CII-2005
Reserved on : 10.11.2025
Pronounced on:--17.11.2025**

Devinder Kaur & others

...Appellants

Versus

Suraj Bhan & others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Maneet Kaushik, Advocate,
Mr. Sagar Aggarwal, Advocate
for the appellant.

None for the respondent No.2

Ms. Pratiksha Sharma, Advocate
Ms. Veena Ashwani Talwar, Advocate
for the Respondent No.3.

VIRINDER AGGARWAL,J.

1. This common judgment shall dispose of FAO No. 2546 of 2003 and Cross-Objection-CII-No. 11 of 2005, as both arise out of the same award dated 02.04.2003 passed by the Motor Accident Claims Tribunal, Karnal. The appeal has been filed by the claimants seeking enhancement of compensation, whereas the cross-objection has been preferred by respondent No. 2 (owner) challenging the recovery rights granted to the insurer to recover the compensation which has already been disbursed to the claimant by the insurance company. Since the evidence, facts and the impugned award are common, both matters are being adjudicated together.

**BACKGROUND FACTS**

2. The case of the claimants before the learned Tribunal was that on 29.10.2000 at about 10:30 AM, deceased Bakshish Singh, aged about 32 years, was travelling on his bicycle towards his agricultural land when he reached near Kadiyan Farm on the Nissing-Kaithal road. At that time, Truck No. (HR-45-2345), driven by respondent No. 1 Suraj Bhan in a rash and negligent manner at high speed and without observing traffic rules, struck his bicycle from behind, resulting in serious injuries to which the deceased succumbed. The claimants, being the dependants in a joint family setup, filed a petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs. 10 lakhs on account of the accidental death.

3. The driver (respondent No. 1) and owner (respondent No. 2) appeared and contested the petition, alleging that the accident was caused due to the deceased's own negligence while overtaking another vehicle. The insurer also contested the claim and, in addition to the defence of negligence, pleaded breach of policy conditions on the ground that the driver did not possess a valid and effective driving licence on the date of accident.

4. The learned Tribunal, upon appreciating the evidence on record, concluded that the accident was the result of the rash and negligent driving of respondent No. 1. This conclusion was founded primarily on the ocular testimonies of Swaran Singh (PW-1) and Sher Singh (PW-5), whose accounts of the manner of occurrence were consistent and stood duly corroborated by FIR No. 281, the accompanying police papers and the criminal case record (Annexures P-1 to P-3). The respondents failed to adduce any evidence in rebuttal. Further, the learned Tribunal assessed the income of the deceased on the basis of minimum



wages at Rs. 2,100 per month, deducted one-third towards personal expenses and applied multiplier of 3, awarding loss of dependency of Rs. 50,400. Moreover, the learned tribunal awarded an amount of Rs. 10,000 towards funeral expenses, loss of estate and other conventional heads, thereby determining total compensation at Rs. 60,400/- with interest @ 9% per annum from the date of petition till realization. The learned Tribunal, upon examining the verification reports (Ex.R2 and Ex.R3) issued by the Licensing Authority, Bhilwara (Rajasthan), along with the second licence (Ex.R4) allegedly issued from Dhimapur, Nagaland, returned a categorical finding that respondent No. 1 was not shown to possess a valid driving licence. Further, Ex.R2 and Ex.R3 unequivocally stated that the Bhilwara licence had never been issued in his name, and the learned Tribunal further found the alternative licence, (Ex.R4), to be inherently suspicious, observing that there was no plausible explanation or supporting material to justify how a resident of Karnal could have obtained a driving licence from Nagaland. The learned Tribunal granted recovery rights in favour of the insurance company and against the owner on the ground that the driving licence produced by the driver was not valid.

CONTENTIONS

5. Learned counsel for the appellants contends that the learned Tribunal erred in treating the deceased as a menial worker despite evidence that he was agriculturist and milk vendor earning substantially more than minimum wages. Learned counsel for appellant further erred in applying an unduly low multiplier of 3 for a deceased aged 32 years. Further, It is argued that the learned Tribunal failed to award just compensation under the settled heads recognized in motor accident jurisprudence, necessitating enhancement.



6. Learned counsel for the cross-objector submits that the learned Tribunal gravely erred in holding the driving licence invalid merely because it was issued from Nagaland while the driver resided in Karnal. Further, the learned Counsel argued that licence (Ex. R-4) was never proved fake by the insurer as no witness was examined from the issuing authority, and the burden was wrongly shifted on the owner. Learned counsel further prayed that the finding granting recovery rights be set aside.

7. Per contra, learned counsel for the insurer argues that the licence verification from Licensing Authority, Bhilwara, Rajasthan revealed a fake licence and that the second licence from Nagaland was unbelievable and suspicious. So, learned counsel submitted that the learned Tribunal rightly granted recovery rights in view of breach of policy conditions.

OBSERVATIONS AND FINDINGS

8. At the outset, it is necessary to record that upon consideration of the evidence, record and arguments advanced, I am of the view that the both appeal and Cross-Objection case deserves to be allowed. The reasons are recorded hereunder.

A. FAO No. 2546 of 2003 (Enhancement of Compensation)

9. The learned Tribunal, on an appreciation of the oral and documentary evidence adduced by the party, rightly came to the categorical conclusion that the accident had occurred due to the rash and negligent driving of the offending vehicle by respondent No.1. However, the learned Tribunal's approach in awarding the amount of ₹60,400/- without applying the future prospects, correct multiplier and accurate conventional heads, is erroneous and warrants interference. The Hon'ble Supreme Court has repeatedly emphasized the need



for a structured and uniform approach to compensation in motor accident death cases to ensure just compensation under Section 166 of the Motor Vehicle Act.

10. Firstly, with regard to the assessment of income, it is noted that the learned Tribunal correctly proceeded on the basis that there was no reliable documentary evidence to establish the actual earnings of the deceased, who was stated to be engaged in agricultural and dairy-related work. In the absence of any proof of regular or quantifiable income, and with the oral testimony of the witnesses being general in nature and unsupported by records, the learned Tribunal rightly assessed the income of the deceased on the basis of the prevailing minimum wages at ₹2,100/- per month. The claim that the deceased was earning substantially higher amounts from milk vending was not substantiated by any independent or documentary evidence. Consequently, the determination of income by applying minimum wages stands fully justified and warrants no interference.

11. However, it is to be noted that the computation of compensation is not in conformity with the settled principles of law governing assessment of just compensation. The learned Tribunal has failed to make additions towards future prospects, which is now mandatory in the case of self-employed, as held by the Constitution Bench of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680**. Before proceeding further, it is necessary to address the issue of dependency, which has been incorrectly determined 1/3rd by the learned Tribunal. However, as per the settled principle laid down in ***Sarla Verma v. DTC*, (2009) 6 SCC 121**, in the case of an unmarried deceased, 50% of the income is required to be deducted towards personal and living expenses, with the remaining 50% to be taken as contribution to the family. Additionally, as per ***Pranay Sethi (supra)*** and



Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram, (2018)

18 SCC 130., Consortium is restricted only to the spouse, children and parents of the deceased. Since the present claimants are the brother, his wife and their children, they are not entitled to consortium and will only be eligible for funeral expenses and loss of estate under conventional heads.

12. Accordingly, the compensation is required to be reassessed by applying the above judgments and considering the age of the deceased as **32 years** (Post Mortem Report). The reassessment is structured as under:

REASSESSED COMPUTATION

Particulars	Reassessed Award (₹)
Annual Income	25,200/-
Income With Future Prospects (40%)	35,280/- (25,200 + 10,080)
Deduction (50%)(For Personal Expenses)	17,640/-
Annual Contribution To Family	17,640/-
Multiplier (age 32 yrs)	16
Loss Of Dependency	2,82,240/- (17,640 × 16)
Loss Of Estate	15,000/-
Funeral Expenses	15,000/-
Total	₹3,12,240/-

B. Cross-Objection No. 11 of 2005 (Recovery Rights)

13. This Court is unable to sustain the conclusion reached by the learned Tribunal in granting recovery rights to the insurer. The burden to establish a breach of policy conditions squarely rests upon the insurance company, and in the present case, the insurer failed to discharge that burden. Although verification reports (Ex.R2 and Ex.R3) issued by the Licensing Authority,



Bhilwara, Rajasthan indicated that the licence earlier relied upon by respondent No. 1 had not been issued in his name, the respondent No.1 simultaneously produced another driving licence (Ex.R4), purportedly issued by the Licensing Authority at Dimapur, Nagaland. Once Ex.R4 was placed on record, it was incumbent upon the insurer to lead cogent evidence to rebut its genuineness. However, the insurer did not summon any official from the concerned authority at Nagaland, nor did it produce any documentary proof to show that Ex.R4 was fake, forged, or not traceable in official records. The learned Tribunal's inference that a resident of Karnal could not have obtained a licence from Nagaland is merely speculative and cannot substitute the legal requirement of affirmative proof. Further, "Residence at Karnal", by itself, is no ground in law to discard a licence allegedly issued by another State, particularly when no evidence was led by the insurer to impeach its validity. Even the fact that the earlier licence was not issued in his name does not render Ex.R4 invalid in the absence of positive evidence to the contrary.

14. Reliance can be relied upon judgment by the Hon'ble Supreme Court in the case of ***IFFCO Tokio General Insurance Co. Ltd. v. Geeta Devi (SC) 2024 All SCR 48***, which observed as following:

"15. As already pointed out supra, once a seemingly valid driving licence is produced by a person employed to drive a vehicle, unless such licence is demonstrably fake on the face of it, warranting any sensible employer to make inquiries as to its genuineness, or when the period of the licence has already expired, or there is some other reason to entertain a genuine doubt as to its validity, the burden is upon the insurance company to prove that there was a failure on the part of the



vehicle owner in carrying out due diligence apropos such driving
licence before employing that person to drive the vehicle.”

.....(emphasis supplied)

15. In the present case, the learned Tribunal’s finding that the respondent No.1 (driver) lacked a valid licence cannot be upheld. Once the driver produced Ex.R4, a facially valid licence, the burden lay on the insurer to prove that it was fake or not issued by the competent authority. Since no such evidence was led by the insurance company, the learned Tribunal’s assumption that a Karnal resident could not obtain a licence from Nagaland is speculative and contrary to the law. As the insurer failed to establish any breach by the owner, the grant of recovery rights is unsustainable and requires interference. The cross-objection, which rightly challenges the unsustainable finding of the learned Tribunal, is well-founded and deserves to be allowed.

16. In view of the foregoing discussion, **FAO No. 2546 of 2003** is **partly allowed** and the compensation payable to the claimants is enhanced to **₹3,12,240/-** along with interest at rate 7% per annum from the date of filing of the petition till realization. Similarly, the **Cross-Objection No. 11 of 2005**, preferred by respondent No. 2, is also **allowed**. The liability of respondent Nos. 1, 2 and 3 shall continue to be joint and several. Respondent No.3, being the insurer, shall be liable to pay the award.

17.10.2025
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No