

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****130****FAO-1494-2025 (O&M)****Date of Decision : 06.03.2025**

New India Assurance Company Ltd

....Appellant

VERSUS

Daljit Singh And Others

....Respondents

130-1**FAO-1500-2025 (O&M)**

New India Assurance Company Ltd

.... Appellant

VERSUS

Daljit Singh And Others

....Respondents

130-2**FAO-1494-2025 (O&M)**

New India Assurance Company Ltd

....Appellant

VERSUS

Daljit Singh And Others

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashwani Talwar, Advocate for the appellant.

ALKA SARIN, J. (Oral)

1. Present order shall dispose off all the above-captioned appeals filed by the Insurance Company challenging the awards separately passed by the Motor Accident Claims Tribunal, Tarn Taran vide awards dated 25.10.2024.

2. The brief facts relevant to the present *lis* are that on 21.10.2020 at about 04.30/05.00 am, deceased Narinder Singh along with his wife Balwinder Kaur and daughter Rajbir Kaur was going from village Sarhali to Brick kiln Dargapur on a cycle rehri for doing their work of labour. At about 04.30/05.00 am when they reached 2-3 killas ahead of Patti Maur, Sarhali, a truck bearing registration No.RJ-07-GC-5767 (hereinafter referred to as the 'offending vehicle') came from the side of Harike and hit the cycle rehri from behind. Narinder Singh, his wife Balwinder Kaur and daughter Rajbir Kaur fell from the cycle rehri on the road and the offending vehicle ran over all the three travelling on the cycle rehri. Narinder Singh and Rajbir Kaur died at the spot. Balwinder Kaur was taken to Tarn Taran hospital, however, on reaching the hospital she was also declared dead. The claim petitions were filed by the claimants averring therein that the accident took place solely due to rash and negligent driving of the driver of the offending vehicle i.e. respondent No.7 herein. FIR No.260 dated 21.10.2010 under Sections 304-A, 379 and 427 of the Indian Penal Code, 1860 was recorded at Police Station Sarhali, Taran Taran on the statement of Daljit Singh. The claim petitions were contested by the Insurance Company, whereas the owner and driver of the offending vehicle were proceeded against *ex parte*. Insurance Company raised various preliminary objections. It was the stand taken that there was violation of terms and conditions of the insurance policy. On merits, factum of the accident was denied. It was further the stand taken that the driver of the offending vehicle was not having any legal, valid and

effective registration certificate, route permit and fitness certificate at the time of the accident.

3. On the basis of pleadings of the parties, the following issues were framed :

1. Whether the accident in question had taken place due to rash and negligent driving of respondent no. 3 while driving the vehicle i.e. Truck bearing RC no. RJ-07-GC-5767 and Narinder Singh had lost his life due to his rash and negligent driving ? OPP
2. Whether the claimants are entitled to compensation, if so then to what extent and from which of the respondents ? OPP
3. Whether the claim petition is not maintainable ? OPR
4. Whether there is breach of terms and condition of insurance policy ? OPR
5. Relief.

4. The Tribunal, holding it to be a case of rash and negligent driving, allowed the claim petitions and awarded the following compensation :

MACP-63-2020

Sr. No.	Heads	Compensation Awarded
1	Income assessed	Rs.10,000/- per month (Rs.1,20,000/- per annum)
2	Deduction towards personal and living expenses (dependency)	(1/4 th of Rs.1,20,000/-) = Rs.30,000/-

3	Total income available for the family	Rs.90,000/-
4	Future prospects (add 10% on account of future earnings)	10% of Rs.90,000/- = 9,000/-
5	Multiplicand	Rs.99,000/- (Rs.1,20,000 - Rs.30,000 + Rs.9,000)
6	Multiplier	11
7	Loss of dependency	Rs.10,89,000 (Rs.99,000 x 11)
8	Loss of Estate	Rs.15,000/-
9	Loss of consortium (Rs.40,000/- payable to each of the petitioner)	Rs.40,000 x 5 = Rs.2,00,000/-
10	Funeral expenses	Rs.15,000/-
	Total (6 to 9)	Rs.13,19,000/-

MACP-64-2020

Sr. No.	Heads	Compensation Awarded
1	Income assessed	Rs.10,000/- per month (Rs.1,20,000/- per annum)
2	Deduction towards personal and living expenses (dependency)	(1/2 of Rs.1,20,000/-) = Rs.60,000/-
3	Total income available for the family	Rs.60,000/-
4	Future prospects (add 40% on account of future earnings)	40% of Rs.60,000/- = 24,000/-
5	Multiplicand	Rs.84,000/- (Rs.1,20,000 - Rs.60,000 + Rs.24,000)
6	Multiplier	18
7	Loss of dependency	Rs.15,12,000 (Rs.84,000 x 18)
8	Loss of Estate	Rs.15,000/-
9	Loss of consortium (Rs.40,000/- payable to each of the petitioner)	Rs.40,000 x 5 = Rs.2,00,000/-
10	Funeral expenses	Rs.15,000/-
	Total (6 to 9)	Rs.17,42,000/-

MACP-59-2020

Sr. No.	Heads	Compensation Awarded
1	Income assessed	Rs.10,000/- per month (Rs.1,20,000/- per annum)
2	Deduction towards personal and living expenses (dependency)	(1/4 th of Rs.1,20,000/-) = Rs.30,000/-
3	Total income available for the family	Rs.90,000/-
4	Future prospects (add 10% on account of future earnings)	10% of Rs.90,000/- = 9,000/-
5	Multiplicand	Rs.99,000/- (Rs.1,20,000 - Rs.30,000 + Rs.9,000)
6	Multiplier	11
7	Loss of dependency	Rs.10,89,000 (Rs.99,000 x 11)
8	Loss of Estate	Rs.15,000/-
9	Loss of consortium (Rs.40,000/- payable to each of the petitioner)	Rs.40,000 x 5 = Rs.2,00,000/-
10	Funeral expenses	Rs.15,000/-
	Total (6 to 9)	Rs.13,19,000/-

5. Aggrieved by the awards, present appeals have been preferred by the Insurance Company.
6. Learned counsel for the appellant would contend that there is no eye-witness to the said accident and that the offending vehicle is a planted vehicle. It is further the contention that in the absence of any eye-witness and in the absence of any evidence to show the involvement of the offending vehicle, the Tribunal has erred in allowing the claim petitions.
7. Heard.

8. In the present case, three people lost their lives in an accident which took place on 21.10.2020 at about 04.30/05.00 am. The offending vehicle in the present case bears registration number of Rajasthan and both owner and driver of the offending vehicle belong to Bikaner, Rajasthan. The claimants in the present case are labourers. Even their parents and sister, who lost their lives in the accident, were labourers and were residents of Tarn Taran. The argument of learned counsel for the appellant that present is a planted case is rather farfetched inasmuch as there is nothing on record to show that the claimants, who are residents of Tarn Taran and are casual labourers, had any connection whatsoever with the owner or driver of the offending vehicle, who are residents of Bikaner. On a query put by the Court as to whether route permit and the driving licence etc. were verified by the Insurance Company, learned counsel for the appellant has candidly admitted that the same were got verified. Had it been a case where route permit for the area was not granted to the said offending vehicle, the Court would have still interfered in the award passed by the Tribunal. However, there is nothing on record to show that the said offending vehicle did not have route permit to ply on the road where the accident took place. No independent evidence was brought on the record to disprove the involvement of the vehicle.

9. Further still, the argument of learned counsel for the appellant that since there is no eye-witness hence, the Tribunal erred in passing the award granting compensation is also deserved to be rejected. Admittedly, the FIR in the present case was registered on the day of the accident itself i.e. on 21.10.2020 and as stated above, three people lost their lives. Keeping in

view the instant lodging of the FIR in this case, there appears to be no chance of false implication of the offending vehicle. Further, it is not necessary that there would be an eye-witness in such type of motor vehicle accident cases and due to that reason the award passed by the Tribunal cannot be faulted with. Hon'ble Supreme Court in the case of **Sunita & Ors. vs. Rajasthan State Road Transport Corporation & Anr. [2020 (13) SCC 486]** has held as under :

“ It is thus well settled that in motor accident claim cases, once the foundational fact, namely, the actual occurrence of the accident, has been established, then the Tribunal's role would be to calculate the quantum of just compensation if the accident had taken place by reason of negligence of the driver of a motor vehicle and, while doing so, the Tribunal would not be strictly bound by the pleadings of the parties. Notably, while deciding cases arising out of motor vehicle accidents, the standard of proof to be borne in mind must be of preponderance of probability and not the strict standard of proof beyond all reasonable doubt which is followed in criminal cases.”

10. Further, Hon'ble Supreme Court in the case of **Anita Sharma & Ors. vs. The New India Assurance Co. Ltd. & Anr. [2021 (1) RCR (Civil) 200]** has held as under :

“ 22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict

principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eyewitnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646. wherein this Court reiterated that:

"7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (Bimla Devi v. Himachal RTC [(2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101])"

(emphasis supplied)

23. *The observation of the High Court that the author of the FIR (as per its judgment, the owner-cum-driver) had not been examined as a witness, and hence adverse inference ought to be drawn against the appellant-claimants, is wholly misconceived and misdirected. Not only is the owner-cum-driver not the author of the FIR, but instead he is one of the contesting respondents in the*

Claim Petition who, along with insurance company, is an interested party with a pecuniary stake in the result of the case. If the owner-cum-driver of the car were setting up a defence plea that the accident was a result of not his but the truck driver's carelessness or rashness, then the onus was on him to step into the witness box and explain as to how the accident had taken place. The fact that Sanjeev Kapoor chose not to depose in support of what he has pleaded in his written statement, further suggests that he was himself at fault. The High Court, therefore, ought not to have shifted the burden of proof."

11. In view of the above, I do not find any merit in the present appeals and the same are accordingly dismissed. Pending applications, if any, also stand disposed off.

06.03.2025

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO