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

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Date of decision: 17.03.2025

United India Insurance Company Limited

... Appellant

Vs.

Pal Kaur @ Palo and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Neeraj Khanna, Advocate for the appellant.

None for the respondents.

SUVIR SEHGAL J.

1. Assailing award dated 23.10.2000 passed by the Motor Accident Claims Tribunal, Ludhiana (for short 'the Tribunal') Insurance Company has filed the instant appeal under Section 173 of the Motor Vehicles Act, 1988 (for short 'the MV Act').

2. In brief, facts leading to the filing of the appeal are that on 18.02.1995, Jarnail Singh @ Zail Singh was driving a tractor, and his brother Baldev Singh was sitting with him. The tractor was hit by tanker bearing No. RJ-02G-1690 driven by Harbinder Singh in a negligent manner. The tractor trolley turned turtle and Jarnail Singh succumbed to injuries sustained by him in the accident. Claimants -respondents No. 1 to 4 filed a petition under Section 166 of the MV Act, which has been partly accepted and they have been granted compensation of



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Rs.2,55,000/- along with interest @ 12% from the date of the filing of the claim petition. The driver and owner of the offending vehicle as well as the Insurance Company have been jointly and severally held liable to pay the compensation amount.

3. Mr. Neeraj Khanna, counsel for the appellant has argued that Harbinder Singh, did not possess a driving licence and the insurance company has been wrongly saddled with the liability of making payment. He has referred to the testimony of Rajesh Kumar Dang, RW-2, Surveyor to buttress his submissions.

4. I have heard counsel for the appellant and considered his submissions besides examining the record with his able assistance.

5. Claimants has examined Baldev Singh PW-5, who deposed that on the fateful day, he was travelling along with his brother Jarnail Singh on the tractor when the offending tanker hit the tractor from behind. He categorically stated that the offending vehicle was being driven at a high speed and as a result of the accident, he was thrown on the road, whereas his brother died at the spot on account of multiple injuries sustained by him. Dr. Kuldeep Singh PW-1, produced the postmortem report, Ex.P-1, which shows that the death had occurred as a result of injuries suffered in a vehicular accident. FIR bearing No.15 dated 18.02.1995, Ex.P-2 has been produced by Constable Kuldeep Singh, PW-2, which establishes the factum of accident. The owner and the insurance company could not produce any evidence to rebut the testimony of the witnesses produced by the claimants. The driver of the offending vehicle, who was the best witness to dispute the factum of

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accident, was proceeded against ex parte. On the basis the evidence led by the claimants, Tribunal came to the conclusion that accident had occurred on account of the rash and negligent driving by Harbinder Singh, which resulted in the demise of Jarnail Singh.

6. On the basis of the testimony of the Pal Kaur, PW-4, widow of the deceased and Karnail Singh PW-3, Tribunal came to the conclusion that the deceased was getting a monthly salary of Rs.3,000/- and he was working as a driver. Although, claimants could not produce any documentary evidence regarding the salary and income, Tribunal treated the deceased to be a casual worker and came to the conclusion that his monthly income was Rs.2,000/-. After making a deduction on account of personal expenses and applying a multiplier of 14 and granting compensation under conventional heads, Tribunal found the claimants are entitled to compensation of Rs. 2,55,000/-.

7. Rajesh Kumar Dang, RW-2, Surveyor, appointed by the Insurance Company, has deposed that he had checked the record of the District Transport Officer, Dehradun and he found that the driving licence of Harbinder Singh was not entered in the record of the DTO. On that basis the Insurance Company has claimed that the driving licence of Harbinder Singh, driver of the offending vehicle was fake. Besides the statement of the surveyor, Insurance company has not led any other evidence to prove the licence is bogus. There is no evidence, in the shape of record, from the office of the concerned Transport Officer, in the absence of which, this Court cannot come to the conclusion that the driving licence was bogus. Onus to establish that the licence is sham was



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on the insurance company, which it has failed to discharge. Therefore, there is no substance in the arguments raised by counsel for the appellant.

8. Finding no merit in the appeal, it is dismissed with no order as to costs.

9. Pending application(s), if any, is/are disposed off.

17.03.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No