



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

FAO-2878-2001 (O&M)
Reserved on 28.08.2025
Pronounced on 12.11.2025

Sheela Devi and others

...Appellants

Versus

Ashwani Kumar and others

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Sanjay Majithia, Senior Advocate
with Mr. Sumit Sinha, Advocate,
for the appellants.

Mr. Sanjeev Sharma, Advocate,
for respondent Nos.1 and 2.

Mr. Neeraj Khanna, Advocate,
for Mr. Ravinder Arora, Advocate,
for respondent No.3-United India Insurance Co. Ltd.

HARPREET KAUR JEEWAN, J.

1. The appellant-claimants have preferred the present appeal, aggrieved against the dismissal of their claim petition by the Motor Accident Claims Tribunal, Hoshiarpur (*hereinafter referred to as 'the Tribunal'*), vide impugned Award dated 07.06.2000.

2. The facts, in brief, are as under:-

2.1 The claimants, who are the widow, children and mother of Sandhya Dass, sought compensation regarding the death of Sandhya Dass (*since deceased*), in a motor accident. As per the version of the claimants, deceased was serving as a driver of the truck bearing registration No.PB-07-C-5277 (*hereinafter referred to as 'the truck'*), which is owned by Ashwani Kumar-respondent No.1. On



the night intervening 19/20 July, 1997, deceased along with his co-driver, Nasha Ram, respondent No.2 was coming from Jalandhar to Hoshiarpur, after unloading wooden pillars at Jalandhar. At the relevant time, Nasha Ram was driving the truck, whereas the deceased was sitting beside him as a co-driver. The truck was plying in the area of Village Lamme Pind Chowk and meanwhile, the deceased alighted from the truck to attend the call of nature. While the deceased was again boarding the truck after easing, the driver immediately drove the truck at a fast speed. Resultantly, the deceased fell on the road and was crushed under the rear wheels of the truck. The deceased ultimately succumbed to the injuries at the spot. The occurrence was witnessed by one Subhash Chand, AW-4.

2.2 A DDR bearing No.6/8 dated 20.07.1997 was registered at the instance of SPO Vijay Kumar at Police Station Division No.8, Jalandhar and on the basis of said DDR, FIR No.90 dated 20.07.1997 (Ex.A-1) was registered in the concerned Police Station. As per the version in the said FIR, the informant Vijay Kumar was on patrol duty. At about 7.30 a.m., when he reached Lamme Pind Chowk, he found the body of an unknown person on the road; the head was crushed, appearing that an unknown vehicle had crushed the body.



2.3 It is the version of the claimants that the FIR was not properly registered as Nasha Ram, driver-respondent no.2 is the relative of the deceased.

2.4 Postmortem examination of the dead body was conducted at Civil Hospital, Jalandhar.

2.5 It is the case of the claimants that earlier, owner of the truck assured to compensate, but he did not; as such after the accident, the claimants had developed strained relationship with the driver of the vehicle and ultimately, they lodged the claim petition before the Tribunal.

2.6 Respondent no.1-owner of the truck contested the petition by filing written statement, taking a plea that it was a case of hit and run. It was denied that the truck was involved in the accident. It was also denied that Nasha Ram-respondent no.2 was the driver of the aforesaid truck.

2.7 Separate written statement on behalf of respondent No.2-driver of the truck was filed. It was admitted that at the time of the accident, the deceased along with respondent no.2 was coming from Jalandhar to Hoshiarpur, however it was alleged that the deceased took liquor in a heavy quantity on the previous night, and he was still in a drunken condition at the time of the occurrence. The deceased was sitting in the cabin of the vehicle. He tried to alight from the moving vehicle and respondent No.2 tried to stop the deceased from doing so. Ultimately, he fell on the road while opening the door of



the cabin. Due to the impact, the deceased died on the spot. A specific plea was taken that the accident took place due to the negligence of the deceased himself and respondent No.2 was not at fault.

2.8 Separate replications to both the written statements were filed, thereafter, the following issues were framed by the Tribunal:-

1. *Whether the accident took place due to rash and negligent driving of truck No.PB-07-C-5277 by its driver respondent No.2 resulting in the death of Sandhya Dass? OPA.*
2. *To what amount of compensation the claimants are entitled to and from whom? OPA.*
3. *Whether the respondent-driver was not possessing a valid driving licence? OPR3.*
4. *Whether the claim petition is not maintainable? OPR3.*
5. *Relief.*

2.9 The Tribunal observed that there was a collusion *inter se* the claimants and respondent No.2-the alleged driver of the truck. The Tribunal is of the opinion that all efforts have been made by Nasha Ram-respondent No.2 to create false evidence so that claimants could get compensation. The Tribunal did not believe the statement of the alleged eyewitness and dismissed the claim petition.

3. Learned Senior counsel appearing on behalf of the claimant-appellants contends that there is substantial evidence on record to prove that the truck was involved in the accident and the deceased was travelling in the said truck at the time of the accident. It is further contended that the version of the driver that the deceased was intoxicated is not believable as in the Postmortem report



(Ex.A-4), no traces of alcohol were found. Regarding the involvement of the vehicle in question, reference was made to the octroi receipt (Ex.A-2), issued by the Municipal Corporation, Jalandhar and the billity (Ex.A-3) and it was submitted that in fact, the truck actually travelled on the said route. It is contended that merely on the ground that truck number is missing in the FIR and Nasha Ram-respondent No.2 is step brother of the deceased, the entire evidence on record cannot be disbelieved. There is substantial evidence on record that the deceased died on account of rash and negligent driving of Nasha Ram-respondent No.2.

4. Learned counsel for the respondent Nos.1 and 2 while making reference to the reasons recorded by the Tribunal contends that the petition has been rightly dismissed.

5. I have considered the aforesaid submissions and perused the paper-book.

6. There is substantial evidence on record that the deceased was travelling in the truck, and the accident took place due to the use of the truck. The matter was promptly reported to the Police by a Special Police Officer (SPO), when he found the dead-body on the road. The contents of the FIR indicate that the DDR was promptly recorded after the dead-body was recovered from the spot on 20.07.1997. The observations given by the informant in the FIR clearly indicate that the deceased died on account of a roadside accident. Even in the postmortem report, Ex.A-4, there is a reference that the Police had supplied the information to the concerned doctor that the deceased died due to the roadside accident. At the time when the aforesaid DDR and



FIR were recorded, apparently, there was no manipulation of the facts. So far as the fact that the name of the driver, number of the vehicle involved in the accident and the manner in which the accident took place are not mentioned in the FIR, the same stands explained on account of the fact that respondent No.2-driver of the vehicle is a close relative of the deceased. It is the case of the appellants that after the alleged incident, relationship *inter se* the claimants and the driver got strained, and only then, they filed the claim petition. Though morally, it should be, but probability is weak about self-implication by the driver of the offending vehicle. Similarly, there is least probability of an offending driver reporting the matter to Police. In the present case, the alleged driver-respondent No.2 had admitted in the written statement that the deceased was travelling with him at the time of the accident, but denied his involvement by alleging that the deceased was in a drunken condition and tried to get off from the moving vehicle.

7. This Court has also observed that everyone has tried to twist the facts. The owner of the vehicle had denied the involvement of the vehicle in the written statement, but while appearing as RW-1, he has denied the suggestion that his truck was booked by Gurmail Singh of Jalandhar for the purpose of loading the goods from Sher-e-Punjab Transport Company, New Sabzi Mandi, Hoshiarpur. His oral statement is found falsified by the octroi records produced by Raj Kumar, AW-2 (A2) which indicate that the truck (PB-07-C-5277) had paid octroi while *en route* to Jalandhar. Ex.A-3 is the copy of the bill regarding purchase of goods from Sher-e-Punjab Transport Company, Hoshiarpur and the aforesaid truck number is mentioned in the said bill as a transporting vehicle. These documents had come from the official



records of the Municipal Corporation and falsify the testimony of the owner of the vehicle.

8. Respondent no.2-Nasha Ram appeared as RW-3. In his examination-in-chief, he stated as per the stand taken in the written statement, but in the cross-examination, he stated that he took the deceased to the hospital. He has also admitted the place of accident and the postmortem examination of the deceased. He has also admitted that he identified the dead-body at the time of postmortem examination. He has further admitted that the truck in question was taken into possession by the Police and Ashwani Kumar-owner of the truck got it released from the Police. He has further alleged that the FIR was lodged by Ashwani Kumar-owner of the truck and admitted the suggestion that the owner of the truck stated to the claimants that in a span of time, he would pay the compensation to them. Even he was removed from service by the owner of the truck, and he did not pay any compensation to the claimants.

9. Apart from the aforesaid admissions on the part of the driver of the truck, the claimants have examined Subhash Chander, AW-4. As per his version, on the fateful day, he was travelling on the road and he stopped to attend the call of nature and found that the truck stood by and a person came running from one side and tried to board the truck, whereas, the driver started moving it and resultantly, the person while trying to board it, fell down and got crushed under the wheels of the truck. In the cross-examination, he clarified that he is an electrician and running his shop at Madan Flour Mill Chowk, Jalandhar. He has further stated that he stayed at the spot of accident



for 5-7 minutes. He is a chance witness, and his testimony has credibility.

10. The aforesaid facts and evidence on record clearly indicate that facts were distorted from time to time on account of the fact that the driver of the truck is a close relative of the deceased. In such circumstances, it is natural human conduct that the claimants wanted to save him (driver of truck) from culpability of the accident, being their relative. As such, if the FIR has not been registered against the driver of the truck, this cannot be a ground to non-suit the claimants as none of the claimants is an eyewitness of the accident.

11. The circumstances proved on record as well as the testimony of AW-4 Subhash Chander and subsequent admissions made on the part of respondent No.2-driver, it is amply proved that Nasha Ram was rash and negligent in driving the truck resulting into the accident. The explanation given by the driver that the deceased was intoxicated and fell while alighting from the truck is not found correct as the postmortem report has no reference of alcohol traces. The only inference which can be drawn is that respondent No.2-driver as well as respondent No.1-owner have tried to twist the facts to avoid liability of the accident. The observations of the Tribunal that there is a collusion *inter se* the claimants and the respondents is not acceptable since the records of the Municipal Corporation clearly indicate that the truck had travelled the road in question and even the said documents are supported by the mention of the truck number on the purchase bills of the goods.



12. Taking into consideration all the aforesaid facts, the findings of the Tribunal are liable to be set aside and it is concluded that the truck was involved in the accident; the deceased died due to the rash and negligent driving of the driver-respondent No.2; and the claimant-appellants are eligible to receive compensation on account of the death of deceased in the aforesaid accident.

Quantum of compensation:

13. As per the version of the claimant-Sheela Devi, AW-3, age of the deceased was 46 years, however, the age is mentioned as 50 years in the postmortem examination report, Ex.A-4. Respondent no.2, a relative of the deceased has admitted his presence at the time of postmortem examination. The claimants have not proved any documents to show that the age of the deceased was 46 years, and as such, the age of the deceased is determined as 50 years on the basis of entry in the postmortem report.

14. Regarding income, there is no documentary evidence, however, oral statement of the claimants that the deceased used to get Rs.5,000/- per month as salary from Ashwani Kumar is accepted and the income is determined as Rs.5,000/- per month.

14.1 The deceased is survived by his widow, daughter, a minor son and mother, as such, deduction on account of personal expenses is determined as 1/4th.

15. Keeping in view the age of the deceased and his monthly income, the compensation is determined as follows:-



Sr. No.	Heads	Compensation Awarded
1.	Monthly income	Rs.5,000/-
2.	Future Prospects @ 25%	Rs.6,250/- [Rs.5,000/- + Rs.1,250/-]
3.	Deduction 1/4 th	Rs.4688/- [Rs.6,250/- – Rs.1562.50]
4.	Annual income	Rs.56,256/- [Rs.4688/- x 12]
5.	Multiplier of ‘13’	Rs.7,31,328/- [Rs.56,256/- x 13]
6.	Loss of dependency	Rs.7,31,328/-
6.	Funeral expenses	Rs.15,000/-
7.	Loss of estate	Rs.15,000/-
8.	Loss of consortium (spousal, filial and parental)	[Rs.40,000/- x 4] = Rs.1,60,000/-
	Total Compensation	Rs.9,21,328/-
	Interest @ 7.5% per annum	From the date of filing the claim petition

16. The vehicle is admittedly insured by respondent No.3-United India Insurance Company. A copy of the Insurance Police is Ex.R-4. As per the aforesaid policy, respondent No.1 is the owner of the vehicle and respondent No.2 has been proved to be the driver at the time of the alleged accident. The liability of the respondents is joint and several. However, the Insurance Company shall make the payment of compensation within 06 weeks from today. The compensation shall be paid to all the claimants in equal shares.

17. The awarded amount shall be transferred by respondent No.3-Insurance Company in the Bank Accounts of the claimant-appellants within a period of 06 weeks from today. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants to respondent No.3-Insurance company within a period of 02 weeks from today and needful shall be done by respondent No.3-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.



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18. In view of the above discussion, the present appeal is allowed in the aforesaid terms and the award passed by the Tribunal is set aside accordingly.
19. Pending application(s), if any, shall also stand disposed of.

12.11.2025
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[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No