

306

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-2661-2023 (O&M)

Date of Decision : 02.12.2025

Oriental Insurance Company Limited

... Appellant(s)

Versus

Maya Devi & Ors

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashwani Talwar, Senior Advocate with
Mr. Deepak Goyat, Advocate and
Mr. Nikhil Sehrawat, Advocate for the appellant.

Mr. Amit Kumar Jain, Advocate for respondent Nos.1 to 4 & 6.

Mr. J.P. Sharma, Advocate for respondent No.7.

ALKA SARIN, J. (Oral)

1. The present appeal has been filed by the appellant-Insurance Company challenging the impugned award dated 04.01.2023 passed by the Motor Accident Claims Tribunal, Gurugram (hereinafter referred to as ‘Tribunal’) in a motor vehicle accident which occurred on 14.04.2020.
2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.
3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹43,300/-
2	Future Prospects - 40%	₹60,620/- [₹43,300 + ₹17,320]
3	Deduction - 1/4 th	₹45,465/- [₹60,620 - ₹15,155]
4	Annual Income	₹5,45,580/- [₹45,465 x 12]

5	Multiplier - 16	₹87,29,280/- [₹5,45,580 x 16]
6	Loss of estate	₹15,000/-
7	Funeral expenses	₹15,000/-
8	Loss of consortium	₹2,40,000/-
	Total Compensation	₹89,99,280/-
	Interest	7%

4. Learned counsel for the appellant-Insurance Company would contend that in the present case the claimants have not examined any eyewitness to prove the accident and hence the finding of the Tribunal on issue No.1 is erroneous. Learned counsel would further contend that the compensation awarded by the Tribunal is highly excessive inasmuch the accident had taken place in the year 2020 and the Tribunal has wrongly taken income of the deceased as per the ITR for the assessment year 2019-2020. Learned counsel would further contend that the age of the deceased was more than 35 years at the time of the accident and a multiplier of ‘15’ ought to have been applied instead of ‘16’.

5. *Per contra* learned counsel for the claimants would contend that the Tribunal has rightly assessed the compensation vide the impugned award and there is no scope of any interference therein.

6. I have heard the learned counsel for the parties.

7. The argument of the learned counsel for the appellant-Insurance Company that the claimants have not examined any eye witness to prove the accident and that the finding of the Tribunal on issue No.1 is erroneous, deserves to be rejected inasmuch as in the present case the accident admittedly had taken place on 14.04.2020 and FIR No.218 dated 14.04.2020 under Sections 279 and 304-A of the Indian Penal Code, 1860 was also registered on the same day against the driver of the offending vehicle (respondent No.7

herein), who also faced trial before the Illaqa Magistrate. Further, it is not necessary that there would be an eyewitness in such type of motor vehicle accident cases and merely due to non-examination of an eyewitness the impugned award passed by the Tribunal can be faulted. 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."*

8. The second argument of the learned counsel for the appellant-Insurance Company that the Tribunal has wrongly assessed the income of the deceased as per the ITR for the assessment years 2019-20 and that a wrong multiplier has been applied, also deserves to be rejected inasmuch as the claimants have examined Sh. Vijay Pal, Income Tax Inspector, Income Tax Office, Behror, Alwar, Rajasthan as PW3, who proved on record the last Income Tax Return filed by the deceased for the Assessment Year 2019-20 as Ex.P13. This ITR reveals the annual income of the deceased as ₹5,19,512/- and thus his monthly income comes out to ₹43,300/-. From the cross-examination of this witness, there is nothing to disbelieve the duly proved ITR of the deceased. The Hon'ble Supreme Court in a recent judgment dated 07.11.2025 in the case of **Sayar & Ors. Vs Ramkaran & Ors.** [CA No. _____

of 2025 arising out of SLP (C) No.24501 of 2025] while relying upon **Nidhi Bhargava Vs. National Insurance Co. Ltd [2025 SCC OnLine SC 872]** has held that Income Tax Returns filed after the accident/death can also be taken into consideration for assessing the income of the deceased. Coming to the age of the deceased, the accident had taken place on 14.04.2020 and the document Ex.P2 proved on the record by the claimants reveals the date of birth of the deceased as 20.07.1985. There is no evidence contrary thereto and thus as on 14.04.2020 the age of the deceased was less than 35 years. Hence, a multiplier of '16' has rightly been applied by the Tribunal.

9. No other argument has raised by the learned counsel for the appellant-Insurance Company.

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

02.12.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

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