

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****126****Date of decision: 06.11.2025****FAO-3058-2025(O&M)****Raj Kumar & Another****...Appellant(s)****Vs.****Dikshant & Others****...Respondent(s)***********FAO-2314-2025(O&M)****The United India Insurance Company Limited****...Appellant(s)****Vs.****Raj Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rajesh Hooda, Advocate
for the appellants/claimants
(in FAO-3058-2025).

Mr. Anil Mehra, Advocate
for the appellant/Insurance Company
in FAO-2314-2025.

*********NIDHI GUPTA, J.****FAO-3058-2025:**

Present appeal has been filed by claimants seeking
enhancement of compensation of Rs.46,68,000/- awarded by the Motor
Accident Claims Tribunal, Hisar (hereinafter 'the learned Tribunal') vide



Award dated 04.01.2025 passed in Claim Petition No.188-RBT dated 17.05.2022 filed under Section 166 of the Motor Vehicles Act (hereinafter “the Act”). The 2 claimants are the parents of deceased Rahul, who was 22 years old at the time of accident.

FAO-2314-2025:

Present appeal has been filed by the Insurance Company laying challenge to the Award dated 04.01.2025 passed by the Tribunal whereby Claim Petition No.188-RBT dated 17.05.2022 filed under Section 166 of the Act by the claimants/respondents No.1 & 2, has been allowed and compensation of Rs.46,68,000/- has been awarded to the claimants.

Both the above said appeals are being disposed of by this common order as both appeals arise out of the same Award dated 04.01.2025; accident dated 31.03.2022-1.4.2022 and parties, facts and offending vehicle in both cases, are same. For the sake of brevity, the parties are being referred to and the facts are being drawn from FAO-3058-2025 titled as “Raj Kumar & Another Vs. Dikshant & Others” filed by the claimants.

2. Facts as pleaded by the claimants in their Claim Petition before the Tribunal as recorded in Para 2 of the impugned Award are as under:-

“2. The case set up by claimants is that in the intervening night of 31/03/2022-01/04/2022, their son Rahul along with his friend Rahul r/o Punjab were going on their motorcycle no.PB-13BM-5955 from Lala Lajpat Rai University of Veterinary Sciences, Hisar to bus-stand, Hisar. When they reached near



Laxmi Bai Chowk, Hisar at around 12.30/01.00 a.m., offending car bearing no. HR-20AN/4218 came from the opposite side being driven in rash and negligent manner and the said car hit the motorcycle driven by claimant's son. Mahender Singh, uncle of claimant's son was following them on his motorcycle and he witnessed the accident. He took both the injured to Sapra Hospital, Hisar, where Rahul son of Raj Kumar was admitted. Rahul son of Raj Kumar was advised to be taken to Jindal Hospital, Hisar, where, he was declared dead. On the statement of Mahender Singh, FIR no.320 dated 01.04.2022, P. S. HTM, Hisar, under Sections 279, 337, 338, 427, 304-A IPC was registered. After investigation, police found that the accident in question took place due to rash and negligent driving of offending car by respondent no.1 and it filed final charge sheet against him before the concerned criminal Court. Petitioners have claimed that their son Rahul was a meritorious student and had completed B.Sc from Delhi University. He had taken admission in Two years Veterinary Livestock and Development Diploma in Lala Lajpat Rai University of Veterinary and Animal Sciences, Hisar. He had a bright future and career. He has also cleared the written and physical test of Haryana Police for recruitment as constable and the selection list was expected to come soon. It was contended that Rahul was likely to join constable in Haryana Police and he would have earned salary of Rs.35,000/- per month in the pay scale of Rs.21,700/--69,000/-. Hence, the claimants have filed the instant petition seeking compensation to the tune of Rs.1,00,00,000/-."



3. Learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the deceased Rahul had died due to the injuries suffered by him in a motor vehicular accident that took place on the intervening night of 31.03.2022-01.04.2022 at about 12:30 – 1 am. The Tribunal further concluded that the accident in question was a head-on collision between the motorcycle being driven by the deceased on the wrong side of the road and the car bearing registration no. HR-20AN/4218 (hereinafter referred to as 'the offending vehicle'), being driven by respondent no.1, owned by respondent no.2, and insured by respondent no.3. The offending car was found to be on the correct side of the road at Point-A of the site plan. Accordingly, the Tribunal had made a deduction of 50% towards contributory negligence and awarded total compensation of Rs.23,34,000/- to the claimants. The aforesaid compensation has been awarded along with interest @ 7% p.a. Respondents were held jointly and severally liable for payment of compensation.

4. Learned counsel for the claimants seeks enhancement of compensation by submitting that the learned Tribunal is in patent error in making a deduction of 50% towards contributory negligence as the Police, after investigation, had duly found that it was the offending car which was rash and negligent; that the accident in question had taken place due to the rash and negligent driving of the offending car. It is submitted that it is for



this reason that FIR was registered against respondent No.1; and challan (Ex.P22) was also filed against him in the criminal proceedings. It is submitted that it has nowhere been mentioned by the Police in its report under Section 173 Cr.P.C. that the deceased was also negligent for the accident. The respondent No.1/driver never filed any complaint or representation to the higher Police officials that he was not negligent. He did not even appear before the learned Tribunal as a witness to prove that he was not negligent. As such, the Tribunal was in gross error in making a deduction of 50% towards contributory negligence.

5. It is further submitted that the Ld. MACT, Hisar has wrongly relied on the Private Investigation Report submitted by Advocate of the Insurance Company as Ex. D-4. Ld. MACT has failed to appreciate that this Report is biased and was prepared at the behest of Insurance Company. Further, the Report was never proved by examining the Advocate who prepared the same. Hence, once the report was not even proved on record as per law, the same cannot be relied upon. It is settled law that mere exhibition of document is not sufficient unless it is proved on record by examining the person who prepared the same. Therefore, the findings qua contributory negligence are liable to be set aside.

6. Even on quantum, it is submitted that the Tribunal has awarded very low compensation of Rs.23,34,000/-; whereas as per latest judgment of Hon'ble Supreme Court in **NIC Vs. Pranay Sethi**, the claimants



are entitled to Rs.54,24,000/-. Therefore, compensation is liable to be enhanced. Interest is also on the lower side as 7% only; whereas it should be 12%. Ld. counsel accordingly prays for enhancement of compensation.

7. Ld. counsel for respondent No.3 vehemently opposes the submissions made on behalf of the appellants and submits that the impugned Award suffers from no error. It is submitted that the Site plan was very much a part of the report under Section 173 Cr.P.C. (Ex.P22) from which it is obvious that deceased was on the wrong side of the road. It is contended that in making the above submissions, the appellants are trying to mislead this Court. It is further submitted that given the fact that the accident had been caused due to the negligence of the deceased, liability for contributory negligence ought to have been affixed upon the deceased to the extent of 70% and only 30% upon the Insurance Company. On quantum of compensation, it is submitted that income of the deceased has also been taken on the higher side as Rs.30,000/- per month; whereas there is nothing on record to indicate that the deceased was earning the said amount. Even interest has been awarded on the higher side. Learned counsel accordingly prays that the impugned Award be modified in the above terms.

8. No other argument is made on behalf of the parties.

9. I have heard learned counsel and perused the case file in detail.

10. It has been contended on behalf of the claimants that the learned Tribunal has wrongly made a deduction of 50% towards



contributory negligence as: a) Challan was filed against respondent No.1; b) in its report submitted under Section 173 Cr.P.C., the Police has attributed negligence only to the respondent No.1 and not to the deceased; c) that there was nothing on record to indicate that there was any negligence on part of the deceased in causing the accident in question.

11. The said assertions on behalf of the claimants are misleading as the claimants have failed to convey complete and correct facts. A perusal of the Site Plan - which formed part of the Charge-sheet (Ex.P22) submitted by the Police upon investigation - shows that the deceased was on the wrong side of the road; whereas the offending vehicle was on the correct/left side of the road. Nothing has been shown by the claimants to this Court to controvert the above, said finding of fact recorded by the Tribunal. Accordingly, the learned Tribunal in Para 16 of the impugned Award has observed as follows: -

“16...The said site plan further reveals that offending car in question was ultimately found on the correct side of the road at point A. The motorcycle driven by deceased Rahul was also found on the same road. As per the petitioners and PW1 Mahender Singh, there was a head-on collision between the offending car and motorcycle and same establishes that deceased Rahul was driving his motorcycle on the wrong side of the road. Since deceased was driving his motorcycle on the wrong side of the road, he was clearly guilty of contributory negligence in as much as accident in question could have been avoided had he himself not been driving on the wrong side of the road. Rash and negligent driving on the part of respondent no.1 is manifested from the fact that keeping in view the spot where the accident occurred, respondent no.1 ought to have



seen the deceased coming from the opposite side and he should have driven his vehicle in such controlled manner so as to avoid collision. Failure to take reasonable care while driving his vehicle, amounts to rash and negligent driving on the part of respondent no.1 as well. In such circumstances, this Tribunal hereby assesses that the responsibility for the accident is liable to be fixed in ratio of 50:50 on respondent no.1 and deceased Rahul."

12. It is to be noted that it has been observed by the learned Tribunal that *"...The petitioners did not place on record the copy of complete charge sheet filed by the police. Ex.P22 is not the complete copy of the charge sheet submitted by the police..."*. Clearly, the claimants had withheld the Site Plan which formed part of the Police Report Ex. P-22. The same was then produced by the respondent No.3/Insurance Company along with the Private Investigation report (Ex.D4). From the above facts, it is clear that contributory negligence has been correctly attributed to the deceased.

13. The learned Tribunal had further affixed liability in the ratio of 50-50 in the above-said manner as it held that the Private Investigation Report (Ex.D4) was not proved in accordance with law as the Insurance Company had failed to examine Abhinav Jain, Advocate, who had made the said report; and therefore, claimants had not been given opportunity to cross-examine the author of the said report to determine its authenticity. I find no error in the same.

14. As regards quantum of compensation, it has been contended on behalf of the claimants that deceased was *'likely'* to be selected as a



Constable in Haryana Police; whereupon he would have been earning Rs.35,000/- pm; and therefore, his income has been wrongly assessed as only Rs.30,000/- pm. This contention of the claimants was strongly refuted by learned counsel for the Insurance Company on whose behalf it is argued that at the time of accident, the deceased was only a student and was not gainfully occupied. As such, his income ought to have been taken as that of an unskilled labourer. I find no merit in the argument of the claimants as there is nothing on record to substantiate their abovesaid assertion. Record reveals that deceased had passed his B.Sc. (Physical Science) as per provisional Certificate (Ex.P7). Thereafter, the deceased had taken admission in two-year Course of VLDA in LUVAS, Hisar, as per Letter (Ex.P10); Fee payment challan (Ex.P11); and receipts (Ex.P12 & Ex.P13). However, given the fact that it was proven on record that deceased had successfully completed his B.Sc. and was also admitted in the two-year Veterinary Livestock and Development Diploma in prestigious Institute of LUVAS, Hisar, and also in view of the fact that deceased had successfully passed written and physical test for recruitment as Constable in Haryana Police in January 2022, income of deceased was correctly assessed as Rs.30,000/- per month.

15. Further, age of the deceased was proved to be 22 years at the time of accident on the basis of his Aadhaar Card (Ex.P3) and Post-Mortem Report (Ex.P21). Accordingly, the Tribunal had correctly made addition of 40% towards future prospects. As deceased was a Bachelor, deduction of



50% was correctly made towards personal expenses. Multiplier of 18 was also correctly applied. Under the conventional heads, the Tribunal had correctly awarded consortium of Rs.48,000/- each to both the claimants; Rs.18,000/- towards transport and funeral expenses; and Rs.18,000/- for loss of estate; thereby granting total compensation as follows: –

Head	Amount
Income	Rs.30,000/- per month
Future prospects @ 40%	Rs.42,000/-
Deduction of personal and living expenses	Rs.21,000/- (1/2 deduction from Rs.42,000/-)
Annual income of deceased	Rs.21,000/- x 12 = Rs.2,52,000/-
Multiplier of 18	Rs.2,52,000/- x 18 = Rs.45,36,000/-
Consortium	Rs.96,000/- (Rs.48,000/- to each of the claimants)
Transportation and funeral expenses	Rs.18,000/-
Loss of estate	Rs.18,000/-
Total	Rs.46,68,000/-

16. Thus, keeping in view the above discussion, I find no ground is made out to interfere in the impugned Award. Accordingly, both the present appeals are **dismissed**.

17. Pending application(s) if any also stand(s) disposed of.

06.11.2025

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No