



FAO-5137-2006 (O&M)

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

FAO-5137-2006 (O&M)

Date of Decision: 21.03.2025

United India Insurance Company Limited

.....Appellant

Vs.

Balwinder Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Lalit Garg, Advocate,
for the appellant-Insurance Company.

Mr. R.K.Shukla, Advocate,
for respondent No.1.

Ms. Harpreet K. Gill, Advocate,
for respondents No.2 and 6.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 31.07.2006 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal'), whereby, the respondents/claimants were granted the compensation of Rs.1,84,000/- along with interest at the rate of 9% per annum on account of death of Deep Singh @ Hardip Singh and the appellant-Insurance Company as well as respondents No.3 & 5 were held liable to pay the compensation jointly and severally.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 26.12.2003, Deep Singh and Sardara Singh were traveling on a motorcycle bearing registration



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No.PB-11-T-M-8647 from Ghagga to Buta Singh Wala, Tehsil Samana. Sardara Singh was driving the motorcycle at a normal speed. When they reached the link road of Buta Singh Wala and had just crossed a cement store, a tractor-trolley bearing registration No.PB-11-F-3645 came from the opposite direction at high speed and in a rash and negligent manner and struck against the motorcycle. As a result, both riders fell on the road and sustained serious injuries. Deep Singh was taken to Amar Hospital in Patiala, where he was admitted from 26.12.2003 to 30.12.2003 but unfortunately, he died due to the injuries sustained in the accident. Sardara Singh also died due to the injuries sustained in the accident. Since the accident happened due to the rash and negligent driving of the tractor-trolley, the owners and insurers of both the motorcycle and the tractor-trolley, along with the tractor-trolley driver, are jointly and individually responsible to pay the compensation. The matter was reported to the police by Rampal Singh, and in this regard, an FIR No.144, dated 26.12.2003 was registered under Sections 279, 337, 338, 427, and 304-A of the IPC at Police Station Ghagga against respondent No.1 i.e. the driver of tractor-trolley.

3. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the learned Tribunal framed the following issues:-

“1) Whether Deep Singh son of Kulwant Singh had died in a motor vehicular accident caused by respondent No.1 while driving tractor trolley bearing registration No.PB-11-F-3645 on 26.12.2003 as alleged? OPP



- 2) *Whether the claimants are entitled to grant of compensation, if so to what amount and from whom? OPP*
- 3) *Whether the driver of the motor cycle was not holding a valid driving license at the time of accident, if so, its effect? OPR.*
- 4) *Whether the petition is bad for non-joinder of necessary parties? OPR*
- 5). *Relief.”*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded compensation to the tune of Rs.1,84,000/- along with interest at the rate of 9% per annum on account of death of Deep Singh @ Hardip Singh and the appellant-Insurance Company as well as respondent No. 3 (Hazura Singh, owner of the tractor-trolley), and respondent No. 5 (Sarabjit Singh, owner of the motorcycle) were held liable to pay the compensation jointly and severally. Hence, the Insurance Company filed the present appeal challenging the award dated 31.07.2006 passed by the learned Tribunal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT

6. The learned counsel for the appellant-Insurance Company contends that the learned Tribunal has wrongly fixed the liability of the appellant-Insurance Company of the motorcycle bearing registration No.PB-11-T-M-8647, since the accident in question was occurred due to rash and negligent driving of the driver of the tractor trolley bearing registration No.PB-11-F-3645, therefore, the driver of the tractor trolley was solely



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responsible for the accident. Hence, he prays for setting aside of the award passed by the learned Tribunal.

7. Per contra, learned counsel for respondent No.1 submit that the award has rightly been passed by the learned Tribunal qua liability to pay the amount of compensation jointly and severally by the appellant-Insurance Company as well as respondents No.3 & 5.

8. I have heard learned counsel for the appellant-Insurance Company as well as respondents No.1, 2 and 6 and perused the whole record of this case.

9. The relevant portion of the award is reproduced as under:-

“43. As this petition u/s 163-A of the Motor Vehicle Act this Tribunal is not to see the negligence of the driver in this case. Sarabjit Singh is the owner of the Bajaj Boxer Motor Cycle and United India Insurance Co. Ltd was the insurer of the said motor cycle. Being owner and insurer of the vehicle, both are liable to pay compensation. Ajit Singh son of Hazura Singh is also liable to pay the compensation being owner of the tractor. Registration certificate of the tractor is in the name of Hazura Singh. There is no cogent evidence on record to show that the tractor in question was sold to Gurjant Singh. Ajit Singh has appeared as RW3 in the present case. He is son of Hazura Singh. In cross-examination, he stated that tractor bearing registration No.PB-11-F-3645 was purchased by his father Hazura Singh. His father Hazura Singh has died in 2000. They have sold it to Gurjant Singh in October 2000. He admitted that RC of the tractor is in the name of his father till today. They had not taken any affidavit from Gurjant Singh in the year 2000 and affidavit was taken on 28.01.04 after the accident and Gurjant Singh has not signed in the presence of the witnesses.



This cross examination shows that Gurjant Singh respondent No.6 cannot be held liable to pay compensation. First of all, RC is in the name of Hazura Singh and it has not been changed till now. Secondly, no affidavit was taken from Gurjant Singh. The affidavit which is taken it was taken after the accident in the year 2004 and no reliance can be placed on this affidavit. RW3 Gurmukh Singh in cross examination has stated that the terms and conditions of the alleged sale of the tractor were not settled in his presence. No payment was made in his presence and at the time of execution of agreement nor respondent No.2 produced any receipt regarding delivery of possession of the said tractor to Gurjant Singh. He also stated that he has not seen the copy of agreement Ex. R1 for identifying the signatures of the executant and witnesses on that day. Further I find that the claimants examined PW2 Criminal Ahalmad of the court of SDJM, Samana who stated that the RC of the tractor is in the name of Hazura Singh. In cross examination, he stated that he has seen the photo copy of the application for release of tractor trolley moved by Ajit Singh on which a report was called from the SHO P.S. Ghagga. The application is Ex. DA. Therefore, as the RC is in the name of Hazura Singh and Ajit Singh is son of Hazura Singh, therefore, being owner of the tractor and heir of Hazura Singh, is liable to pay the compensation to the extent he inherited the property from Hazura Singh. Therefore, as discussed above, respondents No. 2, 4 and 5 are jointly and severally liable to pay compensation.”

10. A careful examination of the impugned award reveals that the learned Tribunal has correctly adjudicated the issue of liability, holding the appellant-Insurance Company, respondent No.3 (Hazura Singh, owner of the tractor-trolley), and respondent No.5 (Sarabjit Singh, owner of the

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motorcycle) jointly and severally liable for compensation. The claim petition was instituted under Section 163-A of the Motor Vehicles Act, a provision that mandates compensation on a structured formula basis, irrespective of negligence. Under this statutory scheme, the claimant is only required to establish that the injury or fatality resulted from the use of the motor vehicle in question. The learned Tribunal, upon a thorough appreciation of the evidence on record, rightly concluded that the accident occurred due to the involvement of the motorcycle owned by respondent No.5 and the tractor owned by respondent No.3. As the motorcycle was insured with the appellant-Insurance Company, the learned Tribunal appropriately apportioned liability in a joint and several manner among the appellant-Insurance Company, respondents No.3 and 5.

11. In light of the foregoing, no justifiable ground exists to warrant interference with the findings of the learned Tribunal. Consequently, the present appeal is devoid of merit and is accordingly dismissed.

12. Appellant-Insurance Company is hereby directed to disburse the current scheduled fee to Mr. Lalit Garg, Advocate, pursuant to the order dated 18.07.2024 passed in FAO-1682-2007 within a period of 20 days from the date of receipt of the copy of this judgment.

13. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

21.03.2025

Virrendra

Whether speaking/non-speaking	: Speaking
Whether reportable	: Yes/No