



FAO-4168-2008 (O&M)

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

**FAO-4168-2008 (O&M)
Reserved on : 17.09.2025
Date of Pronouncement: 22.09.2025**

New India Assurance Company Limited

.....Appellant

Vs.

Jasvir (since deceased) through his legal representatives and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Rajneesh Malhotra, Advocate,
for the appellant-Insurance Company.

Mr. Sarbjit Singh Khaira, Advocate,
for respondents No.1 to 3.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 13.08.2008 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Gurdaspur (for short, 'the Tribunal'), whereby the claimants/respondents No.1 to 3 were granted compensation to the tune of Rs.1,52,000/- along with interest at the rate of 6% per annum on account of death of Rajiv Kumar and the appellant-Insurance Company as well as respondents No.4 & 5 (owner and driver of offending vehicle) were held liable to pay the aforesaid amount of compensation, jointly and severally.

**FACTS NOT IN DISPUTE**

2. The brief facts of the case are that on 03.06.2004, appellant No.1 along with her husband-Mukhtiar Masih, son-Rajiv Kumar and daughter-Neena Marry, were travelling from Batala to Chandigarh in a Maruti Car bearing registration No.PB-018-G-0131, which was being driven by respondent No.2-Denial. When they reached near Beas Bridge at about 5:30 a.m., a Canter bearing registration No.PB-021-D-9602, being driven by its driver in a rash and negligent manner, came from the opposite side and forcefully hit the car. Due to the said impact, the car was pushed to the right side and its front portion was badly damaged. As a result of the accident, appellant No.1, her husband-Mukhtiar Masih and son-Rajiv Kumar sustained multiple injuries and were admitted to Satyam Hospital, Trauma Center, Kapurthala Road, Jalandhar. Appellant No.1 remained admitted in the hospital till 10.06.2004. Son-Rajiv Kumar remained under treatment till 25.07.2004, but unfortunately succumbed to his injuries on that day at about 12:30 p.m. Similarly, husband-Mukhtiar Masih remained admitted in the hospital till 11.06.2004 and succumbed to his injuries on the same day at about 02:40 p.m. In this regard, FIR No.26 dated 06.06.2004 was registered at Police Station Dhillwan under Sections 279, 337, 338, 427 and 304-A of the Indian Penal Code, 1860.

3. Upon notice of the claim petition, respondents appeared through their counsel and filed their written reply denying the factum of accident/compensation.



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

- “1. Whether Rajiv Kumar died in road side accident on 03.06.2004 at about 5.30 A.M. in the area of Village Dhilwan while traveling in Maruti Car No.PB-018G-0131 driven by respondent No.2 when Cater No.PB-021-D-9602 driven by the driver had hit against the car driven by the Denial? OPP.*
- 2. Whether the claimants are the legal representatives and were dependent upon the deceased? OPP*
- 3. Whether the Claimants are entitled to compensation? If so how much and from which of the respondents? OPP*
- 4. Whether driver of the car was not holding a valid and effective driving license? OPR*
- 5. Whether petition is bad for non-joinder of necessary parties? OPR*
- 6. Whether petition is not maintainable in the present form? OPR*
- 7. Relief.”*

5. Thereafter, both the parties have led their respective evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.1,52,000/- along with interest at the rate of 6% per annum on account of death of Rajiv Kumar and the appellant-Insurance Company as well as respondents No.4 & 5 (owner and driver of offending vehicle) were held liable to pay the aforesaid amount of compensation, jointly and severely. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

7. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal has erred in law and on facts in holding that the



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accident in question arose out of the use of the alleged offending vehicle.

Therefore, he prays that the present appeal be allowed.

8. *Per contra*, learned counsel for respondents No.1 to 3 submits that learned Tribunal has rightly held appellant-Insurance Company and respondents No.4 and 5 liable to pay the compensation to claimants/respondents No.1 to 3, jointly and severally. He, therefore, prays that the present appeal be dismissed.

9. I have heard learned counsel for the parties and perused whole record of this case with their able assistance.

10. The relevant portion of the award dated 13.08.2008 passed by the learned Tribunal is reproduced as under:-

“21. Onus to prove issue No.3 is on the claimants. In order to prove this issue, one of the claimant Jasvir tendered her affidavit Ex.A-1 in which she has deposed that on 03.06.2004 Rajiv Kumar received injuries in the accident and remained admitted in Satyam Hospital in Trauma Center, Kapurthala Road, Jalandhar from 03.06.2004 to 25.07.2004 on which date he succumbed to the injuries at about 12.0 P.M. In this case, the age of deceased Rajiv Kumar was 22 years and he was student. So far the income of the deceased Rs.3000/- per month but there is no evidence on the file to prove the income of deceased Rajiv Kumar as Rs.3000/-per month. Therefore, the income of the deceased is assessed Rs.15,000/- per annum because he was a student and was not earning any thing by doing any work. After deducting 1/3rd from the income of the deceased for his own expenses, the income of deceased comes to Rs. 10,000/- per annum. In



considering the age of the deceased, I am of the opinion that multiplier of 15 is suitable in this case. Therefore, the total compensation comes to Rs.1,50,000/- and the claimant are also entitled to Rs.2,000/- as funeral expenses. Therefore, the claimants are entitled to recover Rs.1,52,000/- as compensation.”

11. From a perusal of the impugned award, it is evident that the claim petition was instituted under Section 163-A of the Motor Vehicles Act, 1988. Compensation under this provision is determined on the basis of a structured formula and is in the nature of a final award, dispensing with the requirement of proving negligence on the part of the driver or owner of the offending vehicle.

12. The record further reveals that the learned Tribunal has duly appreciated the evidence adduced before it and correctly reached the conclusion that the injuries sustained by the claimant arose out of the use of the motor vehicle in question, thereby satisfying the statutory requirement under Section 163-A of the Act.

13. It is further borne out from the award that the claimant-Jasvir, examined as AW-1, entered the witness box and narrated the entire chain of events leading to the accident. She categorically deposed that the accident had occurred on account of the use of the vehicle in question. Her testimony remained unimpeached and unshaken during the course of proceedings. The learned Tribunal, therefore, was justified in placing reliance upon her evidence.



14. The record also makes it manifest that no material evidence was brought forth by the appellant-Insurance Company to dislodge or rebut the testimony of the claimant-Jasvir. In absence of any contrary evidence, the factual matrix as deposed by the claimant-Jasvir stands firmly established.

15. It is a trite legal position, as laid down by the Hon'ble Supreme Court in **United India Insurance Company Ltd. v. Sunil Kumar, Civil Appeal No. 9694 of 2013**, that claims under Section 163-A of the Motor Vehicles Act are governed by the principle of "no-fault liability." Consequently, once it is established that the accident arose out of the use of a motor vehicle, the claimant becomes entitled to compensation without the necessity of proving negligence. The relevant extract of the judgment passed in **Sunil Kumar's case (supra)** is reproduce as under: -

"8. From the above discussion, it is clear that grant of compensation under Section 163-A of the Act on the basis of the structured formula is in the nature of a final award and the adjudication thereunder is required to be made without any requirement of any proof of negligence of the driver/owner of the vehicle(s) involved in the accident. This is made explicit by Section 163A(2). Though the aforesaid section of the Act does not specifically exclude a possible defence of the Insurer based on the negligence of the claimant as contemplated by Section 140(4), to permit such defence to be introduced by the Insurer and/or to understand the provisions of Section 163A of the Act to be contemplating any such situation would go contrary to the very legislative object behind introduction of Section 163A of the Act, namely, final compensation



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within a limited time frame on the basis of the structured formula to overcome situations where the claims of compensation on the basis of fault liability was taking an unduly long time.

In fact, to understand Section 163A of the Act to permit the Insurer to raise the defence of negligence would be to bring a proceeding under Section 163A of the Act at par with the proceeding under Section 166 of the Act which would not only be self-contradictory but also defeat the very legislative intention.

9. For the aforesaid reasons, we answer the question arising by holding that in a proceeding under Section 163A of the Act it is not open for the Insurer to raise any defence of negligence on the part of the victim.”

16. In light of the above discussion, this Court finds that the findings recorded by the learned Tribunal are based on correct appreciation of evidence and sound application of law. The award does not suffer from any legal infirmity or perversity warranting interference in appellate jurisdiction.

17. Accordingly, the present appeal, being devoid of merits, stands **dismissed**.

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

(SUDEEPTI SHARMA)
JUDGE

22.09.2025

Virender

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