



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 18.11.2025

1. FAO-4561-2014 (O&M)
National Insurance Co. Ltd.

...Appellant(s)

Vs.

Harkiran Kaur and others

...Respondent(s)

AND

2. FAO-10566-2014 (O&M)
Harkiran Kaur and another

...Appellant(s)

Vs.

Gurjinder Singh and others

....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rahul Pathania, Advocate for
Mr. R.C.Kapoor, Advocate for
the appellant-Insurance Co.

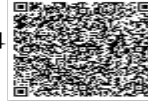
Mr. Vikas Prakash, Advocate for
Mr. G.S.Gill, Advocate for the
appellants in FAO-10566-2014.

Mr. Chandan Deep Singh, Advocate
for respondents No. 3 and 4.

NIDHI GUPTA, J.

FAO-4561-2014:

The present appeal has been filed by the Insurance Company seeking modification of the Award dated 20.03.2014 passed by the learned Motor Accident Claims Tribunal, Ludhiana (hereinafter referred to as “the Tribunal”); whereby MACT No. 30 dated 01.09.2011 filed by the claimants/respondents No.1 and 2 herein, under Section 166 of the Motor



Vehicles Act, 1988 (hereinafter referred to as “the Act”), has been allowed; and the claimants have been awarded compensation of Rs.14,47,000/- alongwith interest @ 9% p.a.

FAO-10566-2014 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.14,47,000/- granted by the learned MACT, Ludhiana vide Award dated 20.03.2014 passed in MACT Case No. 30 dated 01.09.2011 filed under Section 166 of the Act. The 2 claimants are the widow; and mother of the deceased Avtar Singh, who was 30 years old at the time of accident.

CM-29102-CII-2014 in FAO-10566-2014:

Prayer in this application filed by the claimants u/s 5 of the Limitation Act is for condonation of delay of 116 days in filing the appeal.

2. For the reasons cited in the application, which is duly supported by an affidavit of the applicant/appellant-claimant No.1, the same is allowed; and the delay of 116 days in filing the appeal is condoned.

FAO Nos.4561 and 10566 of 2014 (O&M)

Both the above said appeals are being decided by this common order as parties in both the appeals are same; both appeals pertain to the same accident dated 29.07.2011; are against the same Award dated 20.03.2014 passed by learned MACT, Ludhiana; and the facts and issues involved in both the cases are identical. For the sake of facility, facts are being drawn from **FAO-4561-2014** titled as **National Insurance Company**

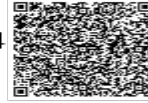
Ltd. Vs. Harkiran Kaur and others.



2. The case as pleaded by the claimants in the Claim Petition as recorded by the Tribunal in paras 2 and 3 of the Award is as follows:-

“2. The facts of this case, in brief, are that deceased Avtar Singh was travelling in vehicle No.PB-35F-5050 owned by respondent No.2 Dr. Bhupinder Singh and driven by respondent No.1 Gurjinder Singh on 29.7.2011 at 11.45 PM. He was going from Neelon canal bridge Restaurant to his house at Krishna Nagar, Civil Lines, Ludhiana. When the car reached near Sodhi Da Dhaba, it was 12.00 mid night. A truck was crossing the road for going towards Sodhi Da Dhaba. Respondent No.1 was driving the car so rashly and negligently that he could not stop the car and struck the same into the truck. As a result, Avtar Singh received serious injuries on throat and veins of throat were cut. He also received injuries near his ear and between throat and ear. He died as a result of injuries.

3. Claimant Harkiran Kaur is his wife and claimant Rajinder Kaur is his mother. He was hale and hearty. He was 30 years old at the time of the accident. He was expected to live for another 50 years. He was not addicted to any vice and was totally devoted to his family consisting of his wife, mother and father who were dependent upon him. He was independently working as an Advocate and was also junior to Sh. R. K. Talwar Advocate, District Courts, Ludhiana. He was earning Rs. 12,000/- per month approximately. He was sincere and hard working. Due to sudden death of the deceased, the claimant No.1 has lost her life companion and claimant No.2 has lost her son. They have suffered great mental, physical and financial loss due to his death. Rs.50,000 were spent on cremation and funeral ceremonies.”



3. The learned Tribunal upon appraisal of the pleadings, and the oral and documentary evidence adduced by the parties, concluded that deceased-Avtar Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 29.07.2011 at 11:45 PM due to the rash and negligent driving of a Zen Car bearing registration No. PB-35F-5050 (hereinafter referred to as 'the offending vehicle'), which was driven by respondent No.3; owned by respondent No.4; and insured by appellant-Insurance Company herein. The above said compensation was granted by the learned Tribunal alongwith interest @ 9% per annum from the date of institution of the claim petition till realisation. Appellant-Insurance Company was held liable to pay the above said compensation.

4. Learned counsel for the appellant/Insurance Company assails the impugned Award by submitting that the claimants were not entitled to compensation as they were unable to prove the negligence on the part of respondent No.3. It is submitted that no FIR was registered in the present case. Only DDR has been registered, in which the brother and the father of the deceased have categorically stated that there was no fault of anyone in the accident in question. It is submitted that subsequently, the alleged eyewitness Tarsem Chand PW3 has been produced by the claimants who is stated to have witnessed the accident in question. It is contended that evidence of Tarsem Chand could not have been relied upon as an independent witness as he belonged to the same Department i.e. the Punjab State Electricity Board, as the father of the deceased.

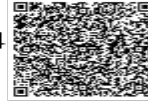


5. It is submitted by learned counsel for the appellant that while relying upon the evidence by PW-3 Tarsem Chand, the Ld. Tribunal also failed to appreciate that PW-3 Tarsem Chand was actually a planted witness because he was an interested witness being a retired colleague of the father of the deceased Amrik Singh from PSEB. This witness neither took the injured to the hospital, nor informed the police, and nor was a summoned witness. PW3 Tarsem Chand also stated that while following the offending car he stopped his car when he heard the noise as he was behind the spot of accident. In view of these facts and sequence of events it is clearly established that PW-3 Tarsem Chand was not an eyewitness who gave contradictory statement. Thus, as statement of Tarsem Chand suffers from material contradiction, it could not have been relied upon in holding respondent No.3 rash and negligent. It is submitted that even the Investigating Officer Jagdev Singh RW1 has stated in evidence that there was no negligence of respondent No.3.

6. It is further submitted that a perusal of contents of DDR, Report U/Sec 174 CrPC and evidence by PW-3 Tarsem Chand would indicate that though the accident involving the offending car may be established yet it cannot be concluded that the said accident was caused due to rash and negligent driving of driver Gurbinder Singh. Accordingly, the liability of payment of compensation cannot be fastened on Appellant Ins. Co. It is accordingly prayed that the impugned Award be modified.

7. *Per contra*, learned counsel for the claimants/respondents No.

1 and 2 vehemently opposes submissions made on behalf of Insurance

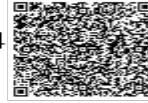


Company. It is submitted that impugned Award suffers from no error. The claimants have been clearly able to establish negligence of respondent No.3 in the accident in question. It is further argued that the Motor Vehicle Act is a beneficial legislation and cannot be equated with the criminal trial; and involvement of the offending vehicle has been proved before the Tribunal on the preponderance of probabilities.

8. It is further submitted that in fact the claimants are entitled to enhanced compensation as deceased was only 30 years old at the time of accident. Accordingly, multiplier of 22 should have been applied. Even income of the deceased has been taken on the lower side as only Rs.8,000/- p.m.; whereas claimants had proved that the deceased was earning Rs.12,000/- p.m. Rate of interest has been given on the lower side as 9% p.a.; whereas the same should be 12% p.a. The learned Tribunal has awarded only Rs.1 lac to the claimant No.1 towards consortium and Rs.1 lac each to the claimants towards loss of love and affection, which is on the lower side. Only Rs.25,000/- has been awarded towards funeral expenses; whereas more than Rs.50,000/- was spent for the same. Learned counsel accordingly prays that FAO-10566-2014 be allowed; and the compensation be enhanced.

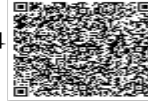
9. No other argument is made by Id. counsel for the parties. I have heard Id. counsel and perused the case file in great detail, and given my thoughtful consideration to the submissions of both the parties.

10. The Id. Counsel for the appellant-Insurance Company has argued that appellant was not liable to pay the impugned compensation as



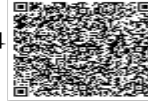
no negligence was established on the part of offending car. In this regard, Learned Tribunal after examining all the evidence on record including DDR Ex.R1 had finally concluded as follows: -

“16. The claimants have examined PW3 Tarsem Chand who proved the rashness and negligence of respondent No.1. He has produced his affidavit Ex.PC wherein he has stated that he was coming from Samrala side to Ludhiana in his car bearing No.PB-55-3435 and was following car No.PB-35F-5050 being driven by respondent No.1. When the car reached near Sonu Da Dhaba at Samrala road at 12.00 AM he was following that car. Then a truck was crossing road for going to Sonu da Dhaba. Respondent No.1 was driving the car bearing No.PB-35F-5050 rashly and negligently and he could not stop the car and struck it into the truck as a result of which deceased Avtar Singh suffered serious injuries on his throat and veins of throat were cut. He then accompanied the injured to the Hospital where the injured was declared as brought dead. In his cross-examination, he has admitted that he did not inform the police regarding the accident. He also did not make any statement regarding the accident nor moved any application. He has also stated that after admitting the injured in the Hospital, he had gone back to his house. He did not meet any of the Doctor in the Hospital. He did not sign any document. I have gone through the entire cross-examination of this witness. The above noted facts disclosed in the cross-examination, in my opinion, do not render his evidence unbelievable. He has deposed in the court after about two years. He has made statement in the court on oath regarding the cause of accident. As stated earlier, respondent No.1 was not expected to disclose correct facts to the police if the accident was caused due to his



own act of rashness and negligence. The statement recorded by the police of the brother and father of the deceased does not effect the case of the claimants as they are not eyewitnesses and might have made statement as per the information given to them by respondent No.1. The recording of the FIR regarding the accident is not essential for deciding the claim petition. Respondent No.1 has not stepped into the witness box to rebut the evidence of the claimants. I am of the opinion that the evidence of the claimants has proved that deceased Avtar Singh died due to the injuries suffered in the accident which was caused by the rash and negligent driving by respondent No.1 of car No.PB-35F-5050. The fact that the accident had taken place and the deceased suffered injuries due to the accident is not disputed. The postmortem report Ex.P1 also proves that deceased Avtar Singh died due to the injuries suffered by him in the vehicular accident.”

11. I am in agreement with the above said findings/observations of the learned Tribunal. It needs no buttressing that in a claim petition under the Motor Vehicles Act, involvement of the offending vehicle is to be determined on the basis of preponderance of probabilities and not in the stringent manner of a criminal trial. In the present case, admittedly, eyewitness PW3 Tarsem Chand has made categoric statement in respect of the rashness and negligence of respondent No.3/driver in driving the offending vehicle. No doubt the said witness may be known to the father of the deceased; and that there may be some discrepancy in his statement. However, as correctly observed by the learned Tribunal, Tarsem Chand had deposed before the learned Tribunal after about 2 years of the occurrence.



In this situation, if some discrepancy had occurred in his statement, the same cannot be held to be fatal to the case of the claimants. Moreover, the Hon'ble Supreme Court in **New India Assurance Co. Ltd. v. Velu, (SC) : Law finder Doc ID # 2685999 decided on 12.12.2024**, has held that attendant circumstances are also to be taken into consideration. Accordingly, from a complete consideration of the matter, I uphold the findings of the learned Tribunal in respect of issue No.1 that accident had taken place due to rash and negligent driving of offending car by respondent No.3.

12. As regards quantum of compensation, learned counsel for the claimants has submitted that as per the evidence produced by the claimants, income of the deceased was proved to be Rs.12,000/- p.m. However, the said contention is misplaced. Learned Tribunal in para 20 of the impugned Award has examined and taken into consideration the Income Tax Returns Ex.P6, Ex.P6/1 and Ex.P7 produced by the claimants as per which income of the deceased was proved to be Rs.8,000/- p.m. during the previous year. As such, I find no error in the income as assessed by the learned Tribunal.

13. Further, as there were 2 claimants, learned Tribunal had correctly made a deduction of 1/3rd towards personal expenses. Age of the deceased was proved to be 30 years on the basis of Postmortem Report Ex.P1. Accordingly, multiplier of 17 was correctly applied.

14. It is to be noted that in FAO-10566-2014 filed by the claimants, claimants have made no prayer for addition of future prospects. Despite

this, given the structured formula laid down by Hon'ble Supreme Court,



addition of 40% towards future prospects is liable to be made. Under the conventional heads, learned Tribunal has awarded exorbitant amount of Rs.3,25,000/-. The same is also liable to be re-assessed as per the structured formula laid down by Hon’ble Supreme Court. Accordingly, compensation payable to the claimants is reassessed in the following manner:-

Sr.No.	Details	Before the Tribunal	Revised compensation
1.	Income	Monthly: Rs.8,000/-	Monthly: Rs.8,000/-
2.	40% Future prospects	Nil	Rs.8,000+Rs.3,200=Rs. 11,200/-
3.	Deduction of 1/3 rd	Rs.8,000-Rs.2,666 =Rs.5,334 rounded off to Rs.5,500 x 12 =Rs.66,000/-	Rs.11,200-Rs.3,733 =Rs.7,467 x 12 =Rs.89,604/-
4.	Multiplier of 17	Rs.66,000 x 17 = Rs.11,22,000/-	Rs.89,604 x 17 = Rs.15,23,268/-
5.	Loss of consortium	Rs.1 lac to claimant No.1	Rs.40,000/- each to claimants No. 1 and 2
6.	Loss of love and affection	Rs.1 lac each to the claimants	Nil
7.	Loss of Estate	Nil	Rs.15,000/-
	Funeral expenses	Rs.25,000/-	Rs.15,000/-
7.	Total	Rs.14,47,000/-	Rs.16,33,268/-
8.	Enhanced compensation	Rs.16,33,268-Rs.14,47,000 = Rs.1,86,268/-	
9.	Interest	9% per annum	9% per annum

15. In view of the above discussion, FAO-4561-2014 filed by Insurance Company stands **dismissed**; whereas FAO-10566-2014 filed by the claimants is **partly allowed** in the above terms.



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

18.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No