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

**FAO-5854-2013 (O&M)
Date of Reserve:15.09.2025
Date of Pronouncement:- 14.11.2025**

National Insurance Co. Ltd. ......Appellant

vs.

Krishan Devi and others ......Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Rahul Pathania, Advocate and
for the appellant.

Mr. Surinder Garg, Advocate
for respondent Nos. 5 to 9.

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<u>SUDEEPTI SHARMA J.</u>

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 04.09.2013 passed by learned Motor Accident Claims Tribunal, Sri Muktsar Sahib (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, whereby the claimants were granted compensation to the tune of Rs.4,88,000/- and the Insurance Company was held liable to pay the compensation to the claimants.

<u>FACTS NOT IN DISPUTE</u>

2. Brief facts of the case are that on 17.06.2001, Chhotu Ram deceased and others were going to perform Shagun ceremony from Sri Muktsar Sahib to Bagha Purana on the offending vehicle, which was hired by them. It was being driven by respondent No.1 and at about 10.30AM, when they reached two kilometers ahead of the Bus stand of village Charewan, respondent No.1 by driving the offending vehicle rashly and negligently without blowing any horm, taking it on the wrong side, struck in the truck coming from the opposite side. As

a result of which, Chhotu Ram and the other occupants of the offending vehicle received injuries. They were taken to the Civil hospital Sri Muktsar Sahib, where Chhotu Ram was declared dead due to multiple grievous injuries. The other injured namely Nathu Ram, Muni Lat alins Muni Ram, Sumer Lal MC, Darshan Singh. Puran Chand, Raj Kumar and Subhash Chander also died. FIR No.147 dated 17.6.2001 was registered on the statement of Ajay Kumar son of Muni Ram alias Muni Lal under Sections 304A, 279/337 and 338 IPC at P.S. Sadar Sri Muktsar Sahib.

3. Upon notice of the claim petition, respondents appeared and denied the factum of compensation.

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

> *"1. Whether Chhotu Ram son of Nanak Chand had died on account of injuries sustained by him in a motor vehicular accident which took place on 17.6.2001 at about 10.30AM in the area of GT Road village Charewan, District Sri Muktsar Sahib due to rash and negligent driving of the jeep bearing registration NO.RJ-19C-4308 by respondent NO.1?OP-claimants*
>
> *2. Whether claimants are entitled to compensation being LRs, if so, to what extent and from whom?OPP*
>
> *3. Whether the claimants have no locus standi to file the claim petition? OPR*
>
> *4. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident, if so its efffect? OPR-3*

5. Relief."

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the appellant-Insurance Company was held liable to pay the compensation.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal erred in fastening the liability upon the insurer. He further contends that appellant/Insurance company has placed on record copy of award dated 08.08.2025 passed by learned Motor Accidents Claim Tribunal, Faridkot (Ex RA) in the connected case vide which the Insurance Company was given recovery rights for breach of policy conditions as the vehicle was being used as a taxi by the insured, yet the learned Tribunal failed to consider the same and did not grant recovery rights to the appellant/Insurance Co. Therefore, he prays that the present appeal be allowed.

7. Per contra, learned counsel for the respondents argues on the lines of the award and prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole records of the case.

9. Before proceeding further, it is apposite to reproduce the relevant portion of the award, which is as under:-

"Issue No.2

> ***18.*** *Onus to prove this issue is upon the claimants as to whether they are entitled to any compensation or not and if so, from whom. For deciding this issue, it is to be seen by the Tribunal whether the relationship between the parties exists or not. It is also to be appreciated whether the claimants are representatives*

of the deceased. The claimant No.1 Krishna Devi is widow of Chhotu Ram, and claimants No.2 to 4 are his daughters. Further, in the claim petition, the relationship is mentioned as widow, and daughters. Contrary to this, the respondents have not adduced any evidence that the relationship between the deceased and the claimants are not in existence or the claimants are not the legal representatives of the deceased. When the relationship between the claimants and deceased Chhotu Ram stands established and Chhotu Ram deceased died in an accident, then certainly, the claimants are entitled to compensation.

***19.** When the claimants are entitled to compensation, then the question arises as to what extent they are entitled to and from whom. The claim petition reveals that Chhotu Ram deceased was of the age of about 45 years. His earning is mentioned to the tune of Rs.8,000/- to Rs.9000/- per month as he was working as labourer at a shop and was earning Rs.300/- per day. The postmortem report Ex.PI mentions the age of the deceased as 45 years. No contrary evidence has come on record and as such, the age of the deceased is construed as 45 years at the time of his death.*

20.** With regard to the income of the deceased, though it has been alleged that the deceased was working as a labourer on a shop and was earning Rs.8000/- to Rs.9000/- per month therefrom, but no evidence with regard to his income has come on the record. However, as stated by the claimants themselves that he was working as a labourer, he can be construed as a casual labourer* *and his income can be assessed to the tune of Rs.4,000/- per month. The number of the claimants/dependents in this case is four and as per the law laid down in* ***Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009(3) Recent Civil Reports page 77*, where the number of the dependent family members is 4 to 6, deduction should be one fourth. In view of above ratio of law, the deduction in this case is to be applied to the extent of 1/4th and by applying this deduction, the monthly contribution to the family comes to Rs.3,000/- and annual dependence is worked out to be Rs.36,000/-. The deceased was aged about 45 years at the time of his death and as such, a multiplier of 13 has been suggested in the above said decision* ***(Smt. Saria Verma and others Vs. Delhi State Transport Corporation and another)*** *for the age group of 45 to 50 years. On applying so, the amount of compensation comes to Rs.4,68,000/. Besides, the claimants are also held entitled to another sum of Rs.5,000/- on account of funeral expenses. The claimant No.1 being widow of deceased is also entitled to an amount of Rs.10,000/- on account of loss of consortium and another amount of Rs.5,000/- as loss of estate. As such the amount of compensation comes to Rs.4,88,000/-*

21. *With regard to liability of the respondents, it may be mentioned here that admittedly respondents No.1 was the driver of the offending vehicle, Sohan Singh the predecessor-in-interest of respondents NO.2 to 5 was the owner of the offending vehicle and as per copy of the insurance policy Ex RW1/B, respondent*

No.3 is the insurer of the offending vehicle and it has already been held so in award Ex.RA and as such, all the three respondents are jointly and severally liable to pay the compensation. Accordingly, this issue is decided in favour of the claimants and against the respondents.

Issue NO.3

22. *The respondents have raised a plea that the claimants have no locus standi to file the present claim petition. When the claimants are seeking compensation on account of death of Chhotu Ram, who died in an accident in this case, which took place due to rash and negligent driving on the part of respondent No.1 of offending vehicle, then the claimants have locus standi to file the present claim petition. Hence, this issue, is decided against the respondents and in favour of the claimants.*

Issue No.4.

The respondent No.3 has sought to dispute its liability on the score that the respondent No.1 was not holding a valid and effective driving licence at the time of accident. Ex.RWI/C is the copy of the driving licence pertaining to respondent No.1 which is valid up to 23.12.2015. Respondent No.3 has not produced any evidence to indicate that the licence issued in favour of respondent No.1 is fake and fictitious one. Even, no question in the form of cross-examination has been put to Mander Singh respondent No.1, while he appeared in the witness box as RW1 and tendered in evidence the copy of his driving licence as Ex.R1 with regard to validity of the licence which shows that the *respondent No.3 has admitted that the driving licence of respondent No.1 is valid. Ex.RW1/B is the certificate of insurance, which indicates that the offending vehicle was insured with respondent No.3 till 15.11.2001, whereas the accident took place on 17.06.2001 and as such, it is held that the accident took place during the validity period of insurance cover. As such, the respondent No.3 cannot escape its liability to pay the compensation to the claimants. Accordingly, this issue is decided against the respondent No.3 and in favour of the claimants."*

10. Upon perusal of the impugned award, this Court finds no substance in the contention advanced by the appellant–insurance company that the offending vehicle, Jeep bearing registration No. RJ-19-C-4308, though insured as a private vehicle, was being plied for hire and reward at the time of the accident.

11. A careful examination of the record reveals that the appellant–insurance company has neither examined any witness nor produced any cogent evidence to substantiate the alleged breach of the terms and conditions of the insurance policy. It is a settled principle of law that the burden of proof squarely lies upon the insurer to plead and establish that there has been a violation of the policy conditions, as contemplated under Section 149(2) of the Motor Vehicles Act, 1988. A mere assertion or allegation without supporting proof cannot absolve the insurer from its statutory liability to indemnify the insured.

12. The record further discloses that the appellant–insurance company has only placed on record Exhibit RA, which is a copy of the award passed by the Motor Accident Claims Tribunal, Faridkot, in a connected matter, wherein the insurer was granted recovery rights on the ground that the insured had used the vehicle as a taxi, in breach of policy terms. However, it is trite law that every claim

petition must be adjudicated on the basis of the evidence adduced in that particular case, and the findings recorded in a connected or similar case cannot, by themselves, be imported or relied upon as conclusive proof in another proceeding.

13. The insurance company cannot take shelter under the findings recorded by another Tribunal in a separate case, unless it independently discharges the burden of proof by leading evidence in the present proceedings. In the instant case, the appellant–insurance company has failed to produce any documentary or oral evidence to establish that the offending vehicle was being used for hire and reward or otherwise in contravention of the policy terms. therefore, the finding of the learned Tribunal on this count, not suffers from any illegality or infirmity, which warrants inference of this Court.

14. In view of the above discussion, the present appeal is dismissed being devoid of any merits.

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

(SUDEEPTI SHARMA)
JUDGE

14.11.2025
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes