225

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2933-2016 (O&M) and
XOBJC-260-CII-2016 (O&M)
Date of Decision : 23.12.2025

New India Insurance Company ... Appellant(s)

Versus

Harjinder Singh & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.C. Gupta, Advocate for the appellant.
Mr. Amardeep Singh Mann, Advocate

for respondent Nos.1 and 2/cross-objectors.

Mr. Ashwani Arora, Advocate for respondent Nos.3 and 4.

ALKA SARIN, J. **(Oral)**

CM-21377-CII-2016 IN XOBJC-260-CII-2016

1. For the reasons mentioned therein, the application seeking condonation of delay of 83 days in filing the cross-objections is allowed and the delay of 83 days in filing the cross-objections is condoned.

FAO-2933-2016 & XOBJC-260-CII-2016

2. The present order shall dispose off the appeal being **FAO-2933-2016** filed by the appellant-Insurance Company and the cross-objections being **XOBJC-260-CII-2016** filed by the claimants-respondent Nos.1 and 2 challenging the impugned award dated 20.01.2016 passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'Tribunal').

3. Brief facts relevant to the present *lis* are that on 23.12.2013 at

about 4.00 P.M. the deceased - Kulwinder Singh - alongwith his friend Harpreet Singh were going on their motorcycle bearing registration No.PB-12-G-2094 to Kiratpur Sahib at slow speed by obeying traffic rules. When they reached near village Dhadhi, a truck bearing registration No.PB-12-E-2569 (hereinafter referred to as 'offending truck') was wrongly parked on the road without indicating the parking lights. They tried their level best to apply the brakes, but they got struck at the rear side of the truck and due to this impact, fell on the road. The deceased - Kulwinder Singh - sustained multiple grievous injuries and subsequently succumbed to his injuries.

4. On notice of the claim petition, respondent Nos.3 and 4 (driver and owner of the offending truck) contested the claim petition and denied the accident. The appellant-Insurance Company contested the claim petition on the ground that the driver was not having a valid and effective driving licence and the offending truck did not have a registration certificate, insurance policy, fitness certificate and route permit. All other averments in the petition were denied.

5. On the basis of the pleadings of the parties, the following issues were framed :

> 1. Whether Kulwinder Singh had died in a Motor Vehicular Accident which took place on 23.12.2013 at about 4.00 P.M. at Main Road village Dhadhi, Distt. Rupnagar due to rash and negligent act of parking of truck registration No.PB-12-E-2569 by respondent No.1 as alleged ? OPP
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> 2. If issue No.1 is proved, whether the claimants are entitled for compensation, if so, to what extent ? OPP

3. Whether the respondent No.1-driver of truck was not holding a valid driving licence at the time of alleged accident? If so, its effect ? OPR

4. Whether the offending vehicle i.e. truck was not holding registration cover, insurance policy, fitness certificate, route permit at the time of alleged accident ? OPR

5. Whether the claimant petition is not maintainable ? OPR

6. Whether the claim petition is bad for non-joinder and mis-joinder of necessary parties ? OPR

7. Relief.

6. The claimants (respondent Nos.1 and 2 herein) tendered in evidence a copy of the postmortem report (Ex.P1), FIR (Ex.P2), evidence copy of chargesheet (Ex.P3), attested copy of statement of Harpreet Singh (Ex.P4), school certificates of the deceased - Kulwinder Singh (Ex.P5 to Ex.P11), copy of medical report of Satwinder Singh (Ex.P12), copy of medical report of Dalbir Kaur (Ex.P13) and closed their evidence. The driver and owner of the offending truck (respondent Nos.3 and 4 herein) tendered a copy of insurance policy (Ex.R1), copy of registration certificate (Ex.R2), copy of fitness certificates (Ex.R3 and R4), copy of route permit (Ex.R5) and copy of driving licence (Ex.R6) and closed their evidence. The driver chose not to step into the witness box. The Insurance Company (appellant herein) tendered in evidence a copy of the insurance policy (Ex.R7), verification of route permit (Ex.R8) and notification dated 01.08.2014 (Ex.R9) and thereafter closed its evidence.

7. The Tribunal vide the impugned award held it to be a case of negligent driving and further held the Insurance Company liable to pay the compensation. The Tribunal had awarded the following compensation :

Sr.No.	**Heads**	**Compensation Awarded**	
1	Monthly Income	₹6,000/-	
2	Annual Income	₹72,000/-	[₹6,000 x 12]
3	Deduction - 50%	₹36,000/-	[₹72,000 - ₹36,000]
4	Multiplier - 18	₹6,48,000/-	[₹36,000 x 18]
5	Funeral expenses	₹20,000/-	
6	Loss of love and affection	₹50,000/-	
	Total Compensation	**₹7,18,000/-**	
	Interest	**6%**	

8. Aggrieved by the same, the appellant-Insurance Company has preferred the present appeal. The claimants-respondent Nos.1 and 2 have also preferred the cross-objections.

9. Learned counsel for the Insurance Company would contend that it was a clear case of contributory negligence as the deceased had hit the offending truck from behind. Learned counsel for the Insurance Company would further contend that the driving licence (Ex.R6) was not a valid licence since it was issued by the Licensing Authority, Nagaland and post 01.08.2014, all driving licences issued from Nagaland, if not in the Smart Card Format, were declared to be invalid vide notification dated 01.08.2014 (Ex.R9).

10. *Per contra* learned counsel for respondent Nos.3 and 4 (driver and owner) would contend that the driving licence was issued in the year 2009 and was valid upto September 2015. The notification (Ex.R9) pertains to all driving licences issued post 01.08.2014 and, hence, the said notification would have no relevance in the present case. It is further the contention that no verification report was sought by the Insurance Company to prove that the

driving licence (Ex.R6) was fake nor any official from the Licensing Authority, Nagaland was examined to prove that the licence was fake. In the absence of any such evidence, no fault can be found with the findings returned by the Tribunal.

11. Learned counsel for the claimant-respondent Nos.1 and 2 would contend that it possibly cannot be held to be a case of contributory negligence as the offending truck was parked wrongly on the road and the driver chose not to step into the witness box. No evidence was led by the Insurance Company to show that the offending truck was correctly parked on the road. It is further the contention that no such plea was raised either by the owner and driver or by the Insurance Company in their written statements and also no issue was framed qua contributory negligence. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court in the case of **M. Nithya & Ors. vs. SBI General Insurance Company Limited [SLP (Civil) Nos.833-834 of 2023 decided on 03.01.2025]** to contend that in the absence of any issue having been framed, no finding can be returned qua contributory negligence.

12. Qua quantum of compensation, learned counsel for the claimant-respondent Nos.1 and 2 states that he does not challenge the income, deduction and multiplier as applied by the Tribunal. He, however, states that no addition has been made towards future prospects which ought to have been 40% as the deceased was 18 years of age at the time of the accident. It is further the contention of the learned counsel that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law laid down by the Hon'ble Supreme Court. In support of his contentions, he has relied upon the judgments of the Hon'ble

Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

13. *Per contra*, learned counsel for the Insurance Company would contend that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

14. I have heard the learned counsel for the parties.

15. The argument of the learned counsel for the Insurance Company that it was a case of contributory negligence deserves to be rejected. Neither any plea was raised in the written statements filed by the owner and driver or by the Insurance Company claiming that it was a case of contributory negligence. Further still, no issue was framed qua contributory negligence nor claimed. Hon'ble Supreme Court in the case of **M. Nithya** (supra) has held as under :

> " 7. It is pertinent to observe that the Tribunal noted that *the Insurance Company in their Counter contend that contributary negligence of the part of the deceased has to be fixed. However, the Tribunal did not frame any specific issue in that regard for determination. The Tribunal clearly finds negligence only on part of the driver of the lorry and therefore, the owner of the lorry and the Insurance Company which insured the said lorry are jointly and severally found liable to pay compensation. Therefore, when the Tribunal did not even frame an issue on contributary negligence, the High Court ought not to have considered that argument in order to reduce the compensation awarded. Even otherwise the Insurance*

> *Company did not lead any evidence on this aspect nor insisted for framing an issue. Merely making a bald assertion in their Counter Affidavit cannot derive any advantage. Hence, we are in agreement with the findings of the Tribunal that the accident took place only due to the negligence of the driver of the lorry and therefore, the contributary negligence awarded on part of the deceased by the High Court suffers from an error and cannot be* sustained."

16. In view thereof, in the absence of any pleading, evidence or issue having been framed qua contributory negligence, it cannot be said to be a case of contributory negligence. Hence, no fault can be found with the finding returned by the Tribunal.

17. The argument of the learned counsel for the Insurance Company that the driving licence (Ex.R6) was invalid since it was issued from Nagaland and post the notification dated 01.08.2014, any driving licence which was not in the format of Smart Card would not be accepted as a valid driving licence also deserves to be rejected. The driving licence (Ex.R6) which was tendered in evidence by the owner and driver was issued in the year 2009 and was valid till September 2015. The accident in the present case took place on 23.12.2013. In the absence of any verification report having been called for or any witness having been examined by the Insurance Company to prove that the driving licence was fake, no such finding could have possibly been returned by the Tribunal qua the driving licence being invalid. In view thereof, argument of the learned counsel for the Insurance Company stands rejected.

18. The argument of the learned counsel for the claimant-respondent Nos.1 and 2 that no addition has been made towards future prospects deserves to be accepted keeping in view the law laid down by the Hon'ble Supreme

Court in the case of **Pranay Sethi** (supra). The deceased was admittedly 18 years of age at the time of the accident and, hence, 40% addition is made towards future prospects.

19. The argument of the learned counsel for the claimant-respondent Nos.1 and 2 that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law also deserves to be accepted. Hence, as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants (parents of the deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Since no challenge has been laid to the income, deduction and multiplier as applied by the Tribunal, the same are maintained. Accordingly, the reworked compensation is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1	Monthly Income	₹6,000/-
2	Annual Income	₹72,000/- [₹6,000 x 12]
3	Deduction - 50%	₹36,000/- [₹72,000 - ₹36,000]
4	Future Prospects - 40%	₹50,400/- [₹36,000 + ₹14,400]
5	Multiplier - 18	₹9,07,200/- [₹50,400 x 18]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Filial [₹48,000/- x 2]	₹96,000/-
	Total Compensation	**₹10,39,200/-**

20. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

21. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh Vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the direction of the Tribunal. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

22. In view of the above discussion, the appeal being **FAO-2933-2016** filed by the Insurance Company is dismissed and the cross-objections being **XOBJC-260-CII-2016** filed by the claimants are allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

23.12.2025
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO