



***FAO-964-2014 (O&M) and
FAO-4767-2014 (O&M)***

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

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FAO-964-2014 (O&M)
Date of Decision:14.02.2025

United India Insurance Co. Ltd.

... Appellant

V/S

Gurmeet Kaur and others

.... Respondents

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FAO-4767-2014 (O&M)

Smt. Gurmeet Kaur and another

... Appellants

V/S

Arvinder @ Kala and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Paul S. Saini, Advocate
for United India Insurance Company Ltd.

Mr. Maneet Kaushik, Advocate for
Mr. Ashit Malik, Advocate
for the appellant in FAO-4767-2014 and
for the respondents in FAO-964-2014.

SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose of both the above noted appeals filed under Section 173 of the Motor Vehicles Act, 1988 (for brevity hereinafter referred to as “MV Act”) by the Insurance company and the claimants against same award passed by the Motor Accident Claims



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Tribunal, Kurukshetra (for short “the Tribunal”).

2. For the sake of convenience, factual position is being taken from FAO-964-2014.

3. This appeal has been filed by the appellant-Insurance Company, assailing award dated 27.09.2012, passed by the Tribunal whereby a petition filed by the claimants-respondents No.1 and 2 for grant of compensation on account of death of Mohit Kumar, has been partly accepted.

4. Facts, in brief, leading to the filing of the appeals are that on 05.12.2011, Mohit Kumar was driving a motorcycle with Satnam and Namdev, who were riding pillion. A Haryana roadways bus bearing registration No. HR-65-3177, which was being driven carelessly by Arvinder @ Kala, came from the opposite direction and stuck the motorcycle. Mohit Kumar died on the spot and the other motorcyclists received multiple injuries. Kulwinder Singh, an eye-witness to the accident shifted the injured to L.N.J.P. Hospital, Kurukshetra, from where they were referred to G.M.C.H. Chandigarh. Satnam Singh died on the same day and Namdev succumbed to his injuries on 30.12.2011. An FIR No. 122 dated 05.12.2011 Ex.P-13 was lodged under Section 279 and 304 of IPC at Police Station Babain. Claimants filed a petition under the Motor Vehicles Act, for grant of compensation on account of accidental death of Mohit Kumar, which has been partly accepted, vide award impugned herein and they were granted compensation of Rs. 8,19,000/-. The owner, driver and the insurance company were jointly and severally held liable to pay the amount along with interest @



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12% per annum from the date of filing of the claim petition.

5. Counsel for the appellant-insurance company has argued that the Tribunal has erred in holding that Arvinder was driving rashly and negligently and the accident had taken place due to his negligence. He asserts that the deceased Mohit Kumar was a minor and did not possess a valid driving licence. By referring to the testimony of the witnesses, he asserts that the deceased was a student of 10+1 and the Tribunal has erred in assessing his monthly income @ Rs. 5,500/- per month and applying a multiplier of 18.

6. On the other hand, counsel for the claimants-respondents No.1 and 2 has repelled the arguments of counsel for the appellant and has urged that the Tribunal has granted compensation, which is on the lower side. It is his case that the compensation deserves to be suitably enhanced and award deserves to be granted under the conventional head.

7. I have heard counsel for the parties and have considered their respective submissions, besides examining the paper book with their able assistance.

8. In his testimony, Kulwinder Singh PW-5, an eye-witness stated that on 05.12.2011, he was driving a car and was travelling along with his cousin Ravinder. They were following a bus bearing registration No.HR-65-3177, which was being driven at a high speed. He stated that upon spotting a speeding bus, Mohit Kumar, who was riding a motorcycle, shifted to the unmettaled road on the extreme left side and the bus struck against his motorcycle. All the three motorcyclists received multiple injuries and Mohit Kumar died on the spot. The other



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two motorcyclists later succumbed to the injuries. He stated that the accident took place due to rash and negligent driving of Arvinder. FIR Ex.P-13, was registered on the same day, and after completion of investigation, challan Ex.P-1 was submitted in the Court against Arvinder. The site plan of the accident was also proved as Ex.P-2. The mechanical reports of the vehicle damaged in the accident Ex.P-3 and P-4 show the damage caused to the motorcycle in the accident.

9. In ***Sudhir Kumar Rana Versus Surinder Singh and others, (2018) 12 SCC 436***, Supreme Court has held that if a person drives a vehicle without licence, he commits an offence under the Motor Vehicles Act, but that in itself would not lead to a finding on negligence as regards accident. Mere non-possession of a driving licence does not mean that the driver of the vehicle is guilty of contributory negligence. ***In Golly @ Rakesh Kumar and another Versus Amarjit Singh, 2007 (1) RCR (Civil) 168***, a Division Bench of this Court has held that merely because the vehicle was carrying more passengers than sanctioned capacity, would not lead to an inference in the absence of any witness, that he was careless in driving. There is evidence on record that Arvinder is being tried for causing the road accident. Challan has been presented against him before the criminal Court. Relying upon Supreme Court in ***Ravi Versus Badrinarayan and others, (2011) 4 SCC 693***, this Court can safely infer that he was driving rashly and negligently and is responsible for the accident, which has resulted in the death of Mohit Kumar. The findings recorded by the Tribunal under issue No.1, therefore, do not call for any interference. The claimants have proved the driving licence,



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Ex.R-1 of the deceased, which shows that it was issued in his name by the District Transport Officer, Zunheboto Nagaland, on 20.02.2010 and was valid till 21.07.2014. Ex.R-2, R-3 and R-4 show that the offending bus was registered and had a route permit. Copy of the insurance policy of the offending bus is Ex.R-5.

10. Gurmeet Kaur, PW-2, mother of the deceased has testified that he was 18 years of age and was student of senior secondary class. She has asserted that he was helping his father in agricultural and dairy work and was earning Rs.10,000/- per month. However, she has not been able to produce any documentary evidence to support this assertion, which is rejected. Compensation was assessed by taking the notional income of the deceased as that of a casual labourer i.e. Rs.5,500/- per month, which is on the lower side. In **Santosh Kumari and others Versus Purshotam Singh and others, 2014(23) RCR (Civil) 840**, this Court considered the notional income of a second year student, pursuing a three year diploma to be Rs.7,000/- per month. Therefore, the notional income of the deceased in the present case deserves to be increased accordingly. Deceased was a bachelor at the time of the fatal accident, therefore, a deduction of 50% has to be made from his assessed income. The Tribunal has not passed any award on account of future prospect, which is determined @ 40%. Multiplier of 18 awarded by the Tribunal is in tune with the settled legal position. Award for loss of consortium, last rites and estate deserves to be modified.



11. In the light of the principles laid down by the Supreme Court in Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 and Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130, the head-wise computation of compensation deserves to be modified as below:-

Sr. No.	Heads	Compensation Awards
1	Monthly Income	Rs.7,000/-
2	Deduction towards personal expenditure 1/2	Rs.3,500/- (Rs.7,000/- X 1/2)
3	Future prospects	Rs.1,400/- (40% of Rs.3,500/-)
4	Total Monthly Income	Rs.4,900/- (Rs.3,500/ + Rs.1,400/-)
5	Multiplier	18
6	Annual dependency	Rs.10,58,400/- (Rs.4,900/- X 12 X 18)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of consortium	Rs.96,000/- (Rs.48,000/- payable to each of two dependents)
10	Total compensation	Rs.11,90,400/-
11	Less: Award by MACT	Rs.8,19,000/-
12	Enhancement	Rs.3,71,400/-



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12. Accordingly, claimants are held entitled to additional compensation of Rs.3,71,400/-, which shall be payable to them with interest @ 7.5% per annum from date of filing of the claim petition. Both the appeals are disposed off.

13. As the main appeals have been decided, pending application(s), if any, is/are disposed off.

14.02.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>