



FAO-3744-2017 (O&M)

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

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Date of decision : 15.10.2025

National Insurance Company Ltd.

...Appellant

Versus

Sarika and others

...Respondents

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Rahul Pathania, Advocate,
for the appellant-Insurance Company.

None for respondent Nos.1 & 2-claimants.

None for respondent No.3-owner.

HARPREET KAUR JEEWAN, J.

1. The appellant-Insurance Company has filed the present appeal, assailing the findings of recorded by the Motor Accident Claims Tribunal, Karnal (*for short, the Tribunal*) vide the impugned Award dated 22.02.2017, whereby, compensation amounting to Rs.12,09,000/- has been awarded to the respondent-claimants under Section 163-A of the Motor Vehicles Act, 1988 (*for short, 'the Act'*).

2. There is no representation on behalf of the respondent-claimants despite the fact that service was already complete, however, again in terms of the order dated 22.09.2025, notice was ordered to be issued for 15.10.2025. As per the office report, the respondent-claimants were not found during visit, however, affixation was made. Mr. Ashish Gupta, Advocate representing the claimants, has also been duly informed by the Registry, through e-mail.

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3. As per the factual matrix in brief, on 17.07.2016, Pinki, who was mother of respondent No.1 and wife of respondent No.2, died in a roadside accident while travelling on a motorcycle bearing registration No.HR60-F-8623 being driven by one Jagdish. The alleged accident took place as a stray animal came in front of the motorcycle and in order to save the animal, the motorcyclist had to suddenly apply brakes. As a result, the motorcycle slipped, and the occupants fell on the ground. Smt. Pinki died and even the child in her womb also succumbed to the injuries. Due to the accident, the motorcycle was also damaged. A DDR regarding the said incident was registered at Police Post Moonak, Karnal.

3.1 The claimants-respondent Nos.1 & 2 filed the claim petition against owner and insurer of the motorcyclist.

3.2 It was contended that the accident took place due to the use of the said motorcycle, and as such, compensation was sought under Section 163-A of the Act.

3.3 The petition was contested by the Insurance Company. Issues were framed and the Tribunal awarded the following compensation:-

- (a) Rs.7,34,400/- on account of loss of dependency by treating the annual income of the deceased as Rs.43,200/- and by applying the multiplier of '17'.
- (b) Rs.1,00,000/- towards loss of consortium to the husband.
- (c) Rs.1,00,000/- to the minor child on account of filial compensation.
- (d) Rs.25,000/- towards funeral expenses.
- (e) Rs.2,50,000/- was awarded on account of the death of fetus of 07 months as the deceased was pregnant at the time of her death.



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4. At the outset, learned counsel for the Insurance Company does not press his contest against the compensation amount of Rs.2,50,000/- awarded to the claimants on account of the fact that the deceased was having a 7 months old fetus as she was pregnant at the time of her accidental death. A limited prayer has been made that the compensation should have been calculated on structured formula basis and not by applying the multiplier method, since the petition was filed under Section 163-A of the Act.

5. I have considered the submissions made on behalf of the appellant-Insurance Company and perused the paper-book.

6. Section 163-A of the Act provides for compensation on structured formula basis whereby the owner of the motorcycle or the authorized insurer would be liable to pay compensation on structured formula in the case of death or permanent disability suffered due to accident arising out of the use of the motor vehicle. In order to prove a claim of this nature, the claimant is not required to plead or establish that the death or permanent disability in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle concerned, however, the compensation which can be awarded is to be restricted as provided under Second Schedule to Section 163-A of the Act.

7. As per the scheme of the Act and in view of the decision by the Hon'ble Apex Court in National Insurance Company Ltd. vs. Pranay Sethi & Ors., (2017) 16 SCC 680, the calculation of compensation in a petition filed under Section 166 of the Act is on the basis of determination of age, determination of income of the deceased,



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selection of multiplier and thereafter compensation under the conventional heads i.e. loss of estate, loss of consortium and funeral expenses is to be added. However, as per the provisions of Section 163-A of the Act, the quantification of the compensation is restricted to the pre-determined compensation tabulated in the Second Schedule under Section 163-A of the Act.

8. Admittedly, the petition was filed under Section 163-A of the Act and in view of the facts pleaded on record, the findings of the Tribunal while determining compensation by way of applying the multiplier method are erroneous and not sustainable in the eyes of law.

9. The compensation has to be restricted to structured formula. It is also noticed that there was no involvement of any other vehicle in the accident in question, but the death took place due to the use of motorcycle wherein the deceased was a pillion rider. It has been contended that a stray animal came in front of the motorcycle; resultantly, the motorcycle slipped and the occupants fell on the ground. As such, the provisions of Section 166 of the Act would not be applicable and the compensation is to be ascertained under Section 164 of the Act.

10. Section 163-A of the Act is now substituted by Section 164 of the Motor Vehicles Act, 1988 (Act No.32 of 1990) w.e.f. 01.04.2022. As such, the question arises as to whether in such petitions which have been filed prior to the amendment of 2019 in the Act, provisions of Section 164 of the Act would be attracted or not?



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11. Section 164 (ibid) reads as follows:-

“Payment of compensation in case of death or grievous hurt, etc. --

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorised insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim, as the case may be.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.”

11.1 In view of the provisions of Section 164 of the Act, in a petition filed thereunder, the owner of a motor vehicle or the insurer thereof is liable to pay compensation to the tune of Rs.5,00,000/- in case of death or to the tune of Rs.2,50,000/- in case of a grievous hurt to the legal heirs/injured victim and in such cases, the claimant is not to plead or establish that the death or grievous hurt was caused due to any wrongful act or neglect or default of the owner of the vehicle.

12. The Hon’ble Apex Court in **Ram Murti and Others Vs. Punjab State Electricity Board, 2023 ACJ 631** held that the claimant should be granted benefit of beneficial provisions enacted by the Parliament. It was held as under:-

“7. The provisions of Section 140 which formed a part of Chapter 10



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of the Motor Vehicles Act 1988 were omitted by Act 32 of 2019. Simultaneously, Chapter 11 was substituted of which Section 164 provides for payment of compensation in the case of death in the amount of Rs 5 lakhs and in the case of grievous hurt of Rs 2.5 lakhs.

8. We are inclined to give the appellants the benefit of the beneficial provisions which have been enacted by Parliament. Hence, in modification of the order of the High Court, we direct that the appellants shall be entitled to an amount of Rs 5 lakhs as compensation. However, if the amount of Rs 50,000 which has been awarded by the High Court has already been paid over, the balance (or the entirety of Rs 5 lakhs if no amount has been paid) shall be paid over to the appellants by 30 November 2022.

13. In view of the above discussion, the present appeal is partly allowed and the award passed by the Tribunal is modified accordingly. Consequently, the impugned Award passed by the tribunal is modified and the claimants are held entitled for compensation to the extent of Rs.5,00,000/- regarding the death of Pinki (since deceased) under Section 164 of the Act.

14. The findings of the Tribunal while awarding a sum of Rs.2,50,000/- as compensation on account of death of the fetus of 07 months in the womb of the deceased are not altered since the Insurance Company has not pressed its contest against the said amount. As such, the claimants shall be entitled to the total compensation of Rs.7,50,000/- (Rs.5,00,000/- + Rs.2,50,000/-) along with interest @ 7.5% per annum (in terms of the impugned award)

15. The disbursal of the compensation and apportionment and deposit of the share of the minor in the shape of FDR shall also be in terms of the ratio awarded by the Tribunal.

16. The Insurance Company is directed to deposit the amount



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along with interest with the Tribunal within a period of 02 months from today. The Tribunal is further directed to disburse the compensation along with interest directly into the bank accounts of the claimants. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimants to the appellant-Insurance company within a period of two weeks from today and needful shall be done by the Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

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

15.10.2025
atulsethi

[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No