



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**Date of decision: 27.11.2025
FAO-1164-2018(O&M)**

The Oriental Insurance Co. Ltd.

...Appellant(s)

Vs.

Kaushalya Devi & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr.D.P. Gupta, Advocate,
Mr. Shubham Gupta, Advocate for the appellant.
Mr.J.P. Jangu, Advocate for respondents No.1 and 2.

NIDHI GUPTA, J.

Present appeal has been filed by the Insurance Company laying challenge to the Award dated 10.11.2017 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter 'the learned Tribunal') whereby Claim Petition No.164 dated 31.07.2015 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act") by the claimants/respondents No.1 to 3 herein, has been allowed and compensation of Rs.16,42,872/- has been awarded to the claimants along with interest @ 7.5% per annum. The three claimants are the parents and minor brother of deceased Arvind, who was 22 years old at the time of accident.

2. Mr. J.P. Jangu, Advocate puts in appearance on behalf of respondents No.1 and 2; and files Power of Attorney, which is taken on record.

3. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties,



concluded that deceased Arvind had died due to the injuries suffered by him in a motor vehicular accident that took place on 24.06.2015 at about 2 pm due to the rash and negligent driving of truck bearing registration No.HR-55H-5657 (hereinafter “the offending vehicle”) being driven by respondent No.4, owned by respondent No.5, and insured by the appellant.

4. Learned counsel for the appellant assails the impugned Award by submitting that compensation in excess of what was admissible to the claimants as per law, has been awarded to the claimants; inasmuch as, admittedly, the deceased was unmarried, therefore, deduction of 50% ought to have been made towards personal expenses; whereas learned Tribunal has made a deduction of 1/3rd towards personal expenses.

5. Learned counsel further submits that from the compensation awarded to the claimants, the learned Tribunal ought to have made a deduction towards contributory negligence as well, as PW3 eyewitness produced by the claimants had deposed that at the time of accident, the deceased was entering the main road from a side road. It is argued that therefore, deceased ought to have been cautious while entering the main road from a side road. It is submitted that as per the Statement of Laxman Singh the deceased had come from the side of Bawal, after crossing the Chowk when the accident took place. During investigation a site plan was prepared according to which the deceased came from the side road from the side of Bawal and after crossing the Road he came at the spot of accident. This main road is divided by a divider. The truck was on its left side of the



Road and accident took place at point A which is on the left side of Road. It is submitted that this shows that the deceased came on the main road which is a national Highway without observing Traffic Rules. He should have crossed the Road only when it was safe to do so after looking towards both the sides of road. Hence Arvind Himself was rash and negligent. The Truck Driver immediately stopped at the place of accident which shows the Truck was not being driven rashly and negligently. In this way the Motorcyclist Arvind himself was rash and negligent and claimants are not entitled to any compensation or in the alternative it can be a case of contributory negligence to the extent of 50-50. Hence the findings on issue N. 1 by the MACT are liable to be set aside/modified.

6. It is contended that accordingly, the deceased was negligent in causing the accident as established from the testimony of eyewitness PW3. Therefore, deceased should have been held liable for contributory negligence.

7. Per contra, learned counsel for the claimants opposes the submissions advanced on behalf of the appellant and submits that the impugned Award suffers from no error; and the present appeal accordingly deserves to be dismissed.

8. No other argument is made on behalf of the parties.

9. I have heard learned counsel and perused the case file in detail.



10. The pleaded case of the claimants in the Claim Petition as recorded in Para 2 of the impugned Award is as follows:-

"2. It is stated by the petitioners that on 24.06.2015, Arvind son of Suresh Singh (deceased) was coming to village Jaliawas from Bawal on motor-cycle no.HR-36P-8229. At about 02:30/03:00 pm, when he reached near Banipur chowk on NH-8, the offending truck no.HR-55H-5657 driven by respondent no.1 Baljinder in a rash and negligent manner came from the Jaipur side and hit the motor-cycle driven by Arvind. He was run over under the tyre of the offending vehicle. He was rushed to the hospital where he was declared brought dead. FIR no.180 dated 24.06.2015 was registered under Section 279, 304-A IPC at PS Kasola against respondent no.1."

11. It has been contended on behalf of the appellant-Insurance Company that the deceased was negligent in causing the accident as PW3 eyewitness Laxman Singh has deposed that the deceased was entering the main road from a side road. However, the said assertion of the appellant is factually incorrect. Perusal of the record shows that PW3 Laxman Singh had categorically deposed in his affidavit (Ex.PW3/A) that *"...on 24.06.2015, he was present at Banipur Chowk and waiting for a transport to go to his home. At about 02:30/03:00 pm, he saw a motor-cycle driven by Arvind deceased crossing the chowk. At the same time a truck no.HR-55H-5657 driven by its driver in a rash and negligent manner came from the Jaipur side and hit the motor-cycle driven by Arvind. The motor-cyclist was run under by the truck. The driver of the truck stopped the truck at a little distance. As he was taking care of Arvind, the driver of the truck fled away from the spot. Arvind was*



declared brought dead at the hospital...” Thus, assertion of the appellant is based on misreading of the factual situation as described by the eyewitness.

12. As regards the quantum of compensation, it was the pleaded case of the claimants that prior to the accident, the deceased was doing labour work and earning Rs.15,000/- per month. However, claimants had failed to produce any evidence to support their contention. Accordingly, the learned Tribunal had taken income of the deceased as Rs.8,000/- per month. I find no error in the same.

13. The deceased was proved to be 22 years old at time of accident, from his School Leaving Certificate, wherein his date of birth is mentioned as 13.09.1993. Thus, addition of 40% towards future prospects was correctly made; and multiplier of 18 was correctly applied. Under the conventional heads, the learned Tribunal had awarded Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses. No doubt, as deceased was unmarried, a deduction of 50% was required to be made towards personal expenses. However, admittedly, nothing has been awarded to the three claimants by way of consortium.

14. The Hon’ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **“New India Assurance Co. Ltd. Vs. Vinish Jain & Others”** Law Finder Doc ID # 977386, has held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.



15. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in "**The Managing Director, Divisional Controller Versus Alikutty and Others**" Law Finder Doc Id # **1885188**. Relevant para 18 of the said judgment is reproduced below:-

*"18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards".*

16. Above said view has been reiterated by the Kerala High Court in "**Reliance General Insurance Company Limited Vs. Adila and Others**", Law Finder Doc ID # **1921609**, paras 16 and 17 of which read as under:-

"16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.

17. In New India Assurance Co., Ltd v. Vineesh.J[2018 (3) SCC 619], the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent."

17. A 3-Judge Bench judgment of the Hon'ble Supreme Court in the case of "**Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379**"; has held that: "*Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted*



legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case."

18. In view of the above noted factual and legal position, the present appeal accordingly stands **dismissed**.

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

27.11.2025
Sunena

(Nidhi Gupta)
Judge

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