



FAO-4416-2025 (O&M)

-1-

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

FAO-4416-2025 (O&M)

Date of Decision: 21.07.2025

Shri Ram General Insurance Company Limited

.....Appellant

Vs.

Kirandeep Kaur and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sachin Ohri, Advocate,
for the appellant-Insurance Company.

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 06.05.2025 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Ludhiana (for short, 'the Tribunal'), whereby the respondents/claimants were granted compensation to the tune of Rs.47,60,000/- along with interest at the rate of 6% per annum on account of death of deceased-Harpreet Singh and the appellant-Insurance Company as well as respondents No.4 and 5 were held liable to pay the aforesaid amount of compensation, jointly and severally.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on 27.06.2020, Harpreet Singh (since deceased) was on the way to Mandi Gobindgarh from Ramgarh (Jharkhand) after loading sponge oil in his truck bearing registration number



FAO-4416-2025 (O&M)

-2-

PB-10CV-3257. At around 03:00 A.M, while he was cleaning the rear tyres of his truck, a truck make TATA LPT 3118 TC, bearing registration number UK-06CA-8238, being driven by respondent No.1, came from behind in a rash and negligent manner and hit Harpreet Singh, causing him to suffer multiple grievous injuries. He was immediately taken to Trauma Centre, Lucknow, but unfortunately, he succumbed to his injuries on the way. In this regard, FIR No.343 dated 29.06.2020, under Sections 279, 427 and 304-A of the Indian Penal Code, 1860, was registered at Police Station Bachhrawan, District Raebareli (U.P.).

3. Upon notice of the claim petition, respondents No.4 and 5 did not turn up to contest the claim petition, hence, they were proceeded against ex parte, whereas, appellant-Insurance Company appeared through its counsel and filed its written reply denying the factum of accident/compensation.

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

“1. Whether Harpreet Singh son of Guljeet Singh died in motor vehicle accident dated 27.06.2020 caused due to rash and negligent driving of respondent no.1 while driving vehicle i.e. truck bearing registration no. UK-06CA-8238 owned by respondent no.2 and insured with respondent no.3? OPP

2. Whether the claimants are entitled to the compensation, if so, to what extent and from whom? OPP

3. Whether claim petition is not maintainable? OPR



4. *Whether the claimants have no cause of action and locus-standi to file the present clam petition? OPR*

5. *Whether vehicle i.e. truck bearing registration no. UK-06CA-8238 was being plied in contravention of insurance policy? OPR*

6. *Relief.”*

5. Thereafter, both the parties have led their respective evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the tune of Rs.47,60,000/- along with interest at the rate of 6% per annum on account of death of deceased-Harpreet Singh and the appellant-Insurance Company as well as respondents No.4 and 5 were held liable to pay the aforesaid amount of compensation, jointly and severely. Hence, the Insurance Company filed the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT

7. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal failed to appreciate the very fact that there was no eye-witness to the accident and the claim petition has wrongly been allowed. He further contends that the income of the deceased has wrongly been assessed as Rs.25,000/- per month by the learned Tribunal without appreciating the evidence on record.

8. I have heard learned counsel for the appellant-Insurance Company and perused the case file with his able assistance.



9. The relevant portion of the award dated 06.05.2025 passed by the learned Tribunal is reproduced as under:-

“Issue No.2

11. *Once the factum of accident is established, the next vital question, which calls for consideration, is with regard to the extent of compensation, payable to the claimants and the liability of the respondents to pay the same.*

12. *Firstly, let us consider the age of the deceased. In the claim petition, it is averred by the claimants that deceased was 30 years old, at the time of accident. In copy of adhaar card, date of birth of deceased is mentioned as 20.06.1990 and the accident took place in the year 2020, so on the day of accident, age of the deceased comes to be 30 years. No evidence to the contrary has come on record. In the light of the same, deceased is established to be 30 years old, at the time of accident.*

13. *So far as avocation and income of the deceased is concerned, in the claim petition, the claimants have asserted that the deceased was a driver besides pursuing agricultural work and his earnings were Rs.40,000/- per month. However, no document or any other reliable evidence has been led by the claimants to show that the deceased was a driver. As regards agricultural pursuit of the deceased, the claimants have proved certified copy of income tax return furnished by deceased for the assessment year 2010-2011 Ex. C-13 and certificate u/s 65-B of the Evidence Act as Ex.C-14. In income tax return, the income of deceased from agricultural pursuit, is shown to be Rs.69,992/- per annum. But, this mere return cannot be taken as conclusive proof of income of deceased. However, at the same time, it has to be borne in mind that the proceedings for compensation under Motor Vehicle Act, are benevolent piece of legislation and from the ITR, it can be concluded that the status of the deceased was more than that of a casual labourer. It is specifically claimed that he was working as a driver. Though, in that regard, he should be treated as a skilled labourer. Nonetheless, he must be earning around Rs.15,000/- per month from his work as a driver. Additionally, the claimants have produced on record copy of jamabandi for the years 2017- 2018 of village Utalan Ex.C-19, for the year 2016-2017 of village Lakha Singh Wala Ex. C-20, for the years 2018-2019 of village*



Benijer, Ex.C-21 and jamabandi for the years 2016-2017 of village Chehlan Ex.C-22. In these jamabandies, the deceased is shown to be co-sharer to the extent of his share. The Court cannot lose of the sight of the fact that the deceased must be rendering supervisory and managerial duties pertaining to the agricultural land. Considering the deceased to be a skilled labourer and supervision of land owned by him, as depicted in the revenue record and considering the input for cultivation of the land, the earnings of deceased, in the form of rendering assistance in agricultural out put as co-owner cum manager, is hereby taken to be Rs. 10,000/- per month. In this manner, total monthly income of deceased comes to Rs.25,000/-.

14. *In the light of the decision rendered by **Hon'ble Supreme Court of India, in SLP (Civil) No. 25590 of 2014, decided on 31.10.2017 in case National Insurance Company Limited Versus Pranay Sethi and Others**, an addition to the established income of the deceased has to be made, in case he was self-employed or on a fixed salary. In the present case, deceased was self employed person and was 30 years of age, as such, an addition of 40% has to be made (considering his age), while computing future prospects. Making it to be so, the earnings of the deceased comes to be Rs. 35,000/- per month (Rs. 25,000/- + Rs.10,000/-).*

15. *While taking guidelines from '**Sarla Verma Vs Delhi Transport Corporation' 2009 (3) RCR (Civil) 77, (Supreme Court)** and considering the number of dependents of the deceased i.e. claimants, 1/3rd of the earnings of the deceased is to be deducted, on account of personal expenses. In this manner, earnings of the deceased, come to 23,300/- (Rs.35,000/- minus Rs.11,700/-).*

16. *Also taking guidelines from '**Sarla Verma's case (Supra)** and considering the age of the deceased, suitable multiplier, to be applied, in the present case to work out the compensation is '17'. Applying this multiplier to the annual dependency of Rs. 02,79,600/- (Rs.23,300 x 12) of claimants, compensation payable to them comes out to be Rs. 47,53,200/- (02,79,600/- x 17).*

17. *Besides the same, in view of **National Insurance Company Limited Versus Pranay Sethi and Others (supra)**, another sum of Rs. 15,000/- as loss of estate, Rs.40,000/- consortium to wife and Rs. 15,000/- as funeral expenses, is also granted. Claimants are also entitled to enhancement @ 10% on these conventional*



heads as per guidelines of judgment cited-supra. In this manner, amount payable under these heads comes to Rs.77,000/-.

18. Thus, the total compensation, payable to the claimants, on account of death of deceased, works out to be Rs.47,60,200/-

19. Respondent no.1 is the proved to be driver and respondent no.2 is proved to be owner of the offending vehicle. From the insurance policy note placed on record, it stands established that the offending vehicle was duly insured with the insurance company-respondent no.3 and the period of insurance, covers the date of accident also. Therefore, the respondents being owner, driver and insurer, respectively, of the offending vehicle, are jointly and severally liable to pay the aforesaid compensation amount, so awarded to the claimants.”

10. From the perusal of award, this Court is of the considered view that the learned Tribunal has rightly appreciated the entire evidence on record, including the testimony of key witnesses, supported with documentary evidence. After a careful evaluation, the learned Tribunal has correctly held the respondent No.1-driver of the offending vehicle liable for causing the accident by driving his vehicle in a rash and negligent manner.

11. The testimony of CW-2, Raghbir Singh, assumes pivotal importance. He has categorically narrated the sequence of events leading to the accident and unequivocally attributed the cause of accident to the negligent conduct of respondent No.1. Significantly, CW-2 is also the informant who lodged the FIR, and his deposition remains consistent with the allegations set out therein. His credibility has not been impeached during his cross-examination, and his version of events withstand judicial scrutiny. His testimony of account has been found to be cogent, trustworthy and reliable.



12. Moreover, it is evident from the record that the respondents No.1 and 2 failed to appear and contest the claim petition. In such circumstances, the learned Tribunal was justified to draw an adverse inference against them, particularly in the light of the settled legal position that when the driver of the offending vehicle fails to deny the allegation of negligence, a presumption of negligence can rightly be drawn against him.

13. It is further borne out from the record that a charge-sheet has been filed and charges were framed against the respondent No.1 pursuant to the FIR lodged in connection with the accident. It is a trite law, as laid down by this Court in **FAO-1866-2007** titled as '**Smt. Gayatri Devi and others Vs. Ashwani Kumar and others**' decided on 21.03.2025, that where the driver of the offending vehicle is facing criminal prosecution for charges of rash and negligent driving, a *prima facie* presumption can safely be drawn that the accident occurred as a result of his rash and negligent conduct. The relevant extract of judgment passed in ***Smt. Gayatri Devi's case (supra)*** is reproduced as under:-

"14. Furthermore, PW3-Raja Ram, Criminal Ahlmad to the CJM, Narnaul, testified that a challan had been duly presented in FIR No. 27 dated 4.2.2005 against Respondent No.1 and the charges were already framed under Sections 279 and 304-A IPC. Jurisprudence in motor accident cases unequivocally holds that once the FIR has been registered and a charge sheet has been filed, it constitutes prima facie evidence of the fact that the accident occurred due to the negligent driving of the accused. The learned Tribunal, however, erroneously disregarded this crucial piece of documentary evidence, which lends substantial credence to the case of the appellants/claimants."



14. As regards the contention raised by learned counsel for the appellant/insurance company that the claim petition ought to have been dismissed on the ground that no eyewitness was examined, the argument is without merit. It is a trite principle in motor accident claim proceedings that the non-examination of an eyewitness is not fatal to the case of the claimant, especially when other credible material is available on record to support the claim.

15. In this context, reference may be made to the decision of the Hon'ble Supreme Court in **Sunita v. Rajasthan State Road Transport Corporation, (2020) 13 SCC 486**, wherein the Apex Court held as under:-

*“31. Similarly, the issue of non-examination of the pillion rider, Rajulal Khateek, would not be fatal to the case of the appellants. The approach in examining the evidence in accident claim cases is not to find fault with non examination of some "best" eye witness in the case but to analyse the evidence already on record to ascertain whether that is sufficient to answer the matters in issue on the touchstone of preponderance of probability. This Court, in **Dulcina Fernandes** (supra), faced a similar situation where the evidence of claimant's eye-witness was discarded by the Tribunal and the respondent was acquitted in the criminal case concerning the accident. This Court, however, took the view that the material on record was prima facie sufficient to establish that the respondent was negligent. In the present case, therefore, the Tribunal was right in accepting the claim of the appellants even without the deposition of the pillion rider, Rajulal Khateek, since the other evidence on record was good enough to prima facie establish the manner in which the accident had occurred and the identity of the parties involved in the accident.*

32. On the issue of negligence by the deceased Sitaram in causing the accident, the Tribunal has referred to the notice issued under Section 134 of the Act (Exh. 7) to the driver of the offending vehicle, respondent No.2. It records that in the said notice, respondent No.2 failed to give any statement indicating that the accident occurred



due to any mistake by the rider of the motorcycle, Sitaram. The Tribunal has further relied upon the evidence of Bhagchand (A.D.2) and also upon the site plan of the accident (Exh. 3) to reach a conclusion that respondent No.2 recklessly drove the speeding bus on the wrong side of the road, into the motorcycle being ridden by Sitaram, who was on the correct side of the road, and caused his death. Whereas, the High Court has disregarded the evidence of Bhagchand. Further, the site plan (Exh. 3) cannot be read in isolation. It will have to be examined in conjunction with the other evidence.

33. The site plan (Exh. 3) has been produced in evidence before the Tribunal by witness A.D. 1 (appellant No.1 herein) and the record seems to indicate that the accident occurred in the middle of the road. However, the exact location of the accident, as marked out in the site plan, has not been explained muchless proved through a competent witness by the respondents to substantiate their defence. Besides, the concerned police official who prepared the site plan has also not been examined. While the existence of the site plan may not be in doubt, it is difficult to accept the theory propounded on the basis of the site plan to record a finding against the appellants regarding negligence attributable to deceased Sitaram, moreso in absence of ocular evidence to prove and explain the contents of the site plan.

*34. Be it noted that the evidence of witness A.D.2 (Bhagchand) unequivocally states that the respondent No.2 bus driver was negligent in driving recklessly at a high speed on the wrong side of the road, thus, resulting in the accident which caused the death of Sitaram. It was not open to the High Court to discard this evidence. Additionally, the Tribunal had justly placed reliance on the contents of FIR No.247/2011 (Exh. 1) and charge-sheet (Exh.2) which prima facie indicate the negligence of respondent No.2 in driving the bus. We once again remind ourselves of the dictum in **Dulcina Fernandes** (supra) and thereafter in **Mangla Ram** (supra), and answer the factum of negligence of the driver of the offending vehicle against the respondents.”*

16. Even if there was no eyewitness at the time of accident, the absence of an eyewitness in itself does not vitiate the claim, particularly when the accident is otherwise established through cogent and convincing



FAO-4416-2025 (O&M)

-10-

evidence such as FIR, the charge sheet, and corroborative testimony of witnesses in the case. The learned Tribunal, thus, committed no error in relying upon available material to arrive at its conclusion regarding the rash and negligent driving of offending vehicle.

17. The Supreme Court in **Anita Sharma v. New India Assurance Co. Ltd., 2021(1) SCC (Cri) 475**, reiterated that strict rules of evidence and proof beyond reasonable doubt do not apply to proceedings under the Motor Vehicles Act. Instead, the standard is of preponderance of probabilities, and credible witness testimony can suffice to establish liability. The relevant extract of the **Anita Sharma's** case (supra) is reproduced as under:-

*22. Equally, we are concerned over the failure of the High Court to be cognizant of the fact that strict principles of evidence and standards of proof like in a criminal trial are inapplicable in MACT claim cases. The standard of proof in such like matters is one of preponderance of probabilities, rather than beyond reasonable doubt. One needs to be mindful that the approach and role of Courts while examining evidence in accident claim cases ought not to be to find fault with non-examination of some best eyewitnesses, as may happen in a criminal trial; but, instead should be only to analyze the material placed on record by the parties to ascertain whether the claimant's version is more likely than not true. A somewhat similar situation arose in **Dulcina Fernandes v. Joaquim Xavier Cruz (2013) 10 SCC 646**, wherein this Court reiterated that:*

*“7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pickup van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probabilities and certainly not on the basis of proof beyond reasonable doubt. (**Bimla Devi v. Himachal RTC [(2009) 13 SCC 530 : (2009) 5 SCC (Civ) 189 : (2010) 1 SCC (Cri) 1101]**)*

(emphasis supplied)”



FAO-4416-2025 (O&M)

-11-

18. In the present case, unshaken and cogent testimony of CW-2 Raghbir Singh, supported by registration of the FIR and filing of the charge-sheet against respondent no.1, provides sufficient proof to establish the negligent conduct of the driver. The documentary evidence, including the FIR and presentation of challan, corroborates the oral testimony and further reinforces the findings of the Tribunal.

19. In this light, the finding of the learned Tribunal regarding the negligent act of respondent No.1 is legally sustainable and does not warrant any interference of this Court.

20. Adverting now to the second limb of the contention raised by learned counsel for the appellant regarding the assessment of the income of deceased as Rs.25,000/- per month, this argument too is without any substance as there is sufficient evidence on record to reveal that the deceased was engaged both as a driver and in agricultural pursuits. The claimants produced income tax returns (Ex. C-13) to substantiate his income, wherein an agricultural income of Rs.69,992/- is reflected.

21. The Hon'ble Supreme Court in **K. Ramya & Ors. v. National Insurance Co. Ltd., 2022(4) RCR (Civil) 435** has laid down that income tax returns and audited financial records are reliable indicators for determining income for the purpose of computing compensation. In **K.Ramya's case (supra)**, the Apex Court emphasized that such documents must be given due evidentiary weight unless successfully rebutted by the opposing party. The appellant/insurance company has neither led any



contrary evidence nor demonstrated that the income tax return was false or exaggerated.

22. Furthermore, it is a trite law that the determination of quantum is a fact-dependent exercise which must be liberal and not parsimonious. It must be emphasized that compensation is a more comprehensive form of pecuniary relief which involves a broad-based approach unlike damages.

23. The Hon'ble Supreme Court in **Yadava Kumar v. Divisional Manager, National Insurance Co. Ltd., (2010) 10 SCC 341**, clarified that compensation under the Act is a comprehensive form of pecuniary relief, distinct from conventional damages, and must be assessed through a broad-based and pragmatic approach. The relevant portion of the judgment passed in ***Yadava Kumar's case (supra)*** is reproduced as under:-

“17. While assessing compensation in accident cases, the High Court or the Tribunal must take a reasonably compassionate view of things. It cannot be disputed that the appellant being a painter has to earn his livelihood by virtue of physical work. The nature of injuries which he admittedly suffered, and about which the evidence of PW-2 is quite adequate, amply demonstrates that carrying those injuries he is bound to suffer loss of earning capacity as a painter and a consequential loss of income is the natural outcome.”

24. This Court is also mindful of the settled legal position that the Motor Accident Claims Tribunals are vested with substantial discretion and flexibility in computing ‘**just compensation**’. Learned Tribunal is not required to adhere strictly to mathematical precision or technical rules of evidence as applied in civil suits. Accordingly, interference by the appellate

**FAO-4416-2025 (O&M)****-13-**

court is warranted only where the award is shown to be manifestly excessive, arbitrary or unjust.

25. In the present case, upon consideration of oral and documentary evidence available on record, including the income tax returns produced by the claimants, the learned Tribunal has rightly assessed the monthly income of the deceased as Rs.25,000/-. The assessment is neither speculative nor excessive and is well-supported by material evidence placed before the learned Tribunal.

26. In view of the foregoing discussion and the governing principles laid down by the Hon'ble Supreme Court, the findings of the learned Tribunal on the assessment of monthly income of the deceased warrants no interference of this Court and stands affirmed.

27. Accordingly, in the light of settled legal position, credible testimony of CW-2, supporting documents, the findings of the learned Tribunal warrants no interference of this Court.

28. The present appeal, being devoid of any merit, is hereby dismissed and the award dated 06.05.2025 passed by the learned Tribunal is hereby affirmed.

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

(SUDEEPTI SHARMA)
JUDGE

21.07.2025

Virender

Whether speaking/non-speaking	: Speaking
Whether reportable	: Yes/No