IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-1571-2018 (O&M)
Reserved on : 15.09.2025
Date of Pronouncement : 15.10.2025

National Insurance Company Limited ......Appellant

Vs.

Gurjeet Kaur and others ......Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. V. Ramswaroop, Advocate, for the appellant.

Mr. P.S.Guliani, Advocate, for respondents No.1 and 2.

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SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 03.01.2018 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal'), wherein the appellant-Insurance company and respondents No.3 and 4 were held liable to pay the compensation, jointly and severally, to the claimant/respondent No.1 to the tune of Rs.23,10,300/- along with interest @ 6% per annum.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that on 03.02.2017 at about 6:30 p.m., Amrik Singh (since deceased) was returning home from Choudhary

Majra on his scooter bearing registration No.PB-13D-4464. When he reached near Kotak Mahindra Bank, Dulladi, a tempo bearing registration No.PB-11R-1766, being driven by respondent No.1 in rash and negligent manner, came from the wrong side and struck against the deceased. As a result thereof, Amrik Singh fell on the road and sustained grievous injuries. Respondent No.1 stopped his vehicle and disclosed his name, but thereafter fled from the spot. Amrik Singh was taken to Rajindra Hospital, Patiala, where he remained under treatment; however, he succumbed to the injuries on 11.02.2017. The accident was witnessed by Jagjeet Singh, brother of the deceased, who lodged a report with the police and FIR No.19 dated 07.02.2017 under Sections 279, 337, 338 and later 304-A later on added) of the Indian Penal Code, 1860, was registered at Police Station Sadar, Nabha against respondent No.1.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing their separate written replies and denied the factum of the accident/compensation.

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

> *"1. Whether Amrik Singh son of Rajinder Singh had died in a roadside accident which took place on 3.2.2017 at about 6-30 pm due to rash and negligent driving of respondent no.1 ?OPP*
> *2. If issue no.1 is proved, whether the claimants are entitled to compensation from whom and to what amount ?OPP*
> *3. Whether the present claim petition is not maintainable in the present form ?OPR 3*

> 4. *Whether the respondent no.1 and deceased were not holding a valid and effective driving licence at the time of alleged accident ?OPR3*
> 5. *Whether the owner of tempo bearing registration no. PB 11R 1766 was not having a valid registration certificate, fitness certificate and permit at the time of accident? OPR3*
> 6. *Whether the claim petition is bad for nonjoinder of necessary parties ?OPR3*
> 7. *Whether the present claim petition has been filed by claimants in collusion with respondents no.1 and 2? OPR3*
> 8. *Relief."*

5. In support of their pleadings, both the parties led their respective evidence.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to claimant/respondent No.1 to the tune of Rs.23,10,300/- along with interest @ 6% per annum and respondents were held liable to pay compensation jointly and severally. Hence, the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellant-Insurance Company has assailed the award primarily on three grounds. Firstly, it is contended that the learned Tribunal fell in error in holding that the accident in question was caused due to rash and negligent driving of the offending vehicle by its driver. Secondly, it is urged that there was an unexplained delay in the lodging of the FIR, which ought to have cast doubt on the version of claimant/respondent No.1 and 2. Thirdly, it is argued that the learned

Tribunal erred in assessing the monthly income of the deceased on the higher side, without there being sufficient documentary proof. On the strength of these submissions, learned counsel prays that the present appeal be allowed and the award set aside or suitably modified.

8. *Per contra*, learned counsel for claimants/respondents No.1 and 2 submits that the learned Tribunal has rightly returned the finding on the issue of negligence and the same calls for no interference. However, it is urged that the compensation awarded is on the lower side and, therefore, warrants enhancement. He fairly concedes that no independent appeal has been preferred by the respondent-claimant for seeking such enhancement. Nonetheless, placing reliance on the judgment of this Court passed in **FAO-5834-2016** titled as **'The Oriental Insurance Company Limited Vs. Smt. Mathri Devi and others'**, decided on 12.09.2025, he contends that this Court, in exercise of its appellate jurisdiction, possesses ample power to enhance the quantum of compensation even in the absence of a cross-appeal or cross-objections filed by the claimant.

9. I have heard learned counsel for the parties and carefully perused the record of this Court with their able assistance.

10. Before proceeding further, it is relevant to reproduce the pertinent portion of the award dated 03.01.2018 passed by learned Tribunal:-

> *"**ISSUE NO.1***
> *15. Onus to prove this issue is on the claimants. The claimants have got examined Jagjeet Singh son of*

Rajinder Singh as CW1 to prove rash and negligent driving of respondent no.1. The perusal of statement of Jagjeet Singh shows that the accident took place due to rash and negligent driving of Buta Singh. Jagjeet Singh was following his brother as he met his brother at the bridge of Dulladi. He has witnessed the accident. He has specifically stated in his statement that the accident was caused due to rash and negligent driving of respondent no.1, who was driving tempo bearing registration no. PB 11R 1766. He further deposed that Buta Singh stopped his vehicle and disclosed his name but thereafter he fled away from the spot. The FIR regarding the occurrence was got registered on 7.2.2017. The learned counsel for the Insurance Company has contended that there was delay in lodging the FIR but the said argument is devoid of merit because there is nothing on the file to disbelieve the statement of Jagjeet Singh. The statement of Jagjeet Singh cannot be ignored only due to the fact that he is brother of deceased. Further, Buta Singh has not stepped into the witness box to state the fact that the accident has not taken place due to his rash and negligent driving. Further, the perusal of the FIR shows that it was recorded on the statement of Jagjeet Singh who has specifically named Buta Singh in the FIR. Therefore, this Court is of the considered opinion that the accident has taken place due to rash and negligent driving of Buta Singh. Therefore, this issue is decided in favour of the claimants.

ISSUE NO.2

21. Onus to prove this issue is on the claimants. The claimants have averred in the claim petition that Amrik Singh was earning Rs.15,000/- per month while working on Khaira Filling Station and Rs.5000/- per month by imparting tuition to the children. The claimants have examined Jagjit Singh Khaira CW2 who stated that Amrik Singh was working on the petrol pump owned by is wife Paramjit Kaur. He further deposed that Amrik Singh was working as Manager on the petrol pump and drawing salary of Rs.15,000/- per month. He further deposed that Amrik Singh joined the said job on 1.11.2015. If no appointment letter of Amrik Singh was produced on the, file the said fact does not make the statement of Jagjit Singh Khaira unbelievable because in private sector while working on petrol pumps/shops/factories, no appointment letter is *generally issued. Furthr the statement of Jagjit Singh Khaira is corroborated by the statement of Nitesh Kumar, Accountant CW4 who proved the fact that Amrik Singh was earning Rs.15,000/- per month while working at Khaira Filling Station. If income tax returns of Khaira Filling Station do not specifically finds mentioned the fact that salary was being paid to Amrik Singh, that fact does not prove the fact that Amrik Singh was not working on the said petrol pump. In the profit and loss account generally the total salary paid to all the employees is mentioned. Therefore, argument of learned counsel for the Insurance Company is devoid of merit in this regard. Therefore, it is established on the file that Amrik Singh was working on Khaira Filling Station and was earning Rs.15,000/- per month. However, the claimants have further taken the plea that Amrik Singh was also imparting tuition to the children and they have examined Satgur Singh CW5 to prove the said fact. However, it is highly improbable that if a person is working on a petrol pump which is opened 24 hours, then the Manager of said Filling Station will be able to impart tuition to the children. Therefore, it cannot be believed that Amrik Singh was imparting tuition to the children. Therefore, this Tribunal assesses the income of deceased Amrik Singh to be Rs.15,000/- per month. Amrik Singh was born on 11.10.1992 as per his driving licence (Ex.C17). Therefore, he was of the age 24 years at the time of accident. Therefore, relying upon the authority titled as* ***National Insurance Company Limited v. Pranay Sethi and others Special Leave Petition (Civil) no.25590 of 2014 decided by Hon'ble the Apex Court on 31.10.2017****, 40% is to be added towards future prospectus. Therefore, if we add 40% to Rs.15,000/- then the monthly income of deceased comes to Rs.21.000/-. The deceased was a bachelor. Therefore, ½ of the amount is to be deducted towards personal expenses of deceased in view of ratio of authority* ***Sarla Verma and others Vs. Delhi Transport Corporation and another reported in 2009 ACJ page 1298****. Therefore, the deceased was contributing Rs.10,500/- per month towards his family. The claim petition has been filed by mother and father of deceased but as per ratio of authority Sarla Verma and others Vs. Delhi Transport Corporation and another (supra) only mother is dependent upon the deceased. Therefore, only*

*Gurjeet Kaur claimant is held to be dependent upon the deceased. The annual contribution of deceased comes to Rs.1,26,000/-. The deceased was about 24 years of age at the time of accident. Therefore, following the ratio of the authority of **Sarla Verma and others Vs. Delhi Transport Corporation and another (supra)**, the multiplier of 18 is to be applied in the present case. Therefore, the claimant no.1 will be entitled to Rs. Rs.22,68,000/-. The claimant no.1 will be further entitled to Rs.15,000/- towards loss of estate and Rs.15,000/- as funeral expenses as per ratio of authority titled as **National Insurance Company Limited v. Pranay Sethi (supra)**. The claimant further spent some amount on the medical treatment of deceased and bills Ex.C3 to Ex.C12 have been produced on the file. The claimant no.1 is entitled for the said amount and amount of said bills comes to Rs.12,219/-. Therefore, in total the claimant no.1 will be entitled to Rs.23,10,219/- rounded upto to Rs.23,10,300/-. The claimant no.1 will be further entitled to interest at the rate of interest of 6% per annum on the awarded amount from the date of claim petition till realization.*

22. *Now, the question arises who is liable to pay the compensation. The respondent no.1 is the driver and respondent no.2 is the owner of the vehicle. The respondent no.3 is the Insurance Company of the vehicle. The accident took place on 3.2.2017 and the policy is Ex.R5 on the file which shows the fact that the offending vehicle was insured with the insurance company. The insurance policy is valid from 5.9.2016 to 4.9.2017. Therefore, the policy covers the period of accident. Therefore, respondents are jointly and severally to pay the compensation to the claimants. Issue no.2 is decided accordingly in favour of the claimants and against the respondents."*

11. A perusal of the impugned award reveals that the learned Tribunal has correctly appreciated the evidence adduced before it and has rightly returned a finding that the accident occurred solely on account of the rash and negligent driving of Buta Singh, driver of the offending vehicle.

12. The testimony of CW-1, Jagjeet Singh, assumes crucial significance. Being an eyewitness to the incident, he has categorically narrated the entire chain of events and specifically deposed that the accident was the result of the negligent driving of respondent No.1. His deposition remained consistent, credible, and unimpeached in cross-examination. The Tribunal was, therefore, justified in placing reliance on such unimpeachable testimony, which inspires confidence and carries substantive evidentiary value.

13. The contention advanced on behalf of the appellant-Insurance Company regarding delay in lodging the FIR is wholly devoid of substance. It is a settled proposition of law that delay in registration of FIR is not, by itself, fatal to proceedings under the Motor Vehicles Act. The Hon'ble Supreme Court in **Ravi Vs. Badrinarayan and others, 2011(4) SCC 693,** has categorically held that mere delay in filing the FIR cannot be a ground to reject a genuine claim, unless such delay is shown to be deliberate or motivated with a view to fabricate evidence. In the present case, no such circumstance has been established. Thus, the plea raised by the appellant is unsustainable.

14. Furthermore, the driver of the offending vehicle, namely Buta Singh, did not step into the witness box to controvert the allegations or to depose that the accident had not taken place due to his rash and negligent driving. In the aforesaid circumstances, the conclusion reached by the learned Tribunal that the accident occurred solely due to the rash and

negligent driving of the respondent-driver is based on sound appreciation of evidence and correct application of law. The findings are well-reasoned and do not suffer from any infirmity warranting interference by this Court. Accordingly, the findings of the learned Tribunal on the issue of rash and negligent driving are hereby affirmed.

15. Adverting now to the second limb of argument advanced by learned counsel for the appellant–Insurance Company that the income of the deceased was assessed on the higher side, this Court finds the submission to be wholly devoid of merit.

16. A perusal of the impugned award further reveals that the deceased, Amrik Singh, was stated to be working as a Manager at a petrol pump and earning a salary of Rs.15,000/- per month. In support thereof, CW-2 Jagjit Singh categorically deposed that the deceased had been employed as Manager at Khaira Filling Station and was drawing monthly emoluments of Rs.15,000/-. He further stated that Amrik Singh had joined the said employment on 01.11.2015.

17. The learned Tribunal, while appreciating the said testimony, rightly observed that in the prevailing realities of our country, particularly in the private sector such as petrol pumps, shops, and factories, formal appointment letters or written contracts of employment are seldom issued. Hence, the mere absence of an appointment letter does not render the testimony of CW-2 unreliable. This reasoning is firmly rooted in the

ground realities of employment conditions in the private sector in this country.

18. In addition, the statement of CW-2 Jagjit Singh stands duly corroborated by CW-4 Nitesh Kumar, Accountant, who proved that Amrik Singh was indeed receiving a salary of Rs.15,000/- per month during his employment at Khaira Filling Station.

19. In view of such consistent and cogent oral as well as corroborative evidence, this Court finds no infirmity in the conclusion reached by the learned Tribunal in assessing the monthly income of the deceased at Rs.15,000/-. The assessment cannot be said to be either perverse or excessive so as to warrant interference in appellate jurisdiction.

20. Accordingly, this Court affirms the finding of the learned Tribunal with respect to the monthly income of the deceased.

21. So far as the contention raised by learned counsel for the respondent-claimant regarding inadequacy of compensation is concerned, this Court finds merit therein. In exercise of its appellate jurisdiction and in the larger interest of justice, it is deemed appropriate to enhance the amount of compensation notwithstanding the fact that the claimant-respondent has not preferred a separate appeal for such enhancement.

22. This Court, in **Smt. Mathri Devi's case (supra)**, has already adjudicated a similar issue and categorically held that, while exercising appellate powers, the Court cannot lose sight of the beneficial nature of the Motor Vehicles Act, 1988. The Act has been consistently construed as a

piece of social welfare legislation aimed at providing just compensation to the victims of motor accidents and their dependents. The statutory duty of the Court is to ensure that claimants are not deprived of their legitimate entitlement merely on account of procedural technicalities such as the absence of a cross-appeal or cross-objections. The relevant observations made therein in paras 13 and 14 are reproduced below:-

> *"13. It is manifest from the above discussion that although respondents/claimants No.1 and 2 have not preferred any appeal seeking enhancement of compensation, and the present appeal has been instituted solely by the appellant-Insurance Company challenging the quantum of compensation, the settled principle of law is that an appeal is a continuation of the original proceedings. Consequently, the appellate court is vested with ample jurisdiction to mould relief and to award just and proper compensation, even in the absence of a cross-appeal by the claimants.*
> *14. In exercise of such appellate powers, this Court cannot overlook the beneficial nature of the Motor Vehicles Act, 1988, which has been consistently interpreted as a piece of social welfare legislation intended to provide just compensation to victims of motor accidents and their dependents. The statutory duty of the Court is to ensure that the claimants are not deprived of legitimate entitlement merely due to procedural technicalities such as the absence of a cross-appeal."*

23. A perusal of the award passed by the learned Tribunal reveals that the amount granted under the heads of loss of estate and funeral expenses is on the lower side. Furthermore, the Tribunal has not awarded any compensation towards loss of consortium to the parents of the deceased, which is now well recognized under settled law.

24. Accordingly, in order to advance the cause of justice and to secure fair adjudication in consonance with the object of the Act, this Court deems it appropriate to enhance the compensation under the aforesaid heads. The recalculated compensation is, therefore, determined as under:-

Sr. No.	***Heads***	***Compensation Awarded***
1.	Monthly Income	Rs.15,000/-
2.	Future prospects @ 40%	Rs.6,000/- (40% of 15,000)
3.	Deduction towards personal expenditure 1/2	Rs.10,500/- {(15,000 + 6,000) X 1/2}
4.	Total Income	Rs.10,500/- (21,000 – 10,500)
5.	Multiplier	18
6.	Annual Dependency	Rs.22,68,000/- (10,500 X 12 X 18)
7.	Funeral Expenses	Rs.18,150/-
8.	Loss of Estate	Rs.18,150/-
9.	Loss of consortium Parental : 48,400 X 2	Rs.96,800/-
	Total Compensation	**Rs.24,01,100/-**
	Amount Awarded by the Tribunal	**Rs.23,10,300/-**
	Enhanced amount	**Rs.90,800/-**

25. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma*** **2019 ACJ 3176** and ***R.Valli and Others VS. Tamil Nandu State Transport Corporation*** **(2022) 5 Supreme Court Cases 107,** the appellants-claimants are granted the interest @ 9% per annum on the

enhanced amount from the date of filing of claim petition till the date of its realization.

26. The appellant-Insurance Company is directed to deposit the enhanced amount of compensation alongwith interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the enhanced amount of compensation alongwith interest in the account of the claimants/respondents No.1 and 2 as per the ratio settled in the award dated 03.01.2018. The claimants/respondents No.1 and 2 are directed to furnish their bank account details to the Tribunal.

27. Consequently, the present appeal, being devoid of merits, stands **dismissed**.

28. The statutory amount of Rs.25,000/- deposited by the appellant at the time of admission of the appeal, is ordered to be refunded to it.

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

(SUDEEPTI SHARMA)
JUDGE

15.10.2025
Virender

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