



FAO-2743-2018 (O&M)

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

FAO-2743-2018 (O&M)**Reserved on : 26.09.2025****Date of Pronouncement : 07.11.2025**

National Insurance Company Limited

.....Appellant

Vs.

Smt. Soni Rani and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Deepak Suri, Advocate, and
Mr. Brij Bhushan Sharma, Advocate,
for the appellant-Insurance Company.

Mr. Ashit Malik, Advocate, and
Mr. Abhinav Kansal, Advocate,
for respondents No.1 to 5.

Mr. Saurav Tyagi, Advocate, for
Mr. Gaurav Tyagi, Advocate,
for respondents No.8(a) to 8(d).

SUDEEPTI SHARMA J. (ORAL)

1. The present appeal has been preferred against the award dated 24.10.2017 passed in the claim petition filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal'), whereby the appellant-Insurance company was held liable to pay the compensation to the claimants/respondents No.1 to 5 to the tune of Rs.46,09,752/- along with interest @ 9% per annum.

**BRIEF FACTS OF THE CASE**

2. The brief facts of the case are that on 16.11.2014, the deceased Bijender along with conductor Pardeep and other passengers had started from the Bus Stand, Karnal, in a bus bearing registration No. HR45A-9756, which was being driven by the deceased himself (Bijender Singh). When the bus reached near Nirmal Kutia Chowk on G.T. Road, Karnal, a bus belonging to Indo Canadian Transport Company, bearing registration No. PB01A-4949, being driven by respondent No.1 in a rash and negligent manner, came from the side of Panipat and struck against the bus of the deceased. As a result thereof, the driver and the conductor of the said bus died at the spot and the passengers of both the buses sustained injuries. In this regard, FIR No.905 dated 16.11.2014 under Sections 279, 336, 337 and 304-A IPC was registered at Police Station Civil Lines, Karnal.

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 the motor vehicular accident, which took place on 16.11.2014 was caused on account of rash and negligent driving of vehicle bearing registration No.PB-01A-4949 by respondent No.1 Beer Singh resulting into the death of Bijender and Pardeep Singh and damage to the Haryana Roadways Bus bearing registration No. HR45A9756? If so, its effect? OPP



2. *If issue No.1 is proved, whether the claimants are entitled to claim any compensation. If so, how much and from whom?OPP.*
3. *Whether respondent No.1 was driving the offending vehicle in violation of terms and conditions of policy of insurance? OPR*
4. *Whether the claim petition is not maintainable? OPR*
5. *Whether the present claim petition has been filed by the claimants in collusion with driver and owner i.e. respondents No.1 & 2. If so, its effect? OPR*
6. *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 claimants/respondents No.1 to 5 to the tune of Rs.46,09,752/- along with interest @ 9% per annum and appellant-Insurance Company was held liable to pay compensation. Hence, the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellant-Insurance Company contends that the learned Tribunal has erred in concluding that the accident in question occurred solely due to the negligence of the driver of the offending Indo-Canadian bus. He further contends that the present case involves a head-on collision between two buses, one belonging to Indo-Canadian Travels (the offending vehicle) and the other being a Haryana Roadways bus bearing registration No. HR-45-A-9756, therefore, the



accident is a clear instance of contributory negligence on the part of both drivers.

8. He further contends that the learned Tribunal has failed to properly appreciate and evaluate the evidence available on record, and has arrived at its findings without due consideration of the material aspects indicating negligence on the part of the Haryana Roadways bus driver as well.

9. The learned counsel also argues that the compensation awarded to the claimant is excessive, being disproportionate to the facts and circumstances of the case and not in consonance with settled principles governing assessment of compensation under the Motor Vehicles Act.

10. On these grounds, it is prayed that the impugned award dated 24.10.2017 be set aside or suitably modified, by holding the case to be one of contributory negligence and by reducing the quantum of compensation accordingly.

11. *Per contra*, learned counsel for claimants/respondents No.1 to 5 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.

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



13. Before proceeding further, it is relevant to reproduce the relevant portion of the award dated 24.10.2017 passed by the learned Tribunal:-

“Issue No.1:-

15. *The claimants have submitted that the accident in question had taken place on 16/11/2014 due to the rash and negligent driving of the offending vehicle by respondent no.1 as a result of which Bijender and Pardeep Singh had died and the Haryana Roadways bus bearing registration number HR45A9756 had been damaged. In order to prove this issue, the claimants have examined Bahadur Singh as PW7, who was travelling in the aforesaid bus of Haryana Roadways and had witnessed the said accident. The said witness has given a detailed account of the said accident including the rash and negligent driving of respondent No. 1 and the death of Bijender and Pardeep Singh in the said accident. PW7 has submitted that the Haryana Roadways bus was being driven by the deceased Bijender Singh on his due left-hand side of the road by observing traffic rules and at a moderate speed whereas the offending bus was being driven by respondent No. 1 in a rash, negligent and careless manner as a result of which the offending bus hit against the Haryana Roadways bus causing death of Bijender and Pardeep. The claimants Shobha Rani and Soni Devi have also stepped into the witness-box as PW4 and PW6 respectively in support of their case. Claimants have also placed on record a copy of the FIR as Ex.P14, copy of the challan presented to the court as Ex.P15, and post-mortem reports of the deceased Bijender and Pardeep Singh as Exhibits P35 and P17 respectively. Therefore, there is no doubt regarding the said accident having been caused by the rash and negligent driving of the bus bearing registration number PB01A4949.*

16. *Respondent No. 1 had also stepped into the witness-box as RW1 and had submitted that the Haryana Roadways bus was being driven by its driver in a rash and negligent manner without observing the traffic rules and the said bus came on the GT Road without caring for the traffic coming on the road and hit his bus against the front door of the private bus towards the conductor*



side and caused the accident. However, RW1 has admitted in his cross examination that he had not moved any application to any higher authority regarding his alleged false implication. He has also admitted that the Indo Canadian company also did not move any claim petition in the court regarding the damage caused to the bus bearing registration number PB01A4949. It is now settled that registration of criminal case against the driver of the offending vehicle for causing accident by rash and negligent driving is a prima facie proof that the accident was a result of rashness and negligence on his part as settled in Girdhari Lal Vs. Radhey Shyam & Ors. 1993 (2) P.L.R. 109. It is further settled proposition of law that in motor vehicle accidents claim cases, the approach to find out who was rash and negligent in causing the accident is different from the one when a person is challaned in a criminal court on a culpable charge. The burden of proof on the petitioners is not that heavy as is required to prove a criminal charge for rash and negligent driving of the vehicle.

17. In the present case, the fact that the police had challaned respondent no.1 for the commission of offenses punishable under Sections 279, 336, 337 and 304-A IPC as evident from Ex.P15, shows that the investigating agency had reached the conclusion that respondent no.1 had caused the accident by his rash and negligent driving of the offending vehicle. Respondent no.1 did not make any complaint to the concerned SHO or higher police officers regarding his false implication.

18. In the aforesaid circumstances, it is held that the said accident was caused due to the rash and negligent driving of the vehicle bearing registration no. PB01A4949, which was being driven by respondent no.1 at the relevant time which resulted in causing death of Bijender and Pardeep Singh and damage to the Haryana Roadways bus bearing registration number HR45A9756. As such, issue no.1 is decided in favour of the claimants and against the respondents.”

14. A perusal of the record reveals that the learned Tribunal has rightly held that the accident in question occurred due to the sole negligence of Beer Singh @ Veer Singh, the driver of the offending Indo-Canadian Bus



bearing registration No.PB-01-4949 (hereinafter referred to as the offending vehicle).

15. The testimony of PW-1, Bahadur Chand, assumes considerable importance. He has categorically deposed to the entire sequence of events leading to the accident and has clearly stated that the same occurred due to the rash and negligent driving of the driver of the offending vehicle. His testimony remained unimpeached and unshaken during cross-examination, thereby lending full credibility to his version. The learned Tribunal has, therefore, rightly placed reliance on such trustworthy and consistent testimony.

16. Similarly, PW-2, Vikas Singh, has fully corroborated the statement of PW-1. His evidence has also withstood the rigours of cross-examination and remained consistent in all material particulars, thereby further reinforcing the conclusion drawn by the Tribunal regarding the cause of the accident.

17. It is well settled that in proceedings before the Motor Accident Claims Tribunal, the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt as required in criminal proceedings. Applying this settled principle, the Tribunal has rightly concluded that the preponderance of evidence unmistakably points towards the rash and negligent act of the driver of the offending vehicle.

18. Furthermore, the record discloses that the said driver, Beer Singh @ Veer Singh, had also faced criminal prosecution arising out of the



same accident. It is a settled proposition of law that the initiation of criminal proceedings against a driver in respect of an accident constitutes prima facie evidence of negligence, unless rebutted by cogent evidence to the contrary.

19. The findings of the learned Tribunal are further fortified by the site plan (Ex. R11). A bare perusal of the site plan clearly indicates that the manner of the collision and the positioning of the vehicles at the site unequivocally point towards rash and negligent driving on the part of the offending Indo-Canadian bus.

20. There is, moreover, no material on record to indicate any negligence, contributory or otherwise, on the part of the driver of the Haryana Roadways bus. The defence plea of contributory negligence is thus devoid of merit and unsupported by any cogent evidence.

21. In view of the foregoing discussion, it is evident that the findings of the learned Tribunal on the issue of negligence are based on a sound appreciation of evidence and are in conformity with the settled principles of law. There is no infirmity or perversity warranting interference by this Court. Accordingly, the finding of the learned Tribunal holding that the accident occurred solely due to the rash and negligent driving of the driver of the offending Indo-Canadian bus is hereby affirmed.

22. Adverting now to the second limb of the argument advanced by the appellant-Insurance Company that the compensation awarded by the learned Tribunal is on higher side, the Court proceeds to examine the matter.



23. A perusal of the record reveals that deceased-Pardeep Singh was employed as Conductor on contract basis in the Haryana Roadways and learned Tribunal has rightly assessed his monthly income of the deceased as Rs.19,605/- after taking into consideration the salary certificate placed on the record. Therefore, no interference is required on this count. Further, coming to the application of multiplier. The deceased was stated to be 32 years old at the time of alleged accident. However, according to the post mortem report, the deceased was 27 years old. It is well settled principle of law that there is no inhibition in taking age according to the post mortem report. Reference may be made to judgment passed in **Sunita v. Vinod Singh, 2025 INSC 366**, wherein Hon'ble the Supreme Court reiterated this principle. The relevant portion of the judgment is reproduced as under:-

“11. The amount arrived at by the High Court of the monthly income being Rs.5,819/- (Rupees Five Thousand Eight Hundred and Nineteen) as against the claim of Rs.10,000/- (Rupees Ten Thousand) appears to be on the lower side as the total earning of the deceased from family pension itself ought to have been considered which itself would come to Rs.5,137/- (Rupees Five Thousand One Hundred and Thirty-Seven) to which the notional wages as a home maker had to be added, which we find is reasonable as has been taken by the High Court at Rs.2,500/- (Rupees Two Thousand Five Hundred). Thus, the monthly income would come to Rs.7,637/- (Rupees Seven Thousand Six Hundred and Thirty- Seven), which we are inclined to round off at Rs.7,000/- (Rupees Seven Thousand). Coming to the multiplier factor which is dependent on the age, there is sufficient indication that the deceased was aged about 45 years as per the Post-Mortem Report which is a scientific assessment of the age of the deceased. The purported discrepancy in the age with regard to that of the claimant and the deceased is erroneous for the reason that when the claim was filed,



*appellant no.1 was aged about 30 years and a difference of 15 years between the daughter-in-law and the mother-in-law cannot be said to be totally devoid of reality given the contextual and prevalent societal norms in vogue at the time of marriage of the deceased which could have been at least 25 to 30 years prior to her death i.e., in or about the 1970s. **Moreover, in the absence of material indicating to the contrary, there is no inhibition to accept the age of the deceased as per the Post-Mortem Report.** Thus, we are inclined to grant her the benefit of multiplier of 14 taking her age as 45 years. With regard to the loss of love and affection, Pranay Sethi (supra) grants Rs.40,000/- (Rupees Forty Thousand) per head with escalation of 10% every three years for loss of consortium which has been interpreted in Magma General Insurance Co. Ltd. v. Nanu Ram, (2018) 18 SCC 130 to include spousal, parental, and filial consortium. Thus, there being five claimants the amount shall be [Rs.48,000/- x 5] which comes to Rs.2,40,000/- (Rupees Two Lakhs and Forty Thousand) payable under the head of loss of love and affection.”*

As a sequel of above discussion, the deceased was held to be 27 years old, therefore, the multiplier of 16 applied by the learned Tribunal is incorrect and it should be 17 as per settled law.

24. As regards the deduction towards personal and living expenses, the learned Tribunal rightly deducted 1/4 of the income, as per the settled law. Hence, no interference is warranted in this regard.

25. However, the learned Tribunal has erred in applying an addition of 50% towards future prospects. As per the settled position of law laid down in **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680], in case of self-employed persons below 40 years of age, the permissible addition is 40% and not 50% towards future prospects.



26. As regards the conventional heads, namely funeral expenses and loss of consortium, the compensation granted by the Tribunal is on higher side and deserves to be recalculated. Therefore, the award requires indulgence of this Court.

27. The recalculated compensation is, therefore, determined as under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1.	Monthly Income	Rs.19,605/-
2.	Future prospects @ 40%	Rs.7,842/- (40% of 19,605)
3.	Deduction towards personal expenditure 1/4	Rs.6,861/- {(19,605 + 7,842) X 1/4}
4.	Total Income	Rs.20,586/- (27,447 – 6,861)
5.	Multiplier	17
6.	Annual Dependency	Rs.41,99,544/- (20,586 X 12 X 17)
7.	Funeral Expenses	Rs.18,150/-
8.	Loss of Estate	Rs.18,150/-
9.	Loss of consortium	Rs.2,42,000/- (Rs.48,000 X 5)
	Total Compensation	Rs.44,77,844/-
	Amount Awarded by the Tribunal	Rs.46,09,752/-
	Reduced amount	Rs.1,31,908/- (Rs.46,09,752 – Rs.44,77,844)

28. 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 compensation amount i.e. **Rs.44,77,844/-** from the date of filing of claim petition till the date of its realization.

29. Consequently, the present appeal is **partly allowed**.
30. 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.
31. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

07.11.2025
Virender

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