



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

FAO No.7284 of 2018 (O&M)

Date of Reserve: 01.10.2025

Date of Decision: 07.11.2025

KULWINDER KAUR AND ANR.

.....Appellant(s)

Vs

JAGWANT SINGH AND ORS.

....Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Yogesh Gupta, Advocate
for the appellants.

Mr. Sandeep Suri, Advocate
for respondent No.3/Insurance Company.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award dated 14.08.2018 passed by the learned Motor Accident Claims Tribunal, S.A.S. Nagar (Mohali) (hereinafter to be referred as “the Tribunal”) vide which the claim petition filed by the appellants/claimants was dismissed.

[2]. The brief facts, as set out in the claim petition, are that on 13.09.2016 at about 8:00 A.M., Paramjit Singh (since deceased), son of Jaswant Singh, was standing on the left side of the road on the kacha portion near Chadha Petrol Pump, Transport Nagar, Ludhiana, after having uploaded his truck. At that juncture, a truck bearing registration No.PB13-Z-5067 (hereinafter referred to as the “offending vehicle”) came from behind, being driven by respondent No.1 Jagwant Singh in a rash and negligent manner and without blowing any horn, hit Paramjit Singh, which resulted in grievous injuries to Paramjit Singh, which ultimately proved fatal and thus, it was pleaded that the accident occurred due to the rash and negligent driving of the offending vehicle by respondent No.1.



[3]. Upon issuance of notice in the claim petition, respondents No.1 and 2 initially made appearance through counsel. However, they failed to pursue the matter further. Consequently, vide order dated 04.09.2017, respondents No.1 and 2 were proceeded against *ex parte*. Meanwhile, respondent No.3/Insurance Company, put in appearance through counsel and filed written statement, denying the factum of accident.

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

1. *Whether Paramjit Singh died in a motor vehicular accident which took place on 13.09.2016 on account of rash and negligent driving of the Truck bearing no. PB13-Z-5067 driven by respondents no.1 Jagwant Singh? OPP.*
2. *If issue no.1 is proved, whether the claimants are entitled to receive the compensation, if so, to what extent and from which of the respondent? OPP.*
3. *Whether the claim petition is not maintainable in the present form? OPR.*
4. *Whether the respondent No.1 Jagwant Singh was not having valid and effective driving license at the time of accident, if so, its effect? OPR.*
5. *Relief.”*

[5]. After taking into consideration the pleadings and the evidence on record, the learned Tribunal vide its Award dated 14.08.2018 dismissed the claim-petition. Hence, the claimants/appellants filed the present appeal.

ARGUMENTS

ON BEHALF OF APPELLANTS/CLAIMANTS

[6]. Learned counsel for the appellants submitted that the learned Tribunal dismissed the claim petition wrongly on the ground that reliance could not be placed solely on the testimony of the eye-witness, Jarnail Singh, who deposed that



the accident occurred due to rash and negligent driving of the offending vehicle by its driver, Jagwant Singh, as in the police challan, the name of the accused was recorded as Jaswant Singh. It was contended that the accident stood duly proved from the evidence available on record and, in fact, the same was deemingly admitted by respondents No. 1 and 2, being the driver and owner of the offending vehicle respectively, as the both though appeared before the learned Tribunal pursuant to notice of the claim petition, however, they failed to file their written statement and were consequently proceeded against *ex parte*. Accordingly, learned counsel prayed that the present appeal be allowed and the appellants/claimants be awarded just and adequate compensation in accordance with the settled principles of law.

ON BEHALF OF RESPONDENT No.3/INSURANCE COMPANY

[7]. Per contra, learned counsel for respondent No.3/Insurance Company, vehemently argued that there were too many contradictions in the statements of the witnesses about the accident in question, thus, the claim petition was rightly declined and consequently, he prayed for dismissal of the present appeal.

DISCUSSION

[8]. I have heard learned counsel for the parties and perused the paper book of the case. I find force in the arguments advanced by the learning counsel for the appellants/claimants.

[9]. Before proceeding further, it would be appropriate to reproduce the relevant portion of the Award passed by the learned Tribunal:-

“Issues No. 1, 2 & 3

14. At the very outset, it is pertinent to mention that, after the filing of the present petition, in pursuance of the notice issued by the Court,



respondent No.1 Jagwant Singh, son of Sewa Singh, in the capacity of being driver and respondent No.2 Akbar Ali, in the capacity of being owner, of the vehicle in question, had made appearance through counsel. Sh. A.S. Longia Advocate had appeared on behalf of both respondents. However, despite repeated adjournments, having been granted, reply on behalf of respondents no.1 and 2 was not filed. Even, last opportunity was granted to file the reply, but they did not file the reply. Even on, 04.09.2017, none had made appearance on behalf of respondents no. 1 and 2. As such, respondents no. 1 and 2 were proceeded against ex-parte. Keeping this thing in mind, it is pertinent to mention that the insurance company, at the time of summoning of the witnesses, had filed an application for summoning of Jagwant Singh, son of Sewa Singh. However, perusal of the summons sent, reveals that the same were returned back with the report that there is no person by this name, in the village. This report also itself cautious the Tribunal. If, there is no person by this name, the question arises, as to how the respondent no.1 had made appearance through counsel, in the present case, at first instance.

15. Not only this, it is also important to make reference to the report u/s 173 Cr.P.C., filed qua the criminal case bearing FIR no. 139 dated 13.09.2016, u/s 279, 427, 304-A IPC, P.S. Division no. 6, Ludhiana. Undisputedly, the FIR with the aforesaid recitals, had been got registered by the father of the deceased and the copy of the FIR has also been proved by PW-2 as PW2/B. However, RW-3 HC Sawinder Singh had brought the police file of the same, copy whereof, consisting of pages 1 to 83, is Ex.RW3/A. It is pertinent to mention that in the said challan, even though, complainant Jaswant Singh, in his statement, had stated the accident, to have been caused by Jagwant Singh, son of Sewa Singh, which he had come to know from his friend Jarnail Singh, son of Inder Singh, but, however, the challan has been presented against Jaswant Singh, son of late Chhota Singh, resident of village Allorakh. Though, now it is submitted by counsel for the claimants that it is a typographical mistake, but however, it is pertinent to mention that it is not only in the report u/s 173 Cr.P.C., the name of the accused has been mentioned as Jaswant Singh, son of late Chhota Singh, but however, repeatedly, it has been so mentioned in the various memos, which forms part of Ex.RW3/A. It also finds mention in the statement u/s 161 Cr.P.C. Furthermore, it is also pertinent to mention



that in one statement of C-II Mandeep Singh, which is dated 16.09.2016, there is mention of Akbar Ali, son of Gurmit Khan, who is registered owner of the offending truck, had produced Jagwant Singh, son of Chhota Singh. In the light of Akbar Ali, to have produced the driver before the police authorities, it cannot be said that the name of the driver has been inadvertently mentioned as Jaswant Singh, son of Chhota Singh, in the report u/s 173 Cr.P.C. Also, it is pertinent to mention that, at the tail end of the report u/s 173 Cr.P.C., there is mention of list of documents annexed, which also mentions about the driving license of Jagwant Singh. However, this driving license, which would have made the things crystal clear, is not brought on the police file, copy whereof is Ex.RW3/A. In these circumstances, one has to be cautious to appraise the statement of Jarnail Singh PW-2, as an eye witness. Though, the said witness, in his affidavit Ex.PW2/A, had stated about having witnessed the accident, but however, it is pertinent to mention that the said witness is also resident of village Gobindpura, P.S. Milk Khana, District Rampur, U.P. Though, he had stated about himself to have witnessed the accident, how he came to know about the name of the driver of the truck, he has not stated so. Rather, there is nothing, as such, coming on record, about his presence, at the spot of accident, at the relevant time. While facing cross-examination, he had stated that he never knew the driver earlier and Jagwant Singh had himself disclosed his particulars at the spot. Meaning thereby, it was Jagwant Singh, son of Sewa Singh, as pleaded in the claim petition, but however, in pursuance of investigation conducted by the police authorities, it is evident that the challan has been presented against Jaswant Singh, son of late Chhota Singh. To clarify such an anomalous situation, coming forth, it is also pertinent to mention that the person by the name of respondent no.1, in the capacity of being driver of the truck in question. Considering such circumstances, coming forth, the reliance, as such, cannot be placed solely on the testimony of PW-2 Jarnail Singh, qua the manner of taking place of the accident. In fact, it also raises doubt about the presence of the said witness, at the relevant spot. In the light of the same, also the identity of respondent No.1 Jagwant Singh, in the capacity of being driver of the truck bearing registration no. PB13-Z-5067, is not established, in concrete manner. Rather, there are traces of doubt, coming forth, from the documents, so produced by the insurance, in its evidence. Thus, considered



as a whole, the present petition appears to be a stage managed petition, with the sole purpose to seek compensation from the insurance company. Precisely on this account, issues no.1, 2 and 3 are decided against the claimants.”

[10]. Upon careful perusal of the impugned award, it is evident that the learned Tribunal committed a manifest error in dismissing the claim petition on the premise that the claimants/appellants had failed to establish the identity of respondent No.1, i.e., driver of the offending vehicle.

[11]. Factually, on the contrary, the eye-witness, Jarnail Singh, appeared in the witness box as PW-2 and furnished a detailed and consistent narration of the circumstances leading to the accident. He categorically deposed that on 13.09.2016, Paramjit Singh (deceased) was standing on the left side of the road on the kacha portion near Chadha Petrol Pump, Transport Nagar, Ludhiana, after loading his truck, when, another truck bearing registration No.PB13-Z-5067, approached from behind, being driven in a rash and negligent manner, without blowing any horn, and hit against Paramjit Singh. His testimony remained consistent and unimpeached during cross-examination and could not be discredited on any material aspect. The oral testimony, of the said eye-witness thus, carries due credibility and inspires the judicial confidence of this Court.

[12]. The Tribunal has, however, erroneously placed undue emphasis on the discrepancy regarding the name of the driver as recorded in the FIR (Ex.PW-2/B), which was lodged on the very date of the accident, wherein the name of the driver of offending vehicle was mentioned as Jaswant Singh, whereas, in the claim petition as well as in the deposition of Jarnail Singh (PW-2), his name was referred correctly to as Jagwant Singh. It is trite law that in cases involving motor accidents, it is not uncommon to be unaware of the particulars of the offending



vehicle or its driver at the initial stage. The law does not require the FIR to be a comprehensive narrative, nor does it necessitate exact identification of the vehicle or its driver at the inception. The primary object of lodging the FIR is to set the criminal law in motion, and any subsequent identification emerging from investigation is sufficient in law to establish the involvement of the driver of the offending vehicle.

[13]. However, instead of rendering a reasoned finding on this issue, i.e. whether Paramjit Singh died in a motor vehicular accident which took place on 13.09.2016 on account of rash and negligent driving of the Truck bearing registration No.PB13-Z-5067 driven by respondent no.1 Jagwant Singh, the learned Tribunal erroneously chose to dismiss the claim in toto. This approach of learned Tribunal is legally unsustainable and runs counter to the well-settled principles governing adjudication under Section 166 of the Motor Vehicles Act, 1988, which mandates that the learned Tribunal must assess the evidence on record based on the principle of preponderance of probabilities and determine the liability of the parties, rather than rejecting a claim on speculative or extraneous grounds.

[14]. The testimony of the eye-witness Jarnail Singh (PW-2), is found to be detailed, consistent and trustworthy. Despite being subjected to extensive cross-examination, his deposition remained unshaken and credible. He specifically deposed regarding the rash and negligent manner in which the truck bearing registration no. PB13-Z-5067 was being driven and duly corroborated the sequence of events in detail. He further stated that the driver of the offending vehicle had personally disclosed his name to him at the spot of the accident. His deposition inspires the confidence of this Court and merely on the ground that the FIR (Ex.PW2/B) records the name of the driver as Jaswant Singh, the present case



cannot be dismissed. It is further pertinent to note that respondents no.1 and 2, namely Jagwant Singh and Akbar Ali, being the driver and owner of the offending vehicle respectively, had entered appearance through counsel in response to the notice issued by the learned Tribunal, yet failed to controvert their involvement. Furthermore, respondent no.3/Insurance Company had also brought the record relating to issuance of driving license in the name of Jagwant Singh son of Chhota Singh, resident of village Alloarkh, District Sangrur.

[15]. In the light of the above discussion, this Court is of the considered view that the finding of the learned Tribunal regarding identity of the respondent no. 1/driver of the offending vehicle is based on mere assumptions and not borne out from the evidence on record. The consistent, credible and unimpeached testimony of eye-witness when read in conjunction with the other evidence on record, unequivocally establishes that the accident occurred solely due to rash and negligent driving of truck bearing registration No.PB13-Z-5067- the offending vehicle- by respondent no.1 i.e. Jagwant Singh. The mention of the driver's name as Jaswant Singh in the FIR is evidently a mere typographical or clerical error.

[16]. Consequently, the impugned award dated 14.08.2018 is hereby set aside. It is held that the accident in question occurred due to the rash and negligent driving of truck bearing registration No.PB13-Z-5067 by respondent No.1 (Jagwant Singh). Therefore, the appellants/claimants are entitled to compensation as per settled law.

[17]. With respect to determination of compensation, the record contains evidence of postmortem report, copy of account statement and copy of LIC endowment plan. Consequently, this Court shall adjudicate the compensation in accordance with the documentary evidence on the record.



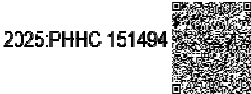
QUESTION OF INCOME ASSESSED

[18]. A perusal of the record indicates that the deceased was paying a monthly EMI of Rs. 19,927/-. The Hon'ble Apex Court on the case of "Gurpreet Kaur & Ors. v. United India Insurance Company Ltd. & Ors. [Civil Appeal nos. 6981-82 of 2022] decided on 27.09.2022" qua an accident which had occurred on 12.11.2014 and where the deceased was paying a monthly installment of Rs.11,550/- towards loan of the tractor had assessed the monthly income as Rs.25,000/-. In the present case, there is cogent evidence available on record to show that the deceased was paying a monthly installment of Rs. 19,927/- as per Ex.PW1/J. In view thereof, taking a view from the judgment of the Hon'ble Supreme Court in the case of Gurpreet Kaur (supra), the income of the deceased is assessed as Rs.30,000/- per month.

[19]. The Hon'ble Supreme Court in the case of "Smt. Sarla Verma and others vs. Delhi Transport Corporation and another," reported as 2009(3) RCR (Civil) 77, went on to hold that in case the number of dependent family members were 4 to 6, 1/4th would be deducted as personal expenses from the total income. Relevant para of the judgment is culled out as under:-

"30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra[(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having considered several subsequent decisions of this Court, we are of the view that where the deceased was married, deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family member exceeds six."

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS



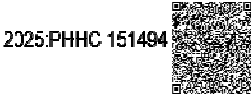
[20]. Furthermore, in view of the judgment of the Hon’ble Apex Court in Smt. Sarla Verma’s case (supra), “National Insurance Co. Ltd. vs. Pranay Sethi and others” reported as (2017) 16 SCC 680 and “United India Insurance Co.Ltd. vs. Satinder Kaur”, reported as (2021) 11 SCC 780, compensation awarded under conventional heads are also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs.18,000/- as compensation under funeral head and Rs.18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs.1,92,000/- (Rs.48,000 x 4) as the appellants, being spouse, child and parents of deceased are also entitled for spousal, parental and filial consortium.

[21]. Now, the question arises how the compensation is to be distributed among the legal heirs. In this regard, it may be taken into account that from the material available on record it is evident that appellant No.1 (widow of deceased) did not remarry and she along with her minor child were solely dependent upon the deceased, accordingly appellant No.1 is held entitled for 60% of the compensation amount, whereas appellant No.2 and proforma respondent No.4 be granted the remaining 40% in equal shares. It may be clarified here that the aforementioned ratio of 60:40 would be minus the consortium as all the appellants/claimants shall separately and individually entitled for consortium in their favour.

CONCLUSION

[22]. In view of the discussion made herein above, the appellants/claimants and proforma respondent no. 3 are held entitled for the grant of compensation in the following manner:-

Sr.No.	Nature	Amount in Rupees
1.	Annual Income of Deceased	Rs. 3,60,000/-
2.	Add 40% Future Prospects	Rs. 1,44,000/-



3	Total Income (Rs. 3,60,000 + Rs. 1,44,000)	Rs. 5,04,000/-
4.	Deduction (1/4)	Rs. 1,26,000/-
5.	Net Income (Rs. 5,04,000 –Rs. 1,26,000)	Rs. 3,78,000/-
6.	Loss of Income after applying multiplier of 18 as per age of 24 years (3,78,000 x 18)	Rs. 68,04,000/-
7.	Funeral Expenses	Rs. 18,000/-
8.	Loss of Estate	Rs. 18,000/-
	Total Compensation	Rs. 68,40,000/-

Thus, the appellant No.1/widow is entitled for Rs.41,40,000/- and appellant No.2 and proforma respondent No.4 are entitled for Rs.27,00,000/- in equal proportions as compensation.

[23]. Similarly, the appellants/claimants and proforma respondent Nos.4 & 5 shall also be entitled for following amount of compensation as consortium:-

S.No.	Name/Appellant	Consortium Amount
1.	Kulwinder Kaur (widow)	Rs.48,000/-
2.	Paramjot Singh (minor son)	Rs.48,000/-
3.	Balwinder Kaur (mother of deceased)	Rs.48,000/-
4.	Jaswant Singh (father of deceased)	Rs.48,000/-

[24]. In view of the observations made by the Hon’ble Supreme Court in Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513 approved in a subsequent judgment titled as Puttamma and others Vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443 the grant of interest @ 9% per annum on the amount of compensation is awarded to the claimants from the date of institution of claim petition till its realization. In case



the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today.

[25]. In view of aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s) if any, shall also stand disposed of.

November 07, 2024	(HARKESH MANUJA)
Atik	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No