

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

FAO-7309-2025 (O&M)
Date of Decision: 24.12.2025

The Oriental Insurance Company LimitedAppellant

V/s

Ashu and othersRespondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Aseem Aggarwal, Advocate, for
Mr. Raj Kumar Bashamboo, Advocate, for the appellant.

CM-26212-CII-2025

Prayer in the present application preferred under Section 151
CPC is for condonation of delay of 48 days in refiling the appeal.

Heard.

For the reasons mentioned in the application, which is duly
supported by an affidavit, the same is allowed. The delay of 48 days in
refiling the appeal is condoned.

CM-26211-CII-2025

Prayer in the present application preferred under Section 5 of
the Limitation Act, 1963 is for condonation of delay of 80 days in filing the
appeal.

Heard.

For the reasons mentioned in the application, which is duly
supported by an affidavit, the same is allowed. The delay of 48 days in
filing the appeal is condoned.

FAO-7309-2025

The instant appeal assails Award dated 03.04.2025 passed by
the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as “the

MACT”), vide which the claim petition preferred under Section 166 of the Motor Vehicles Act, 1988 (for short “the MV Act”) for the grant of compensation on account of death of one Sandeep, who expired in a motor vehicular accident, which took place on 21.01.2019 was allowed.

2. The facts, as emanating from the paper-book are that on 21.01.2019, one Krishna Devi along with Ashok Kumar, Om Parkash, Kuldeep, Sandeep, Anar Bai and Darshna had gone to village Hamjheri (Punjab) in a TATA Sumo bearing Regn. No.HR-16-D-0648 (hereinafter referred to as “the first vehicle”) to attend the funeral of one Shakuntla. After attending the funeral, they were coming back in the first vehicle, which was being driven by Om Parkash at a very fast speed and in a rash and negligent manner. Despite requests made by the occupants of the first vehicle to slow down, Om Parkash did not pay any heed. When they reached in the area of Village Rajalheri, Police Station Moonak, a truck bearing Regn. No.PB-11-BK-8363 (hereinafter referred to as “the second vehicle”) being driven by its driver (respondent No.3 in the claim petition i.e. Desh Raj) at a very fast speed and in a rash and negligent manner came from the opposite side and collided with the first vehicle. As a result of the impact, all occupants of the first vehicle, including its driver, sustained multiple grievous injuries. Krishna Devi and Kuldeep expired at the spot. Remaining injured were shifted to Rajendra Hospital, Patiala, where the driver of the first vehicle, namely Om Parkash, also succumbed to the injuries. Sandeep was referred to GMCH sector 32, Chandigarh, where he also succumbed to the injuries.

2.1 It was averred that the accident had taken place on account of the composite rash and negligent driving by the drivers of both vehicles. FIR

was registered at Police Station Moonak on the statement of injured eyewitness, Ashok Kumar.

2.2 Various claim petitions were filed, including a claim petition by the legal heirs of Sandeep, viz. his widow, minor son and parents seeking adequate compensation. It was claimed that Sandeep was 25 years old at the time of his death. He was working as a waiter and painter and was earning Rs.20,000/- per month. On account of his untimely death, the claimants had been deprived of his love and affection. It was claimed that he was the sole breadwinner of the family, and the claimants were dependent upon him.

3. The claim petition was opposed by the respondents. All amendments were denied. The driver of the first vehicle claimed that the accident had taken place on account of the rash and negligent driving of the second vehicle by its driver, whereas the driver of the second vehicle put the blame on the driver of the first vehicle

3.1 The insurance company raised its usual defenses in the written statement. Similarly, the insurance company of the first vehicle, put the blame on the driver of the second vehicle, which was not insured.

4. From the pleadings of the parties, the following issues were raised:-

“1. Whether the accident in question resulting in death of Krishna Devi, Sandeep, Kuldeep Singh and injuries to Anar Bai took place on 21.01.2019 due to rash and negligent driving by Om Parkash @ Chautla (died in the accident) while driving the offending vehicle bearing registration No.HR-16-D-0648 or by rash and negligent driving by respondent No.3 while driving the offending vehicle bearing registration No.PB-11-BK-8363?OPP

2. If issue No.1 is proved then, whether the claimants-petitioners are entitled to compensation, if so, how much and from whom?OPP

3. Whether the respondent No.2 insurance company is not liable to indemnify the respondent No.1 on account of material violation of the terms and conditions of the insurance policy including invalid driving

license etc.?OPR

4. Relief.”

5. Parties led their respective evidence.
6. As regards the issue of negligence, the MACT came to the conclusion that the accident was the result of composite negligence of both drivers. Accordingly, the liability was fixed at 50% each.
7. On the issue of quantum, the MACT considered the case of each deceased and injured and granted them compensation. As regards Sandeep (deceased), the following compensation was granted to the claimants by the MACT:-

Sr. No.	Heads of Claim	
1.	Age of the deceased	24-25 years
2.	Income of the deceased	Rs.10,000/- per month
3.	Deduction of 1/4 th of the income as personal expenses of the deceased	Rs.2500/- =Rs.7500/- per month
4.	Adding Future prospects @ 40%	Rs.3,000/- i.e. Rs.7500/- + Rs.3000/- =Rs.10,500/- p.m. x 12 =Rs.1,26,000/- p.a.
5.	After applying Multiplier of ‘18’	Rs.1,26,000/- x 18 =Rs.22,68,000/-
6.	Loss of love and affection	Rs.15,000/-
7.	Funeral expenses	Rs.15,000/-
8.	Filial consortium to widow	Rs.40,000/-
9.	Medical Expenses	Rs.8500/-
	Total compensation	Rs.23,46,500/-

8. Aggrieved by the aforesaid award, the insurance company of the first vehicle has instituted the present appeal.
9. I have heard learned counsel for the appellant.
10. Learned counsel for the appellant has strenuously urged that the MACT erred in holding that it was a case of composite negligence. Learned counsel submits that the FIR was registered against the driver of the second vehicle and, therefore, there was no occasion for the MACT to hold it to be a

case of composite negligence.

11. Having considered the submissions made by learned counsel for the appellant, this Court finds the same to be devoid of merit. The MACT considered the matter in the correct perspective and after examining the statements of witnesses who had stepped into the witness box, came to a specific and categoric conclusion that it was a case of composite negligence. Merely because FIR was registered against the second vehicle would not *ipso facto* mean that the accident had taken place on account of the negligence of its driver. The following findings were recorded by the MACT in this regard:-

20. This Tribunal perused the statements of both the injured-eye-witnesses i.e. PW2 Ashok and PW3 Anar Bai and both these injured-eye-witnesses while appearing in the witness box have specifically stated that the accident had taken place due to composite negligence of both the drivers of TATA Sumo and Truck. Both the injured-eye-witnesses while appearing in the witness box have categorically stated that on Oath that on 21.01.2019 when they were returning from village Hamjheri (Punjab) after attending the funeral of one Shakuntla wife of Gurbax in the TATA Sumo which was being driven by Om Parkash at a very fast speed, in a rash and negligent manner. All the occupants of the TATA Sumo requested driver Om Parkash to drive the TATA Sumo at a moderate speed but he did not pay any heed to their request. Thereafter, the TATA Sumo met with an accident with a Truck which was also coming with rash and negligent manner. Both the eye-witnesses are the natural witnesses as admittedly, they were sitting in the TATA Sumo and they also sustained injuries in the accident in question. So, their testimonies are believable and trustworthy. On the other hand, the respondents No.1 and 2 have not led any evidence except the copy of FIR showing that the driver of the TATA Sumo was also not negligent in causing the accident in question. Therefore, the claimants have proved on the record by examining injured-eye-witnesses that the accident in question had taken place due to the composite negligence driving of both the vehicles i.e. TATA Sumo and Truck. On the other hand, the respondent No.3-Truck Driver and respondent No.4-owner of Truck have taken the plea that the accident had taken place due to sole rash and negligent driving of driver of TATA Sumo and there was no negligence of the Truck driver but to

prove this aspect of the case, no cogent and convincing evidence has been brought on the record. In the present case, the FIR has also been registered against respondent No.3 and police also found him responsible for causing the accident in question in its thorough investigation. On the other hand, as discussed above, the claimants through the statements of aforesaid two injured-eye-witnesses have been able to prove on the record that the accident in question had taken place due to the composite rash and negligent driving of both the drivers of TATA Sumo and Truck. Admittedly, the FIR in itself is not the proof of negligence and the Motor Accident Tribunal has to decide the claim petition on the basis of evidence led before the Tribunal. In the present case, both the injured-eye-witnesses which were admittedly present at the spot, while appearing in the witness box have categorically stated that the accident in question had taken place due to composite negligence of both the drivers. Both these eye-witnesses have stated on Oath before this Tribunal that they repeatedly requested to the driver of the TATA Sumo to drive the vehicle at moderate speed but despite their repeated requests, the driver of TATA Sumo continued driven the vehicle with rash and negligent manner. So, the contention of the learned counsel for the respondent No.2-insurance company that in the FIR, there is no mentioning of the negligence of driver of the TATA Sumo is not sustainable because both the injured-eye-witnesses while appearing in the witness box have proved that the accident in question had taken place due to the composite negligence driving of both the drivers. So, the entire evidence brought on the record, clearly indicates that the accident in question had taken place due to the composite rash and negligent driving of both the vehicles i.e. TATA Sumo and Truck, by their drivers i.e. Om Parkash(died in the accident) and respondent No.3 and their negligence is hereby assessed in the ratio of 50:50.”

12. Learned counsel has not been able to point out absolutely any error in the aforesaid findings. It has to be borne in mind that both PW2 Ashok and PW3 Anar Bai were injured eyewitnesses. They specifically stated that the accident had taken place due to the composite negligence of the drivers of both vehicles. The MACT rightly held that to rebut the said evidence, the driver, owner and insurance company of the first vehicle had not led any evidence, except for producing copy of the FIR in which, it was

mentioned that the driver of the first vehicle was not negligent. No fault can,

therefore, be found with the findings recorded by the MACT.

13. Under the circumstances, the instant appeal is found to be devoid of merit and is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

December 24, 2025
vcgarg

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