



FAO-5758-2023 (O&M)

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

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FAO-5758-2023 (O&M)

Date of decision: 27.02.2025

National Insurance Company Ltd.

... Appellant

Vs.

Babli and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vinod Gupta, Advocate for the appellant.

Mr. Manoj Kumar Taya, Advocate
for respondents No. 1 to 6.

Mr. Rahul Jaswal, Advocate
for respondent No.7.

SUVIR SEHGAL J.

1. This appeal has been filed by the appellant/Insurance Company assailing award dated 08.08.2023 passed by the Motor Accident Claims Tribunal (for short “the Tribunal”), Panipat whereby a petition filed by claimants-Respondents No. 1 to 6 under the Motor Vehicles Act, 1988 (for brevity “the MV Act”), has been partly accepted.



2. Facts leading to the filing of the appeal are that on 09.04.2021, Bachan Singh was going on a motorcycle to attend his duty. When he reached near Village Bal Jattan, offending motorcycle bearing registration No. HR-06AX-0449, driven by Rohtash, collided with his motorcycle. Because of the impact, Bachan Singh sustained grievous injuries and was taken to Civil Hospital, Panipat, where he was declared brought dead. An FIR No.122 dated 09.04.2021 was lodged under Sections 279, 304-A IPC at Police Station, Matlauda, Panipat. Claimants filed a claim petition under Section 166 of the MV Act, claiming compensation on account of the accidental death of Bachan Singh, which has been partly accepted vide award dated 08.08.2023 and they have been granted compensation of Rs.16,14,400/-. Appellant has been held liable to pay the amount, along with interest @ 6% per annum from the date of filing of the claim petition.

3. Mr. Vinod Gupta, counsel for the appellant has submitted that FIR was registered on the statement of Rohit, an alleged eyewitness, who gave information that the registration number of the offending motorcycle was HR-40F-0225 and after 17 days, in a supplementary statement he stated that the vehicle number was HR-06AX-0449. He asserts that this was a deliberate act as the vehicle bearing No.HR-40F-0225 was an unregistered vehicle and the



Tribunal has failed to consider this aspect.

4. On the other hand, Mr. Manoj Kumar Taya, counsel for the claimants-respondents No.1 to 6 has referred to the testimony of Balraj PW-3, as also the FIR Ex.P-4, to rebut the argument of the appellant. He submits that by order dated 15.02.2024, this Court stayed the disbursal of the payment to the claimants. As a result of which, they were not in a position to challenge the award. He asserts that the amount awarded to the claimants is on the lower side and they are entitled to enhancement.

5. I have considered the arguments addressed by counsel for the parties besides examining the requisitioned record with their able assistance.

6. FIR Ex.P-4, was registered by Rohit, son of the deceased, who stated that he was an eyewitness to the accident. Explaining the sequence, Rohit, PW-4, in his examination stated that after the accident, the offending motorcycle (HR-06AX-0449) fell into the fields adjoining the road. Another motorcycle bearing HR-40F-0225 was parked on the road and its driver was helping his father at the accident site. This witness has stated that in confusion, he assumed that the registration number of the offending vehicle was HR-40F-0225 and mentioned it in the FIR. In his cross-examination, he has clarified that he was a little distance away from the site of the



accident, which resulted in the confusion. It has also come in his evidence that during investigation, it was found the registration number of offending vehicle was HR-06AX-0449 and a final report under Section 173 Cr.P.C. was submitted by the police against Rohtash. Balraj PW-3, the owner of vehicle bearing HR-40F-0225 has been examined, who has deposed that he was following the deceased on his motorcycle and after the accident he tried to help Bachan Singh, but unfortunately he expired.

7. In *Ravi versus Badrinarayan and others, (2011) 4 SCC 693*, Supreme Court has held that the registration of the FIR and the final report submitted by the police after investigation go a long way to establish that the accident had taken place on account of the negligence of the driver of the offending vehicle. Although, much stress has been laid by counsel for the appellant-Insurance Company that the vehicle number was intentionally changed to fasten the liability on the insurance company, but no evidence to this effect could be produced by the appellant. The ocular as well as documentary evidence produced by the claimants sufficiently establishes that accident had occurred due to the rash driving of Rohtash, which resulted in the death of Bachan Singh. Rohtash has not stepped into the witness box to deny the factum of accident. An adverse inference deserves to be drawn against him. Tribunal has



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found that Rohtash possessed a valid driving licence, Ex.R-2, and the offending vehicle was insured under policy Ex.R-3.

8. While accepting the testimony of an eye-witness, whose name was not mentioned in the FIR, Supreme Court in **Kusum Lata and others versus Satbir and others, (2011)3 SCC 646** observed that the claimants are not required to prove the case, as it is required to be done in a criminal trial. The Court must keep this distinction in mind. The claimants are to merely establish their case on the preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied. In **National Insurance Company Limited Versus Amarjit Singh and others, 2021 (2) RCR (Civil) 852**, this Court held that as the driver of the offending vehicle has not chosen to even appear as a witness before the Tribunal, the claimants have been deprived of an opportunity to cross-examine him on the assertions of the driver and the insurance company that his vehicle was not involved in the accident. This Court held that the Tribunal was right in drawing an adverse inference against them on this count. Keeping in view this legal position, this Court has no hesitation in coming to the conclusion that vehicle bearing HR-06AX-0449 was being driven rashly by Rohtash and was involved in the accident, which has resulted in the death of Bachan Singh.

9. Compensation was assessed by assuming the average

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monthly income of the deceased as Rs.13,000/-, taking into account the chart of wages Ex.P-9, drawn from M/s Hindustan Fabricators and Contractors, where he was employed as Operator/Helper. However, after calculating the details of the wages given in Ex.P9, the monthly income has to be increased to Rs.16,000/- as the average taken by the Tribunal is incorrect. The age of the deceased is to be taken as 48 years as per the certificate issued by Government School, Kakaut, Kaithal, Ex.P11. Accordingly, the multiplier deserves to be enhanced from 11 to 13. The deduction of 1/5th towards personal and living expenses applied by the Tribunal, considering the number of dependents, is correct. However, future prospects have to be modified from 20% to 30%, keeping in view the age of the deceased.

10. In the light of the guidelines laid down by the Supreme Court in **Smt. Sarla Verma and others Versus Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680** and **Magma General Insurance Co. Ltd. Versus Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130**, claimants are entitled to award under conventional heads, for future prospects, etc. The court is of the view that head-wise various computation of compensation deserves to be

modified as below:-

Sr. No.	Heads	Compensation Awards
1	Monthly Income	Rs.16,000/-
2	Deduction towards personal expenditure 1/4 th	Rs.4,000/- (Rs.16,000/- x 1/4)
3	Future prospects	Rs.3,600/- (30% of Rs.12,000/-)
4	Total Monthly Income	Rs.15,600/- (Rs.12,000/- + Rs.3,600/-)
5	Multiplier	13
6	Annual dependency	Rs.24,33,600/- (Rs.3,120/- x 12 x 13)
7	Loss of Estate	Rs.18,000/-
8	Funeral expenses	Rs.18,000/-
9	Loss of consortium	Rs.2,88,000/- (Rs.48,000/- payable to each of six dependents)
10	Total compensation	Rs.27,57,600/-
11	Less: Award by MACT	Rs.16,14,400/-
12	Enhancement	Rs.11,43,200/-

11. Accordingly, the claimants are held to an enhanced compensation of Rs.11,43,200/-, with interest at the rate of 6% per annum from the date of the filing of the claim petition.

12. Appeal filed by the appellant/Insurance Company is dismissed, however, claimants are found entitled to additional amount as detailed in the preceding paragraph.

13. As the main appeal has been decided, pending application(s), if any, is/are disposed off.

27.02.2025

pooja saini

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No

