



FAO-5852-2024 (O&M)

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

(124)

FAO-5852-2024 (O&M)

Date of decision:- 22.01.2025

United India Insurance Co. Ltd.

... Appellant

Versus

Harbans Kaur and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Harsh Aggarwal, Advocate
for the appellant.

SUVIR SEHGAL, J. (ORAL)

1. Instant appeal has been filed under the Motor Vehicles Act, 1988 by the insurer of the offending vehicle assailing award dated 20.07.2024 passed by the Motor Accident Claims Tribunal, Ludhiana (for short “the Tribunal”).
2. Facts are not in dispute. On 10.11.2019, Ram Singh was travelling on a scooter and his son, Balwant Singh, one of the claimants, was following him on another scooter. A truck bearing registration No. PB-23J-8945 struck against the scooter of Ram Singh, who fell on the road and received multiple injuries. The scooter was also damaged. The truck driver fled from the spot and later, it transpired that his name was Rohtash. The injured was taken to Civil Hospital, Dehlon from where he was referred to CMC, Ludhiana and was declared brought dead. FIR No.212 was lodged on 11.11.2019 under Sections 279, 427, 304-A IPC at Police Station, Dehlon. The claimants-respondents No.1 to 5, who are the widow and children of the deceased, filed a claim

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petition before the Tribunal. After contest, Tribunal reached at the conclusion that the claimants are dependent upon the deceased and that Ram Singh died due to rash and negligent driving of the truck driven by Rohtash.

3. Taking into account the age and income of the deceased, the dependency of the claimants, the loss caused to them was assessed at Rs. 14,27,000/-, which was held to be payable by the Insurance Company, owner and driver jointly and severally alongwith 7.5% interest per annum.

4. Mr. Harsh Aggarwal, counsel for the appellant has disputed the factum of accident by urging that the FIR was lodged by Balwant Singh, son of the deceased, who was an interested party. He urges that the registration number of the offending vehicle was mentioned as PB-23CW-8945 in the FIR, which is different from the vehicle number given in the claim petition. It is also his argument that there is no explanation for the delay in the lodging of the FIR. He has urged that the family pension earned by the deceased was liable to be deducted from the compensation payable to the claimants.

5. I have heard counsel for the appellant and considered his submissions.

6. Undisputedly, FIR has been lodged by Balwant Singh, who was the son of the claimant. Balwant Singh, CW-2, stepped into the witness box and testified that on 10.11.2019, he and his father were returning on their respective vehicles after attending a wedding ceremony. Balwant Singh was following his father, who was travelling on a scooter, and at about 03:45 P.M., truck bearing registration No. PB-23J-8945 being rashly driven by Rohtash suddenly struck the scooter of his father, who fell on the road and received grievous injuries. The truck driver sped away and later, they came to know that

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his name was Rohtash. Ram Singh was shifted to a hospital and was declared dead. FIR was lodged on the statement of Balwant Singh as he was an eye witness to the accident. No doubt, the registration number of the offending vehicle has been mentioned as PB-23CW-8945 in the FIR, which was registered a day later. The complainant recorded a supplementary statement, although, it has not been exhibited, mentioning the correct registration number. The only difference is that instead of mentioning “23J”, Balwant Singh mentioned the vehicle number as “23CW”. A minor mistake in the mentioning of the registration number is possible as Balwant Singh was shaken after he saw his father being hit by a vehicle and his immediate concern was to get him medically treated, rather than lodge a complaint. He withstood extensive cross-examination. The postmortem report (Mark-X1) also supports the version of the claimant that Ram Singh died as a result of injuries sustained by him in the vehicular accident. This Court, therefore, does not find any error in the finding recorded by the Tribunal that the accident and death had occurred due to the rash and negligent driving of Rohtash.

7. This Court will now deal with the next argument raised by Mr. Aggarwal. In **Sebastiani Lakra and others Versus National Insurance Company Ltd. and another, (2019) 17 SCC 465**, Supreme Court has held that deductions cannot be allowed from the amount of compensation either on account of insurance, or on account of pensionary benefits or gratuity. The main reason is that all these amounts are earned by the deceased on account of contractual relations entered into by him with others and it cannot be said that these amounts accrued to the dependents or the legal heirs of the deceased on

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account of his death in a motor vehicle accident. Supreme Court has observed that the advantage which accrue to the estate of the deceased or to his dependents as a result of some contract or act which the deceased performed in his life time cannot be said to be the outcome or result of the death of the deceased even though these amounts may go into the hands of the dependents only after his death. This Court, therefore, does not find any substance in the arguments raised by counsel for the appellant.

8. Appeal being devoid of merit, is dismissed with no order as to costs.
9. As the main case has been decided, pending application is disposed off.

22.01.2025

*Kamal***(SUVIR SEHGAL)
JUDGE**

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