



**XOBJC-213-CII-2018 IN/AND
FAO-778-2018 (O&M)**

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

-:-

**XOBJC-213-CII-2018 IN/AND
FAO-778-2018 (O&M)**

Reserved on : 26.09.2025

Date of Decision : 18.11.2025

Sandeep Virk and another

....Appellants

Vs.

National Insurance Company Ltd. and others

....Respondents

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Sanjay Jain, Advocate,
for the appellants.

Mr. Vikas Chatrath, Advocate and
Mr. Preet Agroa, Advocate,
for respondent No.1-Insurance Company.

Mr. Pardeep Kumar Kapila, Advocate,
for the Cross-objector/respondents No.2 and 3.

SUDEEPTI SHARMA, J.

1. The aforesaid appeal filed by the appellants (owner and driver of the offending vehicle) and the Cross-Objections filed by the claimants/cross-objectors/respondents No.2 and 3 against the same award dated 21.09.2017 passed by the learned Motor Accident Claims Tribunal, Ambala (for short, 'the Tribunal') are being decided by way of this common judgment. For brevity, facts have been taken from **FAO-778-2018**.

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2. The present appeal has been preferred by appellants (owner and driver of the offending vehicle) against the award dated 21.09.2017 passed



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by the learned Tribunal under Section 166 of the Motor Vehicles Act, 1988, whereby, the claimants/cross-objectors/respondents No.2 and 3 were awarded a compensation of Rs.5,45,000/- along with interest @ 7.5% per annum on account of death of Navneet Kumar alias Naman and respondent No.1-Insurance Company was held liable to pay the compensation at the first instance and recovery right was granted to respondent No.1-Insurance Company to recover the same from the appellants (owner and driver of the offending vehicle).

BRIEF FACTS OF THE CASE

3. Brief facts of the case are that on 20.08.2016, Navneet Kumar alias Naman (since deceased) was returning to his house at Mochi Mandi on foot from his school. At about 1:00 p.m., when he reached near his house, a TATA vehicle bearing registration No.HR-37D-3658 (hereinafter referred to as “the offending vehicle”) came from the opposite direction in a rash and negligent manner and at a very high speed. The offending vehicle went to the wrong side of the road and struck against Navneet Kumar alias Naman. Due to the impact, he fell on the road and the left rear wheels of the offending vehicle ran over his head, resulting in his instantaneous death. Respondent No.1 stopped the vehicle and alighted from it. Upon inquiry by Ram Lal (eye-witness and uncle of the deceased), respondent No.1 disclosed his name as Satvinder Singh, resident of Shahbad Markanda. On the basis of the statement of Ram Lal, FIR No.2979 dated 20.08.2016 was registered under Sections 279 and 304-A of the Indian Penal Code, 1860 at Police Station Ambala Cantt, against respondent No.1.



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4. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

5. From the pleadings of the parties, the learned Tribunal framed the following issues:-

1. Whether the accident in question took place by rash and negligent driving of TATA Track bearing Registration No.HR-37D-3658 by respondent no.1 Satvinder Singh resulting into death of Navneet Kumar alias Naman, as alleged? OPP
2. If issue No.1 is proved, whether the claimants are entitled to compensation, if so how much and from whom? OPP.
3. Whether respondent no.1 was not having a valid and effective driving licence on the date of the accident, if so, its effect? OPR3 .
4. Whether respondent no.2 has violated the terms and conditions of the insurance policy and respondent no.3 is not liable to indemnify respondent no.2? OPR3.
5. Relief.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal has awarded compensation to the tune of Rs.5,45,000/- along with interest at the rate of 7.5% per annum on account of death of Navneet Kumar alias Naman and respondent No.1-Insurance Company was held liable to pay the compensation at the first instance and recovery right was granted to respondent No.1-Insurance Company to recover the same from appellants (owner and driver of the offending



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vehicle). Hence, the appellants (owner and driver of the offending vehicle) of the offending vehicle filed the present appeal challenging the award dated 21.09.2017 passed by the learned Tribunal qua liability to pay the compensation.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellants (owner and driver of the offending vehicle) contends that the learned Tribunal has erred in granting recovery rights to respondent No.1-Insurance Company. He further contends that it was, in fact, the sole responsibility of respondent No.1-Insurance Company to indemnify the claimants/cross-objectors/respondents No.2 and 3. He further contends that, at the time of the accident, the driver of the offending vehicle was holding a valid and effective driving licence, and therefore, no breach of the terms and conditions of the insurance policy can be attributed to the appellant. He also contends that the appellant-owner of the offending vehicle had engaged the driver only after verifying his driving licence, and once he was satisfied that the licence appeared to be genuine, any subsequent discovery that the licence was fake cannot entitle the insurer to recovery rights. In support of these submissions, reliance is placed on the judgment of the Hon'ble Supreme Court in **IFFCO Tokio GIC v. Geeta Devi and Others, 2023 ACJ 2701**. He therefore prays that the present appeal be allowed and respondent No.1-Insurance Company be held liable to pay the compensation without any right of recovery.

8. Per contra, learned counsel for respondent No.1-Insurance Company submits that the learned Tribunal, Ambala, has rightly decided



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Issue No.3 by holding that the driver of the offending vehicle was not in possession of a valid and effective driving licence to drive a heavy goods vehicle (transport vehicle) on the date of the accident, i.e., 20.08.2016. He further submits that the admitted factual position is that the driving licence of appellant No.2 (driver of the offending vehicle) was valid for transport vehicles only up to 05.05.2016, whereas the accident occurred on 20.08.2016. The licence was not renewed within the statutory period of 30 days, thereby creating a clear break in continuity. Any subsequent renewal, as relied upon by appellant No.2 (driver of the offending vehicle), would operate only prospectively and not retrospectively. He therefore prays for dismissal of the appeal.

9. Per contra, learned counsel for the claimants/cross-objectors/respondents No.2 and 3 submits that the compensation awarded by learned Tribunal is on the lower side and requires enhancement in accordance with the settled principles of law. He accordingly prays that the cross-objections be allowed and the compensation awarded by learned Tribunal be enhanced as per the latest law.

10. I have heard learned counsel for the parties and perused the whole record of this case.

11. The relevant extracts of the award are reproduced as under:-

“ISSUES NO.3

23. Learned counsel for the Insurance Company has contended that on the date of the accident, respondent no.1 was not holding a valid licence. Reference has been made to the licence Ex.R1 and extract of driving licence



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Ex.R9. It has been contended that driving licence had expired on 05.05.2016 for transport vehicle. Since the accident took place on 20.08.2016, respondent no.1 was not in possession of a valid driving licence on the said date. It has further been contended that if renewal is not applied within a period of 30 days from the date of expiry of the licence, it would be deemed to have been renewed from the date of renewal and not from the date of expiry. Learned counsel has placed reliance upon Ishwar Chandra and others Vs. Oriental Insurance Co. Ltd. and others, 2007 ACJ 1067 (SC), the judgment in the case of United India Insurance Company Limited Vs. Satpal and another in FAO No.4752 of 2007 decided by Hon'ble Punjab and Haryana High Court on 22.07.2010 and United India Insurance Company Limited Vs. Rani Kaushal and others, (2016- 3) The Punjab Law Reporter (P&H) 771.

24. On the other hand, learned counsel for respondent no.1 has stated that his driving licence was duly renewed and has relied upon driving licence Ex.R2, as per which, he was authorized to drive transport vehicle upto 15.12.2019.

25. After hearing learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that on the day of the accident, respondent no.1 was not in possession of a valid driving licence. The accident took place on 20.08.2016. PW3 Reshma Saini, Criminal Ahlamd in the Court of Ms. Gayatri, Civil Judge (Jr. Division)-cum-JMIC, Ambala has stated in her cross-examination that vide order dated 05.12.2016, the court had released the driving licence to



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the applicant on Superdari and photocopy of the driving licence duly signed by respondent no.1 was attached in the file. As per the same, it was valid for a transport vehicle upto 05.05.2016 and non-transport vehicle upto 05.05.2018. Admittedly, the vehicle in question was heavy transport vehicle, which is also clear from the Registration Certificate Ex. R3. The application for renewal was not filed within 30 days, which is clear from the statement of PW3. Even otherwise, the licence had expired on 05.05.2016 and the accident took place on 20.08.2016, meaning thereby that till that date, the licence had not been renewed. In terms of the ratio laid down in the cases of Ishwar Chandra and others Vs. Oriental Insurance Co. Ltd. and others (Supra), United India Insurance Company Limited Vs. Satpal and another (Supra) and United India Insurance Company Limited Vs. Rani Kaushal and others (Supra), it is clear that on the date of the accident, respondent no.1 was not in possession of a valid driving licence. The Insurance Company is, therefore, not liable to pay the compensation to the claimants.”

12. A careful perusal of the impugned award demonstrates that learned Tribunal correctly decided the issue of liability after a meticulous appraisal of the evidence on record. The findings of learned Tribunal that the driver of the offending vehicle did not hold a valid driving licence on the date of the accident is supported by the record and warrants affirmation.

13. PW-3, Reshma Saini (Criminal Ahlamd), in her cross-examination, deposed that a photocopy of the driving licence, signed by



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appellant No.2 (driver of the offending vehicle), was placed on the file. That document shows that the licence authorized the holder to drive a transport vehicle only upto 05.05.2016 (and a non-transport vehicle until 05.05.2018). The Registration Certificate (Ex.R3) establishes that the vehicle involved was a heavy transport vehicle.

14. The undisputed chronology is that the licence expired on 05.05.2016 and the accident occurred on 20.08.2016. There is no evidence on the record to show that an application for renewal was filed within thirty days of expiry; on the contrary, statement of PW-3 confirms the absence of such timely renewal. Ex. R2 and the Extract of Driving Licence (Ex. R9) similarly corroborate that the licence was not valid for driving a transport vehicle on the date of the accident.

15. The learned Tribunal, after a proper appreciation of the entire evidence, rightly concluded that there was a violation of the terms and conditions of the insurance policy.

16. It also emerges from the record that appellant No.1 (owner of the offending vehicle) remained silent regarding whether he had taken reasonable care to ensure that the driver renewed his licence, or whether he had made any inquiry in this regard.

17. The judgment relied upon by the appellants is distinguishable. The decision in *Geeta Devi's case (supra)* (and the line of authorities dealing with forged or fake licences) concerns the distinct issue of validity and genuineness of a licence. By contrast, the present controversy turns on the currency of the licence whether it was valid on the date of the accident



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and not on its authenticity. On the facts before this Court, therefore, the said precedent does not avail the appellant.

18. Accordingly, the conclusions reached by the learned Tribunal on the question of liability are legally sustainable and do not suffer from any infirmity warranting interference. Those findings are hereby affirmed.

19. Accordingly, the present appeal i.e. FAO-778-2018 is hereby **dismissed.**

Cross-Objections No.2013-CII-2018

20. Turning now to the contention raised by the cross-objectors regarding inadequacy of compensation, this Court finds merit in their submissions.

21. A perusal of the impugned award indicates that the deceased, Master Navneet Kumar alias Naman, was a minor aged merely 12 years at the time of the accident. The learned Tribunal fell in error in assessing his notional income at a meager sum of Rs.2,500/- per month.

22. It is now a well-settled and consistently reiterated principle of law that the death or permanent disability of a minor child in a motor accident cannot be treated on par with that of a non-earning adult for the purpose of computing compensation. A minor, by virtue of tender age, is not engaged in employment, and therefore rigidly categorizing him as a “non-earner” would defeat the object of awarding just compensation under the Motor Vehicles Act, 1988.

23. In such cases, the proper method of determining compensation under the head “loss of income” is to adopt, at the very least, the minimum



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wages notified for a skilled worker in the relevant State at the relevant time. The Hon'ble Supreme Court, in **Kajal v. Jagdish Chand & Ors. [(2020) 4 SCC 413]** and **Baby Sakshi Greola v. Manzoor Ahmad Simon & Anr. (2024 SCC OnLine SC 3692)**, has clearly held that the future earning potential of a minor cannot be curtailed by terming him a non-earner, and that the minimum wages for skilled workers constitute the appropriate benchmark.

24. Applying the aforesaid principles to the present case, the notional monthly income of the deceased is assessed at Rs.10,300, being the minimum wages of a highly skilled worker notified for the relevant period in the State of Haryana.

25. Further, the learned Tribunal erred in applying a multiplier of 14 instead of 18. The Tribunal also not awarded any amount under the heads of future prospects and loss of estate. Therefore, the award requires interference of this Court.

SETTLED LAW ON COMPENSATION

26. Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation and Another [(2009) 6 Supreme Court Cases 121]**, laid down the law on assessment of compensation and the relevant paras of the same are 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, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we



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are of the view that where the deceased was married, the 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 members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or



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brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

* * * * *

42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas³, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.

27. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;



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(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

“52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000,



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Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

* * * * *

***59.3.** While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

***59.4.** In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.*

***59.5.** For determination of the multiplicand, the deduction for personal and living expenses, the tribunals*



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and the courts shall be guided by paras 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

59.7. The age of the deceased should be the basis for applying the multiplier.

59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

28. Hon’ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

“21. A Constitution Bench of this Court in Pranay Sethi² dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.



*21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the



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parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.

24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi². In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.

CONCLUSION

29. In view of the law laid down by the Hon'ble Supreme Court in the aforementioned cases, the present appeal filed by the appellants (owner and driver of the offending vehicle) i.e. FAO-778-2018 is hereby **dismissed**, being devoid of any merits. However, the cross-objections filed by claimants/respondents No.2 and 3 are **allowed**. Consequently, the award dated 21.09.2017 passed by the learned Tribunal is modified to the aforesaid extent. The claimants/cross-objectors/respondents No.2 and 3 are held entitled to the enhanced amount of compensation, as per the calculations made here-under:-



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<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.10,300/-
2	Future prospects @ 40%	Rs.4,120/- (40 % of 10,300)
3	Deduction towards personal expenditure 1/2	Rs.7,210/- $\{(10,300 + 4,120) \times \frac{1}{2}\}$
4	Total Income	Rs.7,210/- (14,420 – 7,210)
5	Multiplier	18
6	Annual Dependency	Rs.15,57,360/- (7,210 X 12 X 18)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Filial : Rs. 48,400 x 2	Rs.96,800/-
	Total Compensation	Rs.16,90,460/-
	Amount Awarded by the Tribunal	Rs.5,45,000/-
	Enhanced amount	Rs.11,45,460/- (Rs.16,90,460 – 5,45,000)

30. 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 Nadu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the cross-objectors/claimants/respondents No.2 and 3 are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

31. Respondent No.1-Insurance Company is directed to deposit the enhanced amount of compensation with the Tribunal within a period of two months from the date of receipt of copy of this judgment at the first instance.



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Further, liberty is however granted to respondent No.1-Insurance Company to recover the same from the appellants (owner and driver of the offending vehicle). The Tribunal is directed to disburse the amount of compensation along with interest in the account of claimants/cross-objectors/respondents No.2 and 3 as per award. The claimants/cross-objectors/respondents No.2 and 3 are directed to furnish their bank account details to the Tribunal.

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

18.11.2025

Virender

**(SUDEEPTI SHARMA)
JUDGE**

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