IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

118 **FAO-4508-2023 (O&M)**
Date of decision:19.01.2026

Swaran Singh and Another ...Appellants

Versus

Harpal Singh and Others ...Respondents

FAO-5245-2023 (O&M)
Date of decision:19.01.2026

Harpreet Kaur and Another ...Appellant

Versus

Harpal Singh and Others ...Respondents

FAO-714-2023 (O&M)
Date of decision:19.01.2026

United Insurance Co. Ltd. ...Appellant

Versus

Swaran Singh and Others ...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Janak Singh Bhinder, Advocate
for appellants in FAO-4508-2023 and FAO-5245-2023.

Mr. Lalit Garg, Advocate
for respondent No.4-Insurance Company in
FAO-4508-2023 and FAO-5245-2023.

Mr. Lalit Garg, Advocate
for appellant in FAO-714-2023.

Mr. Janak Singh Bhinder, Advocate
for respondents in FAO-714-2023.

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PARMOD GOYAL, J. (ORAL)

CM-15064-CII-2023 in FAO-4508-2023

Application under Section 5 of Limitation Act filed for condonation of delay of 191 days in filing the appeal is allowed for the reasons stated in the application.

Delay is condoned.

Application is disposed of.

CM-2604-CII-2023 in FAO-714-2023

Present application has been filed by appellant-Insurance Company to prove aadhaar card, voter card and death certificate of deceased by way of additional evidence to show that deceased was 58 years at the time of her death.

For the reasons stated in application, the application for additional evidence moved by appellant-Insurance Company is allowed as documents relied upon by Insurance Company are required for just and effective decision of present appeal. Documents aadhaar card, voter card and death certificate are taken on record as Ex.RA/1, Ex.RA/2 and Ex.RA/3. Learned counsel for appellants-claimants in FAO-4508-2023 and FAO-5245-2023 states that he has got no rebuttal to lead additional evidence and is ready with arguments on main appeals. In fact, in present case, no reply has been filed to application preferred by appellant-Insurance Company for additional evidence pending since 2023. Accordingly, matter is heard on merits.

MAIN CASES

This order shall dispose of FAO-4508-2023, FAO-5425-2023 as well as FAO-714-2023. The first two appeals have been preferred by appellants-claimants, whereas third appeal has been preferred by Insurance Company challenging the impugned awards dated 08.08.2022 passed by

Motor Accident Claims Tribunal, Barnala (hereinafter referred to as '**Tribunal**').

2. FAO-5245-2023 has been preferred by proforma respondents, who are also claiming estate/dependency upon deceased Rani Kaur being dependants/legal representatives of pre-deceased son of deceased-Rani Kaur. Appellants-claimants, Swarn Singh and others, claimants in claim petition MACP-08-2021, have sought compensation on account of untimely death of Mrs. Rani Kaur @ Jagjit Kaur in a motor vehicular accident dated 25.12.2020 on account of rash and negligent driving of respondent No.1 while driving bus bearing registration No.PB 13AL 9907. As far as finding of learned Tribunal on issue No.2 regarding rash and negligent driving on the part of respondent No.1 is concerned, the same are not under challenge in either of the three appeals, preferred by appellants-claimants or by Insurance Company.

3. Learned Tribunal had awarded total compensation of Rs.16,33,000/- to the appellants-claimants and proforma respondents On one hand, learned counsel for appellants-claimants in FAO No.4508 of 2023 and FAO No.4525 of 2023 has sought enhancement on the ground that learned Tribunal has erred in not granting future prospects. On the other hand, learned counsel for Insurance Company has asserted that learned Tribunal has wrongly applied multiplier of '14' by taking age of deceased to be 41 years, only on the basis of school certificate, which was not proved on record and was placed as marked document without examining the records

and its author.

4. Admittedly, onus to prove age of deceased was upon appellants-claimants. Appellants-claimants have placed reliance upon school certificate.

5. Learned counsel for appellants-claimants has relied upon school certificate and post-mortem report to assert that deceased was in the age group of 41 to 45 years. Perusal of school certificate shows that age of deceased has been mentioned to be 41 years. However, the document relied upon by appellants-claimants has not been proved on record by examining the author or by proving the record of age maintained by school authorities, marked certificate, is mere photocopy and in absence of original, without examination of its author/person who had issued/in absence of record cannot be accepted.

6. The learned Tribunal has erred in placing reliance upon unproved document. No doubt that in motor accident cases, the strict principles of Evidence Act are not applicable, however, it does not mean that documents are not required to be proved on record and any document which has no basis has to be accepted if same is placed on behalf of appellants-claimants. Appellants-claimants are under duty to prove the document in accordance with law even in absence of applicability of strict principles of Evidence Act. They were required to produce original and prove its content either by producing record or by examining its authors. However, this was not done by appellants-claimants.

7. I find merit in contentions raised by appellant-Insurance Company that no reliance on school certificate can be placed. Similarly, post-mortem report in absence of actual proof of age cannot be taken as conclusive evidence. In the present case, appellant-Insurance Company by way of additional evidence has succeeded in proving voter card, aadhaar card as well as death certificate of deceased, wherein her age has been mentioned as 58 years. No rebuttal has been led to show that these documents do not pertain to deceased. Documents i.e. voter card, aadhaar card as well as death certificate of deceased were prepared at the asking of appellants-claimants and in absence of any material to conclude that these documents were not correct documents showing identity of deceased when she was alive, same have to be taken into consideration for determining age of deceased. Accordingly, neither school certificate nor post-mortem report can be taken in consideration for the reasons noted above. In facts and circumstances of the present case, deceased is taken in age group between 56 to 60 years as mentioned in identity documents of deceased i.e. voter card, aadhaar card and death certificate being trustworthy documents, showing age of deceased. Since there are three units of dependants, 1/3rd deduction needs to be made as personal expenses from income to determine loss of dependency. Therefore, multiplier of 9 shall be applicable.

8. Appellants-claimants have also challenged quantum of compensation by asserting that quantum so determined by learned Tribunal is not based upon income pleaded by appellants-claimants and learned Tribunal has wrongly taken income of deceased to be Rs.9,000/- even less

than minimum wages payable to unskilled worker. It is asserted that deceased was doing stitching work and was earning Rs.15,000/- from said work. In addition to stitching work, deceased was also running dairy and was earning Rs.10,000/-. However, the above-noted assertions made by appellants-claimants and their witnesses i.e. Balwant Kaur-PW-1 and Dashna Rani-PW-2 were not accepted by the Tribunal on the ground that same is based upon oral assertion and is not supported by any other documentary evidence justifying income and vocation pleaded by appellants-claimants.

9. It is pertinent to mention that in the present case, appellants-claimants not are merely relying upon self-serving statement made by appellants-claimants but had also examined co-villagers to prove that deceased-Rani was doing stitching and dairy work. Perusal of statement of PW-1-Balwant Kaur goes to show that she clearly stated that deceased-Rani Kaur was having income from stitching and used to earn Rs.15,000/- per month. Similarly, Darshna Rani-PW-2 asserted that Rani Kaur was running dairy, was having buffaloes and by selling milk was earning Rs.10,000/- to 12,000/- per month.

10. No doubt none of the witnesses examined by appellants-claimants could place any documentary evidence/material to support their assertions. However, the Courts while determining income of deceased are bound to consider social-economic conditions, as are existing in society, to appreciate oral evidence produced before it. India being developing country

has majority of its population in unorganized sector and therefore income has to be determined by Court even in absence of documentary evidence/material. Both PW-1 and PW-2 are not related to appellants-claimants and are co-villagers. Though they have not been able to prove income but from their statements it is clearly made out that deceased was doing stitching work and was managing dairy. In absence of further evidence the Tribunal ought to have done some guess work by taking in consideration evidence of PW1 and PW-2. Therefore, taking fact that deceased was doing stitching work and dairy work, it can be concluded that she was a skilled and efficient worker. She must be earning more than a skilled worker and therefore, her income is taken to be Rs.14,000/- per month instead of Rs.9,000/- as taken by learned Tribunal. In the present case, in order to determine loss of dependency, personal expenses to the extent of 1/3rd have to be deducted. Multiplier of '9' shall be applicable as deceased has been held to be between the age group of 56 to 60 years and 10% towards future prospects needs to be applied for determining loss of dependency.

11. Accordingly, re-worked compensation payable to appellant-claimants and proforma appellants-defendants is as under:-

Income	Rs.14,000/- per month	Rs.14,000/- per month
Future Prospects	10% (Rs.1400/-)	Rs.15,400/- (14000+1400/-)
Deduction	1/3rd (Rs.15400-5133)	Rs.10263/-
Multiplier	9	9
Total loss of	10263X9X12	Rs.11,08,404/-

dependency		
Loss of Estate	Rs.16,500/- (awarded by Tribunal)	Rs.16,500/-
Funeral Expenses	Rs.16,000/- (awarded by Tribunal)	Rs.16,500/-
Loss of spousal and parental consortium	Rs.44,000/-X 2	Rs.1,32,000/-
Total Compensation awarded by the Tribunal	Rs.16,33,000/-	
Total Compensation awarded in appeal		Rs.12,73,404/-
Difference of amount of compensation	Rs.16,33,000/-(awarded by Tribunal) – Rs.12,73,404/- (awarded in appeal)	Rs.3,59,596/-

12. Appellants-claimants are held entitled to total compensation of Rs.12,73,404/-. Excess amount, if any paid, be refunded to appellant-Insurance Company. Interest on compensation, apportionment and liability to pay compensation shall be as per award. Accordingly, FAO No.714 of 2023 preferred by appellant-Insurance Company is allowed. FAO No.4508 of 2023 and FAO No.5245 of 2023 preferred by appellants-claimants disposed of in above terms.

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

14. Photocopy of this order be placed on the file of connected cases.

(PARMOD GOYAL)
JUDGE

19.01.2026
Sunil Chander

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