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

**FAO-7335-2018 (O&M) &
XOBJC-19-2019 (O&M)**

NATIONAL INSURANCE CO. LTD.

..Appellant

Versus

GEETA DEVI AND ORS.

..Respondents

Reserved on: 20.03.2026
Pronounced on : 07.05.2026
Uploaded on : 08.05.2026

Whether only the operative part of the judgment is pronounced? *NO*
Whether full judgment is pronounced? *YES*

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sandeep Suri, Advocate
for the appellant-Insurance Company.

Mr. Pawan Attri, Advocate
Mr. Nitin K. Sharma, Advocate
for respondents No.1 to 3/cross-objectors.

SUDEEPTI SHARMA, J.

FAO-7335-2018

1. The present appeal has been preferred by the appellant-Insurance Company against award dated 07.07.2018 passed in a claim petition filed under Section 166 & 140 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal'), wherein the claim petition filed by respondents No.1 to 3 was allowed and liability to pay the compensation was fastened upon the appellant-Insurance Company

on the ground that issue No.1 is not rightly decided by the learned Tribunal and compensation awarded by learned Tribunal is on higher side.

XOBJC-19-2019

2. The present cross-objection has been preferred by respondents No.1 to 3/cross-objectors/claimants against the award dated 07.07.2018 passed in the claim petition filed under Section 166 & 140 of the Motor Vehicles Act, 1988, by the learned Motor Accident Claims Tribunal, Jind for enhancement of compensation, granted to respondents No.1 to3/cross-objectors to the tune of Rs.31,06,322/- along with interest @ 9% per annum on account of death of deceased-Krishan Chand in a motor vehicular accident, occurred on 14.05.2015.

BRIEF FACTS OF THE CASE

3. Brief facts of the case are that Krishan Chand since deceased was driver on Bus No. HR-45B-9177 of Haryana Roadways Karnal Depot at Chandigarh to Delhi route and Manjit son of Raj Singh was conductor on the bus. On 14.05.2015, at about 11.30 a.m. he started his journey from Chandigarh to Delhi and he was driving the bus at normal speed on the left hand side of the road by observing traffic rules. At about 4.15 pm when they reached in the vicinity of village Iarsoli, P.S. Murthal, in the meanwhile offending bus bearing registration No. PB-01A-4848 came from the back side at a very fast speed and while being driver in a rash and negligent manner by respondent no.1 - Amrit Pal, crossed the bus of Krishan Chand. After crossing the bus, respondent No.1 suddenly applied breaks ahead of the bus of Krishan Chand without giving any indicator and turned his bus towards the side of Shish Mahal Hotel through unauthorized cut of divider of

GT Road. Krishan Chand (since deceased) tried to save his bus, but due to sudden breaks of offending bus, he dashed in the back side of the offending bus. Due to this, the bus of Krishan Chand fell in to the road side ditches and struck against the iron grill/rods. As a result of which, Krishan Chand received multiple, serious and grievous injuries on various parts of his body. After causing the accident, respondent No.1 succeeded to escape from the spot by leaving the offending bus at the place of accident. He was shifted to GH Sonepat where he was declared brought dead by the doctors. It has been alleged that the accident took place due to the rash and negligent driving of offending vehicle by respondent no.1. On the complaint of Manjeet, a criminal case bearing FIR No.180 dated 14.05.2015, u/s. 279 and 304A IPC was registered at P.S. Murthal against respondent No.1.

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

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

> *"1. Whether the accident in question took place on 14.05.2015 resulting in the death of Krishan Chand due to rash and negligent driving of bus bearing registration No. PB-01A-4848 driven by respondent No.1 as alleged in the petition ? OPP*
>
> *2. If issue No.1 is proved in the affirmative, what amount of compensation the petitioners are entitled to and from whom ? OPP*
>
> *3. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident and respondent no.2 has violated the terms and conditions of insurance policy? OPR3*
>
> *4. Relief."*

6. Thereafter, both the parties led their evidence in support of their respective pleadings.

7. After taking into consideration the pleadings and the evidence oral as well as documentary on record, the learned Tribunal allowed the claim petition filed by the claimants (respondents No.1 to 3) and liability was fastened upon the appellant-Insurance Company to pay the compensation to the claimants. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE APPELLANT:

8. Learned counsel for the appellant–Insurance Company contends that sufficient distance was not maintained by the deceased, therefore, it is a case of contributory negligence. He further contends that no permit was placed on record and there is violation in the terms of insurance policy and liability to pay compensation should be fixed upon respondent-owner and driver of the offending vehicle. He further submits that the learned Tribunal erred in law and on facts in deducting only 50% of the financial assistance received by the claimants under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 (in short '2006 Rules'). He further contends that the entire amount of financial assistance ought to have been deducted while computing the compensation payable under the 1988 Act. In support of this contention, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Reliance General Insurance Co. Ltd. v. Shashi Sharma and Others, (2016) 9 SCC 627***. He, therefore, prays that the present appeal be allowed.

9. *Per contra*, learned counsel for the respondents No.1 to 3/cross-objectors, however, argues that learned Tribunal has rightly held that

accident occurred due to sole negligence of driver of offending vehicle. He further contends that compensation awarded is on the lower side and respondents No.1 to 3/cross-objectors have filed separate Cross Objection i.e. XOBJC-19-2019 seeking enhancement. Therefore, he prays for dismissal of the present appeal.

10. I have heard learned counsel for the parties and perused the whole case file with their able assistance.

11. A perusal of the impugned award reveals that the learned Tribunal has rightly appreciated the entire oral as well as documentary evidence available on record and has returned a well-reasoned finding that the accident in question occurred solely on account of the rash and negligent driving of the driver of the offending bus.

12. From the record, it transpires that the occurrence was witnessed by PW-1 Manjeet Singh, conductor of the bus, who is not only an eye-witness to the occurrence but also the author of the FIR. He categorically deposed that the FIR was registered on the basis of his statement. In his deposition before the learned Tribunal, he vividly narrated the manner in which the accident took place and unequivocally attributed negligence to the driver of the offending vehicle. Despite being subjected to searching cross-examination, his testimony remained consistent, trustworthy and unimpeached. The learned Tribunal, therefore, rightly placed reliance upon his evidence.

13. Furthermore, a perusal of the record reveals that FIR under Sections 279 and 304-A IPC was registered against respondent-Amrit Pal Singh, driver of the offending vehicle. The said fact also stands admitted by

RW-1 Ram Pal, driver of the offending vehicle, during the course of his cross-examination. It has also come on record that he is facing trial in the said case.

14. It is well settled that registration of an FIR against the driver and his facing trial in the criminal case arising out of the same occurrence constitute *prima facie* material indicative of negligent driving of the offending vehicle.

15. Significantly, a perusal of the reply filed by the Insurance Company discloses that no specific plea of contributory negligence was raised therein. Likewise, in the written statement filed by the driver and owner of the offending vehicle, no allegation was levelled against the deceased-driver attributing contributory negligence to him. It is true that the driver of the offending vehicle stepped into the witness-box and stated that the accident occurred due to the rash and negligent driving of the deceased. However, no cogent or independent evidence was adduced to substantiate the said plea. In the absence of any evidence to the contrary, the plea now sought to be urged regarding contributory negligence remains a mere bald assertion without any proof.

16. It is further noteworthy that no issue with regard to contributory negligence was framed by the learned Tribunal, nor was any evidence led by the appellant-Insurance Company to establish the same. In this regard, the Hon'ble Supreme Court in ***M. Nithya & Ors. v. SBI General Insurance Co. Ltd., arising out of SLP (Civil) No.833-834 of 2023***, has held that where no issue on contributory negligence was framed by the Tribunal, the High Court ought not to entertain such a plea so as to reduce the compensation awarded.

The ratio of the said judgment squarely applies to the facts of the present case.

17. Even otherwise, the evidence led by the claimants unmistakably reveals that negligence was solely on the part of the driver of the offending vehicle-Amrit Pal Singh, inasmuch as he suddenly crossed the bus being driven by deceased Krishan Chand and abruptly applied brakes ahead of the said bus without giving any signal or indicator and thereafter attempted to turn the vehicle through an unauthorized cut in the divider.

18. In view of the aforesaid discussion, the findings recorded by the learned Tribunal are sound, well-reasoned and do not suffer from any illegality or perversity warranting interference by this Court. The same are accordingly affirmed.

19. Adverting now to the contention of learned counsel for the appellant-Insurance Company that the learned Tribunal erred in law and on facts in deducting only 50% of the financial assistance received by the claimants under the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 (in short '2006 Rules') is concerned, the same merits acceptance. The Apex Court in ***National Insurance Company Ltd. v. Birender Singh and Others, 2020 INSC 34*** held that the entire amount payable under the said Rules is required to be deducted from the compensation payable under the Motor Vehicles Act, 1988.

20. The relevant extract of the ***Birender Singh's case (supra)*** is reproduced as under:-

> "*16. The next issue is about the deduction of the amount receivable by the legal representatives of the deceased*

under the 2006 Rules from the compensation amount determined by the Tribunal in terms of the decision of three-Judge Bench of this Court in Shashi Sharma (supra). This Court, after analysing the relevant rules, opined as follows:-

> *"23. Reverting back to Rule 5, sub-rule (1) provides for the period during which the dependants of the deceased employee may receive financial assistance equivalent to the pay and other allowances that was last drawn by the deceased employee in the normal course without raising a specific claim. Sub-rule (2) provides that the family shall be eligible to receive family pension as per the normal Rules only after the period during which they would receive the financial assistance in terms of sub-rule (1). Sub-rule (3) guarantees the family of a deceased government employee of a government residence in occupation for a period of one year from the date of death of the employee, upon payment of normal rent/licence fee. By virtue of sub-rule (4), an ex gratia assistance of L 25,000 is provided to the family of the deceased employee to meet the immediate needs on the loss of the bread earner. Sub-rule (5) clarifies that house rent allowance shall not be a part of allowance for the purposes of calculation of assistance.*
>
> *24. .....As regards the second part, it deals with income from other source which any way is receivable by the dependants of the deceased government employee. That cannot be deducted from the claim amount for determination of a just compensation under the 1988 Act.*
>
> *25. The claimants are legitimately entitled to claim for the loss of "pay and wages" of the deceased*

government employee against the tortfeasor or insurance company, as the case may be, covered by the first part of Rule 5 under the 1988 Act. The claimants or dependants of the deceased government employee (employed by the State of Haryana), however, cannot set up a claim for the same subject falling under the first part of Rule 5-"pay and allowances", which are receivable by them from employer (the State) under Rule 5(1) of the 2006 Rules. In that, if the deceased employee was to survive the motor accident injury, he would have remained in employment and earned his regular pay and allowances. Any other interpretation of the said Rules would inevitably result in double payment towards the same head of loss of "pay and wages" of the deceased government employee entailing in grant of bonanza, largesse or source of profit to the dependants/claimants.....

26. Indeed, similar statutory exclusion of claim receivable under the 2006 Rules is absent. That, however, does not mean that the Claims Tribunal should remain oblivious to the fact that the claim towards loss of pay and wages of the deceased has already been or will be compensated by the employer in the form of ex gratia financial assistance on compassionate grounds under Rule 5(1). The Claims Tribunal has to adjudicate the claim and determine the amount of compensation which appears to it to be just. The amount receivable by the dependants/claimants towards the head of "pay and allowances" in the form of ex gratia financial assistance, therefore, cannot be paid for the second time to the claimants. True it is, *that the 2006 Rules would come into play if the government employee dies in harness even due to natural death. At the same time, the 2006 Rules do not expressly enable the dependants of the deceased government employee to claim similar amount from the tortfeasor or insurance company because of the accidental death of the deceased government employee. The harmonious approach for determining a just compensation payable under the 1988 Act, therefore, is to exclude the amount received or receivable by the dependants of the deceased government employee under the 2006 Rules towards the head financial assistance equivalent to "pay and other allowances" that was last drawn by the deceased government employee in the normal course. This is not to say that the amount or payment receivable by the dependants of the deceased government employee under Rule 5(1) of the Rules, is the total entitlement under the head of "loss of income". So far as the claim towards loss of future escalation of income and other benefits is concerned, if the deceased government employee had survived the accident can still be pursued by them in their claim under the 1988 Act. For, it is not covered by the 2006 Rules. Similarly, other benefits extended to the dependants of the deceased government employee in terms of sub-rule (2) to sub-rule (5) of Rule 5 including family pension, life insurance, provident fund, etc., that must remain unaffected and cannot be allowed to be deducted, which, any way would be paid to the dependants of the deceased government employee, applying the principle expounded in Helen C. Rebello v. Maharashtra SRTC, 1998(4) RCR (Civil)*

177 : (1999) 1 SCC 90 and United India Insurance Co. Ltd. v. Patricia Jean Mahajan, 2002(3) RCR (Civil) 534 : (2002) 6 SCC 281 cases.

27. A priori, the appellants must succeed only to the extent of amount receivable by the dependants of the deceased government employee in terms of Rule 5(1) of the 2006 Rules, towards financial assistance equivalent to the loss of pay and wages of the deceased employee for the period specified."

(emphasis supplied)

The learned Judge of the High Court has, however, after adverting to the decision of the same High Court in Ajmero (supra), went on to observe that 50% of the amount receivable by the legal representatives of the deceased towards financial assistance under the 2006 Rules is required to be deducted from the compensation amount. In the relied upon decision, the same learned Judge had occasion to observe as follows:-

"... However, perusal of the judgment would reveal that the Court has not adverted to the issue that had the Rules of 2006 extending assistance to family of a deceased employee been not in existence, family would have been entitled to pension to the extent of 50% of the last drawn pay. As per the settled position in law, the pensionary benefits available to family of a deceased employee are not amenable for deduction for computing loss of dependency. There is nothing on record suggestive of the fact that in addition to compassionate assistance under the Rules, family of the deceased is being paid pension till the age of superannuation. Rather Rule 5(2) of the 2006 Rules

specifically denies family pension as per normal rules..."

(emphasis supplied)

17. The view so taken by the High Court is not the correct reading of the decision of three-Judge Bench of this Court in Shashi Sharma (supra) for more than one reason. First, this Court was conscious of the fact that under Rule 5(2) of the 2006 Rules, the family pension receivable by the family would be payable, however, only after the period, during which the financial assistance is received, is completed. In that context, in paragraph 24 of the reported decision, the Court clearly noted that the amount towards family pension cannot be deducted from the claim amount for determination of a just compensation under the Act. Further, the High Court has erroneously assumed that the family of the deceased would be entitled for family pension amount immediately after the death of the deceased employee. That is in the teeth of the scheme of the 2006 Rules, in particular Rule 5(2) thereof. The said Rules provide for financial assistance on compassionate grounds, as also, other benefits to the family members of the deceased employee and as a package thereof, Rule 5(2) stipulates that the family pension as per the normal rules would be payable to the family members only after the period of delivery of financial assistance is completed. The validity of this provision is not put in issue. Suffice it to say that the view taken by the High Court in Ajmero (supra) is a departure from the scheme envisaged by the 2006 Rules, in particular, Rule 5(2). That cannot be countenanced.

18. As a matter of fact, in the present case, the High Court committed manifest error in assuming that the respondent Nos. 1 and 2 would be eligible to receive *financial assistance under the 2006 Rules. The eligibility to receive such financial assistance has been spelt out in Rule 3 of the 2006 Rules read with the provision of Pension/Family Pension Scheme, 1964. It appears that major sons and married daughters are not included in the definition. However, we need not dilate on that aspect in the present proceedings any further. It has come in the evidence of Gobind Singh, Clerk in SDM Office (PW-1) that the legal representatives of the deceased have not submitted any request for getting financial assistance till he had deposed. Indeed, respondent No. 1, who had entered the witness box, did depose that they had applied for getting salary of their deceased mother. The fact remains that there is no clear evidence on record that respondent Nos. 1 and 2 are held to be eligible to get financial assistance or in fact, they are getting such financial assistance under the 2006 Rules. The High Court, therefore, instead of providing for deduction of the amount receivable by the legal representatives of the deceased on this count (under the 2006 Rules), from the compensation amount, should have independently determined the compensation amount and ordered payment thereof subject to legal representatives of the deceased filing affidavit/declaration before the executing Court that they have not received nor would they claim any amount towards financial assistance under the 2006 Rules, so as to become entitled to withdraw the entire compensation amount.*"

21. Accordingly, in light of the settled legal position as referred to above by Hon'ble Apex Court, this Court holds that the entire amount received or receivable under the 2006 Rules shall be deducted while

determining the quantum of compensation payable under the Motor Vehicles Act, 1988.

22. A further perusal of the award reveals that learned Tribunal has rightly assessed the monthly income of the deceased as Rs.39,734/- after deducting income tax from gross salary of the deceased, which is in consonance with settled law on compensation. Furthermore, perusal of award reveals that amount of compensation awarded under the head of loss of consortium is on lower side and deserves to be enhanced.

23. Consequently, the compensation is re-worked as under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.39,734/-
2	Future prospects @ 15%	Rs.5,960/- (39,734 X 15%)
3	Deduction towards personal expenditure 1/3	Rs.15,231/-(45,694/3)
4	Total Income	Rs.30,463/- (45,694-15231)
5	Multiplier	11
6	Annual Dependency	Rs.40,21,116/- (30,463x12x11)
7	Loss of Estate	Rs.15,000/-
8	Funeral Expenses	Rs.15,000 /-
9	Loss of Consortium Parental: Rs.40,000 x 2 Spousal: Rs.40,000 x 1	Rs.1,20,000/-
10	**Total Compensation**	**Rs.41,71,116/-**
11	**Amount received under 2006 Rules**	**Rs.19,69,587/-**
12	**Amount to be awarded**	**Rs.20,01,529/- (41,71,116- 19,69,587)**

24. 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 respondents No.1 to 3/claimants/cross-objectors are granted the interest @ 9% per annum on the amount of total compensation from the date of filing of claim petition till the date of its realization.

25. It is evident from the above computation that the amount awarded by learned Tribunal is more than the compensation as calculated by this Court. Vide order dated 20.12.2019, Coordinate Bench of this Court had stayed the recovery of amount beyond Rs.22,00,000/-.

26. Consequently, the appellant-Insurance Company is directed to deposit the remaining amount, if any, along with interest @ 9 % per annum with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the same to the The respondents No.1 to 3-claimants in their bank accounts. The respondents No.1 to 3-claimants are directed to furnish their bank account details to the Tribunal.

27. In view of the above, the present appeal is ***partly allowed*** to the above extent and cross-objections filed by respondents No.1 to 3/cross-objectors are hereby ***dismissed***.

28. The statutory amount of Rs.25000/- deposited by the appellant at the time of admission of the appeal, is ordered to be refunded to it.

29. Pending miscellaneous applications, if any, are also disposed of.

May 07th, 2026 **(SUDEEPTI SHARMA)**
Ayub **JUDGE**

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