208 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1866-2002 (O&M) &
XOBJC-36-2019 (O&M)
Date of Decision:17.04.2026

UNITED INDIA INS. CO. LTD.

...Appellant

Versus

PARAMJIT KAUR & ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

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

Mr. Guljar Mohd. Advocate for
Mr. Pankaj Kalia, Advocate
for respondent No.1.

PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by the insurance company being aggrieved by the impugned award dated 05.01.2002 passed by Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as "**Tribunal"**) vide which claimants-respondents were held entitled to compensation of Rs.2,34,000/- on account of death of Balwant Singh (hereinafter referred to as "**deceased")** who died in a road accident which took place on 16.06.1999, on account of rash and negligent driving by respondent No.8 while driving truck bearing registration No.PNP-5831 (hereinafter referred to as "**offending truck**".

2. The Tribunal in the present case had awarded the following compensation:

Monthly Income	Rs.1,300/- per month

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Multiplier	15
Total Compensation awarded	Rs.2,34,000/-

3. Learned counsel for the appellant-Insurance Company submits that despite finding driving licence of respondent No.8 to be fake as per commission report Ex.R2, right of recovery was not awarded to insurance company and liability of Insurance Company was wrongly fixed to be joint and several with owner and driver of the offending truck.

4. Para Nos.12 & 13 of award are being reproduced for ready reference to appreciate submissions made on behalf of insurance company:-

> 12. Respondent No.2 insurance company has raised the plea that respondent No.2 was not holding a legal and valid driving licence, as such, insurance company was not liable at all to pay the compensation, because there was contravention of the terms of the insurance policy. The learned counsel for the respondent No.3 has tendered commission report as Ex.R2, whereby Sh. J.S. Babbar, Advocate/commissioner had reported that he visited the Licencing Authority, Jaipur on 18-12-2001 and he himself inspected the record in the presence of Licencing Authority and found that driving licence bearing No.10756/94/95/JPR was not recorded in the register for the year 1994-95 and instead it was found recorded in the record register for the year 1991 and this driving licence has not been issued in the name of respondent/driver but to some other name and it was issued for light motor vehicle only. As such, the driving licence was found to be false and fake.
>
> 13. Though, driving licence of respondent No.2 is reported to be false and fake as per commission report Ex.R-2 but even then the submission made by the learned counsel for respondent No.3 that if driving licence is found to be false and fake, then respondent

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No.3 is not liable to pay any amount of compensation to claimants is misconceived. Here I am supported by "2002 (2) RCR (Civil P239 (P&H) United India Insurance Company Ltd. Vs. Surjit Singh Sodhi" wherein it has been held that:-

> "Motor Vehicle Act, 1988, Section 147 and 149 third party claim-driving licence-liability of Insurance Companies to pay third party claims-Insurance is a contract between Insurer and the insured at the back of third party whose right is secured by the insurer and insured-This right of third party cannot be taken away merely because the person driving the vehicle at the time of accident was not holding a valid driving licence-The Insurance Companies are bound to satisfy the third party claims and recover the same from the insured if at all he is proved to have breached any condition of the contract of insurance"

5. It further goes to show that the learned Tribunal had duly concluded that licence possessed by respondent No.8 was fake. Once, it is held that licence of driver of offending truck was fake, the liability of insurance company to indemnify owner stands extinguished and insurance company cannot be asked to indemnify owner of offending truck. The liability to pay compensation to claimants-respondents is only on account of fact that Motor Vehicles Act, 1988 is a beneficial legislation and mandates compulsory insurance of all the vehicles which would give rise to legitimate expectation of claimants-respondents that their claim would be justified and in the event of any accident, the insurance company shall take care of payment of compensation.

6. In view of this fact, the appeal preferred by insurance company is accepted to the extent that the appellant-insurance company shall be liable to

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pay compensation at the first instance with right to recover along with interest from respondent Nos.4 to 8, owner and driver by filing appropriate execution.

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7. Claimants-respondents have preferred the present appeal being the wife, son and mother of the deceased. Being aggrieved by the impugned award dated 05.01.2002 passed by the Motor Accident Claims Tribunal, Gurdaspur (hereinafter referred to as "Tribunal"), vide which the claimants-respondents were found entitled to total compensation of Rs.2,34,000/-, the claimants-respondents are seeking enhancement of compensation awarded by the Tribunal as the same is not according to their entitlement.

8. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal are not being adverted herein for sake of brevity.

9. Learned counsel for the claimants-respondents contended that the income of the deceased has been wrongly assessed as Rs.1,300/- per month by the Tribunal. Learned counsel for the claimants-respondents stated that deceased used to ply a rehri and earn Rs.400/- to Rs.500/- per day. He further stated that the deceased used to run a dairy, sell milk, cultivate land and used to earn Rs.10,000/- per month. He further asserted that no addition has been made towards future prospects which ought to be 40% in terms of judgment of Hon'ble Supreme Court in ***National Insurance Company Ltd. Vs Pranay Sethi & Ors,*** *2017 (16) SCC 680*. He also asserted that no deduction has been done towards personal expenses. Learned counsel for the respondents-claimants further contended that the amounts awarded under the conventional

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heads as well as under the head 'loss of consortium' are not in accordance with the law laid down by the Hon'ble Supreme Court.

10. *Per contra*, learned counsel for insurance company-appellant has argued that sufficient amount has already been given as compensation in the present case and there is no scope of any enhancement.

11. In the present case claimants-respondents have claimed that deceased was earning Rs.10,000/- per month, however, the claimants-respondents have not placed on record any material to prove the income and vocation of the deceased. Therefore, learned Tribunal has rightly noted that no material is available to conclude pleaded income and vocation of the deceased. In absence of any cogent evidence, the income of the deceased has to be taken equivalent to minimum wages prevalent at the time of accident which was Rs.1,750/- per month. Accordingly, income of deceased is taken as Rs.1,750/- per month. Keeping in view the age of the deceased as 38 years an addition of 40% towards future prospects ought to be taken. Since, the deceased is survived by three dependants and therefore, the learned Tribunal ought to have taken $1/3^{rd}$ deduction towards personal expenses. Further, the respondents -claimants would be entitled to Rs.15,000/- each under the head loss of spousal, parental and filial consortium, Rs.7,500/- for funeral expenses and Rs.7,500/- for loss of estate.

12. Accordingly, the reworked compensation payable to respondents -claimants is as under:-

Income of deceased	Rs.1,750/- per month (as per minimum	Rs.1,750/- per month

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	wages payable to unskilled worker)	
Future Prospects	40% (1,750+700)	Rs.2,450/-
Deduction	1/3rd (2,450-817)	Rs.1,633/-
Multiplier	15	15
Total loss of dependency	Rs.1,633 x 15 x 12	Rs.2,93,940 /-
Loss of estate		Rs.7,500/-
Funeral expenses		Rs.7,500/-
Loss of spousal consortium to claimant No.1		Rs.15,000/-
Loss of Parental consortium to claimant No. 2		Rs.15,000/-
Loss of filial consortium to claimant no. 3		Rs.15,000/-
Compensation awarded by Tribunal	Rs.2,34,000/-	
Compensation awarded in appeal		Rs.3,38,940/-
Enhancement of compensation	Rs.3,38,940/- (awarded in appeal) – Rs.2,34,000/- (awarded by Tribunal)	Rs.1,04,940/-

13. Claimants-respondents shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Apportionment and liability to pay compensation shall be as per award. It is however made clear that amount recoverable from LRs shall be recovered from estate of deceased-owner only. Appeal preferred by appellant-insurance company and cross-objections by claimants-cross objectors are allowed in above terms.

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14. Pending application(s), if any, is/are disposed of accordingly.

(PARMOD GOYAL)
JUDGE

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

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