



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I. FAO-1590-2002

National Insurance Company Limited. ... Appellant

Vs.

Surjeet Kaur and others

... Respondents

II. FAO-5012-2002

Surjeet Kaur and others ... Appellants

Vs.

Rajinder Singh and others

... Respondents

Reserved on: 23.04.2026
Pronounced on: 27.04.2026
Pronounced Fully/Operative Part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Lalit Garg, Advocate,
for the appellant in FAO-1590-2002 and
for respondent No.3 in FAO-5012-2002

Mr. Sanjeev Kumar Sharma, Advocate,
for the appellants in FAO-5012-2002 and
for respondents No.1 to 6 in FAO-1590-2002

Service of respondent No.7 in FAO-1590-2002 dispensed with vide
order dated 18.01.2024.

None for respondent No.8 in FAO-1590-2002.

DEEPAK GUPTA, J.

The present judgment disposes of two connected appeals arising out of the same award dated 27.11.2001 passed by the learned Motor Accident Claims Tribunal, Panipat. One appeal has been preferred by the insurer of the offending vehicle seeking setting aside of the award, whereas the other has been filed by the claimants seeking enhancement of the compensation awarded.

2. The facts, in brief, are that on 26.04.2001, Jeevan Singh was proceeding towards a bus stop on a Jhota-buggi. When he reached near Gurdwara Dera Baba Jodhpur Sachiyar on GT Road, an auto-rickshaw bearing registration No. HR-46A-5722, driven by respondent No.1, came from the side of Samalkha and struck against the Jhota-buggi. As a result of the impact, the Jhota-buggi overturned and a heavy machine loaded thereon fell upon Jeevan Singh, causing multiple injuries. He was initially taken to Civil Hospital, Panipat and thereafter referred to PGI Rohtak, where he succumbed to the injuries sustained in the accident.

3. The claim petition was filed by the widow and five children of the deceased seeking compensation on account of his death. The respondents contested the claim petition, primarily on the ground that the accident occurred due to the negligence of the deceased himself, as the machine loaded on the Jhota-buggi was not properly secured and fell due to imbalance.

4. Upon appreciation of the evidence, the learned Tribunal held that the accident had occurred due to rash and negligent driving of the offending vehicle and awarded compensation of ₹8,15,000/- in favour of the claimants, fastening liability jointly and severally upon the driver, owner and insurer.

5. Assailing the said award, learned counsel for the insurer has argued that the Tribunal erred in holding the driver of the offending vehicle negligent. It has been contended that the accident occurred due to improper loading of the machine on the Jhota-buggi and, thus, the deceased himself was responsible. It has further been argued that the income of the deceased has been assessed on the higher side and requires downward revision.

6. On the other hand, learned counsel for the claimants has supported the finding on negligence and has sought enhancement of compensation.

7. Having heard learned counsel for the parties and having gone through the record with their able assistance, this Court finds that the finding recorded by the learned Tribunal on the issue of negligence does not warrant any interference. The Tribunal has placed reliance upon the testimony of PW1,

an eyewitness to the occurrence, who has categorically deposed that the offending auto-rickshaw struck against the Jhota-buggi, resulting in the accident. His testimony is consistent and inspires confidence.

8. The version put forth by the driver of the offending vehicle does not inspire confidence, particularly in view of his admission during cross-examination that he had been challaned and was facing trial under Sections 279 and 304-A IPC. The registration of a criminal case and filing of challan against the driver, though not conclusive, lends corroboration to the case of the claimants, especially in proceedings under the Motor Vehicles Act, where the standard of proof is that of preponderance of probabilities.

9. In these circumstances, this Court is satisfied that the learned Tribunal rightly held that the accident occurred due to rash and negligent driving of the offending vehicle. The said finding is accordingly affirmed.

10. Coming to the question of quantum of compensation, it is not in dispute that the age of the deceased was between 40 to 45 years. Therefore, the multiplier of 14, as applied by the Tribunal, is appropriate. There being six dependents, deduction of one-fourth towards personal expenses is also in consonance with the settled principles.

11. However, this Court finds merit in the contention raised by the insurer with regard to the assessment of income. The Tribunal has assessed the monthly income of the deceased at ₹6,000/- in the absence of any documentary evidence. The deceased was an agriculturist and, at the relevant time in April 2001, even the minimum wages in the State of Haryana were below ₹2,000/- per month. In such circumstances, the assessment of income at ₹6,000/- per month appears excessive and not supported by the evidence on record.

12. Accordingly, the monthly income of the deceased is re-assessed at ₹2,500/-, which translates to ₹30,000/- per annum. Since the deceased was between 40 to 50 years of age, an addition of 25% towards future prospects is warranted, thereby enhancing the annual income to ₹37,500/-. After deducting one-fourth towards personal expenses, the annual loss of dependency comes to

₹28,125/-. Applying the multiplier of 14, the total loss of dependency is computed at ₹3,93,750/-.

13. In addition thereto, the claimants are entitled to compensation under conventional heads. Keeping in view that there are six claimants, and also the period of accident, an amount of ₹20,000/- each is awarded towards loss of consortium, totaling ₹1,20,000/-. A further sum of ₹10,000/- each is awarded towards loss of estate and funeral expenses. Thus, the total compensation payable comes to ₹5,33,750/-.

14. Since the Tribunal had already awarded a sum of ₹8,15,000/-, the compensation stands reduced by ₹2,81,250/-. Consequently, the appeal filed by the Insurance Company is partly allowed, whereas the appeal filed by the claimants seeking enhancement is dismissed.

15. However, this Court cannot lose sight of the fact that the accident in question occurred more than two decades ago and the award was passed in the year 2001. Considering the long lapse of time and the beneficial object of the legislation, it would not be just and proper to direct recovery of the excess amount from the claimants, if already disbursed. Accordingly, it is ordered that no recovery shall be effected from the claimants on account of the reduction in compensation.

16. Both the appeals stand disposed of in the aforesaid terms. A copy of this judgment be placed on the file of the connected case.

(DEEPAK GUPTA)
JUDGE

27.04.2026
Vivek

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>

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