

2026:PHHC:082240



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

(1) **FAO-2305-2026 (O&M)**
Date of decision :25.05.2026

THE ORIENTAL INSURANCE CO. LTD. ... APPELLANT

VERSUS

JARNAILO DEVI AND OTHERS ...RESPONDENTS

(2) **FAO-2308-2026 (O&M)**

THE ORIENTAL INSURANCE CO. LTD. ... APPELLANT

VERSUS

JOGINDER SINGH AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

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

PARMOD GOYAL, J. (ORAL)

CM-10717-CII-2026 in FAO-2305-2026

CM-11098-CII-2026 in FAO-2308-2026

Present applications have been preferred for preponement of the
main appeals from 21.07.2026.

In view of the reasons mentioned therein, the same are allowed.
Main cases are taken on board for today itself.

Main Cases.

1. Present appeal has been preferred by appellant-Insurance
Company, being aggrieved by award dated 11.12.2025 passed by Motor

Accident Claims Tribunal, Yamuna Nagar at Jagadhri (hereinafter referred to as 'Tribunal') , vide which claimants were found entitled to compensation of Rs. 22,00,933/- on account of untimely death of deceased Lakhwinder Singh (hereinafter referred to as 'deceased') and compensation of Rs. 4,79,000/- on account of death of deceased Darshani Devi (hereinafter referred to as 'deceased') and compensation of Rs. 2,32,778/- on account of injuries suffered by Jarnailo Devi in motor vehicular accident dated 17.01.2024 caused due to the rash and negligent driving of respondent No.1 while driving car bearing registration No. HR-02-V-4049.

2. Appellant-Insurance Company has challenged the award dated 11.12.2025 on two grounds:

- (i) That the learned Tribunal has erred in returning a finding of negligence against respondent No.1 solely on the basis of testimony of PW-1 Jarnailo Devi, whose presence at the spot has not been duly established.
- (ii) That the compensation awarded to the claimants is highly excessive and does not constitute just and fair compensation in accordance with law.

3. Facts of the present case, as set up by the claimants, are that on 17.01.2024 deceased-Lakhwinder Singh along with his mother Jarnailo Devi (injured) and aunt Darshani Devi (deceased) had gone to attend a funeral of their relative at village Mamli on motorcycle bearing registration No. HR-02-AA-8625. On their way back when they had reached near village Bherthal, at about 4:30 p.m., respondent No.1, while driving car bearing registration No. HR-02-V-4049 in a rash and negligent manner at a high speed, came from the opposite

side and struck against the motorcycle of Lakhwinder Singh after coming onto the wrong side of the road.

4. It is the case of the claimants that all the three occupants of the motorcycle, fell down and suffered multiple grievous injuries. They were taken to the hospital from where Lakhwinder Singh and Darshani Devi were referred to PGI, Chandigarh, but they succumbed to the injuries suffered in the accident. FIR No. 13 dated 18.01.2024 under Sections 279, 337, 338 and 304-A IPC was registered at Police Station Sadar, Jagadhri, District Yamuna Nagar. It was the claim of the claimants that the accident had taken place on account of rash and negligent driving of respondent No.1.

5. On the other hand, the respondents denied the accident in toto. Respondent Nos.1 and 2 asserted that no such accident had ever taken place with their car and that a false FIR had been registered against them. Respondent No.3- Insurance Company also took similar pleas and further asserted that the vehicle was being driven in violation of the terms and conditions of the insurance policy and that respondent No.1 was not holding a valid driving licence and route permit, etc.

6. The learned Tribunal, after considering the respective pleadings and evidence led by the parties, decided Issue No.1 regarding negligence in favour of the claimants and against the respondents. It was held that respondent No.1 had caused the accident on account of his rash and negligent driving while driving car bearing registration No. HR-02-V-4049.

7. Claimant-respondent Jarnailo Devi appeared in the witness box as PW-1. Being an eye-witness to the occurrence as well as the author of FIR No.13 dated 18.01.2024, she duly deposed regarding the manner of occurrence in terms

of the version narrated by her at the time of lodging of the FIR and as pleaded in the claim petition preferred by the claimants.

8. After considering the testimony of PW-1 Jarnailo Devi and the fact that respondent No.1 is facing trial arising out of FIR No.13 dated 18.01.2024, without any protest the learned Tribunal concluded that the accident was the result of rash and negligent driving of respondent No.1 while driving car bearing registration No. HR-02-V-4049.

9. Learned counsel for the appellant-Insurance Company has challenged the aforesaid finding recorded by the learned Tribunal on the ground that the motorcycle in question was carrying three persons against its authorised seating capacity of two persons. Therefore, the Tribunal ought to have taken the said fact into consideration and should have held Lakhwinder Singh (deceased), who was driving the motorcycle, also liable for the accident. He further argued, in the alternative, that even as per the testimony of PW-1, the occurrence had taken place as a head-on collision as both the vehicles involved in the accident were coming from opposite directions. Therefore, according to him, the present case is one of contributory negligence, which is further aggravated by the fact that the deceased as well as the injured persons were travelling on the motorcycle without protective headgear/helmets.

10. On consideration, I do not find any merit in the arguments raised on behalf of the appellant-Insurance Company. The finding regarding negligence is essentially a pure question of fact, dependent upon the facts and circumstances of each case. There cannot be any straightjacket formula that in every case of a head-on collision between two vehicles coming from opposite directions, contributory negligence must necessarily be inferred. The issue has

to be determined on the basis of the facts and circumstances of the particular case.

11. In the present case, Jarnailo Devi, while appearing as PW-1, specifically stated that the accident was caused solely due to the rash and negligent driving of respondent No.1, who was driving the offending vehicle at a very high speed and in a rash and negligent manner. She categorically deposed that respondent No.1 came onto the wrong side of the road and struck against the motorcycle on which she and the other two occupants were travelling. The fact that PW-1 specifically stated that the motorcycle was hit after respondent No.1 came onto the wrong side clearly shows that negligence can only be attributed to respondent No.1 and that the present case cannot be termed as one of contributory negligence or composite negligence.

12. In the present case, the testimony of PW-1 Jarnailo Devi has remained unrebutted and unchallenged. Respondent No.1 had not dared to step into the witness box either to deny the manner of occurrence as stated by PW-1 or to put forth any different version regarding the accident. In fact, the respondents simply denied their involvement in the accident itself and did not support the assertions raised in their written statement by leading any cogent evidence before the Court. Therefore, an adverse inference is liable to be drawn against respondent No.1. The evidence of PW-1 having remained unrebutted, unchallenged, consistent and reliable with regard to the manner of accident, the present case is clearly one of sole negligence on the part of respondent No.1.

13. The argument raised by learned counsel for the appellant-Insurance Company that the motorcycle was carrying three persons instead of two and, therefore, the deceased Lakhwinder Singh must also be held to have contributed

towards the accident, though attractive at first blush, does not merit acceptance. A finding of contributory negligence can only be returned where it is proved that the other party had also contributed in causing the accident. In the present case, merely because three persons were riding on the motorcycle, no specific act of omission or commission has been shown which contributed towards the occurrence. Rather, the claimants have successfully proved that it was respondent No.1 who came to the wrong side and hit the motorcycle being driven by the deceased Lakhwinder Singh. Therefore, mere violation of traffic rules by itself would not automatically lead to a finding of contributory negligence.

14. Similarly, in the absence of any evidence to show that the occupants of the motorcycle were not wearing protective headgear/helmets, no such finding can be recorded merely on the basis of assumptions or presumptions. There is complete absence of evidence regarding whether the occupants of the motorcycle were wearing protective headgear or not and, therefore, it cannot be presumed that they were travelling without helmets.

15. Accordingly, in the absence of any proved act of omission or commission on the part of deceased Lakhwinder Singh, driver of the motorcycle, he cannot be held to have contributed in causing the accident and no finding of contributory negligence can be recorded against him. In the facts and circumstances of the present case, the findings recorded by the learned Tribunal are fully in accordance with law and are based upon correct appreciation of the pleadings as well as the evidence led before it. Consequently, the finding on Issue No.1 recorded by the learned Tribunal is upheld.

16. Learned counsel for the appellant-Insurance Company has also

challenged the compensation awarded to claimant Joginder Singh and others in FAO No. 2308 of 2026 on the ground that the deceased was 71 years of age at the time of accident and deduction towards personal and living expenses has wrongly been applied to the extent of 1/4th, whereas the same ought to have been 50%, as the deceased was allegedly survived only by her spouse, namely her husband.

17. However, I do not find any justification in the said argument. Admittedly, the deceased was survived by her husband, two daughters and one son. No doubt, the son and daughters are adults and married, however, even in the case of adult sons and daughters, dependency cannot be restricted only qua the spouse. The dependency of a person has to be determined keeping in view the cultural as well as social norms prevailing in society. Even today, social and cultural norms require parents to continue supporting their married sons and daughters despite the fact that they may otherwise be settled in life. Therefore, even in old age, parents continue to support their well-settled children and, thus, the dependency of adult sons and daughters cannot be brushed aside merely on the ground that the deceased was survived by her husband. Consequently, there is no merit in the contention on behalf of insurance company that the learned Tribunal wrongly applied deduction of 1/4th towards personal and living expenses instead of 50%. The compensation so determined is as per law.

18. As regards FAO No. 2305 of 2026 pertaining to compensation awarded to injured claimant Jarnailo Devi, the evidence on record clearly shows that she had incurred medical expenses amounting to Rs.1,07,788/-, duly supported by medical bills Exs. P-1 to P-35, P-37, P-38, P-40, P-59 and P-60. Furthermore, from discharge summaries Exs. P-36 and P-39 and follow-up

prescriptions Exs. P-55 to P-58, it stands established that the injured had suffered multiple injuries and remained hospitalised from 17.01.2024 to 26.01.2024 and thereafter from 29.02.2024 to 06.03.2024. She was initially taken to Civil Hospital, Jagadhri, from where she was referred to Civil Hospital, Yamuna Nagar, but was shifted to Sindhu Hospital, Yamuna Nagar and thereafter to Jindal Hospital, Jagadhri. She had suffered a serious head injury in the accident.

19. Keeping in view the aforesaid facts cumulatively, the amount awarded by the learned Tribunal towards loss of income for four months, pain and sufferings, special diet, medical charges, attendant charges and transportation cannot be said to be excessive. The compensation of Rs.2,32,778/- awarded under the various heads constitutes just and fair compensation and does not call for any interference in the present appeals.

20. Accordingly, FAO No. 2305 of 2026 and FAO No. 2308 of 2026 preferred by appellant-Insurance Company are dismissed.

21. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

22. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

25.05.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No