



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

**FAO No. 3128 of 2008 (O&M)
Date of Decision: 07.04.2026**

National Insurance Company Ltd., Chandigarh
through its Regional Manager

..... Appellant

Versus

Smt. Balwinder Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Deepak Suri, Advocate
for the appellant.

HARKESH MANUJA, J. (ORAL)

The present appeal has been preferred by the appellant-Insurance Company assailing the award passed by the learned Motor Accident Claims Tribunal, Jalandhar (for short, “the Tribunal”), whereby compensation has been awarded in favour of the claimants on account of injuries suffered by Nirmal Singh and Rupinder Singh and death of Gurjant Singh in a motor vehicular accident dated 22.11.2003.

FACTS

[2] Briefly stating, the case of the claimants is that on 22.11.2003, Nirmal Singh along with Gurjant Singh, Dharam Dass, Santosh Yadav and Rupinder Singh were travelling in a Mahindra Marshal Jeep bearing registration No. PB-02-AA-8016, being driven by respondent No.1 (Sangdil). When the vehicle reached near village Bal

Hukami, it went off the road and struck against a tree, resulting in injuries to the occupants besides the death of Gurjant Singh.

[3] Three separate claim petitions were filed which were decided by a common award. The Tribunal, after appreciating the evidence on record, held that the accident occurred due to rash and negligent driving of the offending vehicle and awarded compensation as under:-

- Nirmal Singh – Rs. 5,000/-
- Rupinder Singh – Rs. 3,91,000/-
- Blawinder Kaur (mother of deceased Gurjant Singh) – Rs. 3,00,000/-

The liability was fastened jointly and severally upon the driver, owner and the Insurance Company.

[4] Being aggrieved of the aforesaid award, the appellant–Insurance Company preferred the present appeal, primarily contending that the impugned award passed by the learned Tribunal was contrary to the facts and evidence available on record and the settled principles of law.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT-INSURANCE COMPANY

[5] Learned counsel for the appellant/Insurance Company primarily submits that the claim petitions having been decided under Section 163-A of the Motor Vehicles Act, 1988, were not maintainable as the income of the claimants exceeded Rs. 40,000/- per annum. He further argues that the learned Tribunal erred in granting compensation beyond the structured formula provided under Schedule II of the Act. Lastly, learned counsel submits that excessive amount was awarded under the heads of medical expenses, pain and sufferings and attendant charges, which was contrary

to the statutory limit and, therefore, prayed for setting aside/modification of the award.

DISCUSSION AND REASONING

[6] I have heard learned counsel for the appellant and perused the paper-book of the case.

MAINTAINABILITY UNDER SECTION 163-A

[7] The primary contention of the appellant is that as per the claim petition, the income of the claimants exceeded Rs. 40,000/- per annum and, therefore, the petition(s) under Section 163-A were not maintainable. This argument is devoid of merit. The learned Tribunal has categorically recorded that there was no cogent documentary evidence to prove the alleged income of the claimants. In absence of proof, the Tribunal treated the injured/deceased as labourers and assessed income on notional basis.

[7.1] Further, the issue with regard to maintainability of an application under Section 163-A of the Act, in circumstances where the claimants have alleged income of the injured/deceased to be in excess of Rs. 40,000/- per annum, came up for consideration before the Division Bench of this Court in **“Oriental Insurance Co. Ltd. vs. Smt. Saroj and ors.,” 2007 (1) RCR (Civil) 152.** The Court after taking into consideration judgment of Hon'ble the Supreme Court **“Deepal Girishbhai Soni and others vs. United India Insurance Co. Ltd., Baroda”** reported as **2004 (5) SCC 385** has held in para 5 that the said judgment does not lay down as an absolute proposition of law that a mere assertion of income beyond the prescribed limit would *ipso facto* disentitle the claimants from

maintaining a petition under Section 163-A of the Act. It has further been authoritatively held by the Hon'ble Supreme Court in **Deepal Girishbhai Soni and others' case (supra)**, that Section 163-A embodies a special statutory scheme; however, the assessment of income thereunder must rest on cogent and reliable evidence. In cases where such income is not satisfactorily established, the Tribunal is well within its jurisdiction to determine the same on the basis of a reasonable notional income. Moreover, it appears from the ratio of the judgment that the provisions of Section 163-A of the Act being beneficial piece of legislation in nature would not act as a bar in case where the Tribunal comes to the finding that the income is below Rs. 40,000/- yearly.

In view of the foregoing legal position, the contention raised by the Insurance Company that the income of the deceased exceeded the statutory ceiling is devoid of factual foundation and, therefore, cannot be sustained.

SCOPE OF COMPENSATION UNDER SECTION 163-A

[8] The next question for determination by this Court is that the Tribunal has awarded compensation beyond the limits prescribed in Schedule II. It is well settled that the provisions of Schedule II are guidelines and not rigid or exhaustive, particularly when dealing with cases involving grievous injuries, permanent disability or prolonged medical treatment. In this regard, the Hon'ble Supreme Court in the case of **"U.P. State Road Transport Corporation vs. Trilok Chandra," 1996 (4) SCC 362**, observed that the structured formula is only a guiding factor

and cannot be applied mechanically. Relevant excerpt thereof is reproduced hereunder:

“18. We must at once point out that the calculation of compensation and the amount worked out in the schedule suffer from several defects. For example, in item No. 1 for a victim aged 15 years, the multiplier is shown to be 15 years' and the multiplicand is shown to be Rs. 3000/-. The total should be $3000 \times 15 = 45,000/-$ but the same is worked out at Rs. 60,000/-. Similarly, in the second item the multiplier is 16 and the annual income is Rs. 9000/-; the total should have been Rs. 1,44,000/- but is shown to be Rs. 1,71,000/-. To put it briefly, the table abounds in such mistakes. Neither the Tribunals nor the courts can go by the ready-reckoner. It can only be used as a guide.”

[8.1] Further, in “Nagappa vs. Gurudayal Singh,” reported as 2003 (2) SCC 274, it has been held that there is no restriction that compensation cannot exceed the amount claimed or be confined strictly to Schedule II if the fact justify otherwise. Relevant extract is reproduced hereunder:

“7. Firstly, under the provisions of Motor Vehicles Act, 1988, (hereinafter referred to as "the MV Act") there is no restriction that compensation could be awarded only up to the amount claimed by the claimant. In an appropriate case where from the evidence brought on record if Tribunal/ court considers that claimant is entitled to get more compensation than claimed, the Tribunal may pass such award. Only embargo is - it should be 'Just' compensation, that is to say, it should be neither arbitrary, fanciful nor unjustifiable from the evidence.”

[8.2] In the present case, the evidence on record unequivocally establishes that claimant Rupinder Singh suffered 100% disability and remained in coma, as duly substantiated by the medical evidence adduced before the Tribunal. It has further come on record that the medical

expenses to the tune of approximately Rs.91,000/- were duly proved through cogent documentary evidence. The material placed on record also clearly demonstrates that the claimant requires continuous medical treatment as well as the assistance of an attendant for his day-to-day existence.

In such circumstances, the compensation awarded by the learned Tribunal, namely Rs.91,000/- towards medical expenses, Rs.2,00,000/- towards pain, suffering and loss of earning capacity, and Rs.1,00,000/- towards future medical treatment, cannot, by any stretch of imagination, be termed as excessive or arbitrary. Rather, the same appears to be just, fair and reasonable, keeping in view the grave nature of injuries, the permanent disability suffered, and the overall facts and circumstances of the case.

FINDINGS ON NEGLIGENCE AND LIABILITY

[9] The learned Tribunal has recorded a categorical finding to the effect that the accident in question occurred due to the rash and negligent driving of the offending vehicle by respondent No.1. The said finding is duly supported by the ocular testimony of the eye-witnesses, corroborated by the medical evidence and documentary material available on record, including the DDR and the post-mortem report. Furthermore, despite specific allegations, the driver of the offending vehicle failed to step into the witness box to rebut the case set up by the claimants, thereby inviting an adverse inference against him.

It is a settled proposition of law that where a party abstains from entering the witness box to controvert material allegations, an adverse inference is liable to be drawn against such party. Moreover, the Hon'ble Supreme Court in "Bimla Devi vs. Himachal Road Transport Corporation, (2009) 13 SCC 530" has held that strict proof of negligence is not required in motor accident claim cases and that the Tribunal is empowered to adopt a holistic and pragmatic approach while appreciating the evidence. In view of the aforesaid settled legal position and the material available on record, the finding of negligence returned by the Tribunal is well-founded and calls for no interference by this Court.

QUANTUM OF COMPENSATION

[10] Even otherwise, this Court finds that the compensation awarded by the learned Tribunal does not suffer from any infirmity warranting interference. The amount granted to Nirmal Singh is rather minimal in nature. Similarly, the compensation awarded to Rupinder Singh, in view of his 100% disability and vegetative condition, cannot be termed excessive; rather, the same appears to be conservative and commensurate with the gravity of his condition. The compensation awarded in the death case has also been determined on the basis of settled legal principles, including the appropriate application of the multiplier method. No perversity, illegality, or material irregularity has been pointed out by the appellant which would justify interference by this Court in exercise of its appellate jurisdiction.

[11] In view of the foregoing discussion, this Court is of the considered opinion that the award passed by the learned Tribunal is based upon proper appreciation of the oral as well as documentary evidence available on record. The compensation awarded to the claimants is found to be just, fair and reasonable in the facts and circumstances of the case, and no ground has been made out by the appellant warranting interference in the impugned award.

[12] Accordingly, the present appeal filed by the Insurance Company stands **dismissed**. The award passed by the learned Motor Accident Claims Tribunal, Jalandhar is hereby upheld in toto.

[13] Pending miscellaneous application(s), if any, shall also stand disposed off.

April 07, 2026
'dk kamra'

(HARKESH MANUJA)
JUDGE

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