IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7127-2011 (O&M)
Date of Decision: 17.04.2026

Oriental Insurance Company Limited ....Appellant

V/s

Bimal Kishore & others ....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Lalit Garg, Advocate
for the appellant.

Mr. IPS Kohli, Advocate and
Mr. Sidharth Maini, Advocate
for respondents No.1 and 2.

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VIKRAM AGGARWAL, J. (ORAL)

The instant appeal has been preferred by the appellant-Insurance Company against the award dated 23.09.2011 passed by the Motor Accident Claims Tribunal, Jalandhar (for short "the MACT"), whereby claimant-respondent No.2 was held entitled to compensation of Rs.13,01,000/-, on account of the death of one Robin Jassal, in a motor vehicular accident, which took place on 26.04.2010.

2. The claimants-respondents, who are the parents of the deceased (Robin Jassal), instituted a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short "the MV Act") seeking compensation of Rs.50 lakhs on account of the death of their son.

2.1 The case of the claimants was that on 26.04.2010, at about 5.30 P.M., Robin Jassal was going towards Nakodar-Mehatpur crossing on his motor bike bearing registration No.PB-33-C-2199. When he reached near the shop of one Sajjan Walia, a three-wheeler vehicle Mahindra and Mahindra Geo bearing registration No.PB-08-BM-6211 (hereinafter referred to as 'the offending vehicle'), being driven by its driver (Mool Singh) in a rash and negligent manner and at a very high speed, came from the side of Mehatpur-Nakodar Railway crossing towards Nakodar and struck against the motorcycle of the deceased. As a result of the impact, Robin Jassal suffered injuries on his person and died on way to the hospital.

3. FIR No.114 dated 26.04.2010, under Sections 279, 304A IPC, was registered at Police Station Nakodar, District Jalandhar.

4. It was averred that the deceased was 25 years old at the time of his death and was employed as an Assistant Manager with Pioneer Assurance Consultants Ltd. and was earning Rs.17,949/- per month. Accordingly, a sum of Rs.50 lakhs was claimed as compensation.

5. In the joint written statement filed by the driver and owner (respondents No.1 and 2, respectively, in the claim petition), it was averred that the accident took place on account of negligence of deceased Robin Jassal and not because of the rash and negligent driving of the driver of the offending vehicle. It was further asserted that a false FIR had been registered, with a view to get compensation in the claim petition.

5.1 The appellant-Insurance Company raised its usual defences in the written statement that the driver of the offending vehicle was not holding a valid driving licence at the time of accident, the offending vehicle being plied without any fitness certificate and route permit, which was in breach of the conditions of the insurance policy. In the alternative, it was asserted that it was a case of a contributory negligence.

6. From the pleadings of the parties, following issues were framed:

> ***"1) Whether Mool Singh, respondent No.1 caused the death of Robin Jassal s/o Bimal Kishore by rash and negligent driving of motor vehicle i.e. three wheeler bearing registration No.PB-08-BM-6211 as alleged?OPA***

> ***2) Whether the respondent No.1/driver was not holding a valid and effective driving licence at the time of the accident, if so, to what effect?OPR No.3.***
>
> ***3) Whether the vehicle did not have the fitness certificate and route permit as alleged?OPR***
>
> ***4) Whether the claimants are entitled to compensation, if so to what extent and from whom?OPA***
>
> ***5) Relief."***

7. Parties led their respective evidence.

8. The MACT held that the accident as a result of which Robin Jassal had expired, had taken place on account of the rash and negligent driving of the offending vehicle by its driver.

8.1 The age of the deceased was assessed as 25 years. His income was assessed on the basis of evidence led on the record to be Rs.12,000/-per month and after applying the multiplier of '18' in terms of the ratio of law laid down by the Apex Court in the case of ***Smt. Sarla Verma and others vs. Delhi Transport Corporation and another*****, (2009) 6 SCC 121,** the following compensation was awarded by the MACT:-

Sr. No.	Heads of Claim	
1.	Age of the deceased	25 years
2.	Income of the deceased	Rs.12000/- per month
3.	½ deduction towards personal expenses	Rs.6000/- per month
4.	Actual loss of income	Rs.6000/- per month Rs.72,000/- per annum
5.	Multiplier of '18'	Rs.72,000/- x 18 = Rs.12,96,000/-
6.	Funeral expenses and last rites	Rs.5000/-
Total Compensation		**Rs.13,01,000/-**

9. I have heard learned counsel for the parties.

10. Learned counsel for the appellate has advanced twofold arguments. It has firstly been submitted that it was a clear-cut case of contributory negligence but the MACT did not consider the matter from the

correct perspective and held it to be a case of rash and negligent driving by the driver of the offending vehicle. Learned counsel has referred to the cross examination of PW2 (Bimal Kishore) who was the father of the deceased and was also stated to be an eyewitness to the accident. It has been argued that the said eyewitness conceded in his cross-examination that the offending vehicle was coming from the opposite side, but was on its own side on the road. Learned counsel submits that it was further admitted in the cross-examination that both vehicles had a head-on collision on the metalled portion of the road i.e. in the centre of the road. It has been argued that this very fact clearly proves that it was a case of contributory negligence.

10.1 The second submission that has been made by learned counsel for the appellant is that the MACT wrongly assessed the monthly income of deceased as Rs.12,000/- per month whereas, during the cross examination of PW1 (Pankaj Mahindru) it clearly emerged that the salary certificate Ex.A4 and the salary account statements Ex.A5 to Ex.A8 were not sufficient to prove that the income of the deceased was Rs.12,000/- per month. Learned counsel submits that in the cross-examination, the witness duly admitted that he had not brought the books of account which were being maintained in the usual course of business. It was also stated that salary was being issued by cheque to the employees after getting vouchers signed from them and that salary to the deceased (Robin Jassal) had also been paid against vouchers but the said vouchers were not produced in Court. It was also admitted by the witness that the entries mentioned in the ledger account are entered in a cash book which also was not produced in Court.

11. *Per contra*, learned counsel for the respondents/claimants submits that there is no illegality or infirmity in the findings recorded by the

MACT.

11.1 Coming first to the issue of contributory negligence, learned counsel submits that only a vague plea as regards contributory negligence was taken in the written statement. It has been argued that no issue was framed by the trial Court as regards contributory negligence and no evidence was led by the respondents to even *prima facie* suggest that it was a case of contributory negligence. It has been submitted that under the circumstances, just by picking up a line from the cross examination, no case of contributory negligence can be said to have been made out.

11.2 Arguing on the issue of the income of the deceased, learned counsel submits that the relevant record was duly produced by the witness and the other record referred to in the cross examination was not required to be produced. Learned counsel has referred to the statement of PW1 (Pankaj Mahindru) and the documents produced by him in evidence. It has been argued that the MACT considered the matter from the correct perspective and rightly assessed the monthly income of the deceased.

12. I have considered the submissions made by learned counsel for the parties.

13. Coming first to the issue of contributory negligence, the insurance company, in its written statement, raised a preliminary objection that the accident had taken place on account of the rash and negligent driving of the motorcycle by the deceased himself. Along with many other additional pleas, an additional plea was also taken that it was a case of contributory negligence. No details were given. The MACT did not frame any issue as regards contributory negligence. Still further, no evidence worth its name was led by the respondents to prove that it was a case of contributory negligence. Under the circumstances, just by picking up a line

from the cross examination, it cannot be said that it was a case of contributory negligence. No site plan was brought on record to show that the accident had taken place in the middle of the road. There was no positive evidence to prove this fact. During the course of arguments, learned counsel did point out to a site plan from the record which, however, was not produced during the course of evidence and is only available in the record along with the final report submitted under section 173 Cr.P.C. The same cannot, therefore, be taken into consideration though, the same also does not prove the case of the appellants. It has to be borne in mind that a plea taken has to be proved by leading evidence and even otherwise, the statement of a witness has to be examined as a whole and no part of the cross examination can be examined in isolation. That being so, the plea of contributory negligence is devoid of merit and is accordingly rejected.

14. Coming to the issue of the income of the deceased, PW1 (Pankaj Mahindru, Accounts Manager, Pioneer Insurance Consultant Limited) duly stepped into the witness box. He proved the salary certificate Ex.A4, having been issued by Mr. Gurpreet Singh, authorised signatory of the firm. His signatures were duly identified by PW1. Apart from that, he produced the salary account statement of the deceased for the period from 01.04.2007 to 31.03.2008 as Ex.A5, from 01.04.2008 to 31.03.2009 as Ex.A6, from 01.04.2009 to 31.03.2010 as Ex.A7 and from 01.04.2010 to 31.03.2011 as Ex.A8. Merely because the account books maintained in the usual course of business were not produced would not mean that the documents produced in evidence were not genuine documents. The relevance of the books of account would have been to see other entries which are made during the usual course of business. Once the salary certificate and the salary account statements had been produced, there was

no need for the account books to be produced. As per the documents produced in evidence, the salary of the deceased was Rs.12000/- per month in lump sum. The witness clearly stated that no TDS was deducted on account of the income not being taxable. In the considered opinion of this Court, the MACT committed no error by assessing the salary of the deceased as Rs.12000/- per month. This argument is also, therefore, found to be devoid of merit and is accordingly rejected.

15. That being so, finding no merit in the appeal, the same is dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

April 17, 2026
vcgarg Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No