IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4825-2012 (O&M) with
IOIN-1-FAO-4825-2012
Reserved on: 12th February 2026
Date of decision: 05th March 2026
Uploaded on: 07th March 2026

RAM RATI AND OTHERS **..…..Appellants**

versus

KRISHAN AND OTHERS **.......Respondents**

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Surinder Singh Duhan, Advocate
for the appellants.

Mr. Vikram Singh, Advocate
for respondent No.1.

Ms. Vandana Malhotra, Advocate
for respondent No.3-Insurance Company
(through video conferencing).

HARPREET KAUR JEEWAN, J.

1. By way of filing the present appeal, the appellants-claimants have challenged the findings of the Motor Accident Claims Tribunal, Jind, whereby, respondent No.3-Insurance Company was absolved of its liability to pay compensation and only the owner and the driver were held liable to pay the compensation. By way of filing the preesnt appeal, the appellants-claimants have also sought enhancement of the compensation.

2. As per the brief facts, on 12.02.2011, deceased-Roshan, along with his companions, was travelling in a Jeep bearing Registration No. HR-11-1845. At about 6:00 P.M., when they reached near the area of village Ramrai, the Jeep struck against a vehicle. Resultantly, the driver of the jeep died. Roshan (deceased) suffered multiple injuries and he was shifted to

General Hospital, Jind from where, he was shifted to PGIMS, Rohtak for further treatment and ultimately, on 24.02.2011, he succumbed to the injuries. A criminal case was registered by way of filing FIR bearing No.31 dated 12.02.2011 in Police Station Sadar Jind against an unknown driver.

3. The legal heirs of deceased-Roshan filed a claim petition, which was contested by the owner, driver and the Insurance Company. The Tribunal allowed the said petition and awarded a sum of ₹3,77,100/- as compensation to the appellants-claimants. However, the owner and the driver were directed to pay the said compensation and respondent No.3-Insurance Company was exonerated by the Tribunal while recording the following reasons:-

> *"xxxxxxx*
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> *22. Though the Insurance Company has produced insurance policy Ex.R8 but respondents No.1 and 2 have failed to prove its route permit. Even as per earlier version contained in FIR Ex. R6 as well as in untraced report Ex. RI filed by the police, 12/13 passengers were traveling in the Jeep in question at the time of impugned accident. In cross examination, ASI Balwan Singh RW1 has categorically stated that during investigation, it was found that the Jeep in question was being plied by its owner as taxi from Narnaud to Jind for carrying passengers. Even in affidavit Ex. R5 respondent No.2 has clearly mentioned that he used to ply his taxi from Jind to Narnaud.*
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> *23. More so, as per registration certificate and insurance policy Ex.R8, the Jeep in question was a private vehicle and thus was "non transport vehicle" and its insurance policy Ex.R8 covers its use for any purpose other than:-*
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> *a) Hire or Reward:*
>
> *b) Carriage of Goods (other than samples or personal luggage*
>
> *c) Organized racing*
>
> *d) Pace making;*
>
> *e) Speed testing*
>
> *f) and reliability trials and*
>
> *g) Use in connection with Motor trade.*

As discussed above, since 12-13 passengers were traveling in the Jeep in question on hire and reward, therefore, it is held that it was being plied in contravention of terms and conditions of insurance policy exonerating its liability.

24. However, respondent No.1 had sold the Jeep in question to respondent No.2 much prior to the impugned accident on 15.1.2011 vide affidavit Mark RA, but he being registered owner shall be deemed to continue as its owner for the purposes of Motor Vehicle Act even though under the Civil law he had ceased to be as such after its sale. Reliance can be placed upon the observation of Hon'ble Supreme Court in Pushpa and others Vs. Shakuntala and others; 2011 ACJ 705. However, since respondent No.2 had actual control over it at the time of impugned accident, so he is also held liable. Hence both the respondents No.1 and 2 shall be jointly and severally liable to make payment of compensation. Accordingly this issue is answered in favour of respondent No.3.

xxxxxxx"

4. The Tribunal determined the age of the deceased between 45-50 years at the time of the accident and awarded a sum of Rs.3,77,100/- as compensation. However, the calculation was made as per the following details (the total as per the calculation comes to Rs.3,87,100/- instead of Rs.3,77,100/-):-

S.No.	**Compensation Heads**	**Amount Awarded**
1.	Month Income (Casual Labour)	Rs.3,600/-
2.	Annual Income	Rs.43,200/-
3.	Deductions	1/3 (Rs.43,200 – Rs.14,400/- = Rs.28,800/-)
4.	Future Prospects	NIL
5.	Multiplier	12 (Rs.28,800/- X 12 = Rs.3,45,600/-)
6.	Medical Expenses	Rs.31,500/-
7.	Funeral Expenses, Transportation Charges and Loss of Consortium	Rs.10,000
	Total Compensation	Rs.3,87,100/-
	Interest @ 9% per annum	

5. I have heard learned counsel for the parties and perused the paper book.

6. The Tribunal has not considered the future prospects and proper compensation on the conventional heads has not been awarded. Keeping in view the age held by the Tribunal as 45-50 years, the multiplier of 13 ought to have been applied. As such, this Court is of the considered opinion that the compensation needs to be re-worked, in view of the decision of the Hon'ble Apex Court in ***"National Insurance Company Ltd. vs. Pranay Sethi & Ors.", (2017) 16 SCC 680*** and "***Magma General Insurance Company Limited vs. Nanu Ramalias Chuhru Ram & Ors.", (2018) 18 SCC 130***.

7. The compensation is re-worked as under:-

S.No.	Compensation Heads	Amount Awarded
1.	Month Income (Casual Labour)	Rs.3,600/-
2.	Annual Income	Rs.43,200/-
3.	Deductions @ 1/3	(Rs.43,200 – Rs.14,400/- = Rs.28,800/-)
4.	Future Prospects @ 25%	(Rs.28,800/- + Rs.7,200/- = Rs.36,000/-)
5.	Multiplier @ 13	(Rs.36,000/- X 13 = Rs.4,68,000/-)
6.	Loss of Consortium	Rs.48,000/- X 3 = Rs.1,44,000/-
7.	Funeral Expenses	Rs.18,000/-
8.	Loss of Estate	Rs.18,000/-
9.	Medical Expenses	Rs.31,500/-
Total Compensation = Rs.6,79,500/-		
Interest @ 7.5% per annum on enhanced amount		

8. The Tribunal has directed the owner and driver to pay the compensation but it did not apply the principle of *'Pay and Recover'*. It is difficult for the claimants to recover the compensation from the owner and the driver of the vehicle. In a recent judgement in "***K. Nagendra versus The***

<u>New India Insurance Company Limited and others"; 2025 SCC Online SC 2297</u>, the Hon'ble Apex Court applied the principle of '*Pay and Recover*'**.** In the said case, there was a deviation from the prescribed route in the permit granted by the State Transport Authority. Applying the principle of '*Pay and Recover'*, the Insurance Company was directed to pay compensation to the claimants. The observations by the Hon'ble Apex Court are as under:-

> *"xxx xxx xxx xxx*
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> *9. The purpose of an insurance policy in the present context is to shield the owner/operator from direct liability when such an unforeseen/unfortunate incident takes place. To deny the victim/dependents of the victim compensation simply because the accident took place outside the bounds of the permit and, therefore, is outside the purview of the insurance policy, would be offensive to the sense of justice, for the accident itself is for no fault of his. Then, the Insurance Company most certainly ought to pay.*
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> *10. At the same time though, when an Insurance Company takes on a policy and accepts payments of premium in pursuance thereto, it agrees to do so within certain bounds. The contract lays down the four corners within which such an insurance policy would operate. If that is the case, to expect the insurer to pay compensation to a third party, which is clearly outside the bounds of the said agreement would be unfair. <u>Balancing the need for payment of compensation to the victim vis-a-vis the interests of the insurer, the order of the High Court applying the pay and recover principle, in our considered view, is entirely justified and requires no interference</u>.*
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> *<u>Emphasis supplied</u>*
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> *xxx xxx xxx xxx"*

9. The said principle was also applied in another decision by the Hon'ble Apex Court in ***"<u>Sunita and Others vs. United India Insurance Company Limited and Others</u>";*** **<u>Civil Appeal No.9538 of 2025, arising out of Special Leave Petition (Civil) No.1412 of 2024, decided on 17.07.2025</u>**,

where the plea of breach of the policy was alleged on the ground that offending vehicle was being plied as a loading vehicle without a valid permit, registration and fitness certificate. The following observations were made:-

> *"xxx xxx xxx xxx*
> *12. The next question which arises for our consideration is whether the Insurance Company is liable to indemnify the compensation amount to the claimant-appellant and, thereafter, recover the same from the driver and owner of the vehicle.*
> *13. Adverting to the facts in hand, from a bare perusal of the record, it is borne that the vehicle in question was insured with "Liability Only Policy" and no premium was paid to cover the driver, owner, or a gratuitous passenger travelling therein. However, even then, in our view, the Courts below erred in holding that the Insurance Company is not liable to pay the compensation to the claimant-appellants, for the principle of "Pay and Recover" ought to have been invoked. As such, we are inclined to interfere with the above findings of the Courts below.*
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> *Emphasis supplied*
>
> *xxx xxx xxx xxx"*

10. In view of the above discussion, by applying the principle of *'Pay and Recover'*, the Insurance Company is required to be directed to pay compensation to the claimants-appellants with the right to recover the same from respondents No.1 and 2-the owner and driver, jointly and severally.

11. Consequently, the present appeal is **partly allowed** and the Award dated 05.05.2012, passed by the Tribunal is modified. The Insurance Company is directed to pay the compensation as re-worked out to the claimants-appellants. However, the Insurance Company shall have the right to recover the same from respondents No.1 and 2-owner and driver.

12. The compensation shall be transferred by respondent No.3-Insurance Company in the Bank Accounts of the claimants-appellants within a period of 06 weeks from today.The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimants-appellants to respondent No.3-Insurance Company within a period of two weeks from today and needful shall be done by respondent No.3-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

13. Pending miscellaneous applications, along with IOIN, stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

05th March 2026
simran

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No