



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 08.04.2026

FAO-1673-2013 (O&M)

Raj Kumar & Others

...Appellant(s)

Vs.

Sanoj & Others

...Respondent(s)

FAO-299-2013 (O&M)

M/s Shivam Readymix Pvt. Ltd.

...Appellant(s)

Vs.

M/s Oriental Insurance Co. Ltd. & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Gaurav Tyagi, Advocate
Mr. Saurav Tyagi, Advocate
for the claimants/appellants in FAO-1673-2013
and respondents No.2 to 5 in FAO-299-2013.

Ms. Smrita, Advocate
for respondent No.3/Insurance Company in FAO-1673-2013
and respondent No.1 in FAO-299-2013.

Ms. Jyotsna Saini, Advocate
for owner/respondent No.2 in FAO- 1673-2013
and appellant in FAO-299-2013.

NIDHI GUPTA, J.

CM-8731-CII-2013 IN FAO-1673-2013

This is an application under Section 5 of Limitation Act for
condonation of delay of 8 days in filing the appeal.



After going through the contents of the application, which is supported by affidavit of appellant No.1, the same is allowed subject to all just exceptions and delay of 8 days in filing the present appeal is condoned.

FAO-1673-2013

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.9,77,480/- awarded by Motor Accident Claims Tribunal, Gurgaon vide Award dated 17.10.2012 passed in MACT Case No.163 dated 29.04.2011 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 4 claimants are the 23-year-old son, 20-year-old daughter, 18.5-year-old son and 16-year-old son of deceased Bimla, who was 40 years old at the time of accident.

FAO-299-2013

The present appeal has been filed by the owner of the Bolero Car bearing registration No.HR-45-A-7148 (hereinafter the "offending vehicle") against Award dated 17.10.2012 passed by Tribunal in MACT Case No.163 dated 29.04.2011 filed under Section 166 of the Act, whereby liability to pay the compensation has been affixed upon the appellant.

Both the above appeals are being disposed of by this common order as as they arise out of the common Award dated 17.10.2012; both emanate from the accident dated 23.3.2011; and both appeals are between the same parties; and facts and issues involved in both appeals are identical. For the sake of facility, the facts are being drawn from and parties



are being referred to as per their status in FAO-1673-2013 filed by the claimants.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties concluded that deceased Bimla had died due to the injuries suffered by her in a motor vehicular accident that took place on 23.03.2011 due to the rash and negligent driving of the offending vehicle being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3. The compensation has been awarded along with interest @ 6% per annum.

3. The liability to pay the aforesaid compensation amount was affixed upon respondents No.1 and 2 on the ground that respondent No.1 was not holding valid Driving Licence at the time of accident. However, it was directed that respondent No.3/insurance company shall satisfy the Award and recover the amount from respondents No.1 and 2.

4. Learned counsel for the appellants/claimants submits that income of the deceased has been correctly assessed as Rs.5480/- per month. However, seeks enhancement of compensation by submitting that nothing has been awarded towards future prospects. It is submitted that deceased was doing a job with the Municipal Corporation and was in regular appointment. Therefore, future prospects were liable to be added @ 30%. It is further submitted that age of deceased was 40 years at the time of accident. Therefore, multiplier of 15 ought to have been applied; whereas the Tribunal has applied multiplier of 14. Even nothing has been awarded by



way of consortium. It is also submitted that father of the claimants had pre-deceased their mother who is the present deceased.

5. Learned counsel for the respondent No.2 submits that recovery rights have been wrongly given to the respondent No.3/Insurance Company on the ground that respondent no.1 did not possess a valid driving license. In this regard, learned counsel refers to the findings of the learned Tribunal in Para 20 of the impugned Award.

6. Learned counsel submits that in giving the said findings, the learned Tribunal has totally misread the evidence on record. In actual fact, respondent No.1 had placed on record his Driving Licence as Ex.R2. However, the same has not at all been considered by the Tribunal. On the date of accident, respondent No.1 possessed a valid Driving Licence. Therefore, it is contended that no recovery rights could have been granted against the owner and driver of the offending vehicle.

7. Per contra, learned counsel for the respondent No.3/Insurance Company opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeals deserve to be dismissed.

8. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find merit in the submissions advanced on behalf of the appellants/claimants.

9. As regards quantum of compensation, record reveals that it was the pleaded case of the appellants before the learned Tribunal that the



deceased was working in the Municipal Corporation, Gurgaon. To prove the employment and income of the deceased, claimants have examined PW3 Om Parkash, Assistant, MC, Gurgaon, who has proved Salary Certificate (Ex.PW3/A), as per which the deceased was drawing salary of Rs.5478/- from the Municipal Corporation, Gurgaon. Accordingly, Tribunal has correctly assessed income of the deceased as Rs.5480/- per month.

10. Father of the claimants had pre-deceased their mother. Therefore, the claimants were dependent on their deceased mother. Thus, as there were four claimants, the learned Tribunal had correctly made a deduction of 1/4th towards personal expenses; thereby calculating income of the deceased to be Rs.4110/- per month and annual dependency to be Rs.49,320/- (Rs.4110/- x 12).

11. Age of the deceased was determined to be 40 years at the time of accident, on the basis of her School Leaving Certificate (Ex.P124). As such, multiplier of 15 was required to be applied; whereas the learned Tribunal has applied multiplier of 14. As such, as per the law laid down by the Hon'ble Supreme Court in **"Sarla Verma Vs. Delhi Transport Corporation" (2009) AIR (SC) 3104 Law Finder Doc ID # 188882**, multiplier of 15 was required to be applied.

12. Learned Tribunal has further not granted anything by way of future prospects. As deceased was in permanent employment, future prospects @ 30% are liable to be added.



13. Further, under the conventional heads, the learned Tribunal has awarded an amount of Rs.10,000/- towards transportation and last rites. Nothing has been awarded towards consortium. The claimants being the four children of the deceased are entitled to Rs.40,000/- each by way of consortium; and Rs.15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses, in accordance with the structured formula laid down by the Hon’ble Supreme Court.

14. Learned Tribunal has further awarded an amount of Rs.2,77,000/- towards medical expenses, on the basis of bills produced by the claimants. Consequentially, **FAO-1673-2013** filed by the claimants/3 sons and one daughter of deceased, is **allowed**; and compensation payable to the claimants is re-assessed in the following manner: -

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.5480/- per month (in rounded figure)	Rs.5480/- per month (in rounded figure)
Future prospects	--	(30%) Rs.5480/- + Rs.1644/- = Rs.7124/-
Deduction towards personal expenses	(1/4 th) Rs.5480/- - Rs.1370/- = Rs.4110/-	(1/4 th) Rs.5343/-
Annual dependency	Rs.4110/- x 12 = Rs.49,320/-	Rs.5343/- x 12 = Rs.64,116/-
Multiplier	(14) Rs.49,320/- x 14 = Rs.6,90,480/-	(15) Rs.64,116/- x 15 = Rs.9,61,740/-
Transportation and last rites	Rs.10,000/-	Rs.15,000/-
Consortium to all the claimants	Nil	Rs.40,000/- x 4 = Rs.1,60,000/-
Medical expenses	Rs.2,77,000/-	Rs.2,77,000/-
Loss of estate	Nil	Rs.15,000/-
Total	Rs.9,77,480/-	Rs.14,28,470/-
Interest	6% p.a.	6% p.a.



15. As regards Recovery rights challenged in FAO-299-2013 filed by the owner of the offending vehicle, I find merit in the submissions advanced on behalf of the appellant in the said appeal.

16. The reasoning of the learned Tribunal in granting recovery rights to the respondent No.3 against respondents No.1 and 2 is in Para 20 of the impugned Award, which reads as follows:-

“20. As regard, the liability to pay the above compensation. No doubt, the respondent No. 2 is the owner of the offending vehicle. Copy of driving license is Ex. R1 on the file and insurance policy is Ex. P125 on the file. But the driving license report Ex. R1 goes to show that the license No. 7810/UP/MTR/10 has not been issued in the name of Sanoj respondent no.1 As per statement of RW1 driving license Ex.R1 has not been issued in the name of Sanoj, meaning thereby, the respondent no. 1 was not holding a valid and effective driving license at the time of accident. There is violation of terms and conditions of insurance policy and the respondent no. 3 cannot be held liable to pay the compensation. However, to meet the interest of justice the respondents No.1 and 2 are held liable to pay the compensation jointly and severally, first the respondent no. 3 to pay the compensation and then recover it from the respondent No. 1 and 2 in accordance with law. Hence this issue stands decided accordingly.”

17. A reading of the above shows that the learned Tribunal has held that the Driving Licence (Ex.R1) has not been issued in the name of respondent No.1; and thus, the respondent No.1 was not holding a valid and effective Driving Licence at the time of accident. However, in holding as above, learned Tribunal has ignored vital evidence on record in the form



of Ex.R2 (at page 567 of the LCR) which is Licence No.47733/TV/Z/2008 issued in the name of the Driver/ Sanoj son of Ajbir resident of Village Chidiala, Tehsil Gaziabad (UP). A perusal of the said Driving Licence shows that the same was issued on 03.11.2008 and was valid up to 02.11.2011. In the entire Award, no mention is made of Ex.R2. Only on the basis of Ex.R1, liability has been affixed upon the respondents No.1 and 2.

18. Learned Tribunal has also failed to consider the fact that Ex.R1, produced by the respondent No.3/Insurance Company **(to be verified by the LR)** does not bear licence number; whereas Ex.R2 was produced by the respondents No.1 and 2 **(to be verified by the LR)**; duly bears the Licence No.47733/TV/Z/2008 and is issued in the name of the Driver. However, the same has been totally ignored by the learned Tribunal.

19. In this regard, learned Tribunal has also ignored the statement of RW1 Anal Bihari Sahay, Record Clerk, ARTO Office, Mathura, UP, who has stated during his cross-examination that: -

“It is correct that at the time of issuance of D.L. Our Licensing Authority mentioned complete number of driving license. It is correct that complete DL number is not mentioned in Ex R1. It is incorrect to suggest that Ex.R1 issued by our Licensing Authority. It is also incorrect to suggest that I produced fake and irrelevant record in order to help the Insurance Company. It is incorrect to suggest that I am deposing falsely.”



20. In this regard, deposition of RW2 Sanoj son of Ajbir resident of Village Chidiala, Tehsil Modi Nagar, District Ghaziabad (UP), is also relevant, who has stated in his oral evidence that:-

“It is correct that the photo of the DL Ex.R1, is mine. I did not give any DL to the concerned police. It is wrong to suggest that the copy of DL Ex.R1, is related to me. I do not know whether at the time of accident the permit of the vehicle no.HR-45A-7148, was with me or not. Voluntarily stated that owner will disclose the same. It is wrong to suggest that I am deposing falsely.”

21. From the above facts, it is clear that the learned Tribunal has wrongly granted recovery rights to the Insurance Company against respondents No.1 and 2 while ignoring the aforesaid material evidence on record. Consequentially, present appeal also stands **allowed** and the impugned Award is set aside qua the appellant whereby recovery rights have been granted to the Insurance Company against the appellant/owner of the offending vehicle.

22. In view of the above, both the present appeals stand **allowed** in above terms.

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

08.04.2026
Sunena

(NIDHI GUPTA)
JUDGE

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