



FAO-3477-2014 (O&M)

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

FAO-3477-2014 (O&M)

FUTURE GENERALI INDIA INSURANCE CO. LTD.

..Appellant

Versus

SUMER DEVI AND ORS.

..Respondents

Reserved on: 24.04.2026

Pronounced on: 13.05.2026

Uploaded on : 14.05.2026

Whether only the operative part of the judgment is pronounced?

NO

Whether full judgment is pronounced?

YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. G.S. Sarao, Advocate for
Mr. Vishal Aggarwal, Advocate
for the appellant-Insurance Company.

Mr. Sandeep Kumar Yadav, Advocate
for respondent Nos.1 to 5.

Mr. Amit Kaith, Advocate
for respondent No.6.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellant-Insurance company against the award dated 28.02.2014 passed in a claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Narnaul (for short, 'the Tribunal'), wherein the claim petition filed by the claimants was allowed and appellant-Insurance company was made liable to pay the compensation.

**BRIEF FACTS OF THE CASE**

2. Brief facts of the case are that on 14.10.2013, Rajender Singh (since deceased) was driving the truck bearing no.MH-04EY-3977 outside the gate of Jirakpur godown, and at about 5.30 p.m., he got electrocuted as the aforesaid truck came in contact with live wires of electricity and Rajender Singh died on the spot and death of Rajender Singh had occurred in an accident arising out of use of aforesaid truck. Thus, as per the petitioners, the accident resulting into death of Rajender Singh had occurred out of use of the vehicle i.e. truck bearing no.MH-04EY-3977. It has been further pleaded that a DDR No.44 dated 15.10.2013, under Section 174 Cr.P.C was got registered in Police Station, Jirakpur, regarding this accident. Smt.Sumer Devi, the widow, Dilawar & Sangeeta, the minor children, Chandro, the mother and Chiranji Lal, the father of Rajender Singh (since deceased) have brought this claim petition and have claimed a compensation of Rs.20,00,000/- alleging that postmortem of Rajender Singh was conducted at PHC, Derabasi. An amount of Rs.50,000/- had been spent on transportation of the dead body and last rites of Rajender Singh. It has been further pleaded that Rajender Singh (since deceased) was 38 years of old and was enjoying a good physique and he had no sin and vice, but due to his untimely death, all the petitioners have been deprived of the economical assistance to the tune of Rs.3300/- per month and the widow of Rajender Singh has been compelled to live in widowhood and the minor children have been deprived of the love and affection, care, welfare and proper education, and the parents of Rajender Singh have been deprived of the economic and moral support of their son.



3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing their separate written replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

“1. Whether Rajender Singh son of Chiranji Lal died in a road side accident, which took place on 14.10.2013 in the revenue estate of village Jirakpur, Punjab (Police Station, Jirakpur) on account of use of truck no.MH-04EY- 977? OPP

2. Whether the claimants are entitled to compensation, if so to what amount and from whom? OPP

3. Whether the driver did not hold a valid and effective driving licence, if so to what effect? OPR-2

4. Relief.”

5. Thereafter, both the parties led their evidence in support of their respective pleadings.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant–Insurance Company contends as under:-

i. That the claim petition filed by the respondents/claimants was not maintainable.

ii. That the claim petition was instituted under Section 163-A of the M.V. Act, 1988 and driver of offending vehicle stepped into



the shoes of owner of offending vehicle, therefore, the claim petition is not maintainable.

iii. That there is glaring contradiction in the testimony of PW-1, the alleged eye-witness of the accident. Therefore, he prays that the present appeal be allowed.

8. He relies upon judgment of Apex Court passed in **Ramkhiladi and another Vs. United India Insurance Company and another, 2020(1) RCR (Civil) 638.**

9. Per contra learned counsel for claimants/respondents No.1 to 5 contends as under :-

i. That learned Tribunal has rightly held that the policy of the offending vehicle was comprehensive policy and use of motor vehicle is duly established.

ii. That learned Tribunal has rightly decided the issue of maintainability.

iii. That compensation awarded by the learned Tribunal is on lower side and deserves to be enhanced.

iv. That respondents No.1 to 5 has filed separate appeal bearing **FAO-6102-2014, titled as Sumer Devi and ors. Vs. MRC Logistic Pvt. Ltd. and another**, seeking enhancement.

Therefore, he prays that the present appeal be dismissed.

10. I have heard learned counsel for the parties and perused the whole case file with their able assistance.

11. Before proceeding further, it is necessary to reproduce the relevant portion of the award, which reads as under:-

“ISSUE NO.1



8. *This petition has been filed under Section 163-A of M.V. Act. It makes the owner of the motor vehicle or the authorised insurer to pay the compensation in case of death or permanent disablement due to accident arising out of use of motor vehicle and claimant is not required to plead or establish that death or permanent disablement in respect of which claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or by any other person. In this case, the petitioners have claimed compensation on account of death of Rajender Singh occurred due to electrocution. The petitioners are required to prove that the electrocution took place out of use of motor vehicle truck bearing no.MH-04EY-3977 resulting into death of Rajender Singh.*

9. *In order to prove that Rajender Singh son of Chiranji Lal died in an accident i.e. due to electrocution, which took place on 14.10.2013 in the revenue estate of village Jirakpur, Punjab (Police Station, Jirakpur) on account of use of truck bearing no.MH- 4EY-3977; the petitioners have examined Phool Singh, who is an eye witness of the accident, and who stepped into witness box as PW1 and tendered in evidence his affidavit Ex.PW1/A, wherein he deposed that on 14.10.2013, at about 5.00 p.m., Rajender Singh had died due to electrocution while driving vehicle bearing no.MH-04EY-3977 standing outside the gate of Jirakpur godown. He has specifically deposed that death of Rajender Singh had occurred in an accident arisen out of use of aforesaid truck.*

10. *The evidence of PW1 Phool Singh regarding electrocution of Rajender Sijngh (since deceased) is duly supported from the copy of DDR Ex.P2.*

11. *The learned counsel for the respondent no.2 has urged before me that on the file it is not at all proved that*



Rajender Singh had died in an accident arising out of use of truck bearing no.MH-04EY-3977. He has urged that Phool Singh, the alleged eye witness, in his examination-in-chief has stated that Rajender Singh had died due to electrocution while driving the vehicle bearing no.MH-04EY-3977 standing outside the gate of Jirakpur godown, whereas in his cross-examination, he has stated that Rajender Singh was electrocuted while climbing the truck. He has then urged that this inconsistency in the statement of PW1 Phool Singh create a doubt that Rajender Singh had died in an accident arising out of use of truck bearing no.MH-04EY-3977.

12. However, after giving a thoughtful consideration to the plea raised on behalf of the learned counsel for the respondent no.2, I do not concur with the same in so far as, PW1 Phool Singh has deposed in his examination-in-chief that Rajender Singh had died due to electrocution while driving the vehicle bearing no.MH-04EY-3977 parked outside the godown and in his cross-examination, he has deposed that Rajender Singh was electrocuted while climbing the truck. Now, a co-joint reading of statement of PW1 Phool Singh in examination-in-chief as well as in cross-examination would show that PW1 Phool Singh has explained in his cross-examination as to how Rajender Singh (since deceased) was driving the vehicle at the time when it was electrocuted. He has nowhere stated that the vehicle bearing no.MH-04EY-3977 was in moving stage, rather he has stated that Rajender Singh had died while driving vehicle bearing no.MH-04EY-3977 parked outside Jirakpur godown. Thus, PW1 Phool Singh only explained in his cross-examination as what was meant by driving as stated by him in his examination-in-chief. Otherwise also, the fact remains, whether Rajender Singh was electrocuted either



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while driving or either while climbing the truck bearing no.MH-04EY-3977 that Rajender Singh was electrocuted by use of truck bearing no.MH-04EY-3977. Thus, I rebut the plea raised on behalf of the learned counsel for the respondent no.2.

13. Thus, in view of above discussion and findings, it is duly established on the file that Rajender Singh son of Chiranji Lal died in an side accident i.e. due to electrocution, which took place on 14.10.2013 in the revenue estate of village Jirakpur, Punjab (Police Station, Jirakpur) on account of use of truck bearing no.MH-04EY- 977. This issue stands decided in favour of the petitioners.

Issue No.2&3:

14. Both these issues are inter-connected, hence are being taken up together for discussion.

Smt.Sumer Devi, being the widow, Dilawar & Sangeeta, being the minor children, Chandro, being the mother and Chiranji Lal, being the father of Rajender Singh (since deceased) have claimed compensation on account of death of Rajender Singh.

Claimant Sumer Devi, the widow of Rajender Singh, while appearing in the witness box as PW2 has deposed that after death of her husband, there is no one to earn and he was the only earning member in the family. She has then deposed that after death of her husband, she has been compelled to live her life as widow and the children are unable to bear the expenses of education. Thus, petitioner no.1 Smt.Sumer Devi, the widow, petitioners no.2&3 Dilawar & Sangeeta, the minor children, petitioner no.4 Chandro, the mother and petitioner no.5 Chiranji Lal, the father of Rajender Singh being members of family are proved to be dependent upon the income of Rajender Singh (since deceased) and thus,



all the petitioners including petitioner no.5, the father of Rajender Singh, are entitled to compensation.

15. Now, I proceed to determine the age of Rajender Singh (since deceased). In the claim petition, the age of Rajender Singh (since deceased) has been written as 38 years and in the postmortem report Ex.P1 also, the age of Rajender Singh (since deceased) has been written as 38 years. The copy of driving licence of Rajender Singh (since deceased) has also been produced on the file as Ex.P3 and perusal thereof shows that date of birth of Rajender Singh (since deceased) has been mentioned therein as 18.01.1973. The accident had taken place on 14.10.2013. Thus, calculated, the age of Rajender Singh (since deceased) at the time of his death comes to be more than forty years. After relying upon driving licence Ex.P3, being more reliable, thus the age of Rajender Singh (since deceased) is determined as more than 40 years. In view of law laid down in Division Bench Authority of the Hon'ble Supreme Court of India cited as Smt. Sarla Verma and others versus Delhi Transport Corporation and Anr. 2009 (3) RCR (Civil) 77, multiplier of 15 is to be applied.

16. PW1 Sumer Devi, the widow of Rajender Singh (since deceased) has deposed that her husband was earning Rs.3300/- per month by working in MRC Logistic Pvt. Ltd. Company as driver. There is no otherwise evidence. Thus, I assess the income of Rajender Singh (since deceased) as Rs.3300/- per month.

17. As discussed above, number of dependents in this case are five. As per the judgment Smt.Sarla Verma's case (Supra), 1/4th income of the deceased shall be deducted towards his living and personal expenses in those cases where the number of dependents are between 4 to 6. Deducting the said amount i.e. Rs.825/-, the monthly



dependency of claimants comes to Rs.2475/- or in other words Rs.29,700/- per annum and applying the multiplier of 15, the compensation comes to Rs.4,45,500/-.

18. Besides this, I award a sum of Rs.10,000/- on account of loss of consortium to petitioner no.1 and love and affection to the petitioners. I also award a sum of Rs.10,000/- on account of expenses incurred on funeral expenses and last rites of deceased Rajender Singh. Thus, the total amount of compensation comes out to Rs.4,65,500/-.

19. Now the question arises as to who is liable to pay the compensation. On the file, the copy of driving licence of Rajender Singh (since deceased) has been produced as Ex.P3 issued from Licencing Authority, Narnaul (Haryana), whereby he has been authorized to drive motorcycle, LMV, HTV, HPV only and the said driving licence is valid upto 17.10.2014. The accident had taken place on 14.10.2013. No otherwise evidence in rebuttal of above evidence has been adduced by respondent No.2- insurance company. Thus, on the date of accident, Rajender Singh (since deceased) was holding a valid and effective driving licence to drive the vehicle in question.

20. It is also proved on the file that Rajender Singh (since deceased) was the driver of the offending vehicle at the time of accident and the respondent no.2 was the registered owner of the offending vehicle, which is established by copy of registration certificate Ex.P4 and the vehicle in question was insured with the respondent no.2, which is established on the file by copy of insurance policy Ex.R1. Thus, I hold that the respondent No.1 being the registered owner and respondent no.2 being the insurer of the offending vehicle are jointly and severally liable to pay the compensation.”



12. Upon a comprehensive consideration of the material available on record, this Court finds no infirmity in the findings returned by the learned Tribunal while deciding Issue No.1. The learned Tribunal has undertaken a proper and legally sustainable appreciation of the oral as well as documentary evidence and has rightly concluded that deceased Rajender Singh succumbed to electrocution in an accident arising out of the use of truck bearing registration No. MH-04EY-3977.

13. The claimants, in order to establish the occurrence and the manner of accident, examined PW-1 Phool Singh, eye witness to the incident. The eye witness, by way of affidavit Ex.PW1/A, specifically deposed that on 14.10.2013, Rajender Singh died due to electrocution while using the aforesaid truck parked outside the godown at Zirakpur. The testimony of PW-1 further finds corroboration from DDR Ex.P2 placed on record. Nothing substantial could be elicited during his cross-examination so as to discredit his testimony on material particulars.

14. The principal contention raised on behalf of the appellant-Insurance Company before the learned Tribunal, and reiterated before this Court, is founded upon alleged inconsistency in the statement of PW-1, that in his examination-in-chief he stated that the deceased died while “driving” the vehicle, whereas in cross-examination he stated that the deceased was electrocuted while “climbing” the truck.

15. In the considered opinion of this Court, the aforesaid contention has rightly been rejected by the learned Tribunal. A holistic and meaningful reading of the testimony of PW-1 leaves no manner of doubt that the witness remained consistent on the core aspect of the occurrence, i.e. that the deceased suffered electrocution while using truck bearing registration No.



MH-04EY-3977 stationed outside the godown premises. The so-called discrepancy sought to be projected by the appellant is merely semantic in nature and does not go to the root of the matter. The expression employed by the witness in cross-examination was only explanatory of the circumstances in which the deceased was in the process of operating or accessing the vehicle.

16. It is trite law that minor variations or insignificant inconsistencies in the testimony of a witness, which do not affect the substratum of the case, are liable to be ignored and cannot constitute a ground to discard otherwise cogent and trustworthy evidence. The testimony of PW-1, when read in its entirety, inspires confidence and unequivocally establishes the nexus between the accident and the use of the offending vehicle.

16. The learned Tribunal has also correctly observed that the vehicle was admittedly parked at the relevant time and the witness nowhere stated that the truck was in motion. Therefore, irrespective of whether the deceased was electrocuted while sitting inside the vehicle, driving the same, or climbing onto it, the undeniable factual position remains that the death occurred in the course of and arose out of the use of truck bearing registration No. MH-04EY-3977.

17. The expression “arising out of the use of a motor vehicle” employed under the provisions of the Motor Vehicles Act is of wide amplitude and cannot be accorded a narrow or pedantic interpretation. Once a clear causal connection between the use of the vehicle and the accident stands established, the claim cannot be defeated on hyper-technical considerations. In the present case, the evidence led by the claimants-

respondents No. 1 to 5 satisfactorily establishes such nexus.



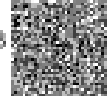
18. Accordingly, this Court is of the considered view that the learned Tribunal has rightly appreciated the testimony of PW-1 Phool Singh and has justifiably rejected the objections raised by the appellant-Insurance Company. The findings recorded by the learned Tribunal are based upon proper appreciation of evidence and settled principles of law and, therefore, warrant no interference by this Court in exercise of appellate jurisdiction.

19. So far as the contention raised by the appellant-Insurance Company that the claim petition under Section 163-A of the Motor Vehicles Act was not maintainable on the ground that the deceased, being borrower-driver of the vehicle, stepped into the shoes of the owner, is concerned, the same deserves to be rejected outrightly as being devoid of merit.

20. A perusal of the record reveals that it is an undisputed position that the offending vehicle was covered under a **comprehensive/package** insurance policy and not merely an “Act Only” policy. Once the insurer had issued a comprehensive policy covering the vehicle, the liability of the insurer cannot be avoided by raising the plea that the deceased borrower-driver stepped into the shoes of the owner.

20. The principle of a borrower stepping into the shoes of the owner has primarily been evolved and applied in cases where the vehicle was insured only under a statutory **“Act Only” policy**, wherein the scope of coverage is confined to third-party risks alone. However, where the vehicle is covered by a comprehensive/package policy, the contractual coverage extended under the policy is much wider in amplitude and cannot be restricted by importing the limitations applicable to an “Act Only” policy.

22. The learned Tribunal has, thus, rightly held the claim petition to be maintainable and has correctly rejected the objection raised by the

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appellant-Insurance Company. This Court finds no illegality or perversity in the said finding warranting interference in appellate jurisdiction.

23. In view of the above discussion, the present appeal is hereby dismissed being bereft of any merit.

24. Pending miscellaneous applications, if any, are also disposed of.

13.05.2026*Ayub/Sahil***(SUDEEPTI SHARMA)
JUDGE**

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