



FAO-4194-2015 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-4194-2015 (O&M)

RELIANCE GENERAL INSURANCE CO. LTD.

..Appellant

Versus

AMAN KUMAR AND ORS.

..Respondents

Reserved on: 09.04.2026

Pronounced on: 10.04.2026

Uploaded on: 10.04.2026

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. Shubham Gupta, Advocate for
Mr. Raj Kumar Bashamboo, Advocate
for the Insurance Company i.e appellant.

Mr. Raghav Sharma, Advocate
for respondent Nos.1 to 4.

Mr. Parminder Singh, Advocate
for respondent No.5.

SUDEEPTI SHARMA, J.

1. The present appeal has been filed by the appellants (driver and owner of the offending vehicle) against award dated 27.03.2015 passed in a claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the Motor Accident Claims Tribunal, Kurukshetra (for short, 'the Tribunal'), wherein the appellant-Insurance Company was fastened with the liability to pay the compensation of Rs.10,00,000/- to the claimants/respondents No.1 to



4 along with interest @ 7.5% per annum from the date of filing of claim petition till recovery.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 4.12.2012 at around 1.30 p.m., in the area near Satsang Bhawan, Baronda-Chapper Road, when Babli Devi (since deceased) was trying to board the offending vehicle, respondent No.1 without taking care of the said fact drove offending vehicle in rash and negligent manner, as a result of which, Babli Devi (since deceased) fell down and she was run over by the offending vehicle. In the said accident, Babli Devi had received multiple injuries on her person and she succumbed to injuries on the way to hospital. Accident was witnessed by petitioner No.1 Aman Kumar. After causing accident, respondent No.1 sped away the offending vehicle from the spot. Post-mortem examination on the body of deceased Babli Devi was conducted at General Hospital, Karnal, and a sum of Rs. 40,000/- was spent on transportation and last rites of deceased. It is pleaded that above said accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1, thus, on these allegations, FIR No.513 dated 4.12.2012, under Sections 279 and 304-A IPC was registered in Police Station, Indri. Petitioners being husband, sons and daughter of deceased Babli Devi have suffered a lot on account of her untimely death. It is pleaded that Babli Devi (since deceased) was aged about 35 years at the time of her death and while doing labour work as well as while rendering domestic services towards family, she used to earn Rs. 10,000/- per month. Since accident took place due to sheer rash and negligent driving of offending vehicle by respondent No.1 Sushil Kumar, the fact that offending vehicle was owned by respondent No.1 Sushil Kumar and



it was insured with respondent No.2, Reliance General Insurance Company Limited (hereinafter referred to as “insurer”), at the relevant time, therefore, respondents No.1 and 2 are jointly and severally liable to pay the compensation to the petitioners. It is, therefore, prayed that the petitioners are entitled to get compensation amounting to Rs.12,00,000/- along with costs and interest @ 18% per annum from the date of accident till its realization from the respondents.

3. Upon notice of the claim petition, respondents No.1 and 2 (driver-cum-owner of the offending vehicle and Insurance Company) have appeared and contested the claim petition by filing separate written statement denying the factum of accident/compensation.

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

“1. Whether the motor vehicle accident dated 4.12.2012 is an outcome of rash and negligent driving of tractor bearing registration No.HR-75- 5290 by Sushil Kumar, respondent No.1 ?OPP

2. Whether the respondent-driver of aforesaid vehicle was not having valid driving licence at the time of alleged accident ?OPR

3. Whether the petitioners are entitled to compensation on account of death of Babli Devi, in the aforesaid accident? If so, as to what amount and from whom ?OPP

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.



However, the appellant-Insurance Company was held liable to pay compensation. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES:

7. Learned counsel for the appellant–Insurance Company contends that the learned Tribunal erred in fastening liability upon the insurer. He further contends that as per the admitted facts, claimant Aman Kumar was sitting on the mudguard of the tractor and the deceased, after loading grass, was attempting to board the vehicle when she fell due to alleged rash and negligent driving. He further contends that tractor is not meant for carrying passengers, and any such act is in violation of Regulation 28 of the Rules of the Road Regulations, 1989, framed under Section 118 of the Motor Vehicles Act, 1988.

8. He further contends that respondent No.5 (driver-cum-owner of the offending vehicle) was not having the licence of a tractor and he was having the LMV licence. On this ground as well, it is urged that the insurer stands exonerated from liability.

9. On the aforesaid premises, learned counsel prays that the present appeal be allowed and the impugned award be set aside to the extent it fastens liability upon the appellant–Insurance Company.

10. Per contra, learned counsel appearing for the claimants/respondents No.1 to 4 supports the award passed by the learned Tribunal. He further contends that the compensation awarded by learned Tribunal is on the lower side and they filed separate appeal i.e. ***FAO-4892-2015*** titled as ***Aman Kumar and others Vs. Sushil Kumar and another***, seeking enhancement of compensation as per the settled law. He therefore, prays that the present appeal be dismissed.



11. I have heard learned counsel for the parties and perused the whole record of the case with their able assistance.

12. Before proceeding further it is apposite to reproduce the relevant portion of the award. The relevant portion is reproduced as under:-

“Issues No 1, 2 and 3:

10. I am taking up these issues together as these issues are interconnected.

11. To substantiate these issues, PW-1 Aman Kumar, being eye-witness of the accident, in question, gave eye-account having tendered his duly sworn affidavit (Ex.PW-1/A) and stated that on 4.12.2012 at around 1.30 p.m., while Babli Devi (since deceased) after loading the bundle of grass in the offending vehicle, was trying to board said vehicle, in the meantime, respondent No.1, all of a sudden, drove the offending vehicle and that too in rash and negligent manner, as a result of which, Babli Devi (since deceased) fell down and she was run over by the speeding vehicle. He further stated that Babli Devi had received multiple injuries on her person and she succumbed to said injuries. He further deposed that after causing the accident, respondent No.1 sped away the offending vehicle from the spot. He further deposed that above said accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1. He further stated that regarding accident in question, he got recorded his statement before the police, on the basis of which, FIR was registered against respondent No.1. He further deposed that his mother Babli Devi (since deceased) aged about 35 years and while doing labour work, used to earn Rs. 10,000/- per month. He further stated that Babli Devi (since deceased) used to render domestic services to petitioners. He further deposed that he as well as other petitioners were totally dependent upon the income of his mother Babli Devi (since deceased).

12. PW-2 Karambir (petitioner No.2) having tendered his duly sworn affidavit (Ex.PW-2/A) while narrating the version as set up in the petition categorically stated that his wife Babli Devi had died in a motor vehicular accident about a year back. He further stated that at the time of death, his wife Babli Devi was aged about 35 years and apart from managing and looking after homely affairs, while doing labour work, she used to earn Rs.



10,000/- per month. He further deposed that he as well as other petitioners were totally dependent upon the income of his wife Babli Devi (since deceased). He further deposed that an amount of Rs. 40,000/- was spent on last rites of deceased Babli Devi.

13. On the other hand, RW-1 Nishant Sharma, Legal Manager, Reliance General Insurance Company Limited, has stated that in terms of certificate of registration (Ex.R-1), sitting capacity on tractor is for one person, but as per version of FIR, there were more than one person on the tractor at the time of accident. He further deposed that Babli Devi (since deceased) was trying to board the tractor from the trolley side. He further deposed that at the time of accident, trolley was attached and the same was being used for commercial purpose. He further deposed that in terms of driving licence (Ex.R-2), said driving licence was issued for driving light motor vehicle and not for transport vehicle. He further deposed that as per verification report (Ex.R-3), issued by Licensing Authority, Karnal, respondent No.1 was authorized to drive LMV-Non-Transport, Car, LMV-Tractor. Above said witness has proved the copy of insurance policy (Ex.R-4).

14. To substantiate these issues, learned counsel for the petitioners has argued that since accident, in question, took place due to negligent driving of offending vehicle by respondent No.1 Sushil Kumar wherein Babli Devi had suffered fatal injuries, respondent No.1, drivercum-owner (insured) and respondent No.2 (insurer) of offending vehicle, are liable to pay compensation to the petitioners, on account of death of Babli Devi, caused in a motor vehicular accident.

15. On the other hand, learned counsel for respondents have argued that since no such accident, as alleged, had ever taken place due to rash and negligent driving of offending vehicle by respondent No.1, no negligence could be attributed to respondent No.1 in the cause of accident, in this view of the matter, no liability could be fastened upon the respondents to pay any compensation to the petitioners. In the alternative, it is contended that even otherwise there was no fault on the part of respondent No.1 in the cause of accident as Babli Devi (since deceased) while boarding a moving tractor fell of her own and, thus, no negligence could be attributed to respondent No.1 in the cause of accident. Learned counsel for respondent No.2,



insurer, further submitted that since tractor attached with trolley was a transport vehicle and there was no special endorsement on the driving licence of respondent No.1 to drive tractor attached with trolley, in this scenario, respondent No.1 will not be said to be duly licenced. He further urged that since offending vehicle was being driven in violation of terms and conditions of insurance policy, in this view of the matter, no liability could be fastened upon respondent No.3, insurer, to pay any compensation to the petitioners, in this scenario, instant petition being devoid of merits, is liable to be dismissed.

16. While having due regard to the contentions of respective parties, a perusal of testimonies of PW-1 Aman Kumar, PW-2 Karambir and RW-1 Nishant Sharma, coupled with documentary evidence, as led on the record, it is observed that the petitioners have come to the Court with categorical stand that on 4.12.2012 at around 1.30 p.m., in the area near Satsang Bhawan, Baronda-Chapper Road, when Babli Devi (since deceased) was trying to board the offending vehicle, respondent No.1 without taking care of the said fact drove offending vehicle in rash and negligent manner, as a result of which, Babli Devi fell down and she was run over by the speeding offending vehicle. In the said accident, Babli Devi had received multiple injuries on her person and she succumbed to injuries on the way to hospital. Accident was witnessed by petitioner No.1 Aman Kumar. After causing accident, respondent No.1 sped away the offending vehicle from the spot. Post-mortem examination on the body of deceased Babli Devi was conducted at General Hospital, Karnal. As above said accident had taken place due to rash and negligent driving of offending vehicle by respondent No.1, thus, on these allegations, FIR No.513 dated 4.12.2012, under Sections 279 and 304-A IPC was registered in Police Station, Indri. It is pertinent to mention here that in the above said FIR, respondent No.1 has already been challaned by the police and he is facing trial in the Court and to this effect, certified copies of FIR (Ex.P-1) and report under Section 173 Cr.P.C. (Ex.P-3) have been proved on record. Post-mortem examination on the body of deceased Babli Devi was conducted at General Hospital, Karnal, vide post-mortem report Ex.P-2, in terms of which, it is quite evident on the record that cause of death was due to injuries to vital organs causing haemorrhagic shock and the said injuries were ante-mortem in



*nature and sufficient to cause death in normal course of life. It is relevant to point out here that despite availing requisite opportunities, respondents have failed to examine respondent No.1 Sushil Kumar, driver of offending vehicle. Since respondents have categorically denied the negligence of respondent No.1 in the cause of accident while driving offending vehicle, they were duty bound to examine the driver of offending vehicle to establish that there was no rash and negligent act of said driver in the cause of accident. No reason has been assigned by the respondents for non-examination of driver of offending vehicle. In accident cases, it is absolutely necessary to have the first hand report from the driver. It may be that the driver does not always speak the truth, but the driver's version is the one which is to be given the best consideration. He also knows as to what actually happened. Therefore, the driver having not been examined, necessarily, an adverse inference arises against him. To this effect, reliance can be placed on ruling “**Raju and others Versus Sukhvinder Singh and others**” 2006(4) RCR (Civil) 82 (P&H). In a given set of facts, once it has come on the record that in case FIR No.513 dated 4.12.2012, as detailed above, respondent No.1 Sushil Kumar has been arrayed as accused in the cause of accident and the fact that PW-1 Aman Kumar, who actually witnessed the accident, has narrated in detail the cause of accident, thus, in terms of un-rebutted evidence, as led on the record at the instance of petitioners, it can be conveniently held that accident had occurred due to negligent driving of offending vehicle by respondent No.1 Sushil Kumar, wherein Babli Devi had suffered fatal injuries.*

17. Regarding aspect of controversy as to how much compensation is to be awarded, it is observed that PW-1 Aman Kumar (petitioner No.1) and PW-2 Karambir (petitioner No.2) have stated that Babli Devi (since deceased) apart from rendering domestic services towards family, while doing labour work, used to earn Rs. 10,000/- per month. However, petitioners have failed to produce any documentary evidence to prove that Babli Devi (since deceased) was earning Rs. 10,000/- per month while doing the labour work. Thus, Babli Devi (since deceased) is taken as housewife. The role of a housewife includes managing budgets, co-ordinating activities, balancing accounts, helping children with education, managing help at home,



nursing care etc. In this case, deceased was a householder. We have come by a gradual acknowledgment of gender equality as a constitutional scheme and the increasing recognition of the value of contribution of womanhood to the sum of economic prosperity and social facility. Housewives have obtained a new moniker as homemakers. Since housewife takes care of all the requirements of her husband and children including cooking of food, washing of clothes etc., she teaches small children and provides invaluable guidance to them for their future life. All these chores could be performed by a maid servant, but she can never be a substitute for a wife/mother, who renders selfless service to her husband and children. Therefore, the dependents are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by housewife. Thus, income of housewife is assessed as monthly value of her services and not her monthly income and, therefore, the concept of deduction from her personal services cannot be applied. To this effect, reliance can also be placed on ruling “**Paramjit Singh and another Versus Dilbagh Singh alias Bagga and others**” Vol.CLXXII-(2013-4) PLR 328 (DB) (P&H). Since there is no documentary proof of earnings of Babli Devi (since deceased), but in a given situation, she being housewife, it can be conveniently held that Babli Devi (since deceased) must be rendering gratuitous services amounting to Rs.5,000/- per month and the annual gross services of Babli Devi (since deceased) are assessed at Rs.60,000/-.

18. As per testimonies of PW-1 Aman Kumar (petitioner No.1) and PW-2 Karambir (petitioner No.2), Babli Devi (since deceased) was aged about 35 years. Further in terms of testimony of PW-1 Aman Kumar, coupled with Identity Card (Mark-A), of said Aman Kumar, it is quite evident on the record that he was born on 4.5.1993 and, thus, he was aged more than 20 years when appeared in the witness box to testify in this case. Even though, in terms of post-mortem examination report (Ex.P-2), Babli Devi (since deceased), was aged 35 years at the time of her death, but in a given scenario and especially in view of age of her eldest son (Aman Kumar), it can be conveniently held that Babli Devi (since deceased) was aged about 37/38 years at the time of her death. Keeping in view age, nature of her (Babli Devi) profession and other attending circumstances of the case, it will be appropriate to



adopt multiplier of "15". In this manner, compensation, thus, works out to be Rs.60,000/- x 15= Rs. 9,00,000/-. Apart from that, in conventional head i.e. loss of consortium to husband, love and affection to husband and children, funeral expenses and loss of estate, compensation is assessed to the tune of Rs. 1,00,000/-. In this manner, total compensation, thus, works out to be Rs. 10,00,000/-. Since petitioner No.2 Karambir, husband of Babli Devi (since deceased) has to look after entire household affairs, thus, he (petitioner No.2 Karambir) is entitled to get 70% share, whereas petitioners No.1, 3 and 4 namely Aman Kumar (son), Chander Kanta alias Seema (daughter) and Mukesh (son) of deceased Babli Devi are entitled to get 10% share each out of the total awarded compensation.

19. Regarding the matter in controversy, as to whether there was any violation of terms and conditions of insurance policy by respondent No.1, it is held that accident took place on account of negligent driving of offending vehicle, wherein death of Babli Devi had occurred, the said vehicle at the relevant time i.e. on 4.12.2012 was being driven by respondent No.1 Sushil Kumar. In case "Fahim Ahmad and others Versus United India Insurance Company Limited and others" 2014 (2) RCR (Civil) 470 (Supreme Court), a tractor carrying sand in the trolley met with an accident. The sand was for the purpose of construction of tank. It was held by Hon'ble Supreme Court that merely because it (tractor-trolley) was carrying sand would not mean that the tractor was being used for commercial purpose. Further, it was held that it was mandatory for insurer not only to plead the said breach, but also to substantiate the same by adducing positive evidence in respect of the same. In the absence of any such evidence, it cannot be presumed that there was breach of the conditions of policy. Although the plea of breach of the conditions of policy has been raised by respondent No.2, insurer and it has examined RW-1 Nishant Sharma, yet no documentary evidence was adduced by insurer to prove the same. Further, in case "National Insurance Company Limited Versus Chinnamma and others" 2004 (4) RCR (Civil) 300 (Supreme Court), it has been held that carriage of vegetables being agricultural purpose would lead to an inference that the tractor was being used for agricultural purposes, but the same itself would not be construed to mean that the tractor and trailer



can be used for carriage of goods by another person for his business activities. Thus, a tractor fitted with a trailer, may or may not answer the definition of “goods carriage” contained in Section 2 (14) of the Act. Keeping in view ratio decidendi of above said rulings and in a given set of facts, merely because offending vehicle was attached with trolley would not mean that the said vehicle was being used for commercial purpose. Even though respondent No.2, insurer, has raised the plea of breach of conditions of policy by respondent No.1 (insured), but to substantiate above said plea, no cogent evidence has been led by respondent No.2, insurer. In the absence of any such evidence, it cannot be presumed that there was breach of the conditions of policy. There is nothing on the record to show that offending vehicle was being used for commercial purposes other than agriculture purpose i. e. for hire or reward, as contemplated under Section 149 (2) (a) (i) (a) of the Act.

20. Regarding aspect of controversy as to whether respondent No.1 Sushil Kumar was holding valid and effective driving licence at the time of accident or not, it is observed that, at the relevant time, offending vehicle i.e. tractor-trolley was being driven by respondent No.1 Sushil Kumar, which met with an accident. At the relevant time, respondent No.1 Sushil Kumar was holding driving licence (Ex.R-2) meant for driving LMV-Tractor, Motor Cycle-WG and LMV-NT only. Said driving licence was issued on 1.9.2008 by Licensing Authority (M), Karnal having validity till 31.8.2028. Thus, in terms of above said driving licence, respondent No.1 has been authorized to drive LMV-Tractor, Motor Cycle-WG and LMV-NT only. In this scenario, respondent No.1 Sushil Kumar was having valid and effective driving licence to drive the offending vehicle, at the relevant time i.e. on 4.12.2012.

21. Regarding the matter in controversy, who is liable to pay above said compensation, it is held that accident took place on account of negligent driving of offending vehicle by respondent No.1, wherein Babli Devi sustained fatal injuries, offending vehicle was owned (insured) by respondent No.1 Sushil Kumar and it was insured with respondent No.2, Reliance General Insurance Company Limited, vide insurance policy (Ex.R-4), thus, respondents No.1 and 2 are jointly and severally liable to pay the compensation, as detailed above, to the petitioners.



22. Keeping in view above said findings, issue No.1 is decided in favour of petitioners and against the respondents to the effect that motor vehicular accident dated 4.12.2012 was an outcome of rash and negligent driving of offending vehicle by respondent No.1 Sushil Kumar. Issue No.2 is decided against respondent No.2 and in favour of respondent No.1 to the effect that respondent No.1 was having valid and effective driving licence at the relevant time. Issue No.3 is decided in favour of petitioners and against respondents to the effect that petitioners are entitled to get compensation of ` 10,00,000/- in the manner, as detailed above, whereas respondents No.1 and 2 are jointly and severally liable to pay compensation in favour of petitioners.”

13. The principal contention raised on behalf of the appellant—Insurance Company is that there was a breach of the terms and conditions of the insurance policy. However, the said contention does not merit acceptance. The learned Tribunal has rightly held that although such a plea was raised by the insurer, no cogent or documentary evidence was adduced to prove any violation of the terms and conditions of the policy. Mere assertion of breach, in the absence of substantiating evidence, is not sufficient to exonerate the insurer. Further, there is no evidence available on record to suggest that the deceased was sitting on the mudguard of the tractor, as alleged by the appellant.

14. The reliance placed by the learned Tribunal upon the judgments of the **Hon’ble Supreme Court in Fahim Ahmad v. United India Insurance Co. Ltd.** and **National Insurance Co. Ltd. v. Chinnamma** is well-founded. It has been consistently held that the insurer must not only plead but also prove the breach by leading positive evidence. In the present case, there is nothing on record to establish that the offending vehicle was being used for a purpose not covered under the policy or for hire or reward.



15. A perusal of Insurance Policy and driving licence reveals that the offending vehicle was a tractor. As per the record, the gross vehicle weight of the offending vehicle (tractor) is recorded as 2230 kilograms, i.e. below 7500 kilograms. Thus, the vehicle clearly falls within the category of a Light Motor Vehicle.

16. As regards the validity of the driving licence, the learned Tribunal has rightly concluded that respondent No.5 was holding a valid and effective driving licence (Ex. R-2) authorizing him to drive LMV–Tractor, and no evidence has been led to prove otherwise.

17. In view of the above, the finding recorded by the learned Tribunal that there was no proved violation of the terms and conditions of the insurance policy calls for no interference. Consequently, the appellant–Insurance Company has been rightly held liable to satisfy the award.

18. In view of the above, present appeal is dismissed being bereft of any merit.

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

10.04.2026

Ayub/Saahil

(SUDEEPTI SHARMA)

JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*