IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-4470-2025 (O&M)
Date of Reserve: January 21, 2026
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Reliance General Insurance Co. Ltd. ......Appellant

vs.

Nisha Aggarwal and others ......Respondents

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. Sanjeev Kodan, Advocate, for the appellant.

Mr. Vijay Lath, Advocate
for respondent Nos. 1 to 5.

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SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 24.04.2025 filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Rupnagar (for short, 'the Tribunal') on the ground that the liability to pay compensation to the tune of Rs. 2,86,05,570/- has been wrongly fixed upon the appellant-Insurance Company as well as quantum of compensation being on higher side.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that on 10.08.2023, Prinshu Jain (since deceased) along with his parents, went for walk after taking dinner, outside their house at Ajauli Morh to Village Malukpur Link Road on the extreme left side of the road. Prinshu Jain was walking along with the right side of his father. When they reached near Riale Gas Factory, it was about 08:45 P.M., in the meantime, one

Innova Car bearing registration No.PB-02-BJ-0613, came from opposite direction i.e. from Ajauli Morh side, which was being driven by its driver in a rash and negligent manner, without blowing any horn and hit into Prinshu Jain due to which he fell on the road. The father of Prinshu Jain (since deceased) raised hue and cry on hearing the same, number of persons gathered at the spot. Thereafter, with the help of persons, Prinshu Jain (since deceased) was taken to Civil Hospital, Nangal where the doctor declared him brought dead. It has been mentioned in the petition that FIR No.0118 dated 11.08.2023 was registered under Section 279, 304-A IPC at Police Station Nangal.

3. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

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

> *"1. Whether deceased Prinshu Jain son of Anil Jain @ Anil Kumar Jain died in the motor vehicle accident that took place on 10.08.2023 at about 08:45 P.M. in the area Ajauli Morh, Malukpur Road, near Rail Gas Factory, due to rash and negligent driving of Innova Car bearing registration No.PB-02-BJ-0613 being driven by respondent No.1?OPP*
>
> *2. If the above issue is proved, whether the claimant is entitled for compensation as prayed for?OPP*
>
> *3. Whether the respondent No.1 was not having valid documents i.e. driving licence, RC etc. at the time of accident?OPR*
>
> *4. Whether the present claim petition is not maintainable?OPR*
>
> *5. Relief."*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondent Nos. 1 to 5. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel appearing on behalf of the appellant–Insurance Company contends that the manner in which the accident has been described in the claim petition is scientifically improbable and, therefore, the involvement of the Innova car bearing registration No.PB-02-BJ-0613 in the accident is doubtful. He further argues that the offending vehicle was falsely implicated at a later stage. Learned counsel further submits that there are material contradictions in the evidence adduced by the claimants/respondent Nos. 1 to 5 and that the compensation awarded by the learned Tribunal is excessive.

7. He further contends that there was delay in lodging the FIR, which renders the version of the claimants/respondent Nos. 1 to 5 doubtful. He further refers to the cross-examination of PW-1 Anil Kumar and submits that the witness stated that the front portion of the Innova car struck the chest of the deceased. Such a version is inconsistent with the medical and forensic record. He further argues that the deceased was approximately six feet in height and, in the event of a collision with an Innova car (offending vehicle), the first point of impact would ordinarily have been the lower extremities. However, no such injuries were noticed, thereby rendering the version of the claimant/respondent Nos. 1 to 5 inconsistent with the medical evidence.

8. Learned counsel further submits that the testimony of RW-3, the Forensic Expert, has been erroneously ignored by the learned Tribunal. According to RW-3, the injuries sustained by the deceased do not correlate with an impact

caused by the Innova car in question. On the strength of these submissions, learned counsel for the appellant prays that the present appeal be allowed and the impugned award be set aside.

9. Per contra, learned counsel appearing on behalf of respondent Nos.1 to 5–claimants submits that the accident in question was duly investigated by the police and, upon completion of investigation, police report under Section 173 Cr.P.C. was presented against the driver of the offending vehicle. He further contends that the criminal court has taken cognizance and framed charges against respondent No. 6 (driver of the offending vehicle), which lends due corroboration to the case set up by the claimants/respondent Nos. 1 to 5. In such circumstances, the learned Tribunal has rightly held the appellant–Insurance Company liable to satisfy the award.

10. He further contends that the injured was immediately taken to the hospital after the accident and the police was duly informed without undue delay. The post-mortem report of the deceased also corroborates that the injuries were sustained in a vehicular accident involving the Innova car in question.

11. On the strength of these submissions, learned counsel for the claimants/respondent Nos. 1 to 5 prays that the present appeal, being devoid of merit, deserves to be dismissed.

12. I have heard learned counsel for the parties and perused the whole records of the case.

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

"ISSUES Nos.1 TO 3

22) The onus to prove Issues No.1 and 2 is upon the claimants/ petitioners whereas onus to prove Issue No.3 is upon the respondents. All these issues are taken up together being interconnected.

23) The Learned Counsel for the claimants has submitted that the claimants are seeking compensation on account of death of Prinshu Jain in motor vehicular accident occurred on 10.08.2023.

24) The Learned Counsel has referred to the statement of PW1 Anil Kumar @ Anil Jain claimant No.4, who has deposed on the lines of the case of the claimants. He is also eye-witness of the accident and proved that accident took place due to rash and negligent driving of respondent No.1.

25) The Learned Counsel has submitted that the claimants have examined PW2 Ashok Kumar, Sr. Executive HR, M/s Nestle India Ltd., who has brought the record pertaining to the salary of Prinshu Jain (since deceased). As per the record brought by him the gross salary for the month of July 2023 of Prinshu Jain (since deceased) was Rs.1,91,051/-.

26) The Learned Counsel has submitted that deceased Prinshu was income tax payee and the claimants have examined RW4 Sanjay, Tax Assistant at Rupnagar and the witness has proved income tax return for the year 2023-2024 of the Prinshu Jain (since deceased) as per which his total income was Rs.19,05,160/- for said financial year and the income tax assessed on the said income was Rs.3,99,410/-. The Learned Counsel has submitted that the witness has duly deposed that gross income of Prinshu Jain for the said financial year, was Rs.25,44,936/-. The Learned Counsel has submitted that the gross salary of deceased Prinshu Jain may be taken as Rs.1,91,051/- as the same has been proved by PW2 Ashok Kumar, Sr. Executive HR of M/s Nestle India Pvt. Ltd., where the deceased was working as Manager.

27) The Learned Counsel has referred to PW3 Sanjeev Kumar, Ahlmad of the Court of Sh. Punit Mohinia, Ld. JMIC, Nangal and submitted that the witness has proved the record pertaining to the criminal case "State Vs. Jaswinder Singh" bearing FIR No.118/11.08.2023 under Section 279, 304A IPC registered against the accused Jaswinder Singh (respondent

No.1 herein), who was duly charged-sheeted in the said case vide Ex.P20. The witness has also deposed regarding the slip Ex.P14 issued by the doctor concerned at Civil Hospital, Nangal on 10.08.2023 and as per record Innova Car bearing No.PB-02-BJ-0613 has been taken into police possession and the same was released on 26.09.2023.

28) The Learned Counsel has submitted that the rash and negligent driving of respondent No.1 while driving of the offending vehicle bearing No.PB-02-BJ-0613, which is owned by respondent No.2 and insured by respondent No.4, has been duly proved on record due to which FIR No.118/2023 was registered against the respondent No.1 Jaswinder Singh and challan Ex.P18 was presented before the Court and he was charge-sheeted in the said case vide Ex.P20.

29) Further relying upon the above as well as following rulings, the Learned Counsel has submitted that the case of the claimants has been duly proved on record from the testimony of witnesses as well as documents produced on record, therefore, the present claim petition may be allowed:

i. National Insurance Company Ltd. Vs. Shish Pal Alias Raj Gopal and another, 2022(2) PLR 627 (P&H);

ii. Geeta Devi and others Vs. Sandeep and others, 2019(4) Law Herald 3084 (P&H);

iii. United India Insurance Co. Ltd. Vs. Mander Singh & Ors., 2018(4) Law Herald 3012 (P&H);

iv. National Insurance Co. Ltd. Vs. Shimla Devi and Ors., 2022(1) Law Herald 837 (P&H);

v. United India Insurance Company Ltd. Vs. Salima & Ors., 2021(3) Law Herald 2553 (P&H);

vi. IFFCO Tokio General Insurance Co. Ltd. Vs. Kuldeep Kaur & Ors., 2018(3) Law Herald 2181 (P&H);

vii. Harbans Lal & Ors. Vs. Rameshwar Singh & Ors., 2023(1) Law Herald 129 (P&H);

viii. Kanta Devi & Anr. Vs. Rana Kumar & Anr., 2021(2) Law Herald 1250 (P&H);

ix. Jyuna Ram & Anr. Vs. Chander Veer & Ors., 2023(1) Law Herald 709 (P&H);

x. Meenakshi Vs. Oriental Insurance Co. Ltd., 2024(3) Law Herald 2330 (SC);

xi. Universal Sompo General Insruance Company Ltd., Vs. Lakhwinder Kaur & Ors., 2022(1) Law Herald 682 (P&H);

xii. Ramesh Chandra Agrawal Vs. Regency Hospital Ltd. & Ors., Civil Appeal No.5991 of 2002, decided on 11.09.2009 (SC);

xiii. Geeta Dubey & Ors. Vs. United India Insurance Co. Ltd., 2024 Law Herald.org. 1638 (SC)

30) On the other hand, the Learned Counsel for the respondents No.1 and 2 has submitted that the respondents No.1 and 2 are not liable to pay compensation amount in any manner. In case any compensation is found to be granted to the claimants, the respondent No.2 Insurance Company of the vehicle in question is liable to pay the same to indemnify the respondent No.1. Upon this, the Learned Counsel has prayed for dismissal of the present petition.

31) The Learned Counsel for the respondent No.4 Insurance Company has filed the written arguments and gist of the same is that there is considerable delay in lodging of FIR, which makes the story of claimants doubtful. The Learned Counsel has submitted that the police had full knowledge regarding the accident on 10.08.2023 as is evident from the cross-examination of PW1 Anil Kumar Jain, but police has not recorded any FIR on the same day.

32) The Learned Counsel has referred to cross-examination of PW1 Anil Kumar wherein he has stated that front of Innova Car had hit his son's chest area, which is not possible as, as per the earmark report, the height of deceased was about 6' and the first point of impact would be on the legs, which is not present in the present case, hence, the medical evidence contradicts the story built up by the claimants.

33) The Learned Counsel has referred to the statement of RW3 Forensic Expert, who has proved his report Ex.RW3/3 and submitted that the expert has opined that injuries sustained by the deceased are not correlating to be caused by the Innova Car.

34) The Learned Counsel has submitted that RW4 Gagandeep, Investigator has proved his report as per which accident took place with the tractor-trolley of Nima while deceased was driving the motorcycle. The Learned Counsel has submitted that the Innova Car has been falsely implicated in the present case just to grab the compensation by the claimants in connivance with the respondent No.1, 2 and the police.

35) Upon this and relying upon the ruling titled "Pandurang Jivaji Apte Vs. Ramchandra Gangadhar Ashtekar (dead) by L.Rs and Ors.", 1981 (4) Supreme Court cases 569 (SC) and prayed for dismissal of the present claim petition.

FINDINGS

36) I have heard the rival submissions and perused the record carefully.

37) PW1 Anil Kumar @ Anil Jain claimant No.4 has deposed on the lines of the case of the claimants. He is also eye-witness of the accident and proved that accident took place due to rash and negligent driving of respondent No.1. The witness has deposed that on 10.08.2023, he himself along with his wife and his son Prinshu Jain (since deceased) had gone for a walk after taking dinner, outside their house at Ajauli Morh to Village Malukpur Link Road on the extreme left side of the road. Prinshu Jain was walking on his right side. When they reached near Riale Gas Factory, it was about 08:45 P.M., in the meantime, one Innova Car bearing registration No.PB-02-BJ-0613, came from opposite direction i.e. from Ajauli Morh side, which was being driven by its driver in a rash and negligent manner, without blowing any horn and hit into Prinshu Jain due to which Prinshu Jain fell on the road. He raised hue and cry upon which, number of people gathered at the spot.

38) The witness has further deposed that he with the help of some persons, took Prinshu Jain to Civil Hospital, Nangal where the doctor declared him brought dead. An FIR No.0118 dated 11.08.2023 was registered under Section 279, 304-A IPC at Police Station Nangal. The witness has deposed that Prinshu Jain (since deceased) was having degree of B.Tech and MBA and working as a Food Safety Manager-Quality in M/s Nestle India Ltd., Village Nangal Kalan, Taliwal, Tehsil

Haroli, District Una, HP. Due to untimely death of his son, future of family fell into dark.

39) The witness has further proved on record the documents i.e. Notary attested copy of Aadhaar Card of Anil Kumar Jain as Ex.P1, Notary attested copy of Aadhaar Card of Nisha Aggarwal as Ex.P2, Notary attested copy of Vanshika Jain as Ex.P3, Notary attested copy of Aadhaar Card of Viaan Jain as Ex.P4, Notary attested cop of Aadhaar Card of Rekha Jain as Ex.P5, Notary attested copy of Aadhaar Card of Prinshu Jain (since deceased) as Ex.P6, attested copy of FIR No.0118 dated 11.08.2023 as Ex.P7, attested copy of post-mortem report of deceased Prinshu Jain as Ex.P8, Notary attested copy of B.Tech of deceased Prinshu Jain as Ex.P9, Notary attested copy of MBA of Prinshu Jain as Ex.P10, copy of income tax return for the year 2023-24 of Prinshu Jain (since deceased) as Ex.P11, copy of income tax return acknowledgment Ex.P12, Notary attested copy of ID card of Prinshu Jain (since deceased) as Ex.P13. The Learned Counsel for the claimants has also placed on record attested copy of challan/report under Section 173 Cr.P.C, presented against accused Jaswinder Singh (respondent No.1 herein) as Ex.P18, attested copy of list of witnesses Ex.P19, attested copy of charge-sheet served upon accused Jaswinder Singh (respondent No.1 herein) as Ex.P20, copy of form No.16 for the month of May 2023 of Prinshu Jain as Mark-P1 & P2, copy of form No.16 for the month of June 2023 of Prinshu Jain as Mark-P3 & P4, copy of form No.16 for the month of May 2024 of Prinshu Jain as Mark-P5 and closed the evidence on behalf of the claimants.

40) In order to prove monthly income of the deceased Prinshu Jain, the claimants have examined PW2 Ashok Kumar, Sr. Executive HR, M/s Nestle India Ltd., who has brought the record pertaining to the salary of Prinshu Jain (since deceased). As per the record brought by him the gross salary for the month of July 2023 of Prinshu Jain (since deceased) was Rs.1,91,051/-.

41) Further, the claimants have examined RW4 Sanjay, Tax Assistant at Rupnagar and the witness has proved income tax return for the year 2023-2024 of the Prinshu Jain (since deceased) as per which his total income *was Rs.19,05,160/- for said financial year and the income tax assessed on the said income was Rs.3,99,410/-. The witness has duly deposed that annual gross income of Prinshu Jain for the said financial year, was Rs.25,44,936/-.*

42) PW3 Sanjeev Kumar, Ahlmad of the Court of Sh. Punit Mohinia, Ld. JMIC, Nangal has proved the record pertaining to the criminal case titled "State Vs. Jaswinder Singh" bearing FIR No.118/11.08.2023 under Section 279, 304A IPC registered against the accused Jaswinder Singh (respondent No.1 herein), who was duly charged-sheeted in the said case vide Ex.P20. The witness has also deposed regarding the slip Ex.P14 issued by the doctor concerned at Civil Hospital, Nangal on 10.08.2023 and as per record Innova Car bearing No.PB-02-BJ-0613 has been taken into police possession and the same was released on 26.09.2023.

43) All the witnesses of claimants, were cross-examined at length, but nothing favourable to the respondents could be culled out.

44) On the other hand, the respondents No.1 and 2 have not led any oral evidence, rather produced on record the documents i.e. copy of driving licence of Jaswinder Singh respondent N.1 as Ex.R1 (valid from 05.06.2023 to 04.06.2033), copy of RC (valid from 04.08.2009 to 03.08.2024) of vehicle bearing No.PB-02-BJ-0613 as Ex.R2 and copy of insurance policy of the said vehicle as Ex.R3 (valid from 10.12.2022 to 09.12.2023).

45) Further, to rebut the claim of the claimants, the respondent No.4 Insurance Company has examined RW1 Dharminder Singh, Cluster Leader, who has deposed that they are not having any record pertaining to shifting of Prinshu Jain from Rail Factory Ajauli Mor to Civil Hospital, Nangal. No call was received at their Call Centre at 108 in this regard.

46) The testimony of this witness does not in any manner disprove the claim of the claimants as the witness in his evidence, has not deposed that the accident in question has not taken place or the deceased Prinshu Jain has not died in the said accident.

47) Further, the respondent No.4 Insurance Company has examined Kashmir Singh, Security Officer, Nestle India Ltd., who has deposed that he does remember the mode by which Prinshu Jain had gone to his house *on 10.08.2023 after his duty. As per record of punching machine, Prinshu Jain had left at 07:55 P.M fro the office on 10.08.2023. The witness has proved record of punching machine as Ex.RW2/1.*

48) The testimony of this witness also does not affect the case of the claimants. The witness has only produced the record of attendance of Prinshu Jain (since deceased) in the company.

49) RW3 Nivrtee R. Magar, Sr. Forensic Expert has deposed that he is Master in Forensic Science and placed on record copy of the same as Ex.RW3/1. He has prepared her report under Section 45 of India Evidence Act and has been authorized by his Director Sumit Kataria vide authorization letter Ex.RW3/2. He has proved his report Ex.RW3/3 and copy of his Aadhaar Card as Ex.RW3/4, copy of ID card Ex.RW3/5. The witness has deposed that he has analyzed police documents i.e. FIR, petition, medical paper i.e. post-mortem and panchnama i.e. spot sketch etc. He was appointed to ascertain manner of accident in which they observed that injuries caused to deceased Prinshu Jain are not co-relating by dashing with Innova Car. IN case of dashing by Innova Car, the victim will suffer injuries lower extremities as the primary impact which is not as per the PMR. The witness has proved his report as Ex.RW3/3 in this regard.

50) The testimony of this witness again does not in any manner disprove the claim of the claimants. The witness was hired and paid by the respondent No.4 Insurance Company, who has deposed in favour of his employer i.e. Insurance Company. The said witness has not obtained any permission before analyzing the police documents or to ascertain the manner of accident. Hence, the testimony of this witness cannot be relied upon.

51) RW4 Gagandeep Singh, Investigator has been examined by the respondent No.4 Insurance Company, who has deposed that he had investigated case in question and submitted his report dated 01.05.2024 Ex.RW4/1 on record. The report of this witness is not trustworthy as the said witness was deputed by the respondent No.4 Insurance Company, who had investigated on his own level approximately after 6 months of the *accident in question. Moreover, the said witness has not obtained any permission from the Court or the police for investigating the matter.*

52) Further, the value of expert opinion rest on the facts on which it is based and his/her competency for forming a reliable opinion. The evidentiary value of the opinion of expert depends on the facts upon which it is based and also the validity of the process by which the conclusion is reached. In the present case, the respondent No.4 Insurance Company has examined RW3 Nivrtee R. Magar and RW4 Gagandeep Singh, who are working for the respondent No.4 Insurance Company.

53) No other oral evidence has been led by the respondent No.4 Insurance Company.

54) The Learned Counsel for the respondent No.4 Insurance Company has argued that FIR was not registered on the same day in spite of knowledge of the police after receiving ruqa Ex.P14 from the concerned doctor. It is relevant to mention that after the accident DDR No.38 was lodged on the same night and due to the mental condition of Anil Kumar @ Anil Jain due to the death of his son Prinshu Jain, he was not in a condition to get his statement recorded. Hence, the delay in lodging of FIR is not fatal to the case of the claimant. Moreover, the FIR was registered against the accused i.e. Jaswinder Singh respondent No.1 herein, who was charge-sheeted in the criminal case i.e. FIR No.118 dated 11.08.2023 registered against the respondent No.1 qua the accident in question. Furthermore, even if no FIR is registerd, even then the claim petition cannot be thrown away only for th reason that FIR was not registered as is held by the Hon'ble High Court of Punjab and Haryan in ruling Universal Sompo General Insurance Company Limited Vs. Lakhwinder Kaur & Ors., 2022(1) Law Herald 682.

55) Further, the Learned Counsel for the respondent No.4 Insurance Company has argued that the vehicle in question has been wrongly got involved in the FIR as well as in the present claim petition. It has been argued that no information was given to the police. In this regard, I am hereby supported with ruling "Geeta Dubey & Ors. Vs. United India Insurance Company Ltd. & Ors. (supra) cited by the Learned Counsel for the claimants wherein it has been held by the Hon'ble Supreme Court *that wrongfully involvement of the vehicle—insurance company admitted that no information or complaint was given to the senior police in this regard and no steps were taken to cancel the investigation of the police, insurer failed to dislodge the burden of proof.*

56) The argument of the Learned Counsel for respondent No.4 Insurance Company that sub-sternal haematoma 3cm x 2cm is the size of injury by pipe is wrong as Haematoma 6 sq.cm is the size of clot which was collected between the inner layer and outer layer of heart and as per the post-mortem report of deceased Prinshu Jain, there is no external injury on the chest of deceased and ribs were fractured, which shows the sever impact of chest after the struck of vehicle. Further, no medical evidence has been produced by the insurance company to prove its version.

57) Hence, the respondents have failed to disprove the claim of the claimants whereas from the testimony of PW1 Anil Kmar @ Anil Jain as well as documentary evidence produced on record, it is duly proved that Prinshu Jain had died due to rash and negligent driving of driver of theInnova Car bearing registration No.PB-02-BJ-0613.

58) The offending car bearing No.PB-02-BJ-0613 is stated to have been driven by respondent No.1 at the time of accident. Ex.R1 is the copy of driving licence of respondent No.1 Jaswinder Singh which shows that the same is valid w.e.f 05.06.2023 to 04.06.2033, Ex.R2 is RC of Innova Car bearing No.PB-02-BJ-0613, which shows that the same is owned by Rajni Rani i.e. respondent No.2 in the present case. Ex.R3 is the insurance policy of the offending vehicle bearing, which is valid from 10.12.2022 to 09.12.2023 having been issued by respondent No.4 Insurance Company.

59) Thus, in all these circumstances it has been proved on the file that the offending vehicle being driven by the respondent No.1, which is owned by the respondent No.2 and insured by the respondent No.4, all are jointly and severally liable to pay the compensation amount. The respondent No.1 was having valid documents i.e. driving licence, RC and insurance policy of the offending vehicle.

60) The arguments of the Learned Counsel for the respondent No.4 Insurance Company that rash and negligent driving is not proved is *without merit as the statement of PW1 eye-witness Anil Kumar alias Anil Jain proves the rash and negligent driving of the respondent No.1.*

61) The claimants have also proved on record post-mortem report Ex.P8 of deceased Prinshu Jain and perusal of the same shows the dead body of Prinshu Jain was brought to the hospital with the history of roadside accident and cause of death in this case has been mentioned as chest injury, which is sufficient to cause instant death. 62) In view of the above, the claimant No.1 Nisha Aggarwal being widow, claimants No.2 Vanshika and claimant No.3 Vian Jain being minor daughter and son, claimant No.4 Anil Kumar @ Anil Jain and claimant No.5 Rekha Jain being father and mother of deceased Prinshu Jain, are entitled to claim compensation from respondents in view of findings under Issues No.1 to 3, they being legal heirs and dependent on deceased.

63) As far as the amount of compensation is concerned, first of all theage of deceased at the time of death is to be seen. As per copy of Aadhaar Card (Ex.P6) of deceased Prinshu Jain, his date of birth is 04.10.1985. The date of accident is 10.08.2023. In these circumstances, the age of deceased at the time of accident is to be taken as 37+. So, the case of deceased would fall in category of age group '36-40' years with multiplier of '15'.

64) As regards the quantum of compensation is concerned, the same is being discussed below:

65) PW2 Ashok Kumar, Sr. Executive HR, M/s Nestle India Limited has proved the monthly salary of Prinshu Jain (since deceased). The witness has duly deposed that the gross salary for the month of July, 2023 i.e. the date of prior to the death of Prinshu Jain, is Rs.1,91,051/- as per salary slip Ex.PW2/F. Further, PW4 Sanjay, Tax Assistant, Rupnagar has also deposed that Prinshu Jain (since deceased) was income tax payee and he was filing his income tax return and also proved the same Ex.P17 for the assessment year 2023-2024. As per the testimony of PW2 Ashok Kumar and Ex.PW2/F, the gross monthly salary of deceased Prinshu Jain is hereby taken as Rs.191,000/- (round figure) for the purpose of calculation. Hence, the annual income of deceased Prinshu Jain is Rs.191,000/- x 12 = Rs.22,92,000/-.

66) As regards the loss of future prospects are concerned, in view of law laid down in ruling National Insurance Company Limited vs Pranay Sethi and Ors. and keeping in view the fact that age of Prinshu Jain was 37+ as on the date of accident, future prospects are to be considered as 40% since the deceased was below 40 years at the time of accident.

67) The number of dependents in the present claim petition are five. The deduction to be made on account of personal and living expenses is to be taken as 14 as the number of dependents are between 4-6.

68) The multiplier as per law laid down in ruling "Sarla Verma and Others vs Delhi Transport Corporation and Another" reported in 2009 ACJ 1298, the age of deceased in-between 36-40, a multiplier of 15 shall apply in this case.

69) As regards the loss of consortium, the Hon'ble Constitution Bench in case "National Insurance Company Limited vs Pranay Sethi and ors." has held that Rs.40,000/- is to be given towards loss of consortium which is to be increased by 10% after every three years. Therefore, the claimants are entitled to the amount of Rs.48,000/- towards loss of consortium. Similarly, Hon'ble Supreme Court in National Insurance Company's case (supra) has held that claimants are entitled to Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate, which is to be increased by 10% after every three years from 31.10.2017. Thus, the claimants are entitled to Rs.18,000/- towards funeral expenses and Rs.18,000/- towards loss of estate.

70) The Learned Counsel for the respondent No.4 Insurance Company, in written arguments, has submitted that as per the testimony of PW2 Ashok Kumar, their company has paid Rs.45,85,224/- as two years base salary of deceased on account of loss of life as per the policy of the company and Rs.22,92,612/- under the Heads of Group Personal Accident Policy of company purchased by their company, therefore, the said amount may be deducted from the compensation amount. In this regard, the Learned Counsel has relied upon "Mrs. Helen C. Rebello Vs. Maharashtra State Road Transport Corporation" (1999, 1 ACJ 10 (Division bench of SC)".

71) It is correct that PW2 Ashok Kumar, in his testimony has deposed that their company has paid Rs.45,85,224/- as two years base salary of deceased on account of loss of life as per the policy of the company and Rs.22,92,612/- under the Heads of Group Personal Accident Policy of company purchased by their company. However, the argument of the Learned Counsel for the respondent No.4 Insurance Company that the said both the amounts are liable to be deducted from the compensation amount, is without merits, as the same are the benefits given by the company to its employee.

72) Accordingly, the compensation as payable in this case is as follows:

Sr. No.	Heads	Amount (in Rupees)
1.	Income per annum as per salary slip Ex.PW2/F of the deceased	₹22,92,000/-
	Future prospects @ 40%	₹9,16,800/-
	Total income including future prospects	₹32,08,800/-
	Less income tax	6,73,550/-
	Total income after deduction of income tax	25,35,250
	Deduction 1/4th (being married and having 05 legal heirs/dependents)	25,35,250/- ₹6,33,812/- = ₹19,01,438/-
	Multiplicand (annualized)	₹19,01,438/-
	Multiplier (15)	₹19,01,438/- x 15 =₹2,85,21,570/-
	Loss of consortium	₹ 48,000/-
	Loss to estate	₹18,000/-
	Funeral expenses	₹18,000/-
		TOTAL ₹2,86,05,570/-

73) Accordingly, issues No.1 is decided in favour of the claimants. Issue No.2 is decided in favour of the claimants as discussed above. Issue No.3 is decided against the respondent No.4 and in favour of the claimants. The case law cited supra by the Learned counsel for respondent No.4 is not in dispute, however, facts of the same are not applicable to the facts of the present case."

14. Having heard learned counsel for the parties and upon careful perusal of the record, this Court finds no infirmity in the findings recorded by the learned Tribunal on the issue of rash and negligent driving.

15. The learned Tribunal has minutely examined the oral as well as documentary evidence brought on record. PW-1 Anil Kumar @ Anil Jain, father of the deceased as well as eye-witness to the occurrence, categorically deposed that on 10.08.2023 at about 8:45 P.M., while he along with his wife and his son Prinshu Jain was walking on the extreme left side of the road near Riale Gas Factory on Ajauli Morh–Malukpur Link Road, an Innova car bearing registration No. PB-02-BJ-0613 came from the opposite direction being driven in a rash and negligent manner and without blowing any horn struck Prinshu Jain, as a result of which he fell on the road and sustained fatal injuries. The injured was immediately taken to Civil Hospital, Nangal where he was declared brought dead. The testimony of the eye-witness remained consistent and nothing material could be elicited in his cross-examination so as to discredit his version.

16. The learned Tribunal has further noticed that the accident resulted in the registration of FIR No.118 dated 11.08.2023 under Sections 279 and 304-A IPC at Police Station Nangal against respondent No.6-Jaswinder Singh. After investigation, the police presented the police report under Section 173 Cr.P.C. against respondent No.6-Jaswinder Singh and the criminal court took cognizance for the offences arising out of rash and negligent driving which resulted in the death of Prinshu Jain. The documentary evidence including the FIR, post-mortem report and the criminal court record duly corroborates the case set up by the claimants/respondent Nos. 1 to 5.

17. The contention of the appellant–Insurance Company is that the vehicle insured with it was not involved in the accident and that the occurrence had taken place solely due to the rash and negligent act of the deceased himself. However, the evidence available on record does not support the said contention. The eye-witness account coupled with the criminal record clearly establishes the involvement of the offending vehicle and the negligence of its driver. Significantly, respondents No.6 and 7 (driver and owner of the offending vehicle) did not step into the witness box to rebut the allegations of negligence. The witnesses examined by the Insurance Company also failed to dislodge the case of the claimants/respondent Nos. 1 to 5. The learned Tribunal has rightly observed that the opinion of the so-called forensic expert and the report of the investigator, who were engaged by the Insurance Company, cannot be relied upon in the absence of any independent factual foundation and authorization for conducting such investigation.

18. It is also well settled that proceedings before the learned Motor Accident Claims Tribunal are summary in nature and the claimants/respondent Nos. 1 to 5 are only required to establish their case on the touchstone of preponderance of probabilities and not by strict proof as required in criminal trials. The learned Tribunal has correctly kept the said settled principle of law in view while appreciating the evidence and has rightly concluded that the claimants/respondent Nos. 1 to 5 have successfully discharged the burden cast upon them.

19. The learned Tribunal has also rightly dealt with the argument regarding delay in lodging of the FIR by observing that DDR No.38 had been recorded on the same night and the father of the deceased was under severe mental

trauma due to the sudden demise of his son. Such delay, therefore, cannot be treated as fatal to the claim petition.

20. In view of the consistent eye-witness account, the documentary evidence placed on record and the failure of the respondents to produce any cogent evidence in rebuttal, the learned Tribunal rightly concluded that the accident in question occurred due to the rash and negligent driving of the driver of Innova car bearing registration No. PB-02-BJ-0613. The said finding is based on proper appreciation of evidence and does not suffer from any illegality or perversity warranting interference by this Court.

21. Accordingly, the finding recorded by the learned Tribunal on the issue of negligence is affirmed.

22. So far as the contention raised by learned counsel for the appellant–Insurance Company that the learned Tribunal erred in not deducting the amount received by the claimants/respondent Nos. 1 to 5 from the employer of the deceased is concerned, the same is found to be devoid of merit.

23. From the record, it transpires that the learned Tribunal has rightly held that a sum of ₹45,85,224/–, paid to the claimants as two years base salary on account of loss of life under the employment policy of the company, and a further amount of ₹22,92,612/– paid under the Group Personal Accident Policy obtained by the employer for the benefit of its employees, constitute benefits flowing from the service conditions of the deceased. Such payments are in the nature of contractual or service benefits extended by the employer to its employees and cannot be treated as pecuniary advantages liable to be deducted from the compensation payable under the Motor Vehicles Act.

24. It is well settled that amounts received by the dependents of the deceased by virtue of service benefits, insurance policies, or other contractual

entitlements cannot be deducted while computing compensation under the Motor Vehicles Act, as the same are not benefits accruing on account of the tortfeasor's liability but are independent entitlements arising out of the deceased's employment.

25. As regards the reliance placed by learned counsel for the appellant on the judgment of the Hon'ble Supreme Court in ***Sebastiani Lakra & Ors. v. National Insurance Company Ltd. & Anr., 2018(4) RCR (Civil) 837***, the same does not advance the case of the appellant. The said judgment was rendered in the peculiar facts and circumstances of that case where future prospects were not granted. The factual matrix therein is clearly distinguishable from the present case and, therefore, the ratio of the said decision cannot be applied to the facts at hand.

26. In view of the above, this Court finds no error in the approach adopted by the learned Tribunal in declining to deduct the aforesaid amounts while determining the compensation payable to the claimants/respondent Nos. 1 to 5.

27. In view of the above, the present appeal stands **dismissed**.

28. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

06.03.2026
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes