

2026.PHHC:046890



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

Date of Decision: 19.03.2026

(1) **FAO-7149-2018**

Sadhu Ram and another

.....Appellants

Versus

Mewa Singh and another

.....Respondents

(2) **FAO-7150-2018**

Ramesh Chander @ Ramesh Chand and another

.....Appellants

Versus

Mewa Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sandeep Kotla, Advocate, for the appellants.

Mr. Abhimanyu Kalsy, Advocate,
for respondent No.2.

VIKRAM AGGARWAL, J. (ORAL)

By way of the instant judgment, the afore-titled two appeals shall be disposed of. The facts shall essentially be derived from FAO-7149-2018 though, reference to the facts of FAO-7150-2018 shall also be made, wherever so required.

2. The afore-titled appeals have been instituted by the appellants-claimants against the award dated 06.03.2018 passed by the Motor Accident Claims Tribunal, Hisar (for short 'the MACT') vide which, the claim petitions preferred under Section 166 of the

Motor Vehicles Act, 1988 (for short 'the MV Act') for the grant of compensation, was dismissed.

2.1 On 23.11.2016, one Hemant along with his friends Deepak and Mandeep went to Tosham to attend a wedding. On 24.11.2016, they were on their way back in a Maruti Swift Car bearing registration No. HR80A-8509 (hereinafter referred to as 'the offending vehicle'). The said vehicle was being driven by Mandeep. At about 4:00 AM, when they reached near village Bhojraj, a cow suddenly came in front of the offending vehicle. While trying to save the cow, Mandeep lost his balance and the offending vehicle dashed into a tree. As a result of the impact, Deepak and Mandeep died at the spot, whereas Hemant sustained multiple injuries.

2.2 The accident was said to have been witnessed by Sadhu Ram (father of Deepak), who was coming behind them in another car. All three were shifted to General Hospital, Hisar, where post mortem on the dead bodies of Deepak and Mandeep was conducted, whereas Hemant was referred to Maharaja Agarsen Medical College, Agroha and after one day, he was shifted to Jindal Hospital, Hisar. From there, he was shifted to Sukhda Hospital, Hisar, where he remained admitted for 7 days. He was again shifted to Jindal Hospital, Hisar, but he succumbed to his injuries on 07.12.2016. It was alleged that the offending vehicle was being driven by Mandeep at a very high speed and the accident had taken place on account of the rash and negligent driving of the offending vehicle by the said Mandeep. It was averred that in this regard, DDR No. 12 was registered at Police Station Sadar Hisar on 24.11.2016.

2.3 Two claim petitions were instituted. FAO-7149-2018 arises out of the claim petition instituted by the parents of Deepak. It was claimed that Deepak was unmarried and he used to help his father in running a School and was earning Rs.25,000/- per month. It was claimed that Rs.2,00,000/- had been spent on transportation and last rites of Deepak and accordingly a sum of Rs.1.00 crore (Rupees One Crore) was claimed as compensation.

2.4 FAO-7150-2018 arises out of the claim petition instituted by the parents of Hemant. It was claimed that Hemant was earning Rs.20,000/- per month by giving tuitions. He too was unmarried. A sum of Rs.10,00,000/- was claimed to have been spent on his treatment and Rs.2,00,000/- on transportation and last rites. Accordingly, Rs.1.00 (Rupees One Crore) was claimed as compensation. Since the driver of the offending vehicle had also expired in the incident, its owner was impleaded as respondent No. 1 and Insurance Company as respondent No. 2.

3. The claim petitions were opposed by the respondents. Respondent No. 1 denied all the averments. The Insurance Company also raised its usual defences and denied all the averments, including the factum of accident.

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

“1. Whether the accident in question took place on 07.12.2016 causing death of Hemant and Deepak on account of rash and negligent driving of respondent No.1 while driving the vehicle bearing registration No.HR80A/8509? OPP

2. If issue No.1 is decided in favour of petitioners, then, what amount of compensation, to which the petitioners are entitled and from whom?
OPP

3. Whether the petitions are not maintainable in the present form? OPR

4. Whether the respondent No.1 was not having valid and effective driving licence at the time of accident? OPR2.

5. Relief.”

5. The parties led their respective evidence.

6. Vide award dated 06.03.2018, the claim petitions were dismissed by the MACT holding that Sadhu Ram had himself given a statement to the Police that the accident had taken place on account of a cow suddenly having come in front of the offending vehicle and that no one was to be blamed for the same. Aggrieved by the aforesaid decision, the instant appeals have been preferred.

7. I have heard learned counsel for the parties.

8. Mr. Sandeep Kotla, learned counsel representing the appellants has strenuously urged that the MACT gravely erred in holding that since the accident had taken place on account of a cow having come in front of the offending vehicle, it could not be said that it was a case of negligence. It has been argued that no doubt, Sadhu Ram had stated to the Police that no one was to be blamed for the accident, but it is a settled position in law that when a cow comes in front of a vehicle and the vehicle loses control, this in itself shows that the vehicle was being driven in a rash and negligent manner and at a high speed. It has been argued that Sadhu Ram, being an illiterate person and not conversant with the intricacies of the law, thought it appropriate to make a statement before the Police that since a cow had come before the vehicle, no one was to be blamed.

8.1 Learned counsel has contended that as a matter of fact, Sadhu Ram was an eyewitness, though the respondents had tried

to prove that he was not an eyewitness and the said version had also been accepted by the MACT. Coming to the issue of quantum of compensation, it has been submitted that the deceased was unmarried and was aged 20 years, his date of birth being 16.04.1996. Reference has been made to the post mortem report (Ex. P5) and the Secondary School Certificate (Mark P-24). It has been argued that deceased Deepak was a very versatile student and used to participate in many educational competitions and also in Bharat Scouts and Guides Programmes. Reference has been made to the certificates of participation (Marks P.4 to P.23). It has been argued that at the time of accident, Deepak was studying in B.A. 3rd year in C.R.M. Jat College, Hisar and was helping his father in running a School. It has been argued that he also used to impart tuitions and was earning Rs.25,000/- per month. It has been, therefore, claimed that the notional income of deceased-Deepak should be assessed as Rs.15,000/-per month and compensation should be assessed in terms of the judgments of the Hon'ble Supreme Court in **Sarla Verma Vs. DTC, (2009)6 SCC 121** and **National Insurance Company Vs. Pranay Sethi and others, (2017)16 SCC 680**.

8.2 As regards FAO-7150-2018, it has been submitted that deceased-Hemant was 20 years old, his date of birth being 10.07.1996 as per the post mortem report (Ex.P.1) and the Senior Secondary School Certificate (Mark P.28). It has been argued that at the time of the accident, Hemant was pursuing ITI (Fitter Trade) at Barwala. Reference has been made to Exhibit P.2 issued by ITI, Barwala. It has been argued that he was also imparting tuitions

and earning Rs.20,000/- per month. It has been submitted that compensation should be accordingly assessed.

9. On the other hand, learned counsel for respondent No.2-Insurance Company has submitted that there is no illegality in the impugned award and that the claim petitions had rightly been dismissed. It has been argued that once, Sadhu Ram had himself stated that there was no fault of anyone because a cow had come in front of offending vehicle, there would be no occasion for this Court to consider the statement otherwise. It has also been argued that from the evidence, it also stood proved on the record that in fact PW2-Sadhu Ram was never an eyewitness as at the time of accident, his vehicle was 2 acres away from the place of accident. It has been argued that the said witness had further stated in his cross-examination that he had reached the spot after two minutes of the accident.

9.1 As regards the quantum of compensation, learned counsel has submitted that the same can only be assessed by the MACT and for the said purpose, the matter should be remitted to the MACT. It has been further submitted that both deceased were students and there would be no occasion for this Court to assess their notional income as Rs. 20,000/- per month, as is being claimed.

10. I have considered the submissions made by learned counsel of the parties.

11. Concededly, the accident had taken place on 24.11.2016. On the said date itself, upon the statement (Exhibit R.4) given by Sadhu Ram, DDR No. 12 dated 24.11.2016 (Exhibit R.6) was recorded. In the said statement, Sadhu Ram duly stated

that the accident had taken place since a cow had suddenly come in front of the offending vehicle, as a result of which, the driver of the said vehicle had lost control and the said vehicle struck into a tree. No doubt, he stated that nobody was responsible for the accident. It was, therefore, so recorded in the DDR also. The statements of many other persons, including Rohtash and Balbir (Ex.P.7 and P.8) were also recorded, as per which, the accident had taken place on account of a cow suddenly having come in front of the offending vehicle.

12. The question which arises for consideration of this Court is as to whether if a cow comes in front of a vehicle and the said vehicle loses its balance, can it be said to be a case of rash and negligent driving of the said vehicle by its driver. The answer to the said question is in affirmative.

13. In **IFFCO Tokio General Insurance Company Limited and Ors. Vs. Ompati and Ors.**, (FAO-2966-2018 decided on 05.07.2018), a Coordinate Bench of this Court was dealing with a similar situation. In that case also, the eyewitness had clearly mentioned in the DDR that a stray animal had come in front of the offending vehicle, which led to a chance accident. The decision of the MACT was upheld, wherein it was observed that if a person is driving prudently and carefully, even the sudden appearance of an animal cannot cause an accident. It was observed that a driver who late at night drives at a higher speed, because there is no other vehicle on the road, is still driving rashly and negligently precisely for the reason that the appearance of a stray animal on an Indian road is not a rarity. It was, therefore, held that the accident had

taken place on account of the rash and negligent driving of the offending vehicle.

14. A similar view has been taken by another Coordinate Bench of this Court in **SBI General Insurance Company Limited Vs. Anju Pal and Ors., 2025(3) Law Herald 2493**. In the said judgment, the relevant portion of the award passed by the MACT was reproduced, wherein reference had been made to various judgments of this Court. It was held that the plea of the cause of accident due to the sudden appearance of a stray cattle cannot absolve the driver of his culpability. It was held that judicial precedents had consistently held that a driver cannot take refuge in the excuse of stray animals or sudden obstructions to evade liability. It was further held that every driver is under a bounden duty to anticipate foreseeable hazards on the road and to exercise due control and vigilance. It was further held that the very fact that the vehicle overturned and veered off the road into the fields and struck a tree, resulting into the death of three persons, was by itself demonstrative of culpable rashness and conscious disregard of the duty of care incumbent upon the driver of the vehicle. It was further held that the doctrine of *res ipsa loquitur* was squarely applicable. A similar view was also taken by another Coordinate Bench of this Court in **Suman & Ors. Vs. Nafe Singh and Ors., (FAO-293-2003 decided on 29.09.2017)**. This Court duly subscribes to the said views.

15. Insofar as the issue of PW-2 Sadhu Ram being an eyewitness is concerned, though the said witness had duly stated in his testimony that he was two acres away from the spot of the accident yet that does not mean that he was not an eye witness

because even from two acres away, he could have witnessed a cow coming in front of the offending vehicle. Not only this, RW2-Balwant Singh, in his cross-examination, stated that Sadhu Ram was an eyewitness of the accident. That being so, in the considered opinion of this Court, the MACT erred in holding that Sadhu Ram was not an eyewitness of the accident.

16. Under the circumstances, the finding of the MACT on the issue of negligence is not sustainable and the same is accordingly set aside. It is held that the accident as a result of which, three precious lives, including that of the driver himself, were lost, had taken place on account of the rash and negligent driving of the driver (Mandeep) of the offending vehicle.

17. As regards the quantum of compensation, in support of his contentions, learned counsel for the appellants has referred to a decision of this Court rendered in **SBI General Insurance Company Limited Vs. Anita Devi and others**, (FAO-2041-2025 decided on 01.04.2025) and a Coordinate Bench judgment of this Court in **Lakhveer Kaur and another Vs. Mohan Singh and others**, (FAO-5109-2018 decided on 15.01.2025).

18. Concededly, both deceased (Deepak and Hemant) were unmarried at the time of accident. On the basis of the Secondary School Certificates and the post mortem reports, the deceased were 20 years old (date of birth of Deepak being as 16.04.1196 and that of Hemant as 10.07.1996), at the time of accident. Insofar as the educational qualification is concerned, it appears that deceased-Deepak was a promising boy and had also cleared the Secondary School Examination and had been participating in various competitions as also in Bharat Scouts and Guides Programmes,

which is clear from the certificates (Exhibits P.4 to P.23). Deceased-Hemant was pursuing ITI (Fitter Trade) at Barwala, which is clear from the document-Exhibit P.2, issued by ITI, Barwala.

19. In the case of **Anita Devi** (supra), the deceased was a boy aged 18 years, who had cleared 10+2 examination and was a B.A. Ist Year, student. The monthly income of the deceased was assessed on the basis of minimum wages of an undergraduate student prevailing in the state of Haryana i.e., Rs.415.69/- per day, which came to be Rs.12,470/- per month. In the said case, the accident had taken place on 06.11.2021. Accordingly, the compensation was assessed.

20. In **Lakhveer Kaur's** case (supra), a Coordinate Bench of this Court, while relying upon the judgments in **Bishnupriya Panda Vs. Basanti Manjari Mohanty and Anr., 2023(4) TAC 44; Arjun Kumar Aggarwal Vs. The New India Assurance Co. Ltd. and Ors., 2023(3) TAC 23 and Kandasami & Ors. Vs. Lindabriyal & Anr., 2023 ACJ 1653**, assessed the income of the deceased as Rs.15,000/- per month. In that case, the accident had taken place on 19.05.2017 and the deceased was 18 years old and had completed his 10+2. The Tribunal had assessed his notional income as Rs.30,000/- per annum, but the Coordinate Bench assessed the same as Rs.15,000/- per month and accordingly the compensation was calculated.

21. Having considered the matter from all angles and further taking into consideration the aforesaid judgments, this Court, assesses the income of the deceased (both Deepak and Hemant) as Rs.15,000/- per month each. Accordingly, each set of the appellants-claimants (i.e. appellants-claimants in FAO-7149-

2018 and the appellants-claimants in FAO-7150-2018), shall be entitled to the following compensation:-

Sr. No.	Heads	Compensation awarded
1.	Age	20 years
2.	Notional Income	Rs.15,000/- per month
3.	40% of (ii) to be added as future prospects	Rs.15,000 + Rs.6000 = Rs.21,000/-
4.	Deduction 50%	Rs.21,000-Rs.10,500 = Rs.10,500/-
5.	Compensation after multiplier of 13 is applied	Rs.10,500 x 12 x 18 = Rs.22,68,000/-
6.	Loss of estate	Rs.15,000/-
7.	Funeral expenses	Rs.15,000/-
8.	Loss of Consortium/Filial compensation	Rs.40,000 x 2 = Rs.80,000/-
	Total Compensation	Rs.23,78,000/-

22. The aforesaid amount of **Rs.23,78,000/-** each shall be paid by the respondent-Insurance Company to each set of the claimants (i.e. appellants-claimants in FAO-7149-2018 and the appellants-claimants in FAO-7150-2018) along with interest @ 7.5% per annum from the date of the filing of the claim petitions till realization.

23. Both appeals are allowed in the aforesaid terms.

24. Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

19.03.2026
ds

Whether speaking/reasoned:Yes/No

Whether reportable:Yes/No