



**FAO-3343-2022 (O&M) &
XOBJC-92-CII-2022**

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

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**FAO-3343-2022 (O&M) &
XOBJC-92-CII-2022**

ICICI Lombard General Insurance Company Ltd.

....Appellant

Vs.

Jasvir Kaur and others

....Respondents

Reserved on : 06.02.2026

Date of Pronouncement: 10.03.2026

Uploaded on : 17.03.2026

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. Gaurav, Advocate for
Mr. Sanjeev Goyal, Advocate,
for the appellant-Insurance Company (in FAO No. 3343-2022).

Mr. Ashwani Arora, Advocate,
for respondent No. 1 and 2
for cross-objector (in X Objection No. 92 -2022).

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SUDEEPTI SHARMA, J.

FAO-3343-2022 (O&M)

1. The present appeal has been preferred against the award dated 19.01.2022 passed by the learned Motor Accident Claims Tribunal, Chandigarh (for short, 'the Tribunal') in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, wherein, the appellant/insurance company was held liable to pay the compensation, on



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the ground that Issue No. 1 with respect to negligence driving of offending vehicle has been wrongly decided against the appellant-Insurance Company.

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2. The present cross-objection has been preferred by cross-objectors/claimants (respondents No.1 to 2 herein) against the award dated 19.01.2022 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Tribunal, for enhancement of compensation, granted to the cross-objectors/claimants to the tune of Rs.8,34,094/- along with interest @ 7.5% per annum on account of death of Jasvir Singh (deceased).

3. Since the appeal filed by the Insurance Company and the cross-objections filed by the claimants/cross-objectors (respondents No.1 to 2) are arising out of the same award dated 19.01.2022 passed by the learned Tribunal, therefore, **FAO-3343-2022** and **XOBJC-92-2022** are decided vide this common judgment.

BRIEF FACTS OF THE CASE

4. On 18.11.2019, deceased Jasvir Singh after completing his job in Phase VIII-B, Mohali was returning to his house in Village Sante Majra while sitting on the pillion seat of a motor cycle bearing registration no.PB27-F-1850 which was being driven at fast speed and in a rash and negligent manner by Sukhwinder Singh respondent no.3. When they were on



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the road leading from Landran to Kharar and had gone little ahead from Chapar Chiri and reached near the petrol pump of Chapar Chiri at about 06.10 am, at that time a stray cattle came from the left side of the road. Due to more speed, respondent no.3 could not stop his vehicle and in order to avoid collision with the cattle, he took a sudden right turn and collided with an unknown car which was in the process of overtaking the motor cycle of respondent no.3. Due to collision the deceased and respondent no.1 fell on the road and both received injuries. Respondent no.1 escaped with minor injuries whereas deceased suffered serious injuries and was taken to Civil Hospital, Kharar immediately where doctors on duty declared him brought dead. FIR no.141 dated 18.11.2019 under Section 279,304-A of IPC was registered at Police Station Balongi, District SAS Nagar.

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

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

“1. Whether Jasvir Singh has died in a road side accident due to composite rash and negligent driving of motorcycle bearing registration no.PB27-F-1850 by respondent no.1 and unknown vehicle?

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

3. Whether respondent no.1 was not having a valid and effective driving license at the time of accident?OPR-2.



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4. Relief.”

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondent Nos. 1 to 2. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellant–Insurance Company contends that the First Information Report was registered against an unknown person. He further argues that there are material contradictions between the contents of the FIR and the testimony of PW-2, the alleged eye-witness, thereby casting doubt on the manner of the accident. On this basis, he further submits that the involvement of the offending vehicle has not been duly established and the offending vehicle has been falsely implicated in the present case. Consequently, he prays that the present appeal be allowed.

8. Per contra, learned counsel for the respondent Nos. 1 to 2/cross-objectors/claimants contends that the learned Tribunal has rightly held that the accident took place due to composite negligence. He further contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the cross-objection be allowed and the appeal filed by the Insurance Company be dismissed and amount of compensation be enhanced as per latest law.



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9. I have heard learned counsel for the parties and perused the whole record of this case.

10. Before proceeding further, it would be apposite to reproduce the relevant portion of the award:-

“Issue No. 1:

7. Onus to prove this issue was upon the claimants and they were required to prove that the accident in question took place due to composite rash and negligent driving of motor cycle bearing registration no.PB27-F-1850 by respondent no.1 and driver of unknown car.

8. The learned counsel for the claimants has argued that in the evidence of PW.2 Sukhvir Singh, who witnessed the accident, factum and manner of occurrence had been sufficiently proved. The involvement of the offending vehicle is also proved from copy of first Information report, Ex.P10, which was lodged with respect to the accident in question. The statement of PW.2 Sukhvir Singh also fortify plea of the claimants as regards factum and manner of the accident showing that respondent no.1 was also negligent in driving the motor cycle in question, which resulted into the accident in which the deceased lost his life. The evidence recorded before the Tribunal has to be given weightage over the contents of the First Information Report. In support of his contention, learned counsel for the claimants has relied upon case law National Insurance Company Ltd. vs. Chamundeswari and others bearing Civil Appeal No.6151 of 2021 decided on 01.10.2021 by the Hon'ble Supreme Court of India.



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9. *On behalf of the respondent no.2, it was argued by learned counsel that factum and manner of occurrence remained unproved. The further contention of the learned counsel for the respondent was that in fact respondent no.1 was not negligent in driving the vehicle in question as the FIR regarding the accident was lodged against the driver of unknown vehicle. As such, the testimony of PW.2 Sukhvir Singh which is contradictory to the contents of FIR cannot be relied upon to prove the accident. The claim petition was filed by the claimants in connivance and collusion with respondent no.1 with an ulterior motive to get compensation.*

10. *I have considered rival contentions of the learned counsel for the parties and have gone through the record carefully.*

11. *As per case of the claimants and as deposed by PW.2 Sukhvir Singh, eye witness of the occurrence and author of First Information Report, that on 18.11.2019, he was going from the side of Landran towards Sante Majra while driving a motor cycle. At about 6.10 am, when he was on the road leading from Landran to Kharar and had gone little ahead from Chapar Chiri and reached near petrol pump of Chapar Chiri, at that time a motor cycle bearing registration no.PB27-F-1850 overtook his motor cycle and the same was being driven at fast speed and in a rash and negligent manner by its driver Sukhwinder Singh. Jasvir Singh was sitting as a pillion rider on the said motor cycle. After overtaking his motor cycle, a stray cattle came from he left side of the road in front of the motor cycle bearing*



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registration no.PB27-F-1850. Due to more speed, the driver of said motor cycle namely Sukhwinder Singh could not stop his vehicle and in order to avoid collision with the cattle, he took a sudden right turn and his motor cycle collided with an unknown car which was in the process of overtaking the motor cycle of Sukhwinder Singh. After the accident the driver of the car immediately ran away from the spot along with his car. Due to collision, both the riders of the motor cycle fell on the road. Sukhwinder Singh escaped with minor injuries whereas Jasvir Singh suffered serious injuries and was taken to Civil Hospital, Kharar immediately where doctors on duty declared him brought dead. The accident took place due to composite negligence of driving of motor cycle bearing registration no.PB27-F-1850 driven by Sukhwinder Singh and the driver of unknown car whose number could not be noted. Despite lengthy cross-examination, the respondent no.2 could not impeach the credit of PW.2 Sukhvir Singh. Respondent no.1 Sukhwinder Singh driver of the offending vehicle, also did not appear and contest the claim petition. Even on behalf of the respondent no.2, no evidence was led to rebut the evidence led on behalf of the claimants regarding manner of the accident in question and the testimony of the eye witnesses led in this behalf remained unrebutted. Moreover, it is well settled that MACT case is to be decided on the basis of the evidence led in the course of the proceedings of case.

12. In the present case, Sukhvir Singh PW.2 while recording the FIR Ex.P10 attributed the entire negligence on the part of unidentified car driver but respondent no.1 cannot be



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held to be careful while driving the motor cycle in question and he could definitely avoid the accident, in case he had been driving the said motor cycle carefully. In case National Insurance Company Ltd. vs. Chamundeswari and others (supra), it is held if any evidence before the Tribunal runs contrary to the contents in the First Information Report, the evidence which is recorded before the Tribunal has to be given weightage over the contents of First Information Report.

13. Otherwise also, the Tribunal, in terms of Section 166 of the Act, is not required to hold a regular trial but, according to scheme of Act, it holds an enquiry for adjudication of claims for award of compensation in respect of accidents involving the death or bodily injury to persons, arising out of use of motor vehicles. The adjudication of claim in these proceedings has to be made on the preponderance of probability. The quality of evidence and not the quantity thereof, in totality of circumstances, clearly proves the involvement of the respondent no.1 and the offending vehicle bearing registration no.PB27-F-1850 for the accident in question and one car. The accident took place due to composite negligence of respondent no.1 and driver of the unknown car. As per copy of postmortem report of deceased Ex.P7, the cause of death in this case was neurohaemorrhagic shock caused due to high impact injury. The said cause was sufficient to lead death in ordinary course of nature.

14. In view of above discussion, it is proved on record that deceased Jasvir Singh died due to composite negligence of



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respondent no.1-driver of motor cycle bearing registration no.PB27-F-1850 and driver of unidentified vehicle as mentioned in FIR Ex.P7. Therefore, this issue is decided in favour of the claimants and against the respondent no.2.

11. A bare perusal of the record shows that the learned Tribunal, upon a careful appraisal of the oral as well as documentary evidence on record, has rightly concluded that the accident occurred due to the composite negligence of respondent No.3 Sukhwinder Singh, driver of the motorcycle bearing registration No. PB27-F-1850, and the driver of an unidentified car. A perusal of the award further reveals that PW-2 Sukhvir Singh, eye-witness to the occurrence and the author of the First Information Report, gave a consistent and cogent account of the manner in which the accident took place. His testimony remained unshaken despite cross-examination. Significantly, respondent No.3 chose not to step into the witness box and no evidence was adduced on behalf of the respondents to rebut the version put forth by the claimants/respondent Nos. 1 and 2.

12. It is trite law that proceedings before the Motor Accident Claims Tribunal are summary in nature and the issue of negligence is required to be determined on the touchstone of preponderance of probabilities. In the absence of any rebuttal evidence and in view of the reliable testimony of the eye-witness, the finding recorded by the learned Tribunal attributing composite negligence to respondent No. 3 and the unidentified car driver is based on proper appreciation of evidence and



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settled principles of law. No perversity or illegality has been pointed out so as to warrant interference by this Court. Consequently, the finding of the learned Tribunal on the issue of rash and negligent driving is affirmed.

13. Adverting now to the contention of learned counsel for the cross objector/respondent Nos. 1 to 2 that the compensation awarded is on the lower side, the same is decided as under after taking into consideration the settled law on compensation

SETTLED LAW ON COMPENSATION

14. Hon'ble Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation and Another** [(2009) 6 Supreme Court Cases 121], laid down the law on assessment of compensation and the relevant paras of the same are as under:-

“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In



regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

** * * * **

42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas³, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to



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35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.

15. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) *Deduction of personal and living expenses to determine multiplicand;*
- (B) *Selection of multiplier depending on age of deceased;*
- (C) *Age of deceased on basis for applying multiplier;*
- (D) *Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;*
- (E) *Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.*

The relevant portion of the judgment is reproduced as under:-

“52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The



conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

* * * * *



59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

59.4. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

59.5. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma which we have reproduced hereinbefore.

59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

59.7. The age of the deceased should be the basis for applying the multiplier.

59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses



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should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

16. Hon’ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma(supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

“21. A Constitution Bench of this Court in Pranay Sethi² dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

*21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*



21.3. ***Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

22. *Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*

23. *The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which*



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compensation could be awarded on loss of filial consortium.

24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi². In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.

17. A perusal of the impugned award reveals that the deceased was 49 years old at the time of the accident. The age of the deceased was not in dispute, therefore the learned Tribunal has rightly assessed the age of the deceased as 49 years by placing on reliance upon his driving licence (Ex P11) and rightly applied the multiplier of 13.

18. A perusal of the impugned award further reveals that the deceased was stated to be working as a Security Guard with Fortress Security in a private company and was stated to be earning Rs.15,000/- per month. However, no document was produced to substantiate the said income. Therefore, the learned Tribunal rightly resorted to the minimum wages notification applicable to unskilled labourer in Chandigarh and rightly assessed the monthly salary of the deceased as Rs.8777/-. However, this Court deems it fit to reasonably round of the same to **Rs. 9000/-**.

19. A further perusal of the award reveals that the learned Tribunal has rightly deducted 1/3rd towards personal expenditure of the deceased and



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have rightly added 25% towards future prospects. Furthermore, meager amount is granted under the heads of loss of consortium, loss of estate and funeral expenses. Therefore, the award requires indulgence of this Court.

CONCLUSION

20. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal filed by the Insurance Company is **dismissed** being devoid of any merits, whereas cross-objections filed by the cross-objectors/respondents No.1 to 2 are **allowed**. The award dated 19.01.2022 is modified accordingly. The cross-objectors/respondents No.1 to 2 are held entitled to enhanced compensation as per the calculations made here-under:-

<i>Sr. No.</i>	<i>Heads</i>	<i>Compensation Awarded</i>
1	Monthly Income	Rs.9000/-
2	Future prospects @ 25%	Rs.2250/- (25% of 9000)
3	Deduction towards personal expenditure 1/3	Rs.3750/- (11250 X 1/3)
4	Total Income	Rs.7500/- (11250 – 3750)
5	Multiplier	13
6	Annual Dependency	Rs.11,70,000/- (7500 X 12 X 13)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Spousal : Rs.48400 x 1 Parental Rs. Rs.48400 x 1	Rs.96800/-
	Total Compensation	Rs.13,03,100/-



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	Amount Awarded by the Tribunal	Rs.8,34,094/-
	Enhanced amount	Rs.4,69,006/- (Rs. 13,03,100- 8,34,094)

21. So far as the interest part is concerned, as held by Hon'ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State Transport Corporation** (2022) 5 Supreme Court Cases 107, the cross-objectors/claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

22. The appellant-Insurance Company is directed to deposit the enhanced amount of compensation with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the amount of compensation along with interest in the account of cross-objectors/respondents No.1 to 2 as per award. The cross-objectors/ respondents No.1 to 2 are directed to furnish their bank account details to the Tribunal.

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

(SUDEEPTI SHARMA)
JUDGE

10.03.2026

Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No