225-1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-186-2015 (O&M) and
XOBJC-216-CII-2015 (O&M)
Date of Decision : 22.01.2026

Shri Ram General Insurance Company Ltd. ... Appellant

Versus

Minakshi and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajbir Singh, Advocate for the appellant.

Mr. Sumit Gupta, Advocate for respondent Nos.1 to 3.

ALKA SARIN, J. (Oral)

CM-20782-CII-2015

1. This is an application for condonation of delay of 138 days in filing the present cross-objections.

2. For the reasons stated in the application, the same is allowed. The delay of 138 days in filing the cross-objections is condoned. However, the claimants shall not be entitled to any interest for the period of delay in filing the cross-objections.

FAO-186-2015 & XOBJC-216-CII-2015

3. Learned counsel for the parties' state that since the involvement of the offending vehicle is in dispute, no useful purpose would be served by referring the matter to the Mediation and Conciliation Centre of this Court.

4. This order shall dispose off the appeal being FAO-186-2015 filed by the Insurance Company and the cross-objections being XOBJC-216-CII-2015 filed by claimants aggrieved by the award dated 30.09.2014 passed by

the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as the 'Tribunal'). The parties are being referred to claimants, driver and owner of the offending vehicle and the Insurance Company for the sake of clarity.

5. Briefly, the facts relevant to the present *lis* are that on 27.03.2012 Rakesh Kumar (hereinafter referred to as the 'deceased') alongwith Rohit was travelling on a motorcycle. They both were on their way to village Barhana from village Gangtan. The deceased was the rider of the motorcycle. At about 10.30 pm, when they were crossing the Railway Crossing which falls near village Barhana, a truck bearing registration No.HR-69-9988 (hereinafter referred to as the 'offending vehicle') came from the side of village Barhana, which was being driven by its driver in a rash and negligent manner and at a high speed and struck against the motorcycle of the deceased by coming on to the wrong side of the road. Due to the accident, the deceased and the pillion rider, namely, Rohit sustained grievous injuries. They both were taken to the PGIMS, Rohtak where the deceased was declared dead by doctor. Postmortem was conducted. FIR No.93 dated 28.03.2012 for offences under Sections 279, 337 and 304-A of the Indian Penal Code, 1860 was registered at Police Station Beri on the statement of one Manjeet. Statement of Rohit (injured) was subsequently recorded under Section 161 CrPC wherein he gave the registration number of the offending vehicle. The driver and owner of the offending vehicle filed their joint written statement denying the contents of the claim petition and the factum of the accident was specifically denied. The Insurance Company filed its separate written statement raising various preliminary objections. On merits, the factum of the accident was denied, and it was stated that the Insurance Company was not liable to pay the compensation.

6. On the basis of pleadings of the parties, the following issues were framed :

1. Whether accident occurred due to rash and negligent driving of vehicle bearing Regn. No.HR-69-9988 by respondent No.1 ? OPP

2. Whether the petitioners are entitled to recover compensation from respondents ? If yes, quantum of compensation payable to them ? OPP

3. Whether respondent no.1 and 2 violated the terms and conditions of the Insurance Policy ? OPR3

4. Relief.

7. The Tribunal, holding that it was a case of rash and negligent driving by driver of the offending vehicle, held the Insurance Company liable to pay the compensation.

8. The Tribunal had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹20,000/-
2	Annual Income	₹2,40,000/- [₹20,000 x 12]
3	Deduction - 1/3rd	₹1,60,000/- [₹2,40,000 - ₹80,000]
4	Multiplier - 17	₹27,20,000/- [₹1,60,000 x 17]
5	Funeral expenses	₹20,000/-
6	Loss of love and affection to claimant No.2	₹20,000/-
7	Loss of consortium to the claimant-wife	₹20,000/-
	Total Compensation	**₹27,80,000/-**
	Interest	**8%**

9. Aggrieved by the quantum of compensation, the Insurance Company has filed the present appeal being FAO-186-2015 and the cross-objections being XOBJC-216-CII-2015 have been preferred by the claimants

seeking enhancement of the compensation.

10. Learned counsel for the Insurance Company would contend that a totally false case was set up by the claimants. The offending vehicle was a planted vehicle and that no accident actually took place with the said offending vehicle as alleged. Learned counsel for the Insurance Company has relied upon the statement of Rohit recorded in the criminal case, which has now been produced on record as additional evidence, wherein he has stated that he has not recorded any statement before the Police under Section 161 CrPC. It is therefore the contention that once the witness who had suffered injuries has resiled from his statement, the claim petition itself ought to have been dismissed. In support of his arguments, he has relied upon judgment of the Hon'ble Supreme Court in the case of **Rajamma & Ors. vs. M/s Reliance General Insurance Co. Ltd. & Anr. [2025 (4) RCR (Civil) 491]** and that of this Court in the cases of **Hira Singh vs. Tarjit Singh @ Kala & Ors. [2026 (1) RCR (Civil) 73]; Smt. Savitri & Ors. vs. Ram Niwas Singh & Ors. [FAO-6733-2016 decided on 11.05.2023]; National Insurance Co. Ltd. vs. Bajinder Singh & Ors. [2023 (4) PLR 564]; United India Insurance Co. Ltd. & Ors. vs. Gurmeet Singh & Ors. [2021 (4) RCR (Civil) 625]** and **Shri Ram General Insurance Company Limited vs. Jeeto Devi & Ors. [2020 (2) RCR (Civil) 249]**.

11. *Per contra* learned counsel for the claimants relying on the judgment of the Hon'ble Supreme Court in the case of **National Insurance Company Limited V/s Chamundeswari & Ors. [2021 (4) RCR (Civil) 494]** has contended that the weightage has to be given to the evidence recorded before the Tribunal over the contents of the FIR. Learned counsel for the claimants has further contended that proceedings of the trial against the driver

of the offending vehicle abated as he had died during the trial and there is no judgment which was delivered by the Trial Court on the basis of which it could be said that the witness i.e. PW5 Rohit had resiled from his statement. Reliance of learned counsel for the Insurance Company on the statement of PW5 Rohit is wholly misplaced inasmuch as learned counsel for the claimants has pointed out that what PW5 Rohit has said in his cross-examination conducted by the APP is that he had asked the Police or he had informed the Police that on 16.04.2012 the driver of the offending vehicle had come to him for a compromise. Learned counsel for the claimants has further contended that it was never denied that the accident had taken place with the offending vehicle.

12. Learned counsel for the claimants has contended that in the cross-objections filed by the claimants, they have sought enhancement of compensation on the ground that the Tribunal has not made any addition towards loss of future prospects and that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in consonance with the law laid down by Hon'ble Supreme Court. However, he has not laid any challenge to the income, deduction and the multiplier as applied by the Tribunal. In support of his contentions, he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

13. *Per contra* learned counsel for the Insurance Company has contended that sufficient amount has already been awarded as compensation

in the present case and no further enhancement is called for. In any case the offending vehicle was a planted vehicle hence nothing ought to have been awarded.

14. Heard.

15. In the present case, the arguments of learned counsel for the Insurance Company that a totally false case was set up by the claimants and the offending vehicle was a planted one, deserves to be rejected. The accident is stated to have taken place on 27.03.2012 at 10.30 pm in the area of village Beri, District Jhajjar regarding which FIR (Ex.P4) was lodged on 28.03.2012 at 14:00 hrs. at Police Station Beri, District Jhajjar. Manjeet Singh and Rohit alleged to have witnessed the accident. The above FIR was registered on the statement of Manjeet Singh, who appeared before the Tribunal as PW3, whereas Rohit appeared as PW5. Admittedly, challan was also presented before the Illaqa Magistrate/Additional Chief Judicial Magistrate, Jhajjar and charge-sheet (Ex.P5) was framed against the driver of the offending vehicle under Section 304-A IPC (Section 106 BNS). Further, it is also apt to notice that an application under Section 170 of the Motor Vehicles Act, 1988 was filed by the Insurance Company before the Tribunal alleging collusion between the driver and owner of the offending vehicle and the claimants, which was dismissed by the Tribunal vide order dated 09.07.2014 being devoid of any merit and that order attained finality as the same was not challenged by the Insurance Company. Filing of the challan before the Illaqa Magistrate and framing of charge-sheet (Ex.P5) against the driver of the offending vehicle are *prima facie* proof of happening of the accident in question by the offending vehicle. In a recent judgment dated 02.01.2025, the Hon'ble Supreme Court in the case of **ICICI Lombard General Insurance**

Co. Ltd. Vs. Rajani Sahoo & Ors. [(2025) 2 SCC 599] held as under :

> "*7. As regards the reliability of charge sheet and other documents collected by the police during the investigation in motor accident cases, is concerned, this Court in the case of Mangla Ram v. Oriental Insurance Co. Ltd. and Ors. [(2018) 5 SCC 656] held in para 27, thus:*
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> > *"27. Another reason which weighed with the High Court to interfere in the first appeal filed by Respondents 2 & 3, was absence of finding by the Tribunal about the factum of negligence of the driver of the subject jeep. Factually, this view is untenable. Our understanding of the analysis done by the Tribunal is to hold that Jeep No. RST 4701 was driven rashly and negligently by Respondent 2 when it collided with the motorcycle of the appellant leading to the accident. This can be discerned from the evidence of witnesses and the contents of the charge-sheet filed by the police, naming Respondent 2. This Court in a recent decision in Dulcina Fernandes [Dulcina Fernandes v. Joaquim Xavier Cruz, (2013) 10 SCC 646, noted that the key of negligence on the part of the driver of the offending vehicle as set up by the claimants was required to be decided by the Tribunal on the touchstone of preponderance of probability and certainly not by*

standard of proof beyond reasonable doubt. Suffice it to observe that the exposition in the judgments already adverted to by us, filing of charge-sheet against Respondent 2 prima facie points towards his complicity in driving the vehicle negligently and rashly. Further, even when the accused were to be acquitted in the criminal case, this Court opined that the same may be of no effect on the assessment of the liability required in respect of motor accident cases by the Tribunal".

(Emphasis Supplied)

16. Further, in the present appeal, the Insurance Company filed an application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 which was allowed by this Court vide order dated 20.09.2018 and statement of Rohit recorded as PW6 in the criminal case was taken on record as Annexure A-1. Learned counsel for the Insurance Company has placed reliance upon the said statement of Rohit to contend that he turned hostile during the trial and hence his statement before the Tribunal cannot be believed. This argument of learned counsel for the Insurance Company is also devoid of any merit inasmuch the proceedings of the criminal trial stood abated due to the death of the driver of the offending vehicle. Further, a perusal of record of the Tribunal reveals that the respondents (driver, owner and Insurance Company) availed of 15 opportunities to lead their evidence but no evidence/witness was examined to prove that no such accident had taken place or that the offending truck was a planted one. It is well settled law that the Tribunal has to decide the claim petition on the basis of the evidence led before

it. Hon'ble Supreme Court in the case of **Chamundeswari** (supra) has held as under :

> *"8. It is clear from the evidence on record of PW-1 as well as PW-3 that the Eicher van which was going in front of the car, has taken a sudden right turn without giving any signal or indicator. The evidence of PW-1 & PW-3 is categorical and in absence of any rebuttal evidence by examining the driver of Eicher van, the High Court has rightly held that the accident occurred only due to the negligence of the driver of Eicher van. It is to be noted that PW-1 herself travelled in the very car and PW-3, who has given statement before the police, was examined as eye-witness. In view of such evidence on record, there is no reason to give weightage to the contents of the First Information Report. 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 the First Information Report. In the judgment, relied on by the appellant's counsel in the case of Oriental Insurance Company Limited v. Premlata Shukla and Others, 2007 (13) SCC 476, this Court has held that proof of rashness and negligence on the part of the driver of the vehicle, is therefore, sine qua non for maintaining an application under Section 166 of the Act. In the said judgment, it is held that the factum of an accident could also be proved*

from the First Information Report. In the judgment in the case of Nishan Singh and Others v. Oriental Insurance Company Limited, 2018 (6) SCC 765, this Court has held, on facts, that the car of the appellant therein, which crashed into truck which was proceeding in front of the same, was driven negligently by not maintaining sufficient distance as contemplated under Road Regulations, framed under Motor Vehicles Act, 1988. Whether driver of the vehicle was negligent or not, there cannot be any straitjacket formula. Each case is judged having regard to facts of the case and evidence on record. Having regard to evidence in the present case on hand, we are of the view that both the judgments relied on by the learned counsel for the appellant, would not render any assistance in support of his case."

17. Further, the Hon'ble Supreme Court in the case of **Mathew Alexander v. Mohammed Shafi & Anr. [(2023) 13 SCC 510]** has held as under :

"9….A holistic view of the evidence has to be taken into consideration by the Tribunal and strict proof of an accident caused by a particular vehicle in a particular manner need not be established by the claimants. The claimants have to establish their case on the touchstone of preponderance of probabilities. The standard of proof beyond reasonable doubt cannot be applied while considering the petition seeking compensation on account

> *of death or injury in a road traffic accident. To the same effect is the observation made by this Court in Dulcina Fernandes vs. Joaquim Xavier Cruz, (2013) 10 SCC 646 which has referred to the aforesaid judgment in Bimla Devi."*

18. The judgments relied upon by learned counsel for the Insurance Company in the cases of **Rajamma** *(supra);* **Hira** *(supra);* **Smt. Savitri** *(supra)*; **Bajinder Singh** *(supra)*; **Gurmeet Singh** *(supra)* and **Jeeto Devi** *(supra)* would not come to his aid as in the present case the trial had not been taken to its logical conclusion due to the death of the driver of the offending vehicle during the proceedings thereof.

19. In view of the above, the finding of the Tribunal as regards causing of the motor vehicular accident by the driver of the offending vehicle in question cannot be faulted with.

20. The argument of learned counsel for the claimants that the Tribunal has not made any addition towards loss of future prospects deserves to be accepted. The deceased in the present case was 30 years of age and keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Pranay Sethi** *(supra)*, an addition of 40% ought to have been made towards loss of future prospects. Further, the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in consonance with the law laid down by the Hon'ble Supreme Court. Hence, as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase)

towards funeral expenses as also to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Since there is no challenge to the income, deduction and the multiplier as applied by the Tribunal, the same are maintained. Accordingly, the reworked compensation is as under :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹20,000/-
2	Annual Income	₹2,40,000/- [₹20,000 x 12]
3	Deduction - 1/3rd	₹1,60,000/- [₹2,40,000 - ₹80,000]
4	Future Prospects - 40%	₹2,24,000/- [₹1,60,000 + ₹64,000]
5	Multiplier - 17	₹38,08,000/- [₹2,24,000 x 17]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 1] (ii) Filial [₹48,000/- x 1] (iii) Spousal	 ₹48,000/- ₹48,000/- ₹48,000/- (Total ₹1,44,000/-)
	Total Compensation	**₹39,88,000/-**

21. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. However, the claimants shall not be entitled to interest for the period of delay in filing the cross-objections.

22. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the percentage directed by the Tribunal and the share of the minor claimant, if any, shall be kept in fixed deposits by the Bank concerned. The particulars of

the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

23. In view of the above discussion, the award passed by the Tribunal is modified, cross-objections filed by the claimants stand allowed and the appeal filed by the Insurance Company stands dismissed accordingly. Pending applications, if any, also stand disposed off.

22.01.2026 **(ALKA SARIN)**
jk **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO