



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

FAO-877-2003 (O&M)

Reserved on : 01.10.2025

Date of decision:13.10.2025

Smt.Surinder Kaur and others

..Appellants

Versus

Smt. Pillon (since deceased) through her LRs and another

..Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Sanjay Jain, Advocate for the appellants

Mr. Pritam Singh Saini, Advocate and

Ms. Vamika Johar, Advocate for LRs of respondent No.1

Mr. Maninder Arora, Advocate

for respondent no.2-Insurance Company

MANDEEP PANNU, J.

1. The present appeal has been filed by Surinder Kaur and other claimants, against the award dated 16.11.2002 passed by the Motor Accident Claims Tribunal, Ambala (hereinafter referred to as 'Tribunal')

2. Briefly stated, the facts of the case are that Surinder Kaur, being the widow, Narender Singh, being the son, Sandeep Kaur, being the daughter, and Parkash Kaur, being the mother of Paramjit Singh, filed a claim petition on account of the death of Paramjit Singh in a motor vehicle accident.



3. It was alleged that on 17.05.1998, the deceased Paramjit Singh, while driving his Maruti van bearing registration number PB-12-A-6204, was proceeding from Ambala Cantt to Saharanpur. On the way, he gave lift to some unknown persons. Those unknown persons, with the intention of robbing the vehicle, committed the murder of Paramjit Singh.

4. It was submitted that the death of Paramjit Singh occurred on account of the use of a motor vehicle, and therefore, the claimants sought a compensation of ₹10,00,000/-. The deceased was stated to be about 46 years of age, engaged in business, and earning approximately ₹5,000/- per month. The vehicle in question was stated to be owned by respondent no. 1 and insured with respondent no. 2.

5. Upon notice, respondent no. 2 (insurance company) contested the petition by filing a written statement, raising preliminary objections regarding maintainability of the petition, locus standi, cause of action, misjoinder and non-joinder of necessary parties, and collusion between the claimants and respondent no. 1. It was further alleged that the said Maruti van was neither in the possession nor being driven by the deceased at the relevant time.

6. On merits, the income, age, occupation, and manner of death of the deceased were disputed, as well as the use of the motor vehicle in the incident. It was specifically denied that the van was being driven or was in possession of the deceased, or that unknown persons had murdered him with the intention of stealing the vehicle.



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

1. Whether the accident in question causing the death of Paramjit Singh had taken place due to rash and negligent driving of Maruti van No. PB-12-A-6204 by its driver, i.e., deceased Paramjit Singh? OPP

2. If issue no. 1 is proved, to what amount of compensation, if any, are the claimants entitled, and from which of the respondents? OPP

3. Whether the respondents are not liable to pay compensation due to the pleas taken up in the written statement? OPR

4. Relief.

8. In order to prove their case, the claimants examined Constable Harinder Malik (PW1), Taranjit Singh (PW2), and Smt. Surinder Kaur (PW3), who appeared as her own witness.

9. On the other hand, respondent no. 2 – the insurance company tendered in evidence a copy of the insurance policy (Exhibit R1).

10. Under issue no. 1, it has been held and observed by the learned Tribunal that, in order to prove that the death was on account of use of a motor vehicle, the claimants examined Constable Harinder Malik, besides appearing as her own witness. The version put forth is that while the deceased was proceeding in his own motor vehicle from Ambala Cantt to Saharanpur, some unknown persons caused the death



of Paramjit Singh and threw his dead body in the area of Police Station Sarsawa, District Saharanpur. A case under Sections 302/201 IPC was registered regarding the occurrence vide report, copy Exhibit P2. The post-mortem report is on record as Exhibit P1. Though it shows the dead body of an unknown person, when read along with the death certificate, it can be linked that the death certificate relates to Paramjit Singh.

11. Though only a copy of the death certificate is on the file and has not been exhibited, yet the proceedings, being summary in nature, had it been an attested copy, it would have been per se admissible. The copy of the post-mortem report has been issued on a stamp paper mentioning post-mortem report No. 304/98, which number appears on the post-mortem report also, and it is noted that the said report relates to the post-mortem conducted on the dead body of Paramjit Singh, son of Harnam Singh. The death certificate also mentions the same post-mortem number. Therefore, it can be assumed that the dead body upon which autopsy was performed vide post-mortem report Exhibit P1 was of the deceased Paramjit Singh.

12. It was further observed by the learned Tribunal that the report regarding the occurrence was registered under Sections 302/201 IPC that some miscreants looted the Maruti van and murdered the driver, throwing his dead body in the area of Sarsawa, which dead body was later found to be of Paramjit Singh vide Exhibits P1 and P2. These facts confirm that the crime was committed by some unknown



persons for committing robbery and, thus, the incident was certainly on account of the use of a motor vehicle.

13. It was further observed that the claimants had sought compensation on account of the death of Paramjit Singh under Section 163-A of the Motor Vehicles Act, 1988 (hereinafter referred to as 'Act'). In Section 163-A of the Act, the words used are "*on account of use of motor vehicle.*" It does not speak of any accident. The requirement is only of the use of a motor vehicle. Considering the legislation to be beneficial and extending the meaning of the words "*on account of use of motor vehicle,*" the Hon'ble Supreme Court in **Rita Devi and Others vs. New India Assurance Company Limited and Another (2002) 2 PLR 768 (SC)** held that when a murder is committed in the course of an accident in a given case, it can be treated as a case falling within the purview of use of a motor vehicle.

14. In the said case, under similar circumstances, the Hon'ble Supreme Court concluded that the murder of the deceased was due to an accident arising out of the use of a motor vehicle and held the petition under Section 163-A of the Motor Vehicles Act, 1988 to be maintainable. Applying the ratio of the said judgment, the learned Tribunal answered issue no. 1 holding that Paramjit Singh died on account of the use of the Maruti van mentioned above, and accordingly decided the issue in favour of the claimants and against the respondents

15. Under issues no. 2 and 3, it has been observed by the learned Tribunal that the main question for consideration was whether



the claimants were entitled to claim any compensation. Relying upon the judgments reported as **Oriental Insurance Company Limited vs. Jamna Bai and Others 2002 (4) Accidents Compensation Judicial Reports 354 (MP)** and **Kaushalya Bai and Others vs. Ram Kishan Kirara and Others 2001 ACC 742 (DB) (MP)**, learned counsel for the claimants submitted that since the death had occurred on account of use of a motor vehicle, the claimants would be entitled to compensation under Section 163-A of the Act on the basis of the structured formula given in the Second Schedule of the Act.

16. On the other hand, learned counsel for respondent no. 2 submitted that as the deceased himself was the owner of the vehicle and the insurance policy covered only the risk of third parties, the insurance company was not liable to compensate for the death of the owner, as the owner is not a third party.

17. It was further observed that the claimants had impleaded respondent no. 1, Mrs. Pillan, wife of Pritam Singh, as the owner of the vehicle. However, claimant Surinder Kaur, while appearing as PW3, admitted in her cross-examination that the deceased was the registered owner of the Maruti van in question and was himself driving the same. Her statement recorded was as follows:

“Deceased was the registered owner of the Maruti van in question. He was himself driving the said van. He was having that van since 1995.”

18. The claimants did not produce the registration certificate of the vehicle on record and, thus, withheld the primary evidence.



Even in her examination-in-chief, Surinder Kaur stated that her husband, as usual, had gone with the Maruti van for fetching spare parts and other articles for his trading business. Hence, from her statements, both in examination-in-chief and cross-examination, it stood established that the deceased was the registered owner of the vehicle. Accordingly, the Tribunal proceeded with the presumption that the deceased himself was the owner of the Maruti van on account of the use of which his death had occurred.

19. It was further observed that the insurance policy placed on file as Exhibit R1 was only a third-party policy, covering indemnification for third-party claims. Referring to the judgment of the Hon'ble Punjab and Haryana High Court in **United India Insurance Company Ltd. vs. Darshan Kaur and Others 2001 ACJ 998**, it was held that the insurance company is liable to indemnify the insured only in respect of third-party risks, and in case the insured himself meets with an accident and dies, the risk is not covered by the policy. Similarly, in **Dr. S. Jayaram Shetty vs. National Insurance Company Ltd. (2002) ACC 116**, the Division Bench of the Karnataka High Court held that the owner of the motor vehicle involved in the accident cannot be treated as a third party.

20. In view of the admission of claimant Surinder Kaur that the deceased was the owner of the vehicle and the policy being only a third-party policy, the learned Tribunal held that the insurance company cannot be held liable even for no-fault liability, as the



insurer is liable only to indemnify the insured against third-party claims and not for the death of the insured himself.

21. Although in **Kaushalya Bai and Others vs. Ram Kishan Kirara and Others (supra)**, the Hon'ble Madhya Pradesh High Court had taken a different view, the learned Tribunal observed that in view of the contrary pronouncement by the Hon'ble Punjab and Haryana High Court, the latter must prevail.

22. Accordingly, issues no. 2 and 3 were decided to the effect that the claimants are not entitled to any compensation and no liability can be fastened upon the insurer. Consequently, under the relief clause, it was observed that in view of the above discussion and the findings returned under issues no. 2 and 3, the claim petition fails and is dismissed.

Submissions of Learned Counsel for the Appellants

23. Learned counsel for the appellants has argued that the impugned award dated 16.11.2002 passed by the learned Tribunal is against the law and facts, particularly with regard to the findings given on issues no. 2 and 3. It is contended that the findings of the learned Tribunal are erroneous and are liable to be set aside. It is further submitted that as per the registration certificate of the vehicle, attached as Annexure P1, the registered owner/insured of the Maruti van involved in the occurrence is respondent no. 1. The appellants have moved an application before this Court under Order 41 Rule 27 CPC for placing on record Annexure P-1 by way of additional evidence. It is argued that this documentary evidence should be read



as part of the grounds of appeal, as documentary evidence prevails over oral evidence. Therefore, respondent no. 1 is to be considered the registered owner of the Maruti van used in the incident.

24. It is further submitted that as per the insurance policy placed on record, the insured is respondent no. 1, and therefore, the deceased Paramjit Singh is a third party in the present case. Hence, keeping in view these facts, the findings of the learned Tribunal on issues no. 2 and 3 are liable to be reversed, as the deceased, being a third party, is covered under the insurance policy. It is also argued that the findings of the Tribunal on issue no. 1 have not been challenged by the respondents, and it stands established that the murder was committed while snatching the vehicle. Thus, the death of the deceased arose out of the use of the motor vehicle, attracting the provisions of Section 163-A of the Motor Vehicles Act, which have been rightly applied by the learned Tribunal.

Submissions of Learned Counsel for the Respondents (Insurance Company)

25. Learned counsel for respondent no. 2, the insurance company, on the other hand, argued that the deceased cannot be considered a third party, as he himself was driving the vehicle at the time of occurrence. It is submitted that earlier, no registration certificate was produced on the record, and the same has been placed now only through an application filed under Order 41 Rule 27 CPC. Even though the registration certificate shows respondent no. 1 as the registered owner, it is contended that the deceased cannot be treated as



a third party because he was in possession of and driving the vehicle of the registered owner, which places him in the position of an owner or person equivalent to the owner. It is further argued that the learned Tribunal has rightly dismissed the claim petition, as the insurance policy covered only third-party risks and not the death of the owner or a person in control of the insured vehicle.

Findings of the Court

26. I have considered the respective submissions of the learned counsel for both parties and carefully gone through the record. There are two principal questions for determination before this Court:

1. Whether the murder which occurred due to the alleged snatching or stealing of the motor vehicle is to be considered an accident arising out of the use of a motor vehicle?

2. Whether the deceased, who was driving the vehicle at the time of the occurrence, can be treated as a third party when the registered owner is respondent no. 1, thereby attracting Section 163-A of the Motor Vehicles Act, 1988?

27. As regards the application (CM-4051-CII-2003) under Order 41 Rule 27 CPC, it is noted that in the impugned award, claimant Surinder Kaur admitted in her cross-examination that the deceased was the registered owner of the vehicle. However, during the pendency of the present appeal, an application under Order 41 Rule 27 CPC was filed for leading additional evidence, placing on record the



photocopy of registration certificate of the vehicle as Annexure P1.

No objection was raised by the insurance company to this document.

28. The registration certificate shows that respondent no. 1 is the registered owner of the Maruti van involved in the occurrence. Considering that the said document is essential for adjudication of the controversy and was not available or produced at the time of the original proceedings, the application under Order 41 Rule 27 CPC is allowed. The registration certificate (Annexure P1) is taken on record as additional evidence, which confirms that respondent no. 1 was the registered owner of the Maruti van at the time of the incident.

29. Coming to the question whether the death of the deceased amounts to an accident arising out of the use of a motor vehicle, it is observed that in **Rita Devi's case (supra)**, the Hon'ble Supreme Court held that when a murder is committed in the course of stealing or snatching a motor vehicle, such a death can be treated as one "*arising out of the use of a motor vehicle.*" The Court explained that even though the death in such circumstances is not the result of a traditional road accident, it nonetheless occurs on account of the use of the vehicle. Applying the ratio of the said judgment, it is evident that the death of Paramjit Singh, which occurred while the vehicle was being used and snatched by unknown miscreants, would squarely fall within the ambit of "*use of a motor vehicle*" under Section 163-A of the Motor Vehicles Act, 1988.

30. Now, addressing the second question i.e. whether the deceased can be considered a third party, it is settled law that the term



'*third party*' in an insurance contract refers to a person who is neither the insured nor someone driving or in control of the insured vehicle with the permission of the insured. The liability of the insurer under a third-party policy extends only to persons who are strangers to the contract of insurance. Where the deceased is in control of or driving the insured vehicle, he is treated either as the owner or as a person placed in the shoes of the owner, and therefore, he cannot be treated as a third party. Reliance in this regard can be placed on **Ningamma & Anr. vs. United India Insurance Company Limited 2009 (13) SCC 710**, wherein it has been held that in case of death of borrower of vehicle in an accident, his legal heirs shall not be entitled to compensation under Section 163 A of the Motor Vehicles Act, 1988 since the borrower will be considered owner of vehicle. Under Section 163A, legal heirs of an owner of vehicle who is himself involved in accident are not entitled to claim compensation rather owner of vehicle himself or the insurance company, as the case may be, is liable to pay compensation to third party. Relevant paragraph of the judgment reads as under:-

“ We have already extracted Section 163A of the MVA hereinbefore. A bare perusal of the said provision would make it explicitly clear that persons like the deceased in the present case would step into the shoes of the owner of the vehicle. In a case wherein the victim died or where he was permanently disable due to an accident arising out of the aforesaid motor vehicle in that event the liability to make payment of the compensation is on the insurance company or the owner, as the case may be as provided under Section 163A. But if it is proved that the driver is the owner of the motor vehicle, in that case the owner could not himself be a recipient of compensation as the liability to pay the same is on him.



This proposition is absolutely clear on a reading of Section 163A of MVA. Accordingly, the legal representatives of the deceased who have stepped into the shoes of the owner of the motor vehicle could not have claimed compensation under Section 163A of the MVA.”

31. In the present case, even though the registered owner of the vehicle is respondent no. 1, the deceased was admittedly driving the vehicle of registered owner/respondent no.1 and in this way he can be considered as borrower of vehicle from registered owner. Thus, he was using the vehicle with the permission of the owner and stood in the capacity of an owner or agent, not as a third party. Consequently, the statutory liability of the insurance company under a third-party policy cannot be extended to cover the risk of such a person.

Conclusion:-

32. In view of the foregoing discussion and observations, this Court finds no merit in the present appeal. It is clear that the death of the deceased, which occurred during the snatching or stealing of the vehicle, can be said to have arisen “out of the use of a motor vehicle.” However, this by itself does not entitle the claimants to compensation under Section 163-A of the Motor Vehicles Act, 1988.

33. The statutory liability of the insurance company under a third-party policy is confined to indemnifying the insured against claims made by third parties. A person who is either the owner of the vehicle or driving it with the permission of the owner cannot be treated as a third party for the purpose of fastening liability on the insurer. In the present case, the deceased was using the vehicle with the authority of the registered owner and, therefore, stood in the



position of the owner himself. The insurance policy on record (Exhibit R1) being only a third-party policy, no risk to the life of the owner or a person in control of the vehicle is covered under it.

34. Accordingly, the deceased cannot be regarded as a third party, and the insurance company cannot be made liable to pay compensation. The findings of the learned Tribunal dismissing the claim petition are, therefore, affirmed, though for reasons distinct from those recorded by the Tribunal.

35. Resultantly, the appeal fails and stands dismissed. The award of the learned Tribunal dismissing the claim petition is hereby upheld, though on different reasoning, as discussed above. No order as to costs

36. All the pending miscellaneous applications, if any, are also disposed of.

(MANDEEP PANNU)
JUDGE

13.10.2025

rekha

Whether speaking/reasoned Yes/No

Whether reportable Yes/No