



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

Date of decision : 27.01.2025

1. FAO-440-2025(O&M)
Reliance General Insurance Company Ltd. ...Appellant

Vs.

Karan Kumar and another ...Respondents
2. FAO-443-2025(O&M)

Reliance General Insurance Company Ltd. ...Appellant

Vs.

Smt. Salochna and others ...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Dinesh Kumar Prajapati, Advocate
for the appellant(s).

ANIL KSHETARPAL, J. (Oral)

1. These two connected appeals shall stand disposed of by a common order.

2. Two separate awards passed by the Motor Accident Claims Tribunal, Panchkula are subject matter of these two appeals. In a motor vehicle accident, Sh. Karan Kumar, aged 18 years, suffered grave injuries, whereas, his brother, namely, Sh. Arjun @ Bharat, lost his precious life. Both brothers were travelling on a motor-cycle. In the case of injured Sh. Karan Kumar, the Motor Accident Claims Tribunal has awarded Rs. 36,32,964/-, whereas, in the claim petition filed on account of death of Sh. Arjun @ Bharat, the Court has awarded Rs. 19,46,400/-.



3. The Insurance Company has filed these two appeals.
4. Learned counsel representing the appellant(s) submits that Sh. Karan Kumar, the injured did not possess driving licence, hence, the Court should draw presumption of contributory negligence. He submits that before driving a motor vehicle, it is necessary for the individual to possess a driving licence, which in this case was missing. He further submits that the Tribunal has erred in assessing the income of Sh. Karan Kumar @ Rs.16,000/- per month, whereas, the minimum wages at the relevant time was Rs.10,243/-.
5. This Court has considered the submissions made by the learned counsel representing the appellants.
6. The Tribunal on the basis of evidence of an eye witness has recorded a finding of fact that accident took place due to rash and negligent driving of Sh. Naveen Rawat, owner-cum-driver of Santro car. The correctness of this finding of fact is not challenged. The driving of a motor vehicle without driving licence may result in penalty under the Motor Vehicles Act, 1988, however, that itself would not be sufficient to assume that the injured was contributory negligent in causing the accident. Mere absence of driving licence is not sufficient to draw such presumption.
7. With respect to the income of Sh. Karan Kumar, it would be noticed that Sh. Karan Kumar alongwith his brother was running a Chinese Food Stall at Panchkula, which is satellite town of Chandigarh. The aforesaid shop was taken on rent by the brothers from Sh. Avtar Singh, who has appeared as PW-5. It has been stated that two brothers were paying rent of Rs.8,000/- per month. The accident took place on 28.10.2022. The Tribunal has assessed the income, keeping in view the evidence produced on the file.



8. Keeping in view the aforesaid discussion, no ground to interfere is made out.
9. Both the appeals are dismissed.
10. The amount of Rs.25,000/- deposited while filing the appeal be remitted back to the Executing Court.
11. All the pending miscellaneous applications, if any, are also disposed of.

27.01.2025
neeraj

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No