

FAO-593-2016 (O&M)
XOBJC-17-CII-2017 (O&M)

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2025:PHHC:096039



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

FAO-593-2016 (O&M)
XOBJC-17-CII-2017 (O&M)
Date of decision : 30.07.2025

ORIENTAL INSURANCE CO. LTD.

...Appellant

Versus

RUCHI JAIN @ VAISHALI JAIN AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sandeep Suri, Advocate
for the appellant/Insurance Co.

Mr. Yagsimant Attri, Advocate for
Mr. Rajinder Goyal, Advocate
for respondents No.1 to 3-claimants/cross-objectors.

Mr. Maninder Arora, Advocate
for respondent No.7.

PANKAJ JAIN, J. (ORAL)

FAO-593-2016 (O&M)

Insurance Company is in appeal aggrieved of the award dated 29.09.2015 passed by MACT, Ludhiana whereby claim petition filed by the claimants seeking compensation on account of death of one Varinder Garg in a motor-vehicular accident dated 04.07.2012, at the age of 38 years, has been allowed granting them compensation to the tune of Rs.15,20,000/-.



2. Counsel for the appellant has assailed the findings recorded by the Tribunal on Issue No.1 i.e. w.r.t. rash and negligent driving of respondent No.1, who was driving the insured bus.

3. Counsel for the appellant has drawn attention of this Court to the fact that FIR was registered *qua* the accident in question. As per which, it is the rash and negligent driving of the deceased which led to accident and not that of driver of the insured bus. He submits that the Tribunal has wrongly brushed aside the vital piece of evidence in returning findings on Issue No.1. He thus, submits that findings need to be reversed.

4. Per contra, counsel for the respondents/claimants submits that FIR is not an exhibited document. It could not be proved by examining author thereof. He further submits that the author of the FIR was not present on the spot and thus the contents of the FIR are mere hearsay which cannot be relied upon. It has been contended that FIR was registered by the police authorities in connivance with the driver of the State carriage. The claimant (wife of the deceased) even approached higher police authorities regarding registration of false FIR. The application was tendered in evidence before MACT as Exhibit C-3. He thus submits that the Tribunal has rightly discarded the contents of the FIR and has considered the testimony of Basant Singh son of Khushi Ram who is an eye-witness to the accident and was examined as CW-2.



5. I have heard counsel for the parties and have carefully gone through records of the case.

6. Bare perusal of the findings recorded by the Tribunal on Issue No.1 would reveal that the Tribunal has discussed the contents of FIR and has assigned plausible reasons to discard the same. FIR has been registered by a police constable, who was not present on the spot. It was claimed in the FIR that needle of the speedometer was blocked at 120 Km/h. The Tribunal took judicial notice of the fact that the accident took place in a hilly area and it is highly improbable that a person can drive a car at the speed of 120 Kilometers per hour.

7. Trite it is that the FIR is not an encyclopedia of the incident. More so, when it has been registered not on the statement made by eye-witness, but merely on hearsay. The complaint tendered before the higher police authorities by the claimant, also finds mention of Basant Singh son of Khushi Ram resident of Nadaun to be an eye-witness to the accident. Basant Singh appeared as CW-2 before Tribunal. He explained the facts and the circumstances of the accident. His testimony remained unrebutted. Keeping in view statement of eye-witness CW-2, no exception can be taken to the findings recorded by the Tribunal that the accident was caused by rash and negligent driving of driver of bus bearing No.HP-68-7272 insured with the appellant. The said testimony of eye-witness has gone unrebutted. Driver and the owner opted not to contest the claim petition. Even Insurance



Company, the appellant, failed to make any effort to examine the driver to dislodge the testimony of eye-witness. Driver of the bus was the best person to rebut the statement of eye-witness and prove negligence of deceased. He having opted not to appear, no fault can be found with the findings recorded by MACT.

8. In view thereof, this Court does not find any reason to interfere in the present appeal. Resultantly, the same is ordered to be dismissed.

XOBJC-17-CII-2017 (O&M)

Claimants have filed instant cross-objections seeking enhancement of compensation.

2. Tribunal while granting compensation, observed as under:

“So, considering the monthly income of deceased Rs.12,500/- per month, the annual income of the deceased comes out to be Rs.1,50,000/- and as per law, the deduction of 1/3th as personal living expenses where number of dependent family members are 2 to 3 as per law laid down in Sarla Verma and others Vs. Delhi Transport Corporation and another, reported in 2009 AIR (SC) 3104, therefore after deduction of 1/3th the income of the deceased being assessed at Rs.1,00,000/ per annum. As held above, the deceased was 38 years old at the time of his death. So as per law laid down by the Hon'ble Supreme Court in case titled Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr. Reported in 2009(3) RCR (Civil) 77, the multiplier applied would be 15 the amount of compensation as such comes to Rs. 15,00,000/- The claimants are also entitled to compensation of Rs.20,000/- as funeral charges.”



3. In the considered opinion of this Court and keeping in view the ratio of law laid down by Supreme Court in the case of **Smt. Sarla Verma and others vs. Delhi Transport Corporation and another, (2009)6 SCC 121, National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680** and **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram and others – Civil Appeal No.9581 of 2018, decided on 18.09.2018**, the compensation needs to be reworked as neither future prospects have been granted nor correct amounts under conventional heads have been paid. The compensation assessed by Tribunal is thus modified.

4. Income of the deceased was Rs.12,500/- per month. **40% of future prospects** need to be added. Deduction of **1/3** has been rightly made. Keeping in view the age of deceased at the time of death, i.e. 38 years, **multiplier of 15** has been rightly applied. Each of the claimants is held entitled for an amount of **Rs.48,000/- for loss of consortium. Rs.18,000/-** is awarded for **loss of estate** and **Rs.18,000/-** as **funeral expenses**. Claimants/cross-objectors are also held entitled for interest **@ 7.5%** per annum on the enhanced amount from the date of filing of the claim application till the date of actual realization.

5. Needless to say, amount already paid to the claimants/cross-objectors shall be set off.



6. With the aforesaid modification in the impugned award, the instant cross-objections are disposed off.

7. Pending application(s), if any, shall also stand disposed off.

July 30, 2025

Dpr

(Pankaj Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No