



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

127

**FAO No.2938 of 2025 (O&M)
Date of Decision :03.07.2025**

United India Insurance Company Ltd.

.....Appellant

Versus

Seema and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL**Present: Mr. R.C.Kapoor, Advocate for the appellant.****VIKRAM AGGARWAL, J. (Oral):**

The instant appeal has been preferred by the Insurance Company against the award dated 28.01.2025, passed by the Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'MACT') vide which the claim petition preferred by claimants (respondents No.1 to 4) under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'MV Act') for the grant of compensation on account of the death of one Parveen was allowed.

2. Respondents No.1 to 4 (hereinafter referred to as the claimants), who are the widow, minor son and parents of one Parveen Kumar, instituted a petition under Section 166 of the MV Act for the grant of compensation of Rs. 1,00,00,000/- on account of the death of Parveen in a motor vehicular accident which took place on 25.09.2021.

3. It was averred that on 25.09.2021, after finishing his work, Parveen, who was employed as a salesman at Essar Petrol Pump, Gianpura, was coming back on motorcycle bearing registration No.HR-80C-2414. His



brother Naveen was also returning home in a private vehicle and was following Parveen. At 08.30 P.M, when Parveen had reached 1 km ahead of bus stand, Kharak Punia towards Jind side, one Eicher Canter bearing No.HR-61-B-0227 (hereinafter referred to as the offending vehicle), which was being driven by respondent No.5 (Kuldeep) at a high speed and in a rash and negligent manner, came from the opposite side and struck against the motorcycle of Parveen. The accident was witnessed by Naveen who was following Parveen. Parveen fell on the road and was crushed by the rear tyre of the offending vehicle. The driver of the offending vehicle is stated to have stopped for some time but subsequently fled from the spot.

4. On the statement of Naveen, FIR No.760 dated 26.09.2021, under Section 279 and 304-A IPC was registered at Police Station Barwala.

5. It was claimed that Parveen was earning Rs.30,000/- per month as he was a salesman at a petrol pump and was also engaged in the sale and purchase of vehicles.

6. The claim petition was opposed. The driver and owner namely Kuldeep, who was arrayed as respondent No.1 raised certain preliminary objections as regards cause of action and locus standi etc. in the written statement. On merits, the factum of the accident was denied. It was averred that a false FIR had been registered against him.

7. The Insurance Company filed its own written statement raising its usual defences, while denying the factum of the accident.

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



1. Whether the accident in question took place on 25.09.2021 due to rash and negligent driving of vehicle bearing registration No.HR-61B-02227 by respondent No.1 resulting into death of Parveen son of Shri Ishwar? OPP

2. Whether the petitioners are entitled to compensation? If so, how much and from whom? OPP.

3. Whether respondents No.1 and 2 have violated the terms and conditions of the insurance policy absolving respondent No.2-insurance company from its liability to pay amount of compensation? OPR

4. Relief.

9. Parties led their respective evidence.

10. The MACT, held that the accident had taken place on account of the rash and negligent driving of the offending vehicle by respondent No.1. The age of Parveen was assessed as 25 years, on the basis of the PAN Card (Ex.P6) and Aadhar Card (Ex.P7) and the age mentioned in the post mortem report (Ex.P2). His income was assessed as Rs.18,000/- per month based upon the statement of PW-3-Karan. After deducing the requisite amount for personal expenses, adding future prospects etc. and while following the principles laid down by the Supreme Court of India in the case **Sarla Verma Vs. Delhi Transport Corporation (2003) 6 SCC 121** and **National Insurance Company Limited Vs. Pranay Sethi 2017(16) SCC 680**, the total compensation was assessed at Rs.43,10,400/-. Interest @ 7% per annum was also awarded. The amount of compensation was ordered to be equally distributed amongst the claimants.

11. The sole argument raised by learned counsel for the appellant is that the MACT erroneously assessed the income of the deceased as Rs. 18,000/- per month. Mr. R.C.Kapoor, learned counsel representing the



appellant has strenuously urged that merely on the basis of the statement of PW-3-Karan, the income was erroneously assessed as Rs. 18,000/- per month. He submits that no cogent evidence was produced by the said witness and the certificate Ex.PW3/A which was produced by him did not bear any date. He further submits that the said witness could not prove that he was the proprietor of the petrol pump. Learned counsel has referred to the cross -examination of PW3-Karan, where he conceded that he had not brought any documentary proof of his ownership of the petrol pump. Learned counsel submits that apart from his oral testimony and a certificate which could not have been relied upon, no other evidence was produced to prove the income of the deceased but the MACT still went ahead and erroneously assessed his income at Rs. 18,000/- per month. Learned counsel also submits that PW3-Karan stated that Parveen was working with him at the petrol pump for one year whereas the widow of Parveen, while appearing as a witness stated that he had been working at the petrol pump for 7 years.

12. I have considered the submissions made by learned counsel for the appellant and have perused the paper book as also the statement of PW3-Karan which was duly produced during the course of hearing.

13. At the very first instance, when the FIR was registered, it had been mentioned by Naveen, the real brother of deceased Parveen that he was working as a salesman at Essar Petrol Pump. It was also so stated in the claim petition. PW3-Karan duly stepped into the witness box and stated that he was the owner of Haryana Filling Station, Village Kharak Punia, District Hisar. He deposed that Parveen had been working as a salesman at his petrol pump from 17.08.2020 to 25.09.2021. He also deposed that his salary was Rs.18,000/- per



month. He produced a certificate Ex.PW3/A in this regard. No doubt, in the cross-examination, he stated that he had not brought any proof of his ownership of the petrol pump. He also did not produce any other record as regards the employment of Parveen as a salesman. However, the Insurance Company also did not get his cross-examination deferred asking him to produce the said record. Though, in fact, it closed its cross-examination on the same day. No evidence to the contrary was produced by the Insurance Company. It has to be borne in mind that MV Act is a welfare legislation and summary procedure is adopted while deciding the claim petitions filed under the provisions of MV Act. Still further, certain guess work has to be made while assessing the compensation which would be payable. In the considered opinion of this Court, the MACT did not commit any illegality in assessing the income at Rs. 18,000/- per month. In fact, it duly examined the said issue in detail and returned a positive finding about the income of the deceased.

“22. Learned counsel for respondents have argued that the evidence of PW3 Karan regarding income of deceased Parveen, is not believable as he did not produce any proof of his ownership of the said petrol pump. He also did not produce any account statement showing that he paid salary of Rs. 18,000/- to deceased Parveen. He further argued that he did not produce any attendance register of his petrol pump bearing signatures of Parveen. He further argued that he did not produce any cash book showing signatures of Parveen in the same. This Court does not find any force in the said argument. The factum of employment of deceased as salesman at petrol pump, had even been stated by his brother Naveen at the time of getting FIR Ex. P1 registered on the very next day of the occurrence. When PW3 Karan was cross-examined, respondents did not insist upon the production of any proof regarding his ownership of the said



petrol pump. He was only asked as to whether he had brought any such ownership document to the Court that day which he stated that he has not brought. If the respondents indeed wanted him to produce the proof of his ownership of the said petrol pump, they could have insisted upon its production but they never did no. Hence, it is not open to them to contend that since PW3 Karan did not produce any proof of ownership of his petrol pump, his evidence should be discarded. Further more, in his cross-examination, he has categorically stated that he did not maintain any register of the employees working at his petrol pump and hence, non production of any alleged register or cash book, which did not exist at the first place, cannot have any adverse impact on the case of petitioners. The monthly salary of Rs.18,000/- being paid by PW3 Karan to deceased Parveen is a reasonable amount which any salesman employed at petrol pump in modern world can easily be expected to earn. There is no reason for this Tribunal to disbelieve the testimony of PW3 Karan and on the basis of his testimony, the monthly salary of deceased Parveen is hereby assessed as Rs. 18,000/-.”

14. I do not find absolutely any reason to interfere in the well reasoned findings recorded by the MACT.

15. That being so, I do not find any merit in the instant appeal and the same is accordingly, dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

03.07.2025

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No