

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

235(2)

**DECIDED ON: 31<sup>st</sup> July, 2025**

(1) **FAO No. 278 of 2017 (O&M)**

2025:PHHC:097406



**Shriram General Insurance Company Limited**

**.....Appellant**

**VERSUS**

**Suman and others**

**.....Respondents**

(2) **FAO No. 129 of 2018 (O&M)**

2025:PHHC:097409



**Suman and others**

**.....Appellants**

**VERSUS**

**Kuldeep Singh and others**

**.....Respondents**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA.**

Present: Mr. Punit Jain, Advocate  
for appellant-Insurance Company  
(in FAO No. 278 of 2017) and  
for respondent No.3 (in FAO No. 129 of 2018).

Ms. Mansi, Advocate for  
Mr. Sumit Gupta, Advocate  
for respondents (claimants) No. 1 to 6.

Mr. Kartik Mittal, Advocate and  
Mr. Aditya Sanghi, Advocate for respondents  
(driver and owner) No. 7 and 8.

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**NIDHI GUPTA., J (ORAL)**

Both the above said cross-appeals are being disposed of by  
this common order as both the appeals have been preferred against the

same impugned Award dated 02.09.2016 passed by the Learned Motor Accident Claims Tribunal, Karnal, (hereinafter referred to as 'the Tribunal') whereby MACT Case No. 35 dated 08.07.2014 filed by the claimants under Sections 166 and 140 of the Motor Vehicle Act (hereinafter referred to as 'the Act'), has been allowed and the claimants have been awarded compensation of Rs.46,92,375/-. The FAO No.129 of 2018 filed by the claimants seeking enhancement of the aforesaid compensation. The cross appeal bearing FAO No. 278 of 2017 has been filed by the Insurance Company, challenging the said compensation; as also seeking recovery rights against the driver and owner. For the sake of facility, the facts are being drawn from and the party shall be referred to as per their status in the said FAO No.129 of 2018.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased Arjun Kumar had died due to the injuries suffered by him in a motor vehicle accident that took place on 20.05.2014 due to rash and negligent driving of Trailer bearing registration No.HR-46-E-8954 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The 6 claimants are the widow, 3 minor children, and parents of the deceased-Arjun Kumar.

3. Learned counsel for the claimants seeks enhancement of compensation by *inter-alia* submitting that income of the deceased has been taken on the lower side as only Rs.23,000/-. It is submitted that claimants had, by way of cogent evidence proved on record that the deceased was working as a Laboratory Head in M/s Metro Agri

Industries in village Kakoda Israna and was drawing salary of Rs.43,000/- per month. Appointment of the deceased as Laboratory Head in M/s Metro Agri Industries was duly proved vide appointment letter Ex.PW4/A. Salary of deceased was also proved to be ₹43,000/- per month, from his salary slips Ex.PW4/A to Ex.PW4/E for the period w.e.f. 27.11.2013 to 19.05.2014. The said salary slips were proved from the evidence of PW4-Arun Kumar who was official of M/s Metro Agri Industries, where the deceased was employed. Learned counsel submits that therefore the income of the deceased stood proved in accordance with law; yet the learned Tribunal has taken income of the deceased only as Rs.23,000/- per month on account of the fact that it had been pleaded by the claimants that prior to his employment with M/s Metro Agri Industries, the deceased was working as Analyst in Shakti Bhog Limited and as per his salary slip of November-2013, he was drawing Rs.23,000/- per month. Learned counsel contends that the Tribunal could not have relied upon the salary slip of November 2013 as the appellant had produced and proved the salary slips upto 19.5.2014 i.e. one day before the accident as per which the deceased was receiving Rs.43,000/- as monthly salary. Thus, income of the deceased ought to be taken as Rs.43,000/- per month.

4. Learned counsel submits that even nothing has been awarded by way of filial consortium. Accordingly, prays that the impugned Award be modified and compensation be enhanced.

5. *Per contra* learned counsel for Insurance Company (appellant in FAO No. 278 of 2017) opposes the submissions made on behalf of claimants and submits that income of the deceased has been

correctly assessed by the learned Tribunal as record of M/s Metro Agri Industries was not produced by PW4 to establish payment of salary of Rs.43,000/- per month. Therefore, Tribunal has correctly assessed income of deceased as Rs.23,000/-.

6. Learned counsel for the Insurance Company further submits that as per establish position in law, addition of only 40% could have been made towards future prospects; whereas learned Tribunal has added 50% towards future prospects. It is submitted that deceased was not a permanent employee and therefore future prospects ought to have been added at the rate of 40%.

7. Learned counsel for the Insurance Company also submits that the liability to pay compensation could not have been affixed on the Insurance Company in view of the fact that respondent No.1 was not holding a valid driving licence on the date of accident. It is submitted that in para-20 of the impugned Award while deciding Issue No.3, learned Tribunal has recorded that the driving license of respondent No.1 was issued on 19.02.2016 and was having validity upto 28.12.2028. Learned counsel points out that the accident in the present case has taken place on 20.05.2014; and therefore, on the said date the respondent No.1 did not possess a valid driving license. Accordingly, prays that the present appeal deserves to be dismissed. It is further prayed that FAO No.278 of 2017 be allowed; compensation be decreased; and liability to pay the compensation be affixed upon respondents No. 1 and 2.

8. Learned counsel representing respondents No. 1 and 2 opposes prayer made on behalf of Insurance Company and submits that on the date of accident i.e. 20.05.2014, the respondent No.1 was

possessing a driving license which had been issued on 10.02.2010 and it was valid upto 18.02.2016. It is submitted that it is in this context it has been mentioned by the learned Tribunal in para-20 of the impugned Award that license of respondent No.1 was issued on 19.02.2016. Accordingly, prays that liability cannot be affixed upon respondents No. 1 and 2.

9. No other arguments were raised by learned counsel for the parties. Heard learned counsel and perused the case file carefully.

10. I find some merit in the submissions advanced on behalf of each of the parties.

11. It has been submitted by learned counsel for the claimants that income of the deceased was proved on record as Rs.43,000/-. However, a perusal of the record shows that no documentary evidence in the form of Attendance Register, Account Register, Statements of Accounts of M/s Metro Agri Industries was brought on record to establish payment/or disbursement of salary of ₹43,000/- to the deceased. Even there was nothing on record to indicate that deceased was technically qualified to hold the post of Laboratory Head. The appellants produced no income tax return to prove the income of the deceased. The grounds on which the learned Tribunal has taken income of the deceased as Rs.23,000/- are contained in Para-17 of the impugned Award which reads as under:

“17. After having given a thoughtful consideration over the rival submissions of both sides, it is considered view of this court that it is the specific case of the claimants that the deceased had been appointed as Laboratory Head (quality control of rice) in the Metro Agri Industries

Limited, as per appointment letter Ex.PW4/C, and he was getting Rs. 43,000/- per month as salary and even PW4 while appearing into the witness box has corroborated this fact, but despite that there is no document on the record file to prove that the deceased was technically qualified for this post. Moreover, PW4 did not produce any original record before the court to prove that the amount of Rs. 43,000/- was being credited into the account of Arjun Singh as salary of deceased and those accounts were being got audited and submitted before the Income tax authorities. Even the memorandum of article of association of the Company has not been produced to prove that Sh. Himank Garg was the Director and he was authorized to issue certificate Ex.PW4/A to Ex.PW4/C and said Himank Garg did not examined himself. Moreover, Ex.PW4/D is the register of wages and according to this document, a sum of Rs. 23,570/- was received by Arjun Lamba after his death which creates a suspicion that these documents had been created lateron. So far as the income of the deceased Arjun Kumar is concerned, it is considered view of this court that although no witness has been examined from Shakti Bog Limited to prove that he was drawing Rs. 23,000/- per month as salary, despite that Ex.PW3/C to Ex.PW3/D are salary slips for the month of September-2013 to November 2013 respectively wherein it has been shown that the deceased was drawing Rs. 23,000/-per month as salary and therefrom the contribution towards PF, HR-LWF were being deducted. Hence the documents Ex.PW3/C to Ex.PW3/E are more reliable than the documents Ex.PW4/B to Ex.PW4/E for considering the income of the deceased. Hence, it is presumed that the deceased was earning Rs. 23,000/- per month as salary.”

12. I find the above said reasoning of the learned Tribunal to be correct. As such the income of the deceased has been correctly assessed as Rs.23,000/-.

13. Further age of the deceased was taken as 38 years old at the time of accident as mentioned in his MLR. However, learned Tribunal has made addition of 50% towards future prospects. As per the law laid down by Hon'ble the Supreme Court in '*Sarla Verma Vs. Delhi Transport Corporation (2009) AIR (SC) 3104, Law Finder Doc ID#188882*' as the deceased was less than 40 years, and as deceased was admittedly not in a permanent job, an addition of 40% is to be made towards future prospects. Learned Tribunal has further correctly deducted 1/4th income towards personal expenses as there were six claimants; and has also correctly applied multiplier of 15. It has further been incorrectly stated by learned counsel for claimants that nothing has been awarded towards consortium as the impugned Award reveals that Rs.1,00,000/- has been awarded towards loss of Estate, and loss of love and affection; and another Rs.1,00,000/- has been awarded towards spousal, filial, and parental consortium; and Rs.25,000/- has been given for funeral and conveyance expenses; thereby granting total compensation of Rs.46,92,375/-.

14. Accordingly, keeping in view the established precepts of law governing grant of compensation, the impugned Award is modified in the following manner:-

Sr.No.	Details	Before the Tribunal	Revised Compensation
1.	Income	Monthly: 23,000/-	Monthly: 23000/-
2.	Future Prospect	50% (11500/-)	40% (9200/-)

		23,000+11500= 34,500/- 34,500X 12= 4,14,000/- <u>-Income Tax=16,900</u> <u>=3,97,100</u>	23,000+9200=32,200/- 32,200x12=3,86,400/- <u>-Income Tax=16,900</u> <u>=3,69,500/-</u>
3.	Deduction	1/4 <sup>th</sup> 3,97,100- 99,275=2,97,825/-	1/4 <sup>th</sup> 3,69,500-92,375=2,77,125/-
4.	Multiplier	15 2,97,825x15=44,67,375/-	15 2,77,125 x 15=41,56,875/-
5.	Loss of estate, Loss Love and affection	1,00,000/-	1,00,000/-
6.	Funeral and conveyance Expenses	25,000/-	25,000/-
7.	Compensation for loss of spousal consortium, parental consortium and filial consortium	1,00,000/-	1,00,000/-
8.	Total Compensation	46,92,375/-	43,81,875/-

15. As regards submissions made by learned counsel for Insurance Company with regard to driving license of respondent No.1, I find no merit in the said submission. A perusal of the record shows that no plea regarding fake driving license has been taken by the Insurance Company. Moreover, it is not denied by learned counsel for the Insurance Company that driving license was first issued to respondent No.1 on 10.2.2010 which expired on 18.2.2016. Thus, the findings of learned Tribunal in para-20 of the Award, which reads as under:

“20. The copy of driving licence Ex.RX shows that the same was issued by Licencing Authority, Mokokchung on 19.2.2016 in the name of Kuldeep, the respondent no.1 having validity upto 28.12.2028 meant for M.Cycle/trans/LMV-NT only. The copy of insurance policy has been placed on record as Ex R1 and it proves that the vehicle bearing No.HR-46-E-8954 was insured with respondent no.3 for the period from 25.9.2013 to 24.9.2014. The accident in question took place on 20.5.2014 which is covered under the policy. In these

circumstances, it can be held that respondent no. 1 was having a valid DL at the time of accident and vehicle trailer in question was insured with respondent no.3 vide insurance policy Ex.RI. No evidence was adduced on behalf of respondent no.3 to prove that insured/owner respondent no.2 violated any terms and condition of the insurance policy or driving licence of respondent no.1 is fake and fabricated. Hence, insurer company/respondent no.3 shall continue to remain liable towards respondent no. 2 to indemnify him. Respondents no.1 to 3 shall be liable jointly and severally to pay the compensation amount to the petitioners. Therefore, this issue is decided against the respondent no.3.”

16. In view of above, FAO No.129 of 2018 filed by the claimants, is **dismissed**; and FAO No.278 of 2017 filed by the Insurance Company is partly **allowed**. The Insurance Company is held not entitled to grant of recovery rights against respondents No. 1 and 2.

17. Pending application(s), if any, shall stands disposed of.

18. A photocopy of this order be placed on the file of another connected case.

31<sup>st</sup> July, 2025

*reema*

(NIDHI GUPTA)  
JUDGE

<i>Whether speaking/reasoned</i>	Yes
Whether reportable	No