

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****130****FAO-3036-2025(O&M)****Date of decision: 14.05.2025****United India Insurance Company Limited****...Appellant(s)****Vs.****Surinder Kaur & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Diwan S. Adlakha, Advocate
for the appellant.

NIDHI GUPTA, J.

Present appeal has been filed by the Insurance Company laying challenge to the Award dated 09.12.2024 passed by Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as "the Tribunal"), whereby MACP No.622 dated 18.10.2018 filed by the claimants/respondents No.1 to 5 herein, under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act"), has been allowed and appellant has been directed to pay compensation of Rs.28,48,700/- to the claimants along with interest @ 9% per annum from the date of filing the claim petition till its realisation.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that the deceased Gurmeet Singh had died in a motor vehicular



accident that took place on 12.08.2018 due to the rash and negligent driving of Cruiser Jeep bearing registration No.HR-85-A-8061 (hereinafter referred to as “the offending vehicle”) by respondent No.6. The offending vehicle was owned by respondent No.7 and insured by the appellant. The 5 claimants are the widow, two minor children and parents of deceased Gurmeet Singh. Respondents No.6 & 7 and the appellant were held jointly and severally liable to pay the amount of compensation.

3. Learned counsel for the appellant assails the impugned Award inter alia on the ground that no negligence is made out on part of the driver in view of the admitted fact that at the time of accident, the deceased was on the roof of the offending vehicle. It is submitted that it is the own pleaded case of the claimants that at the time of accident, the deceased was standing on the roof of the offending vehicle. It is submitted that even eyewitness Raghubinder Kumar on whose statement DDR was registered, has stated that deceased was on the roof of the vehicle and his foot had slipped due to which he sustained the fatal injuries. Raghubinder Kumar has further stated that there was no fault on part of anyone. It is contended that as such, the appellant could not have been held liable to pay the compensation.

4. It is further submitted that the offending vehicle was insured with the appellant under the Private Car Package Policy; whereas



the offending vehicle was being used for commercial purposes. Thus, for this reason as well, liability could not have been affixed upon the appellant.

5. Learned counsel lastly submits that even the quantum of compensation is on the higher side as income of the deceased has been taken on the higher side as Rs.12,000/- per month; whereas as per the relevant Notification, the same should be Rs.8,542/- per month. A copy of the “Minimum Rate of Wages in State of Haryana” is handed over in the Court. Learned counsel accordingly prays that the impugned Award be modified.

6. No other argument is made on behalf of the appellant.

7. I have heard learned counsel for the appellant and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellant.

8. Perusal of the record shows that it was the pleaded case of the claimants that Gurmeet Singh deceased was a helper on the passenger carrying taxi i.e. Cruiser Jeep bearing No. HR-85A-8061/offending vehicle, and respondent No.6 used to serve as a driver on the said vehicle. On 10.08.2018, Gurmeet Singh and respondent No.6 took the devotees of Beas Dera to Utrakhand. After attending Satsang, on 12.08.2018, they were coming back to their respective villages. After reaching Barara, some of the devotees wanted to lighten from the jeep. Respondent No.6 stopped the Jeep and asked Gurmeet Singh to take off the luggage of the passengers



from the roof of the Jeep. When Gurmeet Singh was on the roof of the Jeep, respondent No.6 put the jeep in motion to give pass to the vehicle coming from back side. As a result of which, Gurmeet Singh could not maintain his balance due to sudden motion of Jeep and fell down on the road with his head striking the road first and suffered fatal injury. The accident could have been averted if respondent No.6 had alerted the deceased to take precaution before moving the Jeep. It is averred that the accident had taken place due to rash and negligent driving of the offending vehicle, driven by Davinder Singh (respondent no.6).

9. It was further averred in the claim petition that deceased was 29 years old at the time of accident. He was working as helper-cum-co-driver and was earning Rs.15,000/- per month. Claimants were dependent upon him and stated that they are legally entitled to receive compensation to the extent of Rs.30,00,000/- along with interest on account of death of Gurmeet Singh, in a motor vehicular accident.

10. From a bare reading of the above facts, it is clear that deceased Gurmeet Singh had climbed on the roof of the offending vehicle at the asking of respondent No.6 and it was respondent No.6 who had put the offending vehicle into motion to allow another vehicle to pass while the deceased was still on the roof of the offending vehicle, because of which, the deceased fell from the roof, sustained fatal injuries and expired. This version of events has been corroborated by the testimony of eyewitness



Lalit Kumar PW2, who had deposed that accident had taken place due to the rashness and negligence on part of respondent No.6. It has further been argued on behalf of the appellant that DDR (Ex.P7) had been registered on the statement made by one Raghubinder Kumar who had stated that the accident had occurred as foot of the deceased had slipped suddenly and that no one was at fault. However, said Raghubinder Kumar was not produced as a witness by the appellant before the learned Tribunal. Moreover, against the said DDR, claimant No.1/widow of the deceased, had moved a complaint to the Deputy Commissioner of Police, Ambala.

11. As regards contention of the appellant that in contravention of the terms of the Policy the offending vehicle was being misused for commercial purpose, the said contention is liable to be rejected as admittedly no such plea was raised by the appellant before the learned Tribunal. In fact, it has been categorically recorded by learned Tribunal in Para 21 of the impugned Award that on the date of accident, the driver of the offending vehicle was holding valid and effective driving licence; the offending vehicle was registered in the name of respondent No.7 as evident from Registration Certificate (Ex.R6); that the offending vehicle was duly insured with the appellant vide Insurance Policy (Ex.R2) which was valid from 11.05.2018 to 10.05.2019 covering the date of accident i.e. 12.08.2018.



12. It has lastly been submitted by the appellant that income of the deceased has been taken on the higher side as Rs.12,000/- per month and the same ought to have been taken as Rs.8,542/- per month on the basis of purported notification “Minimum Rate of Wages in State of Haryana”, handed over in Court by learned counsel for the appellant. However, the said document is an undated piece of paper bearing no Notification number etc. and does not even indicate the dates from which the said rates would be applicable. On the contrary, it is only mentioned that on 01.07.2018, unskilled labourer would get minimum rate of wage of Rs.8,541.64/-; whereas accident is of 12.08.2018. As such, no reliance can be placed upon the said document.

13. Accordingly, learned Tribunal has granted compensation in following manner: -

Head	Amount
Monthly Income	Rs.12,000/-
Annual Income	Rs.1,44,000/- (Rs.12,000/- x 12)
40% of future prospect	Rs.57,600/-
Total annual income of deceased	Rs.2,01,600/-
Personal and living expenses (1/4 th)	Rs.50,400/-
Income after deduction of personal and living expenses	Rs.1,51,200/-
Multiplier	17
Loss of dependency	Rs.1,51,200/- x 17 = Rs.25,70,400/-
Funeral expenses	Rs.18,150/-
Loss of estate	Rs.18,150/-
Loss of consortium	Rs.48,400/- x 5 = Rs.2,42,000/-
Total	Rs.28,48,700/-

14. In view of the above, present appeal is **dismissed**.



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

14.05.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No