



FAO-1850-2025 (O&M)

-1-

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

(135)

FAO-1850-2025 (O&M)
Date of decision:- 10.07.2025

SBI General Insurance Company Limited**... Appellant****Versus****Dimple and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Sanjeev Kodan, Advocate
for the appellant-insurance company.

SUVIR SEHGAL, J. (ORAL)

1. Appellant-insurance company is in appeal assailing award dated 20.12.2024 passed by the Motor Accident Claims Tribunal, Jhajjar (for short "the Tribunal") in CIS-MACP-213-2020, whereby a petition filed by claimants/respondent No.1 to 3 under Section 166 of the Motor Vehicles Act, 1988 (for short "the M.V. Act") has been partly accepted.
2. Facts, in brief, leading to the filing of the petition are that on 31.05.2020, Rohit, Anand Singh and two other persons were travelling in a *Swift* car, which was being driven by Rohit. A *I-20* car bearing registration No.HR-14N-8590 (hereinafter referred to as "the offending vehicle") driven rashly by Chirag, suddenly applied its brakes after overtaking their car, resulting in an accident. Rohit and other occupants received multiple injuries. Chirag ran away from the spot leaving the offending vehicle behind. Accident was witnessed by Gaurav and Vikas, who lodged FIR No.119 dated 01.06.2020 under Sections 279, 337,



FAO-1850-2025 (O&M)

-2-

304-A IPC at Police Station City Jhajjar. Rohit was taken to Oscar Super Speciality Hospital and Trauma Centre from where he was shifted to Medanta, Gurugram, but he succumbed to his injuries. His postmortem was conducted on 02.06.2020. His widow and two minor children-claimants/respondents No.1 to 3 filed a petition claiming compensation, which after contest, has been partly accepted vide impugned award and they have been granted compensation of Rs.34,38,008/- along with interest at the rate of 9% per annum. The driver of the offending vehicle, its owner as well as appellant-insurance company have been held to be jointly and severally liable to make the payment of compensation.

3. Counsel for the appellant has argued that Rohit-deceased was partly responsible for the accident as he did not take due care and cautions. He urges that Swift car struck the offending vehicle from behind as Rohit was driving at a reckless speed and did not maintain sufficient distance between the two vehicles. He has further urged that Tribunal has erred in determining the income of the deceased on the basis of the DC rates instead of the minimum wages notified by the State Government vide notification, Ex. R-5. He has placed reliance upon the judgments of this Court in **Shri Ram General Insurance Company Ltd. and others Versus Beant Kaur and others, 2020 ACJ 2163; United India Insurance Co. Ltd. Versus Smt. Neelam and others, (FAO No.4712 of 2015, decided on 21.09.2018)** and **New India Assurance Co. Ltd. Versus Smt. Surti Devi and others, (FAO No.3239 of 2016, decided on 29.05.2018)**.

4. I have heard counsel for the appellant and considered his submission.



5. Although, it has been argued by counsel for the appellant that deceased-Rohit was partly responsible for the accident, but he could not refer to any evidence to support his assertion. The accident stood proved on the basis of the testimony of Vikas Kadian, PW-3, and Jagdish, PW-4, who have categorically deposed that the offending vehicle was being driven in a rash manner by Chirag. Even in the cross-examination of these two vital witnesses, the insurance company could not extract any material to support the assertion. Both the witnesses have testified that Chirag was responsible for the accident. After the completion of the investigation, final report under Section 173 Cr.P.C., Ex.P-29, has been submitted and charges have been framed against Chirag. This is another factor, which indicates careless driving by Chirag, who fled away from the accident site. There is no evidence to show that Rohit was reckless or that he did not maintain sufficient distance from the offending vehicle. Moreover, insurance company has not raised the plea of contributory negligence before the learned Tribunal. Therefore, there is no force in the first argument raised by him.

6. Insofar as the second argument of the counsel is concerned, reference deserves to be made to the judgment of the Supreme Court, in **Chandra @ Chanda @ Chandraram and another Versus Mukesh Kumar Yadav and others, (2022) 1 SCC 198**, wherein it was observed as under:-

“9. It is the specific case of the claimants that the deceased was possessing heavy vehicle driving licence and was earning Rs.15,000/ per month. Possessing such licence and driving of heavy vehicle on the date of accident is proved from the evidence on record. Though the wife of the deceased has categorically deposed as AW1 that her husband Shivpal was earning Rs.15000/ per month, same was not considered only on the ground that salary certificate was not filed. The Tribunal has



fixed the monthly income of the deceased by adopting minimum wage notified for the skilled labour in the year 2016. In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs.15000/ per month.”

7. In **United India Insurance Company Ltd. Versus Prameshawari and others, Law Finder Doc Id #2679185**, a coordinate Bench of this Court held that while the Minimum Wages Act, 1948 gives statutory guidelines ensuring fair wages in scheduled industries, DC rates tend to emerge as a more region specific and realistic benchmark for assessing income in diverse, informal and localized employment scenarios. Therefore, even though, both aim to ensure fair re-compense, a comparison reveals that DC rates usually provide a more accurate reflection of the earning capacity of the deceased in motor accident cases due to their locally oriented applicability and practical value. Minimum wages notified by the State Government cannot be the sole criterion for granting compensation to the dependents of a deceased in a vehicular accident. Similar view has been taken by this Court in **New India Assurance Company Limited Versus Renu and others (FAO No.6665-2016, decided on 20.03.2025)**. The judgments relied upon by counsel for the appellant are not applicable. The second argument raised by the counsel for the appellant is also rejected.

**FAO-1850-2025 (O&M)****-5-**

8. For the afore-going reasons, this Court does not find any merit in the appeal, which is dismissed, though with no order as to cost.

9. As the main appeal has been decided, pending application(s), if any, is/are disposed of.

10.07.2025
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No