



268-2

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

1.

**FAO-5547-2019 (O&M)****Date of Decision : 02.04.2025**

Shri Ram General Insurance Company Limited

... Appellant(s)

Versus

Guljar Kaur &amp; Ors

... Respondent(s)

2.

**FAO-63-2020 (O&M)**

Guljar Kaur &amp; Anr

... Appellant(s)

Versus

Surinder Pal &amp; Ors

... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Rajbir Singh, Advocate  
for the appellant in FAO-5547-2019 and  
for respondent No.3 in FAO-63-2020.

Mr. Vikram Jeet Singh, Advocate  
for respondent Nos.1 and 2 in FAO-5547-2019 and  
for the appellants in FAO-63-2020.

Mr. Vishal Gupta, Advocate  
for respondent Nos.3 and 4 in FAO-5547-2019 and  
for respondent No.1 and 2 in FAO-63-2020.

**ALKA SARIN, J. (Oral)**

1. The present order shall dispose off the two above-noted appeals. The parties are being referred to as the Insurance Company, claimants and owner and driver of the offending vehicle (HP-11B-4183) for the sake of clarity. **FAO-5547-2019** has been filed by the Insurance Company and **FAO-63-2020** has been filed by the claimants challenging the impugned award dated 21.05.2019 passed by the Motor Accident Claims Tribunal, Rupnagar (hereinafter referred to as 'Tribunal') in a motor vehicle accident which occurred on 20.06.2018.

2. Brief facts relevant to the present *lis* are that one Gurdarshan Singh (since deceased) was going on his motorcycle bearing registration No.PB-12-AD-5792 to Bara Pind on 20.06.2018. He was followed by his father Charan Singh and Aminder Singh, who were on a separate motorcycle bearing registration No.PB-12-AC-0599. At about 11.30 pm when they reached near Malikpur T-point, a truck bearing registration No.HP-11-B-4183 (offending vehicle) came from Ghanauli side and without giving any indicator and blowing any horn and in a rash and negligent manner struck against the motorcycle of the deceased at a very high speed. The front tyre of the offending vehicle crushed the head of the deceased and he died at the spot. However, the driver of the offending vehicle after causing accident fled from the spot. FIR No.67 dated 21.06.2018 was registered under Sections 279, 304-A, 427 of the Indian Penal Code, 1860 at Police Station Sadar Rupnagar on the statement of Charan Singh i.e. father of the deceased. In the FIR the registration number of the offending vehicle was mentioned, however, details of the driver were not given. Driver and owner of the offending vehicle filed their joint written statement raising various preliminary objections qua maintainability. The factum of the accident was denied and it was pleaded that the offending vehicle had falsely been implicated. It was further the stand taken that the FIR had wrongly been registered by the Police in connivance with the claimants. The Insurance Company filed its written statement stating that the claim petition had been filed in collusion with the driver and owner of the offending vehicle and that at the time of the accident the driver did not have a valid driving licence and the offending vehicle did not have a valid route permit, registration

certificate, insurance, fitness certificate etc. On merits it was denied that any accident took place as alleged. On the basis of the pleadings, the following issues were framed :

1. Whether Gurdarshan Singh died in the Motor Vehicular Accident which took place at about 11-30 P.M. on 20.06.2018 in the area of near T-point Malikpur on account of rash and negligent driving of Truck bearing No.HP-11-B-4183 by respondent No.1 as alleged ? OPP
2. If issue No.1 is proved, whether the petitioner is entitled for compensation, if so, to what extent ? OPP
3. Whether respondent No.1 was not having legal and valid driving licence at the time of alleged accident ? OPR (Respondent No.3 Insurance Company).
4. Whether the offending vehicle was not having valid registration certificate, fitness certificate, route permit and insurance at the time of alleged accident ? OPR
5. Relief.

3. The Tribunal holding it to be a case of rash and negligent driving, awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Income per month	₹9,000/-
2	Annual Income	₹1,08,000/- [₹9,000 x 12]
3	Deduction 50%	₹54,000/- [₹1,08,000 - 54,000]
4	Future prospects @ 40%	₹75,600/- [₹54,000 + 21,600]
5	Multiplier 14	₹10,58,400/- [₹75,600 x 14]
6	Funeral expenses	₹15,000/-
7	Loss of estate	₹15,000/-
8	<b>Total Compensation</b>	<b>₹10,88,400/-</b>
	<b>Interest</b>	<b>12% per annum</b>

4. Aggrieved by the same, **FAO-5547-2019** has been filed by the Insurance Company and **FAO-63-2020** has been filed by the claimants.

5. Learned counsel for the Insurance Company would contend that though it was stated that PW2 – Charan Singh and Aminder Singh were two eye-witnesses of the accident, however, the mother of the deceased – Gulzar Kaur – who stepped in the witness box as PW1, stated that both the said persons were at home when the accident took place. The learned counsel has further contended that the income of the deceased has been assessed on the higher side i.e. ₹9,000/- per month as the minimum wages at the relevant time were ₹7,852.17/- per month. It is further the contention of the learned counsel that there is no further scope of any enhancement.

6. Learned counsel for the claimants would contend that PW1 – Gulzar Kaur, mother of the deceased, was an uneducated lady and had appended her thumb-impressions and hence any variation in the statement ought to be ignored. Charan Singh, who is the eye-witness, had stepped into the witness box as PW2 and stated that he had witnessed the accident. It is further the contention of the learned counsel that in the cross-examination, nothing could be elicited from the said witness. It is further the contention of the learned counsel that in the FIR the registration number of the offending vehicle was clearly stated and that in the application filed for additional evidence, the judgment in the criminal trial has been appended which also shows that though Charan Singh failed to recognize the driver, however, the factum of the accident was proved.

7. Qua enhancement of compensation, the learned counsel for the claimants has contended that though he does not wish to challenge the

deduction and the addition of future prospects as applied by the Tribunal, however, he has contended that the Tribunal has wrongly applied a multiplier of 14 inasmuch as the deceased in the present case was 22 years' old and hence a multiplier of 18 ought to have been applied. It is further the contention of the learned counsel that the income of the deceased has rightly been assessed as ₹9,000/- per month. It is further the contention of the learned counsel that no amount has been awarded under the head 'loss of consortium' and that the amount awarded under the conventional heads is also on the lower side. In support of his contentions, he has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121]**, **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

8. I have heard the learned counsel for the parties.

9. In the present case the argument of the learned counsel for the Insurance Company that since there is a variation in the statements of PW1 and PW2, hence, the factum of the accident itself is not proved, deserves to be rejected. PW1 – Gulzar Kaur, the mother of the deceased, was admittedly an uneducated lady who had thumb-marked the statement and any minor variance in her statement would have to be ignored keeping in mind the evidence on the record. PW2 – Charan Singh – who is one of the eye-witnesses, had stepped into the witness box and clearly stated that he and his

nephew were following the deceased on their motorcycle. In the cross-examination, nothing could be elicited from the said witness to even remotely suggest that he had not witnessed the accident. Further still, an FIR was lodged on the very next day of the accident in which the registration number of the offending vehicle was clearly mentioned though the name of the driver was not stated and on 26.06.2018 admittedly the offending vehicle was also taken into custody. The driver and owner of the offending vehicle did not step into the witness box in the present case to prove their stand that no accident took place. An application for additional evidence was filed by the Insurance Company being **CM-20320-CII-2019** for bringing on record the judgment dated 16.09.2019 passed in the criminal case. The said application was allowed vide order dated 30.09.2019. A perusal of the said judgment dated 16.09.2019 reveals that though Charan Singh – PW2 – could not identify the driver in the criminal case, however, the accident was not denied by him. In view thereof, nothing would turn on the judgment passed in the criminal case.

10. The argument of the learned counsel for the Insurance Company that the income of the deceased has been assessed on the higher side i.e. ₹9,000/- per month as the minimum wages at the relevant time were ₹7,852.17/- per month, deserves to be rejected. Hon'ble Supreme Court in the case of **Chandra @ Chanda @ Chandraram & Anr. vs. Mukesh Kumar Yadav & Ors. [2021(4) RCR (Civil) 492]** has held that a certain amount of guesswork can be done in motor accident claim cases while assessing the income when there is no definite proof regarding income. Para 10 of the said judgment reads as under :

*“10. It is the specific case of the claimants that the deceased was possessing heavy vehicle driving licence and was earning Rs.15000/- 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 AW-1 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 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. In the case of Minu Rout & Anr. v. Satya Pradyumna Mohapatra & Ors., (2013) 10 SCC 695 this Court while dealing with the claim relating to an accident which occurred on 08.11.2004 has taken the salary of the driver of light motor vehicle at Rs.6000/- per month. In this case the accident was on 27.02.2016 and it is clearly proved that the deceased was in*

*possession of heavy vehicle driving licence and was driving such vehicle on the day of accident. Keeping in mind the enormous growth of vehicle population and demand for good drivers and by considering oral evidence on record we may take the income of the deceased at Rs.8000/- per month for the purpose of loss of dependency. Deceased was aged about 32 years on the date of the accident and as he was on fixed salary, 40% enhancement is to be made towards loss of future prospects. At the same time deduction of 1/3rd is to be made from the income of the deceased towards his personal expenses. Accordingly the income of the deceased can be arrived at Rs.7467/- per month. By applying the multiplier of '16' the claimants are entitled for compensation of Rs.14,33,664/-. As an amount of Rs.10,99,700/- is already paid towards the loss of dependency the appellant-parents are entitled for differential compensation of Rs.3,33,964/-. Further in view of the judgment of this Court in the case of Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram & Ors., 2018 SCC OnLine SC 1546 = (2018) 18 SCC 130 the appellants are also entitled for parental consortium of Rs.40,000/-each. The finding of the Tribunal that parents cannot be treated as dependents runs contrary to the judgment of this Court in the case of Sarla Verma (Smt). & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121. The judgment in the case of Kirti & Anr. v. Oriental Insurance Company Limited, (2021) 2 SCC 166 relied on by the counsel for the respondent would not render any assistance in support of his case having regard to facts of the case and the evidence on record.”*

11. It is trite that the minimum wage notification is merely a yardstick and not an absolute factor to be taken to determine the compensation payable to the claimants. It has been laid down in a plethora of judgments by the Hon'ble Supreme Court that the Courts must strike a balance between inflated and unreasonable demands of the victim and the equally untenable claim of the opposite party saying that nothing is payable. Accordingly, keeping in view the law laid down by the Hon'ble Supreme Court in the case of **Chandra @ Chanda @ Chandraram** (supra), this Court does not deem it appropriate to interfere in the assessment of the income as made by the Tribunal. Hence, the income of the deceased as assessed by the Tribunal i.e. ₹9,000/- per month is maintained.

12. In the present case, since there is no challenge to the deduction and the future prospects as applied by the Tribunal, the same are accordingly maintained. The Tribunal while awarding the compensation has applied a multiplier of 14 as per the age of the mother of the deceased which is not in consonance with the law laid down by the Hon'ble Supreme Court in the case of **Sarla Verma** (supra) and hence keeping in view the age of the deceased which was 22 years at the time of the accident, a multiplier of 18 is applied. Further, the amount awarded under the conventional heads is not in accordance with law and no amount has been awarded under the head 'loss of consortium' and hence, as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and

₹18,000/- (₹15,000+20% increase) towards funeral expenses and the claimants (parents of the deceased) would also be entitled to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	<b>Monthly Income</b>	₹9,000/-
2	<b>Annual Income</b>	₹1,08,000/- [₹9,000 x 12]
3	<b>Deduction 50%</b>	₹54,000/- [₹1,08,000 – 54,000]
4	<b>Future Prospects - 40%</b>	₹75,600/- [₹54,000 + 21,600]
5	<b>Multiplier - 18</b>	₹13,60,800/- [₹75,600 x 18]
6	<b>Loss of estate</b>	₹18,000/-
7	<b>Funeral expenses</b>	₹18,000/-
8	<b>Loss of consortium</b>	
	(i) Filial [₹48,000/- x 2]	₹96,000/-
	<b>Total Compensation</b>	<b>₹14,92,800/-</b>

13. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

14. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 : Civil Appeal No.4299 of 2025 arising out of SLP (C) No.4484 of 2020 decided on 18.03.2025]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the percentage directed by the Tribunal. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two

weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

15. In view of the above discussion, the appeal (FAO-5547-2019) filed by the Insurance Company is dismissed and the appeal (FAO-63-2020) filed by the claimants is allowed and accordingly the impugned award passed by the Tribunal stands modified to the above extent. Pending applications, if any, also stand disposed off.

02.04.2025  
Yogesh Sharma

**( ALKA SARIN )**  
**JUDGE**

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO