



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 09.10.2025

FAO-1809-2009(O&M)

The New India Assurance Co.

...Appellant(s)

Vs.

Surjit Kaur & Others

...Respondent(s)

FAO-2689-2009(O&M)

Surjit Kaur & Others

...Appellant(s)

Vs.

Gurmit Singh & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rajneesh Malhotra, Advocate
for the appellant/Insurance Company
in FAO-1809-2009.

Mr. S.S. Rangji, Advocate
Ms. Aneet Kaur, Advocate
Ms. Kawaljit Kaur, Advocate
for the appellants/claimants
in FAO-2689-2009.

NIDHI GUPTA, J.

FAO-1809-2009

Present appeal has been filed by the Insurance Company laying challenge to the Award dated 26.11.2008 passed by Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the learned Tribunal') whereby



Claim Petition No.48-T dated 20.04.2004 filed by the claimants/respondents No.1 to 4 herein, has been allowed and compensation of Rs.3,60,000/- has been awarded to the claimants along with interest @ 6% per annum.

FAO-2689-2009

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.3,60,000/- awarded by the learned Tribunal vide Award dated 26.11.2008 passed in Claim Petition No.48-T dated 20.04.2004 filed under Section 166 of the Act. The 4 claimants are the 63-year-old mother, 36-year-old widow, and 2 minor children of deceased Lakhwinder Singh, who was 35 years old at the time of accident.

Both the above said appeals are being disposed of by this common order as both appeals arise out of the same Award dated 26.11.2008; accident dated 15.02.2004; and parties, facts and offending vehicle in both cases, are same. For the sake of brevity, the parties are being referred to and the facts are being drawn from FAO-1809-2009 titled as "The New India Assurance Co. Vs. Surjit Kaur & Others".

2. Learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the deceased Lakhwinder Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 15.02.2004 due to the rash and negligent driving of truck bearing registration No.HR-38D-4977



(referred to herein as “the offending vehicle”) being driven by respondent No.5 and owned by respondent No.6.

3. Before proceeding with the matter, it may be pointed out that the service of respondents No.5 and 6/driver and owner respectively of the offending truck was dispensed with by this Court vide order dated 05.09.2009. It is also pointed out by learned counsel for the appellant/Insurance Company that service was even affected through proclamation on the respondents No.5 and 6, despite that none has appeared. Thus, service of respondents No.5 and 6 was dispensed with vide order dated 05.09.2009. It is also pointed out by learned counsel for the claimants that the claimant/respondent No.1/mother of the deceased has expired during the pendency of the present appeals.

4. Learned counsel for the appellant/Insurance Company submits that the learned Tribunal ought to have granted recovery rights to the appellant/Insurance Company against respondents No.5 and 6 in view of the proven fact that respondent No.5 did not possess the valid driving licence on date of accident. In this regard, learned counsel refers to the findings as recorded by the learned Tribunal in Para 13 of the Award, wherein RW1 Jagtar Singh, Clerk, DTO Patiala had clearly deposed that the licence produced by respondent No.5 was originally borne in the name of one Parminder Kaur. It is submitted that the Hon’ble Supreme Court in **New India Assurance Co. Vs. Kamla 2001(3) RCR (Civil) 716**, has held that once



the original Driving Licence is found to be fake, then recovery rights are liable to be granted to the Insurance Company. It is accordingly prayed, that in the present case, licence of the respondent No.5 was invalid and therefore, recovery rights ought to have been granted to the appellant/Insurance Company against the respondents No.5 and 6.

5. Learned counsel for the claimants seeks enhancement of compensation by submitting that the deceased was a dairy farmer and cultivator of land and that he was earning Rs.15,000/- per month. Yet the Tribunal has taken income of the deceased on the lower side as only Rs.3,000/- per month. Further, nothing has been awarded towards future prospects. As there were 4 dependents, deduction of $1/4^{\text{th}}$ ought to have been made; whereas the learned Tribunal has incorrectly made deduction of $1/3^{\text{rd}}$. The deceased was proved to be 35 years old. As such, multiplier of 16 should have been applied; whereas learned Tribunal has applied multiplier of 15. Even nothing has been awarded under the conventional heads. Ld. counsel accordingly prays for enhancement of compensation.

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

7. I have heard learned counsel and perused the case file in detail. I find some merit in the submissions advanced on behalf of both the learned counsel for the parties.



8. To determine the question of Grant of recovery rights, the deposition of RW1 Jagtar Singh, Clerk, DTO Patiala is relevant. RW1, had deposed as follows before the learned Tribunal:-

"I have brought the summoned record which is regularly maintained in our office. As per our record which I have brought today, the driving licence of Gurmit Singh son of Jasmer Singh was renewed from our office vide No.3805/R/2000 valid from 14.06.2000 to 13.06.2003 for LTV and HTV. The photocopy of the original record is Ex.R-1. It was again renewed in the name of Gurmit Singh son of Jasmer Singh respondent No.1 vide no.5925/R/2003 from 26.06.2003 to 25.06.2006 for LTV and HTV only. The photocopy of the original is Ex.R-2. The licence No.2443/R/1997 is in the custody of Vigilance Department required in a criminal investigation case. The photocopy of the same is Mark-A. All these numbers relates to the renewal licence of Gurmit Singh son of Jasmer Singh respondent No.1. Renewal entries are also made in the driving licence of Gurmit Singh son of Jasmer Singh. The photocopy of driving licence respondent No.1 Gurmit Singh son of Jasmer Singh is Ex.R-3. As per DL, the respondent No.1 is authorised to drive only LTV and HTV. The original verification report issued by the DTO, Patiala regarding the renewals of the driving licence is Ex.R-4. I have seen the original entry of the driving licence of respondent No.1 Gurmit Singh and as per Ex.R-3, the old number of driving licence of Gurmit Singh is 19199/91/LA(NV), Patiala. The same as per our record has not been issued in the name of Gurmit Singh son of Jasmer Singh rather the same has been issued in the name of Parminder Kaur d/o Harbhajan Singh r/o Banur and the photocopy of the



original record is Ex.R-5. So this entry No.19199/91/LA(NV) Patiala in the name of respondent No.1 Gurmit Singh is fake on DL Ex.R3.

xxxxxx by counsel for the claimant

It is wrong to suggest that the driving licence of respondent No.1 is not fake and the original old number 19199/91/LA(NV), Patiala is correct. It is incorrect to suggest that respondent No.1 was holding a valid driving licence. It is incorrect to suggest that I am deposing falsely.

Xxxxxxxxxx by counsel for the respondent No.1.

It is correct that there are separate registers for the renewal of licences and original licences which are issued for the first time and old number is mentioned on the driving licence. I have brought the records today in the court and I am deposing in this case on the basis of the record. It is wrong to suggest that I am deposing falsely.”

(Emphasis added)

9. However, despite the above said clear-cut testimony of RW1, the Tribunal in Para 13 of the impugned Award has opined as follows: -

“13. RW1 Jagtar Singh Clerk DTO, Patiala deposed that original license bearing No. 19199/91/LA(NV) Patiala was issued in the name of Parminder Kaur as per their record but he also deposed that the license of Gurmit Singh was renewed from time to time and lastly upto 25.6.06 and proved on record documents Ex.R1 to Ex.R5 pertaining to that driving license. So when the driving license was renewed by the same licensing authority, the driving licence of Gurmit Singh cannot be held as a fake document. Moreover, the perusal of the driving license



Rx.RW2/B also shows that it was renewed upto 25.6.06. Rather there is a verification report Ex.R4 on the record which also proves that the driving license was renewed upto 25.6.06. The accident in question took place on 15.2.04. Hence the driving license was valid on the date of accident. So this issue is decided against respondent No.3 and in favour of the claimants and other respondents.”–

10. It is my considered view, that the learned Tribunal was in error in ignoring the fact that the original driving license of respondent No.5 was fake as it was not in his name. As such, mere renewal of a document which was originally fake would not validate the fake license. In this view of the matter, recovery rights are liable to be granted in favour of the appellant against respondents No.5 and 6.

11. As regards quantum of compensation, age of deceased was proved to be 35 years on the basis of his Post-Mortem Report (Ex.P2). Although it was pleaded by the claimants that the deceased was an agriculturist and dairy farmer and earning Rs.15,000/- per month, however, no proof of income was produced by the claimants. The claimants had duly proved that the deceased was owner of land to the extent of 1/8th share as per Jamabandi (Ex.P4). Admittedly, the said landholding was still with the claimants who are enjoying the fruits of the land. But no proof of income was produced by the claimants. Thus, the learned Tribunal had correctly assessed income of the deceased as Rs.3,000/- per month.



12. The claimants were 4 in number, as such, deduction of 1/4th ought to have been made; and not 1/3rd as incorrectly made by the learned Tribunal. Furthermore, nothing has been awarded by way of future prospects; whereas the deceased being 35 years of age, future prospects were liable to be added @ 40%. Multiplier of 15 has also been incorrectly applied and the same should be 16, in conformity with Constitution Bench judgment of Hon'ble Supreme Court in "**National Insurance Company Ltd. VS. Pranay Sethi & Others**" Law Finder Doc ID # 918174. The learned Tribunal has even awarded nothing under the conventional heads. Therefore, keeping in view the fact that the claimant No.1/mother of the deceased has expired, the claimants/respondents No.2, 3 and 4 herein are held entitled to consortium of Rs.48,000/- each and an amount of Rs.18,000/- towards loss of estate; and Rs.18,000/- towards funeral expenses. In view of the above discussion, both the above-said appeals stand **allowed**; and compensation payable to the appellants is re-assessed in the following manner: -

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.3,000/- per month Rs.36,000/- per annum	Rs.3,000/- per month Rs.36,000/- per annum
Future prospects	Nil	(40%) Rs.1,200/-
Deduction towards personal expenses	(1/3 rd) Rs.1,000/-	(1/4 th) Rs.1,050/- per month
Total income after deduction	Rs.2,000/-	Rs.3,150/- per month
Multiplier	15	16
Annual dependency	Rs.5,60,000/-	Rs.6,04,800/-



Loss of estate	-	Rs.18,000/-
Funeral expenses	-	Rs.18,000/-
Loss of consortium	-	Parental – Rs.48,000/- x 2 = Rs.96,000/- Spousal = Rs.48,000/- Total = Rs.1,44,000/-
Total compensation	Rs.3,60,000/-	Rs.7,84,800/-
Compensation now payable	Rs. 7,84,800-3,60,000	Rs. 4,24,800/-
Interest	6%	6%

13. The Insurance Company (appellant) in RSA-1809-2009 is held entitled to recover the said amount of compensation from the respondents No.5 and 6.

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

09.10.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No