



FAO-4456-2019 (O&M)

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

FAO-4456-2019 (O&M)

Date of Decision: July 24, 2025

Oriental Insurance Co. Ltd.Appellant(s)

vs.

Paramjeet Kaur and othersRespondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMAPresent: Mr. Ashwani Talwar, Advocate with
Mr. Deepak Goyat, Advocate, for the appellant.

Mr. Vrishank Suri, Advocate for respondent Nos. 1 and 2.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 01.02.2019 passed in the claim petition bearing No. 61 of 24.11.2015 filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Patiala (for short, 'the Tribunal') whereby the claimants were granted compensation to the tune of Rs.55,29,500/- and the Insurance Company was held liable to pay the compensation to the claimants.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that Kuldip Singh (son of the claimants) was 28 years old at the time of his death and was getting salary of Rs.1,00,000/- per month. On 02.09.2015 Kuldip Singh (since deceased) was returning to village Tehnga from village Phillaur on motorcycle bearing registration no. PB-08-DC-2071 driven by his friend Gurdeep Singh. At about 10:00 pm, when they reached near village Garha, a truck was coming from the opposite side. The said truck was being driven in a rash and negligent manner. Respondent no.1 Gurdeep Singh was driving the motorcycle also at a very high speed and in a rash and negligent manner. On seeing the truck, he could not control the motorcycle and motorcycle

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hit into the said truck. The accident took place on account of composite negligence of respondent No.1 and the driver of the truck. However, the driver of truck immediately moved away with the truck in question and even the registration number of the truck could not be noted. On account of the accident, both the occupants of the motorcycle fell down on the road and received multiple injuries. Kuldip Singh succumbed to the injuries on the spot.

3. Upon notice of the claim petition, respondents appeared and filed their separate written replies denying the factum of accident and compensation.

4. From the pleadings of the parties, the following issues were framed by the learned Tribunal :-

- “1. Whether Kuldip Singh son of Sh. Balvir Singh suffered injuries in a motor vehicular accident, which took place on 02.09.2015 at about 10 pm, within the jurisdiction of Police Station Phillaur, due to rash and negligent driving of Royal Enfield motorcycle bearing registration No. PB-08DC-2071 by Gurdeep Singh respondent No. 1, to which he succumbed? OPP*
- 2. Whether the claimants/petitioners are entitled to recover any compensation, if so to what amount and from whom? OPP*
- 3. Whether the claim petition is not maintainable? OPR*
- 4. Whether the Tribunal does not have territorial jurisdiction to entertain and try the present claim petition? OPR*
- 5. Whether respondent No. 1 was not having a valid and effective driving licence at the time of accident, if so its effect? OPR*
- 6. Whether terms and conditions of the policy were violated, if so its effect? OPR*
- 7. Whether the claim petition is bad for misjoinder and non-joinder of parties? OPR*
- 8. Relief.”*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the

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appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel for the appellant-Insurance Company contends that the accident occurred solely on the negligence of the truck driver, therefore, the learned Tribunal has erred in holding the case of composite negligence. He further contends that the amount of compensation awarded by the learned Tribunal is on the higher side. Therefore, he prays that the appeal be allowed.

7. Per contra, learned counsel for claimants/respondent Nos. 1 and 2 argues on the lines of the award. He prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole records of the case.

9. Before proceeding further, it is important to reproduce the relevant portion of the award, which reads as under:-

“ISSUES NO. 1 & 2

9 Since these issues are interconnected, therefore the same are being taken up together to avoid repetition of discussion.

10. To prove that the accident in question occurred due to the composite negligence of respondent no.1 and the driver of the truck in question, the applicants have examined PW3 Vineet Kumar, who claims to be an eye witness to the accident. He stated that at the time of accident, the respondent no.1 was driving the motorcycle at very high speed and in a rash and negligent manner and he could not control the same on seeing the truck coming from the opposite side. Even the truck was being driven rashly and negligently. The collusion between both the vehicles took place on account of rashness and negligence on the part of both the drivers. The applicants have also produced Ex.P2 copy of FIR no.213 dated 03.09.2015 registered on the basis of statement made by Prem Singh, the father of respondent no.1.

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11. *The learned counsel for the applicants has argued that from the evidence on record, it is proved that the accident took place due to composite negligence of respondent no.1 and the driver of unknown truck. He submitted that the applicants can claim compensation from any of the joint tortfeasor.*

12. *On the other hand, the learned counsel for respondent no.2 argued that as per the contents of the FIR, the accident had taken place due to rash and negligent driving of the truck driver. Since the applicants could not find out the particulars of said truck, therefore, they have changed their version and have tried to make it out as a case of composite negligence. They have falsely introduced Vineet Kumar as witness in this case.*

13. *After giving anxious thoughts to the rival contentions and going through the record of the case, this Tribunal is of the considered view that from the evidence on record, it is proved that the accident in question was the result of composite negligence of respondent no.1 and the driver of unknown truck. It is undisputed fact that it is a case of head on collision between the motorcycle driven by respondent no.1 and unknown truck, which sped away after the accident. Even as per the investigation report produced on the file by the Insurance company (Ex.R1, deceased Kuldip Singh had died in the accident of this nature. Merely because in the FIR got registered by Prem Singh, the father of respondent no.1, he blamed the driver of the truck for the accident in question, it cannot be concluded that the accident occurred due to rash and negligent driving of the truck alone. Prem Singh, the father of respondent no.1 was bound to make such like statement in order to save the skin of his son. Since it is a case of head on collision and there is no allegation that the driver of the truck had brought the truck to the wrong side of the road, it has to be taken a case of composite negligence on the part of respondent no.1 and that of the driver of unknown truck. It would be pertinent to mention here that even in the FIR Ex.P2, there is no allegation that the truck had come to the wrong side of the road. Even if version of PW3 Vineet Kumar be not taken into consideration, still there is adequate evidence on record to prove that it was a case of composite negligence. In a case of composite negligence, the claimant can claim compensation from the owner, driver and insurer of any of the*

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vehicles involved in the accident. It would be pertinent to mention here that the respondent no.2 has produced on the file copy of claim application titled Paramjeet Kaur & others vs. Gurdeep Singh & another Ex.R4 to indicate that the persons have modus operandi to change the version in this manner. However, the said copy of the application does not help the respondent no.2 as each case has to be decided on the facts of that particular case.

14 So far as the quantum of compensation is concerned, applicant Balvir Singh has stated that his son was working with Samsung Engineering Company Limited in Uzbekistan and used to earn Rs.1,00,000/- per month. PW1 Balvir Singh has admitted in his cross-examination that his son had returned from Russia after spending two years. Even as per entries in the passport of the deceased Ex.P4, Visa had been allowed to him by the Government of Uzbekistan only upto 30.08.2014. The applicants have also got produced the copy of statement of account of the deceased with State Bank of India, Phillaur, which shows that the deceased had been regularly receiving the amounts in the range of Rs.45,000/- to Rs.50,000/- every month. However, as already mentioned above, applicant Balvir Singh has admitted that his son had returned to India after working for two years in Uzbekistan. But the statement of account pertaining to the bank account shows that even after return from Uzbekistan, he had been continuously getting the amounts in his bank account regularly every month. In view of his statement of account, his monthly income can be taken to be Rs.40,000. Even if it be assumed that he was working on fixed salary, in view of the law laid down by the Hon'ble Apex Court in National Insurance Company vs. Pranay Sethi and others, 2017 ACJ 2700 (SC), the addition to the extent of 40% requires to be made towards the future prospects. It would be pertinent to mention here that as per copy of his passport Ex.P4, the date of birth of the deceased was 24.04.1987 and therefore he was 28 years old at the time of his death. Therefore, his monthly income for the purpose of assessment of compensation comes to Rs.56,000/- and the annual income of the deceased comes to Rs.6,72,000/-. The deduction to the extent of Rs.25,000/- requires to be made towards income tax and therefore the net income of the deceased comes to Rs.6,47,000/-. Since the deceased was unmarried, a cut

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to the extent of ½ requires to be applied towards the personal and living expenses of the deceased. By applying the multiplier of 17, the amount of compensation towards pecuniary loss comes to Rs.54,99,500/-. Besides the said amount, the applicants are entitled to Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses and the total amount of compensation comes to Rs.55,29,500/-. Both these issues are decided.”

10. A perusal of the impugned award reveals that the learned Tribunal has meticulously appreciated the evidence on record and correctly arrived at the conclusion that the accident in question occurred due to composite negligence.

11. At the very outset, this Court finds no merit in the argument advanced by the learned counsel for the appellant–insurance company that the accident occurred solely due to the negligence of the driver of the truck, thereby denying the aspect of composite negligence. Such contention is manifestly without any substance.

12. The record reflects that PW-3 Vineet Kumar, an eyewitness to the accident has given a detailed and cogent narration of the chain of events leading to the collision. He specifically deposed that both the motorcyclist-Gurdeep Singh (respondent no.3) and the driver of unknown truck were driving their vehicles in a rash and negligent manner, which resulted in a head-on collision. His testimony withstood a lengthy and rigorous cross-examination, yet nothing material emerged to discredit or impeach his version. Learned Tribunal has therefore, rightly relied on his credible and unimpeached testimony to arrive at the finding of composite negligence.

13. It is pertinent to note that the accident was a head-on collision between the motorcycle driven by respondent No.3 and an unidentified truck, which fled from the scene. The appellant/insurance company has failed to bring on record any material to establish that the driver of the truck alone was responsible

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for the accident. Significantly, there is no allegation or evidence suggesting that the truck was on wrong side of the road, which could have implied exclusive fault on the part of its driver.

14. Further, the FIR (Ex.P2) lodged by Prem Singh, father of respondent No.1, attributing blame solely to the driver of the truck, cannot be taken at face value. Moreover, even independent of the deposition of PW-3, the totality of evidence and the circumstances surrounding the accident support the finding of composite negligence.

15. It is a settled proposition of law that in proceedings under the Motor Vehicles Act, 1988, the standard of proof is one of preponderance of probabilities and not proof beyond reasonable doubt, as held by the Hon'ble Supreme Court in ***Anita Sharma v. New India Assurance Co. Ltd. [(2021) 1 SCC 171]***. The Court in that case observed that while adjudicating claims under MACT, the learned Tribunal should assess the entire evidence holistically, and not adopt a hyper-technical approach to discredit credible testimony. The relevant extract of the same is reproduced as under:-

“23. The observation of the High Court that the author of the FIR (as per its judgment, the owner-cum-driver) had not been examined as a witness, and hence adverse inference ought to be drawn against the appellant-claimants, is wholly misconceived and misdirected. Not only is the owner-cum-driver not the author of the FIR, but instead he is one of the contesting respondents in the Claim Petition who, along with insurance company, is an interested party with a pecuniary stake in the result of the case. If the owner-cum-driver of the car were setting up a defence plea that the accident was a result of not his but the truck driver's carelessness

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or rashness, then the onus was on him to step into the witness box and explain as to how the accident had taken place. The fact that Sanjeev Kapoor chose not to depose in support of what he has pleaded in his written statement, further suggests that he was himself at fault. The High Court, therefore, ought not to have shifted the burden of proof.”

16. In light of the above legal position and the evidence on record, this Court is of the considered view that the learned Tribunal has rightly returned the finding of composite negligence and the same warrants no interference by this Court.

17. With respect to the quantum of compensation, the contention raised by the learned counsel for appellant-insurance company that the compensation awarded to the claimants is excessive, is equally devoid of any merit.

18. PW-1 Balvir Singh, father of the deceased, deposed that his son was employed with Samsung Engineering Company in Uzbekistan and was earning ₹1,00,000/- per month. Although he admitted in cross-examination that his son returned to India after two years of working abroad, the bank statement produced on record (Ex.P4) establishes that the deceased was regularly receiving monthly credits in the range of Rs.45,000/- to Rs.50,000/-. The learned Tribunal, after considering the income pattern reflected in the bank account, reasonably assessed the monthly income of the deceased at Rs.40,000/-.

19. It is also pertinent to refer to judgment of Hon’ble the Supreme Court of India in a case of ‘***K. Ramya v. National Insurance Co. Ltd. [(2023) 3 SCC 367]***’, wherein the Supreme Court emphasized that determination of compensation must be liberal, realistic, and not parsimonious, and the appellate court should

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ordinarily interfere only when the award is manifestly excessive or arbitrary. The relevant extract of the same is reproduced as under:-

“11. At the outset, it is pertinent to reiterate the concept of ‘just’ compensation under Section 168 of the Act. It is a settled proposition, now through a catena of decisions including the one rendered by the Constitution Bench in Pranay Sethi that compensation must be fair, reasonable and equitable. Further, the determination of quantum is a fact-dependent exercise which must be liberal and not parsimonious. It must be emphasized that compensation is a more comprehensive form of pecuniary relief which involves a broad-based approach unlike damages as noted by this court in Yadava Kumar v Divisional Manager, National Insurance Co. Ltd. The discussion in the above-mentioned cases highlights that Tribunals under the Act have been granted reasonable flexibility in determining ‘just’ compensation and are not bound by any rigid arithmetic rules or strict evidentiary standards to compute loss unlike in the case of damages. Hence, any interference by the Appellate Courts should ordinarily be allowed only when the compensation is ‘exorbitant’ or ‘arbitrary’.

12. Furthermore, Motor Vehicles Act of 1988 is a beneficial and welfare legislation that seeks to provide compensation as per the contemporaneous position of an individual which is essentially forward Looking. Unlike tortious liability, which is chiefly concerned with making up for the past and reinstating a claimant to his original position, the compensation under the Act is concerned with providing stability and continuity in peoples’ lives in the future. Keeping the

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above mentioned principles in the backdrop, we now move on to the facts at hand.”

20. In the present case, no such infirmity exists in assessment of compensation by the learned Tribunal, vide its award dated 01.02.2019.

21. In view of the foregoing discussion, supported by settled proposition of law this Court finds no perversity or illegality in the findings recorded by the learned Tribunal. Accordingly, the same are hereby affirmed.

22. Accordingly, the appeal is dismissed being devoid of any merit.

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

(SUDEEPTI SHARMA)
JUDGE

July 24, 2025

Gaurav Arora

Whether speaking/non-speaking : Speaking

Whether reportable : Yes