



FAO-4280-2013 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-4280-2013 (O&M)
Reserved on: 26.09.2025
Date of Decision: 09.10.2025

ORIENTAL INSURANCE CO. LTD.Appellant(s)

vs.

KAMLA DEVI & ORSRespondent(s)

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. D.P. Gupta, Advocate
for the appellant.

Mr. Sandeep Goyal, Advocate
for respondent No.1.

Mr. Parveen Kumar, Advocate
for respondent No.2.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 23.05.2013 passed in the claim petition filed under Section 163-A of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal') whereby the claimants were granted compensation to the tune of Rs.21,800/- and the Insurance Company held liable to pay the compensation.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that on that day Kehar Singh (since deceased) along with Ajmer Singh son of Nimbua Ram had gone to Nissing on motor cycle for personal work. After doing the work there they were coming back to village Gullarpur via Gonder-Gullarpur Road. Kehar Singh was driving the motor cycle whereas Ajmer Singh was the pillion rider. Kehar Singh was driving

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the motor cycle on due left hand side of the road with normal speed. When they reached near Dera of Sohan Lal, situated within the area of village Gullarpur, meanwhile motor cycle bearing registration No.HR06V-6157 which was being driven by respondent No.1 in a rash and negligent manner and at a very fast speed, without observing the traffic rules, came from the side of village Gullapur and struck against the motor cycle of. Kehar Singh by coming on wrong side of the road. Due to impact of the accident. Kehar. Singh received multiple serious and grievous injuries on all over his body and then succumbed to his injuries. Ajmer Singh also sustained multiple and serious injuries on his person. Regarding this accident, FIR No.230 dated 07.05.2011 (Ex.P2) was got recorded by Ram Kumar son of Shri Chand, younger brother of deceased Kehar Singh. It is pleaded that the accident took place due to rash, negligent and careless driving of motor cycle No. HR06V-6157, which was driven and owned by respondent No.1 and was duly insured with Oriental India Insurance Company Limited, respondent No.2, therefore, both the respondents are jointly and severally liable to pay compensation to the claimant.

3. Upon notice of the claim petition, respondents appeared and denied the factum of compensation.

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

“(1) Whether Kehar Singh died in an accident dated 07.05.2011 arising out of motor cycle No.HR06V-6157, driven and owned by Om Parkash, respondent No.1, and insured with Oriental Insurance Company Ltd., respondent No.2? OPP

(2) Whether the claimant has got no locus-standi to file the present claim petition? OPR

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(3) Whether the claimant has not come with clean hands in the court? OPR

(4) Whether the claim petition is bad for mis-joinder and non-joinder of necessary parties? OPR2

(5) Whether the claimant is colluding with the alleged owner/insured? OPR2

(6) Whether the motor cycle was being driven by a person not holding a valid and effective driving licence? OP

(7) Whether the vehicle was being driven in contravention of terms and conditions of the insurance policy? OPR

(8) Whether the claimant is entitled to compensation, if so, how much and from whom? OPP

(9) Relief.”

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

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

6. Learned counsel for the appellant-Insurance Company vehemently argues that the learned Tribunal had wrongly allowed the claim petition of the claimants and awarded the compensation to the claimants.

7. He further contends that the learned Tribunal has wrongly decided Issue No. 1 in favour of the claimants since the deceased himself was negligent and the claim petition under Section 163-A of the Motor Vehicles Act, 1988 is not maintainable.

8. Per contra, learned counsel for respondent No.1 contends that learned Tribunal has rightly decided issue No.1, therefore he prays for dismissal of the appeal.

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However, learned counsel for respondent No.2 contends that learned Tribunal has wrongly allowed the claim petitioner, therefore he prays for dismissal of the appeal.

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

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

“10.The claimant has filed this claim petition for claiming compensation on account of death of her son Kehar Singh, who died in a vehicular accident dated 07.05.2011. She while appearing as PW1 has deposed by way of affidavit Ex.CW1/A that on 07.05.2011 at about 12 noon Kehar Singh along with Ajmer Singh son of Nimbua Ram had gone to Nissing on motor cycle for their personal work and were coming back to village Gullarpur via Gonder-Gullarpur Road. Ajmer Singh was the pillion rider on the motor eycle whereas it was being driven by the deceased on due left side of the road with normal speed. When they reached near 'Dera' of Sohan Lal, situated within the revenue estate of village Gullarpur, meanwhile offending motor cycle bearing registration No.HR06V-6157 which was being driven by respondent No.1 in a rash and negligent manner and at a high speed without observing the traffic rules came from the side of village Gullarpur and struck against the motor cycle of the deceased by coming on wrong side of the road. Due to impact of the accident, Kehar Singh received serious, multiple and grievous injuries on all over his body and succumbed to



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these injuries. After the accident deceased was taken to CHC, Nissing where he was declared dead and the post mortem examination on the dead body of deceased was conducted at at General Hospital, Karnal. She further deposed that for causing the present accident FIR No. 230 dated 07.05.2011 under Sections 279 and 304-A IPC was registered with Police Station Nissing against respondent No. 1. Ex. P1 is the copy of FIR which was registered on the statement of Ram Kumar son of Shri Chand, brother of deceased Kehar Singh. After thorough investigations, police challenged Om Parkash, respondent No.1, in this case for committing the offences punishable under sections 279/337/304A/338 IPC. Copy of report under section 173 Cr.P.C. is Ex. P3.

11. The present petition has been filed under sections 163-A of Motor Vehicles Act. From the above discussed evidence, it is proved that the accident in question resulted on account of use of motor vehicle i.e. motorcycle. Negligence of victim is not to be determined in this case.

12. PW1 was cross-examined at length but nothing material could be extracted from her. Post Mortem report of Kehar Singh Ex. P4 shows that he died on account of road side accident. Smt. Kamla PW1, mother of Kehar Singh deceased, has specifically deposed that Kehar Singh succumbed to his injuries sustained in this very accident.

13. Thus, in view of above discussed oral as well as documentary evidence, it was argued by learned counsel for the

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claimant that Kehar Singh had died in a roadside accident which took place with the use of motorcycle bearing registration No. HR06V-6157.

14. On the other hand, respondent No. 1 did not choose to appear at witness so as to controvert the case put forward by the claimant. Once it is proved that with the use of motorcycle in question, the accident in question had resulted, the claimant becomes entitled to claim compensation under Section 163-A of Motor Vehicles Act. As such, I conclude to hold that the accident in question took place arising out of use of motor cycle No. HR06V-6157 resulting into death of Kehar Singh. Thus, I hold issue No. 1 accordingly in favour of the claimant, but against the respondents.”

11. A perusal of the entire evidence on record leaves no room for doubt that the accident in question was caused by the involvement of the offending motorcycle bearing registration No. HR-06V-6157. The unimpeachable testimony of PW-1 Kamla, read in conjunction with the registration of the FIR (Ex. P2) and the copy of the charge-sheet (Ex. P1), together with the surrounding circumstances of the case, clearly establishes that the accident arose out of the use of the aforesaid vehicle, thereby fulfilling the statutory requirement contemplated under Section 163-A of the Motor Vehicles Act, 1988.

12. A perusal of the award indicates that the claim petition was filed under Section 163-A of the Motor Vehicles Act. Compensation granted under this section is determined by a structured formula, constituting a final award, without requiring proof of negligence by the driver or the owner of the vehicle involved in the accident.

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13. It is a well settled legal principle, as affirmed by the Hon'ble Supreme Court in ***United India Insurance Company Ltd. versus Sunil Kumar***, Civil Appeal No.9694 of 2013 that claims under Section 163-A of the Motor Vehicles Act, 1988 are predicated on principle of no fault liability and compensation is to be awarded without the necessity of proving negligence. The relevant extract of the same is reproduced as under:-

“8. From the above discussion, it is clear that grant of compensation under Section 163-A of the Act on the basis of the structured formula is in the nature of a final award and the adjudication thereunder is required to be made without any requirement of any proof of negligence of the driver/owner of the vehicle(s) involved in the accident. This is made explicit by Section 163A(2). Though the aforesaid section of the Act does not specifically exclude a possible defence of the Insurer based on the negligence of the claimant as contemplated by Section 140(4), to permit such defence to be introduced by the Insurer and/or to understand the provisions of Section 163A of the Act to be contemplating any such situation would go contrary to the very legislative object behind introduction of Section 163A of the Act, namely, final compensation within a limited time frame on the basis of the structured formula to overcome situations where the claims of compensation on the basis of fault liability was taking an unduly long time.

In fact, to understand Section 163A of the Act to permit the Insurer to raise the defence of negligence would be to bring a proceeding under Section 163A of the Act at par with the proceeding under Section 166 of the Act which would not only be self-



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contradictory but also defeat the very legislative intention.

9. For the aforesaid reasons, we answer the question arising by holding that in a proceeding under Section 163A of the Act it is not open for the Insurer to raise any defence of negligence on the part of the victim.”

14. Accordingly, the findings recorded by the learned Tribunal are based on sound appreciation of evidence and correct application of law, and therefore do not warrant any interference. The same are hereby affirmed.

15. Hence, the present appeal is dismissed being devoid of any merits.

16. The statutory amount of Rs.25,000/- deposited by the appellants at the time of admission of the appeal, is ordered to be refunded to them.

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

**(SUDEEPTI SHARMA)
JUDGE**

09.10.2025

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Whether speaking/non-speaking : Speaking
Whether reportable : Yes