



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 17.02.2025

National Insurance Company Limited **FAO-1661-2008 (O&M)**
...Appellant(s)

Vs.

Balwan & Others **...Respondent(s)**

National Insurance Company Limited **FAO-1662-2008 (O&M)**
...Appellant(s)

Vs.

Sehdev & Others **...Respondent(s)**

National Insurance Company Limited **FAO-1663-2008 (O&M)**
...Appellant(s)

Vs.

Shri Chand & Others **...Respondent(s)**

National Insurance Company Limited **FAO-1664-2008 (O&M)**
...Appellant(s)

Vs.

Chiriyani Devi & Others **...Respondent(s)**

National Insurance Company Limited **FAO-1665-2008 (O&M)**
...Appellant(s)

Vs.

Chiriyani Devi & Others **...Respondent(s)**

National Insurance Company Limited **FAO-1666-2008 (O&M)**
...Appellant(s)

Vs.

Chiriyani Devi & Others



...Respondent(s)

FAO-1667-2008 (O&M)

National Insurance Company Limited

...Appellant(s)

Vs.

Zehro Devi & Others

...Respondent(s)

FAO-1668-2008 (O&M)

National Insurance Company Limited

...Appellant(s)

Vs.

Tamanna & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anil Chawla, Advocate
for the petitioner.

NIDHI GUPTA, J.

FAO-1661-2008

Date of Accident: 10.06.2005

(Death Case)

Name of deceased: Sunil

Age: 25 years (unmarried)

Claimants: Balwan (father) and Ganga Devi (mother)

Occupation: Driver

Income: Rs.3,000/- per month

Died in an accident while travelling in car No.DL-4CF-4962 driven by Sunil Kumar hit by a truck bearing registration No.HR-61B-2126 (hereinafter referred to as "the offending vehicle") by its driver Surinder. Car No.DL-



4CF-4962 turned turtle and then caught fire. The deceased was burnt alive.

The deceased and other family members were returning from village Mali after attending a ceremony in car No.DL-4CF-4962. The offending vehicle was driven by respondent No.3 in rash and negligent manner from opposite side first struck one other Maruti car bearing No. DL-1CF-608 and hit car No.DL-4CF-4962 in which deceased was travelling. Both the vehicles truck and the car caught fire.

All the 8 deceased travelling in ill-fated Maruti car died on the spot.

FIR No.177 dated 10.06.2005 under Sections 279, 304-a, 427 IPC lodged against respondent No.3 at Hansi.

Compensation: Rs.72,000/-
Rs.1,44,000/-
Funeral expenses: Rs.5,000/-
Total Rs.2,21,000/-

FAO-1662-2008

Date of Accident: 10.06.2005 (Death Case)

Name of deceased: Savitri

Age: 28 years

Claimants: husband and minor son

Occupation: housewife

Income: Rs.21,00/- per month

Compensation: 2,73,800/-

**FAO-1663-2008**

Date of Accident: 10.06.2005 (Death Case)

Name of deceased: Arjan Dev

Age: 32 years

Claimants: father and mother

Occupation: driver

Income: Rs.3,000/- per month

Compensation: Rs.3,89,000/-

FAO-1664-2008

Date of Accident: 10.06.2005 (Death Case)

Name of deceased: Sumitra

Age: 25 years

Claimants: mother-in-law, father-in-law and son

Occupation: housewife

Income: Rs.21,00/- per month

Compensation: 2,73,800/-

FAO-1665-2008

Date of Accident: 10.06.2005 (Death Case)

Name of deceased: Vikram

Age: 1-1.5 years

Claimants: grandmother, grandfather and brother

Compensation: 70,000/-

FAO-1666-2008



Date of Accident: 10.06.2005

(Death Case)

Name of deceased: Yudhister

Age: 25 years

Claimants: parents and minor son

Occupation: running flour mill

Income: Rs.24,00/- per month

Compensation: Rs.3,12,200/-

FAO-1667-2008

Date of Accident: 10.06.2005

(Death Case)

Name of deceased: Birmo Devi

Age: 24 years

Claimants: parents-in-law and three children

Occupation: housewife

Income: Rs.21,00/- per month

Compensation: 2,73,800/-

FAO-1668-2008

Date of Accident: 10.06.2005

(Death Case)

Name of deceased: Amit

Age: 7 years

Claimants: 4 siblings

Occupation: student

Compensation: Rs.1,10,000/-



Both the present appeals are being disposed of by this common order as the date of accident, facts and issues involved in them are identical. All these claim petitions are filed against Award dated 20.03.2008 passed by Motor Accident Claims Tribunal, Hisar whereby the 8 claim petitions of the claimants under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act") have been allowed and different compensation amounts have been awarded to the claimants therein.

3. Brief facts of the case are that on 10.6.2005 the deceased and other family members were returning from village Mali after attending a ceremony (Pilia) in a car which was being driven by Sunil Kumar. When their car was ahead to Hansi towards Hisar side near Vakil Colony, Bhim Hotel, the offending vehicle being driven by respondent No.1 in a rash and negligent manner came from the opposite side and it first struck with one other Maruti Car No.DL-1CF/608 and then hit car No.DL- 4CF/4962. Due to this impact car No.DL-4CF/4962 turned turtle and caught fire. The occupants of the car sustained fatal injuries and burnt. They died at the spot as both the vehicles i.e. the offending vehicle and the car caught fire. The dead bodies of all the eight deceased were removed and brought to General Hospital, Hansi where postmortem examinations on their dead bodies were conducted by the Board of Doctors. It has been alleged that the accident was witnessed by Krishan Kumar son of Payare Lal, resident of Prem Nagar, Hansi, who was running a tyre puncture khokha near the place of accident and also by one Sajjan



son of Ram Pal, resident of Peeranwali, Tehsil and Distt. Hisar, who was chowkidar at some fish pond. The relations of the deceased and petitioners received the information about the accident and reached at G.H. Hansi. The dead bodies were got identified. The accident took place due to rash and negligent driving of offending vehicle FIR No.177 dated 10.6.2005, under Sections 279, 304-A, 427 IPC was lodged against respondent No. 1 at Police Station. City Hansi.

4. The learned Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that the deceased in the above said cases have died due to the injuries suffered by them in a motor vehicular accident that took place on 10.06.2005 due to the rash and negligent driving of the offending vehicle by its driver.

5. Learned counsel for the appellant-Insurance Company assails the impugned Award primarily on the ground that the car in which the deceased were travelling bearing No.DL-4CF-4962 was fitted with LPG cylinder; whereas as per the Registration Certificate of the said, the same was to be driven by petrol. It is submitted that therefore, contributory negligence ought to have been made by the learned Tribunal as admittedly, the car in which the deceased were travelling burst into flames as the same was fitted with gas cylinder. It is stated that no negligence is made on behalf of the offending vehicle insured with the appellant.

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



7. I have heard learned counsel for the appellant and perused the case file in great detail.

8. I find no merit whatsoever in the submission made on behalf of the appellant-Insurance Company as it is the categoric testimony of the eyewitness PW3-Krishan Kumar that:-

“17. Statements of Krishan Kumar (eye witness) PW3 is important piece of evidence for the decision of this issue. He witnessed the occurrence. He in his affidavit Ex.PW3/A deposed that in the year 2005 he was running a tyre puncture shop in a khokha on Hansi-Hisar road, National Highway near Bhim Hotel. On 10.6.2005 at about 6.15 p.m. he was present at his khokha. One Sajjan Chowkidar of Fishery Pond was also present there. He saw a truck bearing No.HR-61B/2126 which was coming from Hisar side. The driver of the truck was driving the truck in a rash and negligent manner and struck into a maruti car bearing No.DL-1CF/1608 which was coming from Hansi side and going to Hisar side. After few minutes another car bearing No DL-4CF/4962 came from Hansi side. The driver of the above said truck whose name was Surender son of Partap Singh. resident of Mehra, District Dadri struck the car in a rash and negligent way, as a result of which the car had fallen in a ditch and caught fire. All the occupants of the car had burnt. He stated that there were three male persons, three ladies and two children in the car. Police reached within 10-15 minutes and they managed to take out the dead bodies from the car. He stated that his statement was recorded by the police.”



9. Moreover, in a proceeding under the Act, the case of the claimants has to be proven on the preponderance of the probability and does not have to be proven beyond reasonable doubt. It is not denied that the offending vehicle at first struck the Maruti Car bearing registration No.DL-1CF-608 whereafter it hit the car bearing registration No.DL-4CF-4962 in which the deceased were travelling. From the above facts, it is clear that the offending vehicle had hit not only one but two cars. Therefore, rash and negligent driving of the driver of the offending vehicle is clearly made out.

10. Ld. Counsel for the petitioner has shown nothing to this Court to controvert or dispute the above facts and findings. In view of the above discussion, all the present appeals are **dismissed**.

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

17.02.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No