



305-3

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

1. **FAO-7204-2015 (O&M)**  
**Date of Decision : 07.07.2025**

Dharmender ... Appellant(s)

Versus

Ram Niwas & Ors ... Respondent(s)

2. **FAO-7134-2015 (O&M)**

United India Insurance Company ... Appellant(s)

Versus

Dharmender & Ors ... Respondent(s)

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

Present : Mr. S.S. Khurana, Advocate  
for the appellant (in **FAO-7204-2015**) and  
respondent No.1 (in **FAO-7134-2015**).

Mr. Vinod Chaudhri, Advocate  
for the appellant (in **FAO-7134-2015**) and  
for respondent No.3 (in **FAO-7204-2015**).

None for respondent Nos.1 and 2 (in **FAO-7204-2015**) and  
None for respondent Nos.2 and 3 (in **FAO-7134-2015**).

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

1. This order shall dispose off the above-captioned appeals. **FAO-7204-2015** has been filed by the injured-claimant and **FAO-7134-2015** has been filed by the Insurance Company aggrieved by the impugned award dated 02.07.2015 passed by the Motor Accident Claims Tribunal, Rewari (hereinafter referred to as 'Tribunal'). The parties are being referred to as injured-claimant, Insurance Company and the owner and driver of the vehicle bearing Registration No.HR-61-0925 (hereinafter referred to as 'offending vehicle') for the sake of clarity.

2. Brief facts relevant to the present *lis* are that on 12.08.2012 at about 9.00 pm, Dharmender (injured-claimant) alongwith his friend, namely, Vikash was going to village Palda, District Jhajjar on a motorcycle bearing Registration No.HR-34-D-6712 which was being driven by Vikash and the injured-claimant was the pillion rider. When they reached near village Jhal on Kanina Kosli road, their motorcycle struck against the offending vehicle which was parked in the middle of the road without any parking indicator and without observing the traffic rules and regulation. As a result, Vikash and the injured-claimant fell on the road and sustained serious, grievous and multiple injuries. Thereafter, they were taken to CHC, Nahar from where they were referred to Government Hospital, Rewari, however, on the way Vikash succumbed to his injuries. FIR No.148 dated 13.08.2012 under Sections 283, 337, 304A of the Indian Penal Code, 1860 was registered at Police Station Khol.

3. On notice, the driver and owner of the offending vehicle filed their joint written statement taking preliminary objections regarding maintainability of the petition and denying the factum of the accident.

4. The Insurance Company while filing its written statement also took the identical stand as was taken by the driver and owner of the offending vehicle and in addition it was averred that the alleged accident was not caused due to rash or negligent driving of the driver of the offending vehicle. It was further averred that at the time of the accident, the driver of the offending vehicle was not holding a valid and effective driving licence.

5. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the petitioner had suffered injuries in a vehicular accident that took place due to rash and negligent driving of offending vehicle no. HR 61 0925 by respondent no.1, as alleged in the petition ? OPP
2. If issue no.1 is proved, whether the petitioners are entitled to compensation? If so to what amount ? OPP
3. Whether respondent no.1 was not holding a valid and effective driving licence on the date of accident ? If so its effect ? OPR
4. Relief.

6. The Tribunal vide the impugned award had awarded the following compensation :

<b>Sr. No.</b>	<b>Heads</b>	<b>Compensation Awarded</b>
1	Special diet	₹5,000/-
2	Medical expenses	₹49,230/-
3	Pain and suffering	₹5,000/-
	<b>Total Compensation</b>	<b>₹59,230/-</b>
	<b>Interest</b>	<b>7% per annum</b>

7. Learned counsel for the Insurance Company would contend that the offending vehicle was not insured with the Insurance Company nor they issued any insurance policy. It is further the contention of the learned counsel of the Insurance Company that a cover note had been issued by the agent/intermediary, namely, M/s Automotive India Motor Dealer run by M/s Shreyas Insurance Broker Pvt. Ltd. and as per the agreement of the Insurance Company with the aforesaid intermediary the insurance cover note could not have been issued and prepared by M/s Automotive India

Motor Dealer through M/s Shreyas Insurance Broker Pvt. Ltd. and also that no amount had been received towards the premium. Learned counsel has further pointed out that the contract with the said intermediary was also cancelled.

8. *Per contra*, the learned counsel for the injured-claimant would contend that there is nothing on the record to show that the cover note was not issued after the receipt of the premium. It is further the contention that there is no evidence which was led by the Insurance Company to show that the contract with the intermediary/agent had been cancelled.

9. As regards the compensation, the learned counsel for the injured-claimant would contend that the injured-claimant had suffered a fracture on his right arm and he remained admitted in H-way Hospital Rewari from 12.08.2012 to 18.08.2012 and was operated upon. It is further the contention that the amount of compensation is on the lower side.

10. Learned counsel for the Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

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

12. In the present case the cover note was issued by the intermediary/authorized agent. On a specific query by the Court to the learned counsel for the Insurance Company as to whether there was any evidence led on the record to show that the contract between the intermediary/agent had been cancelled, the learned counsel has answered in the negative. RW1, Ashok Kumar, who was Incharge of M/s United India Insurance Company Ltd., admitted that if the Insurance Company had issued

a cover note after receipt the premium, then it is a valid document. He also admitted that the cover note (Ex.R3) is of their company. He further admitted that there is no evidence on the record to show that the cover note (Ex.R3) was issued by the intermediary without receipt of the premium from insured. In the absence of any evidence as discussed above, the argument of the learned counsel for the Insurance Company that the offending vehicle was not insured cannot be accepted. No other argument has been raised by the learned counsel for the Insurance Company.

13. As regards the compensation, due to the accident the injured-claimant had suffered a fracture on his right arm for which he was operated upon. The injured-claimant examined PW6, Dr. Abhishek Saini, MO, PHC, Dahina, who stated that he had suffered a fracture on his right hand and was operated upon. The injured-claimant remained admitted from 12.08.2012 to 18.08.2012 in H-way Hospital, Rewari. In the present case, no amount has been awarded towards loss of income. The normal period for healing of a fracture is about six weeks and, hence, this Court deems it appropriate to award an amount of ₹7,450/- towards loss of income for a period of six weeks, as per the minimum wages for an unskilled worker, prevailing at the time of the accident, which were ₹4,967/- per month. The amount of ₹49,230/- as has already been awarded towards the medical expenses is maintained. However, the amount awarded under the head 'pain and suffering' as well as special diet is on the lower side. This Court deems it appropriate to enhance the same and accordingly, the injured-claimant would be entitled to an amount of ₹50,000/- towards pain and suffering and ₹10,000/- towards special diet. Accordingly, the reworked compensation is

as under :

Sr. No.	Heads	Compensation Awarded
1	Medical expenses as awarded by the Tribunal	₹49,230/-
2	Pain and suffering	₹50,000/-
3	Special Diet	₹10,000/-
4	Loss of income (for 06 weeks)	₹7,450/-
	<b>Total Compensation</b>	<b>₹1,16,680/-</b>

14. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7% per annum from the date of filing of the claim petition till the realization of the entire amount.

15. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [2025 INSC 361 : 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account of the injured-claimant within six weeks from today. The particulars of the bank account alongwith the requisite documents in support thereof shall be furnished by the injured-claimant 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.

16. In view of the above discussion, **FAO-7204-2015** filed by the injured-claimant is allowed and **FAO-7134-2015** filed by the Insurance Company is dismissed. The impugned award passed by the Tribunal stands modified accordingly. Pending applications, if any, also stand disposed off.

07.07.2025  
Yogesh Sharma

( ALKA SARIN )  
JUDGE

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