IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

204(1) **FAO-1374-2005 (O&M)**
Decided on : 10.07.2026

SUNITA AND OTHERS ...APPELLANTS

VERSUS

RAJIV KUMAR AND OTHERS ...RESPONDENTS

204(2) **FAO-1263-2005 (O&M)**
Decided on : 10.07.2026

THE UNITED INDIA INSURANCE CO. LTD. ...APPELLANT

VERSUS

SUNITA AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sushil Jain, Advocate and
Mr. Munish Jolly, Advocate
for the appellants in FAO No.1374 of 2005 and
for respondents No.1 to 3 in FAO No.1263 of 2005.

Mr. Sanjiv Pabbi, Advocate
for respondent No.3 in FAO No.1374 of 2005 and
for appellant in FAO No.1263 of 2005.

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PARMOD GOYAL, J. (ORAL)

Present Appeal being FAO No.1374 of 2005 has been preferred by the appellants-claimants who are wife, two minor sons, parents and unmarried sister of Raju (hereinafter referred to as the '**deceased**'), who died in motor vehicular accident which took place on 03.09.2003, on account of rash and negligent driving by respondent No.1 while driving car bearing registration No. DL-4CC-4936 (hereinafter referred to as '**offending vehicle**'), being aggrieved by the insufficient compensation of Rs.2,73,800/- awarded vide impugned award dated

03.12.2004, passed by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as '**Tribunal**'), being not in accordance with their entitlement. FAO No.1263 of 2005 has been preferred by Insurance Company against award of compensation of Rs.2,73,800/- vide impugned award dated 03.12.2004.

FAO NO.1263 OF 2005 (O&M)

2. Appellant-Insurance Company is challenging finding of learned Tribunal on issue No.1 as regards to negligence on the part of respondent No.7 while driving offending vehicle. It is the case of appellant-Insurance Company that present is a case where offending vehicle was falsely implicated.

3. Learned counsel for appellant-Insurance Company has argued that while lodging FIR, author of FIR namely Jai Bhagwan, who claimed to have seen the occurrence had not disclosed number of offending vehicle and same was disclosed subsequently without explaining as to how the number was not recorded. It is further submitted that in view of fact that number of offending vehicle was not disclosed while lodging the FIR, therefore, present is a case of false implication of offending vehicle.

4. In order to appreciate arguments raised on behalf of learned counsel for appellant-Insurance Company, it is incumbent to note the facts of the present case. The author of FIR as well as claimants had asserted that on 03.09.2003 at about 10:00 p.m. when Jai Bhagwan was coming back from Panipat to his village Lalehri along with Chattar

Singh on scooter, he had witnessed the occurrence at Smalkha near Blue Jay Hotel. That at about 10:00 p.m. whey they reached near Blue Jay Hotel, they saw that a Maruti car coming from opposite direction in a rash and negligent manner had struck against a man standing opposite Blue Jay Hotel. That upon hit, the said person had fallen on the road and driver of the Maruti car had stopped his car at a distance of few paces and disclosed his name as Rajiv and vehicle number was accordingly noted as DL-4CC-4936. That on seeing person, who was hit by car, he came to know that injured was none but Raju-deceased, who was his cousin. He immediately arranged three-wheeler and shifted him to hospital, however he succumbed to his injuries on his way to hospital. He stated to have made his statement to the police on the basis of which FIR No.270 dated 04.09.2003 (Ex.P3) under Section 279/304A IPC was lodged at Police Station Smalkha. Claimants have further examined Ramesh Chander, Assistant Ahlmad as PW-2, who had produced the file titled as State Vs. Rajiv Kumar, wherein supplementary statement of Jai Bhagwan (Ex.P4) was recorded. Ramesh Chander-PW-2 also proved the site plan (Ex.P5).

5. In present case, Investigating Officer of FIR No.270 HC Kawar Singh was examined as RW-2. Perusal of his statement goes to show that the supplementary statement of witness Jai Bhagwan (Ex.P4) was recorded on the same day when the FIR was lodged. He was specifically asked to as to why the registration number of the offending vehicle was not disclosed at the time of lodging of FIR and why on the

same day, supplementary statement showing the number of offending vehicle was recorded. To this, RW-2 had duly explained that this question was also put by him to PW3-Jai Bhagwan, eye-witness of the accident and PW3 explained to him that he got confused with the identity of the vehicle at the time of lodging of FIR and now he is sure of the identity and registration number of offending vehicle, therefore, he is making supplementary statement.

6. From above noted facts and circumstances stated by witnesses, it is clearly made out that accident in present case had occurred at about 10:00/10:30 p.m. on 03.09.2003 and on the next day i.e. 04.09.2003, FIR was lodged. In FIR registration number of the offending vehicle was not mentioned, however, after some time on 04.09.2003, PW3 made the supplementary statement disclosing the registration number of the offending vehicle, which shows that the particulars of offending vehicle came to public domain on the same day when the FIR was lodged though after some time. The reasons for not disclosing the registration number of offending vehicle at the time of lodging of FIR, were duly enquired by Investigating Officer and same were duly explained by PW3. Therefore, in present case, there is no delay in disclosing the registration number of offending vehicle as same was done within few hours of registration of FIR. The reasons for not disclosing the same at the time of lodging of FIR has also been disclosed by PW3 to IO. PW3 was also cross-examined thoroughly by learned counsel for appellant-Insurance Company and PW3 had clearly stated

that the statement upon which FIR was lodged was not read over to him. PW3 was not confronted with the supplementary statement (Ex.P4) in his cross-examination nor was asked to explain disclosure of vehicle number subsequent to lodging of FIR. PW3 had also stated that driver of the offending vehicle was not known to him and he had seen him for the first time at the spot.

7. From the collective reading of evidence led by appellant-Insurance Company as well as that of claimant, it is clearly made out that in present case non-disclosure of offending vehicle number at the time of lodging of FIR was out of confusion, which was fully explained by RW3 and number of offending vehicle had come in public domain on the day when the FIR was lodged. In these circumstances, only on the ground that number of offending vehicle was not disclosed in FIR and was disclosed subsequently on the same day, reliable evidence of PW3 cannot be rejected. Admittedly, respondent No.7-driver of the offending vehicle was challaned in present case and he had faced criminal trial without any complaint against his involvement in accident.

8. In fact, in present case, driver and owner of the offending vehicle had not denied the accident. Rather they had challenged the manner of accident by stating that accident had taken place on account of rashness and negligence of deceased and not of respondent No.7-driver. Respondent No.7-driver of offending vehicle duly appeared as RW1 and again admitted involvement of offending vehicle in accident but had

denied his negligence and claimed that accident taken place as the deceased had suddenly come in front of his car which he was driving at normal speed and on correct side. RW1 further claimed that accident was result of sole negligence of deceased. In cross-examination, RW1 admitted that after the accident he had stopped the car at some distance and 01-02 persons known to the deceased were also present at the spot. RW1 also admitted that he had faced trial in FIR No.270 dated 04.09.2003. In cross-examination by learned counsel for appellant-Insurance Company, RW1 further admitted that he was apprehended by persons at the spot but was released. RW1 also claimed that he was not at fault, therefore, he was released. RW1 also stated that he was detained for about 15-20 minutes. He further stated the persons who had gathered at the spot were not known to him and had never met him after the accident. He however admitted that his village is situated at a distance of about 15-20 k.ms from Ganaur.

9. From evidence led by appellant-Insurance Company and claimants, it is made out that in present case, no fault with the conclusion drawn by learned Tribunal can be found as same is based upon appreciation of evidence led by the parties. There is no inordinate delay or attempt on the part of claimants to falsely involve or in disclosing the registration number of the offending vehicle, rather the omission of not disclosing number while lodging FIR has been duly explained and registration number was disclosed on the same day when the FIR was lodged, ruling out any possibility of false implication of offending

vehicle. Hence, findings of learned Tribunal on issue No.1 is upheld.

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10. In present case, learned Tribunal had awarded the following compensation:

Income	Rs.2,100/- per month
Deduction	1/3rd
Multiplier	16
Loss of dependency	Rs.2,68,800/-
Loss of consortium	Rs.5,000/-
Funeral expenses	Rs.5,000/-
Total compensation awarded	Rs.2,73,800/-

11. It is the claim of appellants-claimants that the learned Tribunal has erred in not taking evidence of Parbhu Dayal Sharma PW1 and salary certificate Ex.P1 in consideration whereby it stood proved that deceased was working as a Turner and was drawing a salary of Rs. 12,300/-. It is the case of appellants-claimants that deceased was 26 years old at the time of accident and is survived by wife, two minor children, parents and unmarried sister i.e. appellant No.1 to 3 and proforma respondent No.4 to 6. Learned Counsel for the appellants-claimants has asserted that no addition has been made towards future prospects which ought to be added to the extent of 40% in terms of judgment of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680 and deduction of 1/4th is required to be made towards personal expenses of deceased as deceased is survived by wife, two minor children, parents and an un

married sister. Appropriate amount of compensation needs to be granted under the head funeral expenses, loss of estate and loss of parental consortium in accordance with law laid down by Hon'ble Supreme Court.

12. On consideration, especially the findings of learned Tribunal on issue No.2, I find that learned Tribunal has rightly rejected the claim of appellants-claimants that deceased was earning Rs.12,300/- per month while working as a Turner. Learned Tribunal has rightly rejected evidence of PW1 as same is not reliable and not corroborated by any supporting evidence. Admittedly in 2003 the income up to Rs.50,000/- alone was tax free and if the income of the deceased is taken as Rs.12,300/- per month then his annual income would come to Rs.1,47,600/- which is taxable income however, neither employer of deceased who appeared as PW1 has proved any deduction of income tax nor claimants have placed on record income tax returns filed by deceased. There is no proof that deceased was either covered by ESI scheme or Employee Provident Fund or any other scheme beneficial to workmen. Neither any proof has been produced by PW1 regarding existence of his own firm except for making oral assertions and showing salary certificate Ex. P1 which is prepared by him on the asking of appellant-claimant No.1. Furthermore, there is no evidence available on record that deceased was qualified as a Turner. Though photocopy of certificate was relied upon by learned counsel for appellants-claimants but same was not proved.

13. In these circumstances, at the most, from the evidence led by the appellants-claimants at the most, it can be concluded that deceased was an able-bodied person and was a skilled person. Therefore, the income of the deceased has to be taken equivalent to minimum wages payable to skilled worker which was stated to be Rs.2,740/- in year 2003. Since age of deceased was 26 years old at the time of accident, therefore to calculate loss of dependency multiplier of '17' would be applicable. Keeping in view age of deceased, 40% needs to be added towards future prospects while calculating loss of dependency in view of judgment of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, 2017 (16) SCC 680. Deceased was survived by wife, two minor children, parents and unmarried sister. Keeping in view, number of dependents 1/4th deduction towards personal expenses has to be made for determining loss of dependency. Accordingly, appellants-claimants shall also be entitled to compensation of Rs.40,000/- each for loss of spousal and parental consortium. Appellants-claimants are also entitled to compensation of Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate. Proforma respondents No.4 and 5 being parents are also entitled to filial consortium @ Rs.40,000/- each. It is however made clear that in case Hon'ble Supreme Court answer the reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants, appellants shall be free to seek said amount by moving appropriate application in this regard.

14. Accordingly, reworked compensation payable to appellants-claimants is as under:-

Income	Rs.2,740/- per month	Rs 2,740/- per month
Future Prospects	40% (2740+1096)	Rs.3,836/-
Deduction	1/4th (3836-959)	Rs.2,877/-
Multiplier	17	17
Total loss of dependency	Rs.2,877X12X17	Rs.5,86,908/-
Loss of Estate		Rs. 15,000/-
Funeral Expenses		Rs.15,000/-
Loss of spousal consortium to claimant No.1		Rs.40,000/-
Loss of parental consortium to claimant Nos.2 & 3	Rs.40,000X2	Rs.80,000/-
Loss of filial consortium to claimants No.4 & 6	Rs.40,000X2	Rs.80,000/-
Total Compensation awarded in appeal		Rs.8,16,908/-
Total Compensation awarded by the Tribunal	Rs.2,73,800/-	
Enhanced amount of compensation	Rs.8,16,908 /- (awarded in appeal) – Rs.2,73,800/- (awarded by the Tribunal)	Rs.5,43,108/-

15. Appellants-claimants shall be entitled to enhanced compensation except for conventional heads i.e. loss of consortium, funeral expenses, loss of estate along with 7.5% interest from the date of

filing of claim petition till realization of entire amount. Interest on enhanced compensation under conventional head shall be payable from August 2017 onwards till realization. Apportionment and liability to pay compensation shall be as per award.

16. FAO No.1374 filed by appellants-claimants is allowed and FAO No.1263 of 2005 filed by appellant-Insurance Company is dismissed.

17. Pending application(s), if any, stand disposed of. Photocopy of this order be placed on the file of connected case.

(PARMOD GOYAL)
JUDGE

10.07.2026
Poonam/Sunil Chander

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