

**In the Court of Barinder Singh Ramana,
Motor Accident Claims Tribunal, Ludhiana.**

CIS No.MACP/41/2019
CNR No.PBLD010076922019
DECIDED ON : 28.07.2026

Inder Devi, aged about 73 years, widow of Late Sh. Hori Lal, D/o Late Mohan Devi, R/o B-38-S-36/337, New Friends Colony, South Okhla, Delhi-110025.

....Claimant

Versus

1. Guddu @ Gurwinder Singh C/o Sh. Davinder Singh Khattra S/o Ajmer Singh, Proprietor M/s D.R. Goods Carriers, G.T. Road, Khanna, District Ludhiana, (Driver of Truck No.PB-10-BC-4655).

2. Davinder Singh Khattra S/o Ajmer Singh, Proprietor M/s D.R. Goods Carriers, G.T. Road, Khanna, District Ludhiana, (Owner of Truck No.PB-10-BC-4655).

Second Address: Davinder Singh Khattra S/o Ajmer Singh, (Proprietor M/s D.R. Goods Carriers), R/o Village Khattra, Tehsil Khanna, District Ludhiana.

3. M/s New India Assurance Company Limited, G.T. Road, Khanna, District Ludhiana.

....Respondents

Claim petition under section 166 of the Motor Vehicle Act.

Present: Shri S.K. Pabbi, Advocate, for the claimant.
 Shri L.C. Bector, Advocate, for the respondents No.1 & 2.
 Sh. Mandeep Sharma, Advocate, for the respondent No.3.

AWARD:

1. The claimant has filed the present claim petition under section 166 of the Motor Vehicles Act against the respondents on account of death of her son Hazari Lal @ Nanhey in a motor vehicular accident which took place in Grain Market, Khanna.

2. It is submitted by the claimant that on 08.06.2018, after the work, Hazari Lal @ Nanhey was sleeping near the shop of Ramanand in Grain Market, Khanna. Then at about 11:00 PM, one truck bearing registration no. PB-10-BC-4655 being driven by respondent no. 1 Guddu @ Gurwinder Singh in a rash and negligent manner and at very high speed without blowing any horn ran over the truck over Hazari Lal @ Nanhey while he was sleeping. Thereafter, immediately Hazari Lal @ Nanhey immediately taken to Civil Hospital, Khanna, from where he was referred to Rajindra Hospital, Patiala and on 09.06.2018 he died due to the injuries received by him in the accident. Postmortem of the deceased Hazari Lal @ Nanhey was conducted in Civil Hospital, Khanna. FIR bearing no. 184 dated 10.06.2018 was registered for the offences punishable U/s 279 & 304-A IPC in this regard. The accident took place on account of rash and negligent driving of truck by the respondent No.1. The deceased was hale, hearty, honest, hard working and energetic person. The deceased was 40 years of age at the time of accident. He was unmarried and was working as labourer. He was earning Rs.20,000/- per month. The claimant was having high expectations from the deceased for her old age. The claimant has spent a sum of Rs.50,000/- on the transportation of dead body and last rites of the deceased. Claimant is mother of the deceased. The claimant has suffered mentally as well as financially on account of the death of her son. The claimant has suffered huge loss of love and affection and as such, the present claim petition has been filed claiming the compensation of Rs.1,00,000/- as interim compensation and Rs. Twenty Lakhs as compensation alongwith interest.

3. Upon notice, respondents No.1 & 2 appeared through Counsel and filed joint reply taking up preliminary objection that respondent no.2 has employed respondent no. 1 after verifying the driving licence. The respondent no. 2 took the driving test of respondent no. 1 who was efficient driver. Respondent no. 1 has a valid and effective driving licence. The vehicle of respondent no. 2 is insured with respondent no. 3 i.e. New India Assurance Company Limited, G.T. Road, Khanna. The respondents are not liable to pay any compensation to the claimant. The present claim petition is not maintainable as no alleged accident ever took place nor respondent no. 1 has caused the accident as alleged. It is further admitted that a false FIR has been registered against the respondent. On merits, the remaining averments made in the claim petition were denied and prayer for dismissal of the petition was made.

4. Respondent No.3 appeared through Counsel and filed written statement by taking up the preliminary objections that petition is not maintainable; the claim petition is bad for mis-joinder and non-joinder of necessary parties. It is further submitted that the respondent is not liable to pay any compensation to the claimant since the respondent no. 1 did not have valid and effective driving licence at the time of alleged accident. The owner of the vehicle had handed over the offending vehicle to the respondent no. 1 with the knowledge that respondent no. 1 did not have a valid and effective driving licence. The truck bearing no. PB-10-BC-4655 did not have the valid registration certificate, permit and fitness certificate at the time of alleged accident. On merits, the remaining averments made

in the claim petition were denied and prayer for dismissal of the claim petition has been made.

6. From the pleadings of the parties following issues were framed:-

1. Whether Hazari Lal S/o Hori Lal has died in a motor vehicle accident due to rash and negligent driving of offending truck bearing no. PB-10-BC-4655 by respondent no. 1?OPP
2. Whether the claim petitioner is entitled to compensation if so to what extent and from whom?OPP
3. Whether offending vehicle was being plied in contravention of terms and conditions of insurance policy if so, its effect?OPR3
4. Whether driver of offending truck was having no valid driving licence, registration certificate and fitness certificate if so, its effect? OPR3
5. Whether the claim petition is not maintainable? OPR
6. Relief

7. In order to prove their case, Inder Devi claimant herself stepped into witness box as C.W1 and tendered into evidence her duly sworn affidavit Ex.PA along with documents i.e. P1 to Ex.P5 and Mark-A i.e. FIR Ex.P1, postmortem report of Hazari Lal Ex.P2, notarized copies of Aadhar Card of Nanhey and Inder Devi Ex.P3 and Ex.P4 and notarized copy of Voter Card of Hori Lal as Ex.P5 and receipt dated 10.06.2018 Mark-A. Claimant also examined Bhagwan Saran as CW2 who tendered into evidence his duly sworn affidavit Ex.PB alongwith document i.e. notarized copy of his Aadhar Card as Ex.PW2/1.

8. Thereafter, an application U/o 6 Rule 17 CPC was filed by claimant, which was allowed vide detailed order dated 15.01.2024.

9. Thereafter, claimant again tendered into evidence her amended affidavit Ex.PW1/A alongwith documents Ex.PW1/1 to

Ex.PW1/5.

10. Ld. Counsel for the claimant closed the evidence on behalf of claimant vide separate statement on dated 12.08.2024.

11. Thereafter, case was fixed for the evidence of respondents but despite availing numerous opportunities, respondents failed to conclude their evidence, therefore, the evidence of the respondents was closed by order vide order dated 25.05.2026.

12. Thereafter, an application for leading additional evidence moved by respondents no. 1 & 2, which was allowed and accordingly, ld. Counsel for the respondents no. 1 & 2 tendered into evidence the documents Ex.R1 to Ex.R5 and closed the evidence on behalf of respondents no. 1 & 2 vide separate statement on dated 06.07.2026.

13. I have heard arguments advanced by learned counsel for the parties and have also gone through record. My issue-wise findings are as under:

ISSUE Nos.1 and 2

14. Onus to prove these issues was upon the claimant. Both these issues are taken up together being interconnected and in order to avoid repetition of discussions.

15. Before proceeding further with the discussion of the case, this Tribunal would like to discuss some judicial pronouncements by the Hon'ble Supreme Court of India, wherein it has been held that strict principle of proof is not required in such cases and claimants are only required to merely establish their case on preponderance of probabilities.

In *Bimla Devi and Ors. vs. Himachal Road Transport Corporation and Ors.*, 2009(13) SCC 530 Hon'ble Supreme Court has been pleased to hold that in a Petition under Section 166 of the Act, the Claimants were merely to establish their case on the touchstone of preponderance of probability and holistic view is to be taken while dealing with the Claim Petition under the Motor Vehicles Act. Para 15 is extracted hereunder:

"15. In a situation of this nature, the Tribunal has rightly taken a holistic view of the matter. It was necessary to be borne in mind that strict proof of an accident caused by a particular bus in a particular manner may not be possible to be done by the claimants. The claimants were merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt could not have been applied."

Hon'ble Supreme Court in *Dulcina Fernandes v. Joaquim Xavier Cruz (SC) : Law Finder Doc Id # 486884 2013(5) Recent Apex Judgments (R.A.J.) 585 : 2013(4) R.C.R.(Civil) 751* has been pleased to observe as follows;

"7. It would hardly need a mention that the plea of negligence on the part of the first respondent who was driving the pick-up van as set up by the claimants was required to be decided by the learned Tribunal on the touchstone of preponderance of probability and certainly not on the basis of proof beyond reasonable doubt. [Bimla Devi & Ors. v. Himachal RTC, 2009(3) R.C.R.(Civil) 805 : (2009)13 SCC 530]. In United India Insurance Company Limited v. Shila Datta & Ors., 2012(1) R.C.R.(Civil) 582 : 2011(6) Recent Apex Judgments (R.A.J.) 510 : (2011)10 SCC 509 while considering the nature of a claim petition under the Motor Vehicles Act, 1988 a three-judge-bench of this Court has culled out certain propositions of which propositions (ii), (v) and (vi) would be relevant to the facts of the present case and, therefore, may be extracted here-in-below :

"(ii) The rules of the pleadings do not strictly apply as the claimant is required to make an application in a form prescribed under the Act. In fact, there is no pleading where the proceedings are suo moto initiated by the Tribunal.

(v) Though the Tribunal adjudicates on a claim and determines the compensation, it does not do so as in an adversarial litigation.

(vi) The Tribunal is required to follow such summary procedure as it thinks fit. It may choose one or more persons possessing special knowledge of and matters relevant to inquiry, to assist it in holding

the enquiry."

The following further observation available in paragraph 10 of the report would require specific note :

"We have referred to the aforesaid provisions to show that an award by the Tribunal cannot be seen as an adversarial adjudication between the litigating parties to a dispute, but a statutory determination of compensation on the occurrence of an accident, after due enquiry, in accordance with the statute."

In ***Parmeshwari v. Amir Chand (SC) : Law Finder Doc Id #***

243792; 2011 AIR (SC) 1504 Hon'ble Supreme Court has been pleased to hold that in a road accident claim, the strict principles of proof in a criminal case are not attracted and the claimants are merely to establish their case on the touchstone of preponderance of probability.

16. Ld. Counsel for the claimant has submitted that the deceased was 40 years of age at the time of his death and he was working as labourer in Grain Market, Khanna. The accident has occurred due to rash and negligent driving of respondent No.1. It has been submitted that regarding the accident, FIR no.184 dated 10.06.2018 was registered at Police Station City Khanna, District Ludhiana, under Sections 279, 304-A IPC has been registered. Therefore, it has been submitted that the claim claimant being the legal heir/mother is entitled to the compensation.

17. On the other hand, it is submitted by Ld. Counsel for the respondent/Insurance Company that the driving license has not been proved as per the norms. So, prayer has been made that claim petition be dismissed.

18. The Ld. Counsel for respondents No.1 & 2 has submitted that the respondent no. 2 has employed respondent no. 1 after verifying the

driving licence of respondent no. 1. The respondent no. 2 took the driving test of respondent no. 1 who is an efficient driver. The vehicle of the respondent is ensured with respondent no. 3 i.e. Insurance Company. The compensation, if any, be ordered to be paid by the Insurance Company.

19. Claimant has filed the present claim petition for awarding compensation on ground of death of her son Hazari Lal @ Nanhey in motor vehicular accident, which took place on 08.06.2018 at 11:00 PM in the Grain Market, Khanna. It has been submitted that the truck bearing no. PB-10-BC-4655 being driven by respondent no.1 in rash and negligent manner without blowing any horn ran over the truck over Hazari Lal while he was sleeping and due to which, later on during treatment, he died. To prove all these facts, claimant Inder Devi as PW1 stepped into the witness box and she reiterated her version as per the averments made in the petition. The claimant also examined Bhagwan Saran as PW2 who is brother of the deceased who also reiterated the version as per the contents of the petition. He has also stated that respondent no.1 caused the accident and caused the death of Hazari Lal @ Nanhey while driving the truck bearing PB-10-BC-4655 in a rash and negligent manner. Thereafter, FIR Ex.PW1/1 was registered. The claimant stated that respondent no.1 had caused the accident and caused the death of Hazari Lal @ Nanhey in a motor vehicular accident. The claimant has also proved on record postmortem examination report of deceased as Ex.PW2/2, as per which, the cause of death is severe haemorrhage and shock due to the injuries as mentioned in the postmortem report which are sufficient to cause death in

ordinary course of nature and all injuries were antemortem in nature. Regarding the accident, FIR No.184 dated 10.06.2018, under Sections 279 and 304A IPC was registered at Police Station City Khanna, which has been proved on record as Ex.PW1/1.

20. Thus, in view of the aforesaid discussion, the claimant has established on file that accident in this case has taken place due to rash and negligent driving of respondent No.1 Guddu @ Gurwinder Singh.

21. The deceased was son of claimant who had died at the age of 40 years. The whole life of the claimant has been shattered due to death of Hazari Lal @ Nanhey. The claimant had expectations from her son as her husband has already expired. The Claimant stated that at the time of death, deceased Hazari Lal @ Nanhey was 40 years. However, in the postmortem report Ex.PW1/2, the age of deceased has been mentioned as 47 years. It is evident that the age mentioned in postmortem report is without any medical analysis/test and seems to be mentioned on the basis of some information. The learned counsel for the claimant has submitted that the the deceased was working as labourer and was earning Rs.20,000/- per month. The date of birth of deceased as per Ex.PW1/3 (copy of aadhar card) is 01.01.1980. The age of deceased in Ex.PW1/2 (postmortem report) is mentioned as 47 years. In the above said documents placed on record, the age of the deceased has been mentioned differently. However, the Aadhar Card being an official identity document issued by the Competent Authority, is hereby taken into consideration for the limited purpose to determine the age of the deceased in the present

case. Accordingly, the age as reflected in the Aadhar Card has been taken into consideration while deciding the present case. As per Aadhar Card, the date of birth of the deceased is 01.01.1980. Therefore, the deceased was 38 years of age at the time of the accident.

22. The next question which needs consideration of this Tribunal is whether the claimant is entitled to compensation under Section 166 of Motor Vehicle Act and from whom. Ld. Counsel for respondents No.1 and 2 argued that in view of the law laid down in *M/s Bajaj Alliance General Insurance Co. Ltd., Versus Rambha Devi and others, Civil Appeal No.841 of 2018*, a driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicle with a gross vehicle weight under 7500 kg is permitted to operate a 'Transport Vehicle' without needing additional authorization under Section 10(2)(e) of the M.V. Act specifically for the 'Transport Vehicle' class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. And overlap exists between the two. The special eligibility requirements will however continue to apply for, inter alia, e-carts, e-rickshaw, and vehicles carrying hazardous goods. The submission of Ld. Counsel for respondents No.1 and 2 is not sustainable. Perusal of file reveals that as per copy of permit Certificate of offending Truck bearing No. PB-10-BC-4655 Ex.R5, the gross weight of the offending vehicle is 25000 Kgs which is more than 7500 Kgs. In the present case, the driving licence of respondent no. 1 driver has been proved on file as Ex.R2. Perusal of the driving licence Ex.R2 reveals that it has been issued for transport vehicles w.e.f. 05.08.2011. So, respondent

no. 1 was having valid licence at the time of accident.

23. The claimant is mother of the deceased. The claimant is entitled to receive compensation on account of roadside death of deceased Hazari Lal in a roadside accident caused by respondent No.1 while driving the truck in question.

24. The claimant has not proved on record any income proof of the deceased i.e. neither any income tax returns nor any other documents regarding the income has been placed on record. The deceased was unmarried and had mother and was self employed. He was 38 years of age at the time of accident and there were one person dependent upon him i.e. his mother. In the absence of reliable proof of income, his monthly income is assessed on the basis of applicable DC rate at Rs.10,000/- per month. So, half of total amount was spent by him for his own personal expenses i.e. he was spending about Rs.5000/- per month on himself. After deducting half of the total amount, his monthly income comes to Rs.5000/- per month. Considering the fact that deceased was about 38 years of age and he was self employed, therefore in view of the judgment *Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Anr, 2009(3) RCR(Civil) 77* there was 40% increase in his income as future prospects which comes to Rs.2000/-. Therefore, the income of the deceased comes to Rs.7000/-(Rs.5000/- + Rs.2000/-) per month. So, the total annual income of deceased comes to Rs.84,000/-.

25. For the purpose of multiplier, this Tribunal shall place reliance upon the case law *Smt. Sarla Verma and others versus Delhi*

Transport Corporation and Anr., Civil Appeal No.3483 of 2008 (Arising out of SLP (c) No.8648 of 2007), D/d 15.4.2009 wherein the Hon'ble Apex Court while discussing the multiplier factor has discussed the multiplier given in various reported cases. The para No.21 of the Sarla Verma (Supra) case is reproduced as under:-

“We therefore hold that the multiplier to be used should be as mentioned in column (4) of the table given in para No.19 (prepared by applying Susamma Thomas, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41-45 years and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56-60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years”.

26. The aforesaid view of the Hon'ble Apex Court in Sarla Verma (supra) was reaffirmed in case *National Insurance Company Limited versus Pranay Sethi and others, 2017(4) R.C.R (Civil) 1009 (SC)* wherein the Hon'ble Apex Court has held that the selection of multiplier is adopted as has been indicated in the Sarla Verma case.

27. Keeping in view the above said cases law, since the deceased was 38 years of age at the time of death, therefore in the present case multiplier factor of 15 has to be applied. So, after applying multiplier of 15 the claimant is entitled to Rs.84,000/- x 15 = Rs.12,60,000/-.

28. The Hon'ble Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and Ors, Special Leave Petition (Civil) No.25590 of 2014 decided on 31.10.2017*, further held as under:

“Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be

Rs.15,000/-, Rs. 40,000/- and Rs. 15,000/- respectively. The aforesaid amounts should be enchanced at the rate of 10% in every three years.

29. As such, claimants are entitled to loss of estate, loss of consortium and funeral expenses i.e. Rs.15,000/-, Rs.40,000/- and Rs.15,000/- respectively i.e. total Rs.70,000/- is granted under the conventional heads.

30. Thus, considering the aforesaid facts and circumstances the present petition is allowed to the effect that the claimant is entitled to following compensation:-

So, claimant is entitled to Rs.13,30,000/- (Rs.12,60,000/- + Rs.70,000/-).

31. The accident took place on 08.06.2018. As per Ex.R1, the offending vehicle in question was insured with respondent No.3 on the date of accident. Respondent No.1 is driver of the offending vehicle and respondent No.2 is owner of the offending vehicle. So, the responsibility to pay the compensation amount is upon the respondent no. 3 with whom the offending truck in question is insured as respondents no. 1 & 2 are having all valid documents.

32. Keeping in view the above discussions, issues No.1 and 2 are decided in favour of the claimant and against the respondents.

Issue No.3

33. Onus to prove this issue was upon the respondent No.3. However, during the course of arguments, Ld. Counsel for respondent No. 3 has not pressed this issue. As such, this issue is decided in favour of the respondents no. 1 & 2 and against respondent No.3.

Issue No.4

34. Onus to prove this issue was upon the respondent No.3/Insurance company. In this case, the respondents No.1 and 3 have not stepped into the witness box. However, the respondents have placed on record the the driving license of respondent No.1 Guddu @ Gurwinder Singh, as per which, the said driving license was issued on 05.08.2011 and it is valid upto 04.01.2021. The accident occurred on 08.06.2018. Therefore, on the day of accident the respondent No.1 was having valid driving license. Therefore, this issue is decided against respondent No.3 and in favour of respondents No.1 & 2.

Issue No. 5

35. Onus to prove these issues was upon the respondents. However, in view of my discussion on issues No.1 and 2 since the deceased has died in a motor vehicular accident, the present claim petition claiming the compensation is maintainable. Therefore, this issue is decided in favour of the claimants and against the respondents.

Relief (Issue No.6)

36. In view of the findings on the above said issues, present claim petition is allowed and an award of Rs.13,30,000/- is passed in favour of claimant. Respondents no.1 to 3 are directed to pay the compensation amount of Rs.13,30,000/- to claimant.

37. Claimant is also entitled to 7% interest on the above said award amount from the date of filing of the claim petition till today. Respondents no.1 to 3 are directed to pay the award amount within two

months from today, failing which claimant is entitled to recover the above said award amount along with interest at the rate of 9% per annum from the date of award till its realization. The amount of compensation is ordered to be directly remitted to claimant in her bank account and she is directed to supply the requisite particulars of her bank account to the respondents forthwith. So, the responsibility to pay the compensation amount is upon the respondent no. 3 with whom the offending truck in question is insured as respondents no. 1 & 2 are having all valid documents. The counsel fee is assessed as Rs.2000/-. Memo of costs be prepared. File be consigned to the Record Room.

Pronounced/

28.07.2026

(Barinder Singh Ramana)

Motor Accident Claims Tribunal,

Ludhiana. UID No.0161