

**IN THE COURT OF PREETI THAKUR, MOTOR ACCIDENT
CLAIMS TRIBUNAL, CHAMBA, DISTRICT CHAMBA (HP).**

CNR No. : HPCH01-000140-2023
 Filing No. : 62 of 2023
 Registration No. : 4 of 2023
 Case Type : MAC
 Date of Filing: : 12.01.2023
 Date of Decision: : 04.12.2025

1. Smt. Anita Devi w/o Sh. Hem Singh;
2. Sachin Singh s/o Sh. Hem Singh;
3. Smt. Saroj Devi w/o Sh. Pratap Singh;
 all r/o Village Dabola, P.O. Barour, Tehsil and
 District Chamba H.P.

--Petitioners.

Versus

1. Oriental Insurance Company Ltd. Hardaspura, District Chamba, H.P. through its Branch Manager.
2. Sh. Rakesh Mahajan s/o Sh. Gajinder Raj, r/o V.P.O. Tarella, Tehsil Churah, District Chamba (HP)

---Respondents.

**PETITION UNDER SECTION 166 OF MOTOR
VEHICLES ACT, 1988.**

For the petitioners: Sh. Vaneet K. Gupta, Advocate.

For the respondent No.1: Sh. Vaneet Vaid, Advocate.

For the respondent No.2: Sh. Nitin Gupta, Advocate.

AWARD

This petition has been filed by the petitioners under Section 166 of the Motor Vehicles Act, 1988 claiming compensation on account of death of Hem Singh.

2. The facts in brief are that on 24.07.2022, Hem Singh deceased was travelling in vehicle No.HP-73-4500 (Bolero) as a family friend, which was coming from Satrundi side to Tissa and

was being driven by one Rakesh Kumar in a rash and negligent manner. Due to high speed, the driver could not control the vehicle which fell into the gorge at a place about 250 meters away from Satrundi towards Tissa, Tehsil Churah, as a result of which Hem Singh died on the spot. Rakesh Kumar i.e. driver of the vehicle also died in the same accident.

3. It is maintained that Hem Singh was a young, dynamic and promising person and was working as Clerk cum Computer Operator with Sh. Rakesh Gupta, Surveyor cum Loss Assessor, Chamba, HP. He was the future hope for the claimants, who were fully dependent upon him. Besides this, the deceased was a loving husband, father and son. Due to his death, the claimants have been deprived of his love and affection. His death has created such a vacuum in the lives of claimants which would not be compensated by any amount of compensation. With these submissions, it is prayed that the claimants may kindly be awarded compensation of ₹ 20,00,000/- (₹ Twenty Lac only) along with interest @ 12% per annum.

4. When put to notice, the claim petition has been contested by the respondents.

5. Respondent No.1 resisted and contested this petition by filing reply, in which the preliminary objections qua maintainability, driver of the offending vehicle was not holding valid and effective driving licence, the vehicle was being plied by its driver in violation of terms and conditions of the insurance policy and provisions of Motor Vehicles Act, vehicle being driven by its driver under the influence of liquor, claimants have not approached the Tribunal with clean hands, have been taken.

6. On merits, respondent No.1 has denied the age of deceased as 42 years and that he was working as Clerk cum Computer Operator. It is submitted that five other persons were also travelling with deceased Hem Singh in the private vehicle for hire or reward and vehicle No.HP-73A-4500 was plied against the terms and conditions of the insurance policy as well as against the provisions of Motor Vehicles Act. It is further submitted that the petition is being filed in collusion of the claimants and respondent No.2. With these submissions, insurance company has prayed for dismissal of the instant petition.

7. Respondent No.2 has also filed separate reply and taken preliminary objection qua maintainability, vehicle No.HP-73A-4500 (Bolero) is comprehensively insured with respondent No.1 vide policy cover No.233802/31/2022/5428 from the period of 17.03.2022 to 16.03.2023 and in case, this tribunal comes to the conclusion that the claimants are entitled for award amount, in that eventuality, the respondent No.1 is liable to indemnify the respondent No.2. On merits, it is submitted that accident did not occur due to rash and negligent driving of the driver and accident occurred due to mechanical failure in the vehicle. With these submissions, respondent No.2 has prayed for dismissal of the instant petition against him.

8. Rejoinder to the reply of respondent No.1 filed by the claimants, wherein they have reiterated the contents of the petition and denied those of the reply of respondent No.1.

9. From the pleadings of the parties, the following issues were framed by this Tribunal on 24.09.2024:

1. Whether on dated 24.07.2022, at place Satrundi, within the jurisdiction of PS Tissa, Rakesh Kumar

was driving vehicle No. HP73A-4500 (Bolero) in a rash and negligent manner so as to endanger human life and personal safety of others and caused the death of Hem Singh? OPP

2. Whether the petitioners being Lrs of deceased Hem Singh are entitled to receive compensation of ₹20,00,000/-(twenty lac) from the respondents? OPP

3. Whether driver Rakesh Kumar was not holding a valid and effective driving licence to drive the aforesaid vehicle? OPR-1

4. Whether driver Rakesh Kumar was driving the above vehicle in violation of terms and conditions of the insurance policy and provisions of Motor vehicles Act as alleged? OPR-1

5. Whether the deceased was travelling in the aforesaid vehicle as a gratuitous passenger? OPR-1

6 Relief.

10. The parties have led oral as well as documentary evidence in support of their respective claims.

11. I have heard the learned counsel for the parties and also gone through the record of the case with minute care.

12. For the detailed reasons to be recorded hereinafter while discussing the issues for determination, my findings on the aforesaid issues are as under:

Issue No. 1: Yes.

Issue No. 2: Yes.

Issue No. 3: No.

Issue No. 4: No.

Issue No. 5: No.

Relief: Petition is allowed as per operative portion of the award.

REASONS FOR FINDINGS**ISSUE NO. 1:**

13. The onus to prove this issue was on claimants. In order to prove this issue, the petitioners have examined PW1 HASI Virender Singh, who has brought the original record pertaining to FIR No.89/2022, dt. 25.07.2022, registered at P.S. Tissa. He has proved the abstract of said FIR as Ex.PW1/A.

14. PW2 is Sh. Abhinav Dogra, who has brought the original record pertaining to postmortem report of Hem Singh. He has proved the abstract of said postmortem report as Ex.PW2/A.

15. Claimant No.1 Anita Devi appeared in the witness box as PW3 and tendered in evidence her affidavit Ex.PW3/A, wherein she has reiterated and reaffirmed the contents of the petition. She has also tendered in evidence copy of matriculation certificate of Hem Singh Ex.PW3/B, death certificate Ex.PW3/C and legal heirs certificate Ex.PW3/D. During cross-examination she has admitted that the date of birth of her husband was 21.02.1980. She has admitted that the accidental vehicle was private vehicle. She has denied that the deceased and other persons were traveling in the ill-fated vehicle by paying fare. She has further denied that the occupants paid the money to the owner of the vehicle. She has stated that she has not placed income certificate and occupation certificate of her deceased husband from revenue department and Panchayat. She has not tendered any computer certificate of the deceased. She has stated that the salary of her husband was paid in cash by the surveyor. She has denied that they belong to BPL family. She has denied

that the deceased was not working as clerk-cum-computer operator with Rakesh Gupta Surveyor. She has denied that the deceased was not having income of ₹ 20,000/- per month. She has denied that the accidental vehicle was being plied against the terms and condition of the insurance policy. She has denied that they are not entitled for compensation from the insurance company. She has denied that she is deposing falsely on wrong facts to take compensation. She has denied the accident took place due to sudden mechanical failure developed in the vehicle. She has denied that there was no rash and negligent driving of the deceased driver.

16. PW4 Rakesh Gupta has stated that he is working as Surveyor-cum-Loss Assessor at Chamba since 1997. The deceased Hem Singh was working with him as clerk-cum-computer operator since 2008. He used to pay ₹20,000/- to him per month as salary. The deceased was sent by him to Satrundi side alongwith another surveyor to assist them on the date of accident. During cross examination he has stated that he is income tax assessee. He does not maintain record of payments and receipts. He disclosed payment of deceased in his income statement in expenses head. He has not brought his income returns from the year 2008 onwards. He used to pay salary in cash. He has denied that as per government norms salary cannot be paid in cash to employees. He has not taken any EPF account of his employees. Self stated that it is required only for ten or more employees. He has not maintained any salary and attendance register of his employees. He has denied that the deceased was neither working as clerk-cum-computer operator with him nor he used to pay him

₹20,000/- per month. He has denied that he is deposing falsely to help the petitioners.

17. On the other hand, learned counsel for the respondent No.1, vide separate statement recorded has not led any evidence on behalf of respondent No.1 and closed the same.

18. Thereafter, learned counsel for the respondent No.2 vide separate statement recorded has tendered in evidence copy of registration certificate Ex.R1, copy of insurance Ex.R2, copy of driving licence Ex.R3 and closed the evidence on behalf of respondent No.2.

19. This is the entire evidence led on behalf of the parties.

20. Respondents have not denied the factum of accident. However, respondent No.2 has submitted that the accident has not occurred due to rash and negligent driving of driver of the offending vehicle and that it was entirely due mechanical failure, which occurred in the offending vehicle. As per respondent No.1, the offending vehicle was being driven by the driver, who was not holding valid and effective driving licence at that time. The claimants have also proved on record the copy of FIR Ex.PW1/A, the perusal of which also shows that upon information at P.P. Nakrod on 24.07.2022, police visited the spot at a distance of 250 meters from place Satrundi, where the offending vehicle had fallen into the gorge and in which about five persons, who were travelling in the said vehicle including deceased Hem Singh and driver Rakesh Kumar, were found dead. On the basis of information, the facts were verified by the police and thereafter the FIR was lodged under Sections 279, 337 and 304-A IPC. Now, as per respondent No.2, the accident has occurred due to

mechanical failure which crept in the vehicle, however no evidence to this effect has been placed and proved on record by the said respondent. No document/mechanical report in this regard has been proved on record in the absence of which said plea cannot be accepted.

21. It would not be out of place to mention here that, the burden of proving rash and negligent driving of the driver of the offending vehicle which rested upon the claimants in the accident claim cases is not the same as that in the criminal cases. Rather, it is similar to the civil cases and has to be decided on the basis of preponderance of probabilities.

22. It is appropriate to refer to a judgment of Hon'ble High Court of Himachal Pradesh titled as **Smt. Prem Lata and another Vs. H.R.T.C and another 2016 (4) Him. L.R. 2584**. In para No.11, it is held as follows:

“11. It is beaten law of the land that in Civil Cases, proof of preponderance of probability is required, in Criminal cases, proof beyond reasonable doubt is required and in summary proceedings under Section 166 of the Motor Vehicles Act 1988 (for short “(the Act”), prima facie proof is required.

23. Considering all these facts, this Tribunal is of the view that the accident in question has taken place due to rash and negligent driving of driver Rakesh Kumar (deceased) while driving offending vehicle as a result of which the Hem Singh has sustained fatal injuries which resulted in his death. Hence, issue No. 1 is decided in favour of the claimants.

ISSUE NO. 2

24. The onus to prove issue No. 2 is on claimants. In view of the findings given under issue No. 1, wherein it has been held by this tribunal that accident in question has taken place due to rash and negligent driving of the driver of the offending vehicle namely Rakesh Kumar (deceased), hence the claimants are entitled to compensation on account of death of Hem Singh.

25. As per claimants, the deceased Hem Singh alongwith others were taken from the spot to Civil Hospital Tissa for postmortem examination, which took place on 25.07.2022. PW2 Sh. Abhinav Dogra has proved the said fact from record of PMR brought by him. Postmortem report is Ex.PW2/A, which reveals that the dead body of Hem Singh son of Pratap Chand was brought to CH Tissa by the police on 25.07.2022 and the Medical Officer conducting postmortem examination has held that the death has occurred, due to blunt force cranial trauma leading to neurogenic shock, ultimately leading to death. As per postmortem report Ex.PW2/A, the deceased was about 38 years old at the time of his death, however as per matriculation certificate Ex.PW3/B and death certificate Ex.PW3/C, the deceased was about 42 years old at the time of his death. Thus, it is proved from the record that the deceased was 42 years old at the time of his death.

26. As per claimants, the deceased was employed as Clerk cum Computer Operator with PW4 Rakesh Gupta, Surveyor cum Loss Assessor and used to receive Rs.20,000/- per month for his work. PW4 Sh. Rakesh Gupta has deposed to this effect. This

witness has categorically stated that he used to pay Rs.20,000/- per month as salary to the deceased for his work. During cross-examination, he has stated that he used to pay the salary to the deceased in cash, however he has not maintained any salary and attendance register of his employees. No documentary evidence in the shape of routine registers etc. maintained by PW4 Rakesh Gupta, has been led by the claimants in order to prove the monthly income of deceased as Rs.20,000/-, in the absence of which this tribunal is compelled to carry out some assessment work in this regard. The deceased was 42 years old, hale and hearty person and was matric pass at the time of accident. The deceased had mother, wife and children to be looked after and in this situation, it cannot be expected that he did not earn anything. Keeping in view the Minimum Wages Act, the income of Hem Singh (deceased) can be fairly assessed to be Rs.15000/- per month in lump sum.

27. The next question arises for determination before this tribunal is about the monthly contribution of the deceased Hem Singh towards his family during his life time. The deceased was hale and healthy and was head of his family. As per PW3 Anita Devi, the whole family i.e. mother, wife and children were dependent upon the earnings of the deceased and due to his death, the claimants have suffered pain, mental agony, financial loss, loss to estate, loss of consortium and loss of love and affection. The monthly income of deceased is assessed to be Rs.15,000/- per month and out of this amount, one fourth of the amount is to be deducted on account of his personal expenses. Thus, an amount of Rs.3750/- is deducted towards the personal expenses of the

deceased. Since the deceased was self employed and below 50 years of age, as such, 25% increase has to be given on the monthly earnings on account of future prospects i.e. 25% of 15,000/- = Rs.3750/-. At the same time, the age of the deceased at the time of his death is proved as 42 years and keeping in view the decision of Hon'ble Apex Court in Sarla Verma vs. DTC , 2009 vol. (6) SCC page 1 to 1, the multiplier of 14- is appropriate multiplier to be applied in the present case.

28. Applying the appropriate multiplier of 14- the entitlement of the payments for the compensation is adjudicated as under:-

Loss of dependency

1	14062 x 12 x 14	Rs.23,62,416 /-
2	Loss of estate	Rs. 15,000/-+1500 =Rs.16,500/-
3	Funeral charges	Rs. 15,000/-+1500=Rs.16,500/-
4	Loss of consortium	Rs. 40,000/-+4000/-=Rs.44,400/-
	Total:	Rs. 24,39,816/- i.e. Rs.24,50,000/-in lump sum.

29. Thus the claimants are entitled for the compensation to the tune of Rs. 24,50,000/- in lump sum. Since no breach of policy condition has been observed and the offending vehicle was being driven by respondent/driver possessing valid and effective driving licence, as such the compensation amount is recoverable from the respondent/insurance company. Thus, it is the respondent company, who is liable to pay the compensation to the claimants. Hence, this issue is decided in favour of claimants.

ISSUE NO.3

30. The respondent No.2 has placed on record the copy of driving licence of Rakesh Kumar, son of Musadi Ram, which is Ex.R3 and the perusal of which shows that the same was issued on 16.11.2018 till 15.11.2038 for driving the vehicles including the offending vehicle. It is the plea of respondent No.1 that the driver Rakesh Kumar was not holding valid and effective driving licence at the time of accident and the licence which is placed on record is a fake licence which is not issued by the competent authority. The said respondent No.1 has not even bothered to enter into the witness box and depose to this effect, what to talk about proving the said plea raised. Thus, no evidence has been led by the respondent insurance company in order to prove that licence Ex.R3 is a fake licence not issued by any competent authority. The accident has occurred on 24.07.2022 and licence Ex.R3 was valid and effective from 16.11.2018 to 15.11.2038. Hence, this issue is proved against the respondent No.1.

ISSUE NO.4:

31. The respondent/owner has placed on record the copy of Registration Certificate Ex.R1, the perusal of which shows that the same was valid with respect to offending vehicle from 28.01.2012 till 27.01.2027. The respondents have also placed on record the copy of insurance policy pertaining to offending vehicle as Ex.R2, the perusal of which shows that the vehicle in question was duly insured with the respondent/insurance company for the period from 17.03.2022 till 16.03.2023. The accident has taken place on 24.07.2022, which means that at the time of accident, the vehicle in question was duly insured with

respondent No.1.

32. As discussed above, the respondents No.2 has placed on record the copy of driving licence Ex.R3, the perusal of which shows that the driver Rakesh Kumar son of Musadi Lal was holding valid and effective driving licence to drive the offending vehicle.

33. Since the driver of the vehicle was holding valid and effective driving license at the time of accident and the said vehicle was also insured with respondent No.1 and that said respondent has led no evidence to prove as to how the said vehicle was being plied in contravention of terms and conditions of insurance policy or against the provisions of Motor Vehicles Act, therefore, this issue is decided against the respondents.

ISSUE No.5

34. The onus to prove this issue was upon the respondent No.1, however, no evidence has been led by the said respondent to prove the said issue, as such, the same is decided in negative.

Relief:

35. In view of my findings given on issues above, the petition succeeds and is allowed with costs and claimants are awarded compensation of Rs.24,50,000/- alongwith interest at the rate of 9% per annum from the respondent No.1 from the date of filing of the petition till the deposit of Award amount. The awarded amount on its deposit is ordered to be invested in the shape of FDR in the approved bank. The compensation along with interest and costs shall be deposited by the respondent No.1,

Insurance Company within 30 days from the date of award before the Tribunal. The said amount of compensation is ordered to be apportioned amongst the claimants as follows:

Claimant No.1 is entitled to Rs.15,50,000/-.

Claimant No.2 is entitled to Rs.5 lac.

Claimant No.3 is entitled to Rs.4 lac.

Pending application(s), if any, are also disposed of.
Memo of costs be prepared.

36. The file after its due completion be consigned to the record room.

Announced in the open court today on this 4th day of December, 2025.

(Preeti Thakur)
Motor Accident Claims Tribunal,
Chamba (HP)

Anil

LIST OF PETITIONERS/RESPONDENTS/COURT WITNESSES.**A. PETITIONERS**

RANK	Name	NATURE OF EVIDENCE
PW-1	HASI Virender Singh	Petitioner's witness.
PW-2	Abhinav Dogra	Petitioner's witness.
PW-3	Anita Devi	Petitioner No.1 herself.
PW-4	Rakesh Gupta	Petitioner's witness.

B. Respondent No.1's Witnesses, if any.

RANK	NAME	NATURE OF EVIDENCE
	Nil	

LIST OF PETITIONERS /RESPONDENTS /COURT EXHIBITS**A. Petitioners**

Sr. No.	Exhibits Number/ date	Date	Description.
1.	PW1/A	16.01.2025	FIR.
2.	PW2/A	do	Postmortem report of Hem Singh.
3.	PW3/A	do	Affidavit of Anita Devi.
4.	PW3/B	do	Matriculation certification of Hem Singh.
5	PW3/C	do	Death Certificate.
6.	PW3/D	do	Legal Heir Certificate.
B. Respondents			
7	R1	30.10.2025	Copy of registration certificate of vehicle.
8.	R2	do	Copy of insurance certificate.
9.	R3	do	Copy of Driving Licence

(Preeti Thakur)
Motor Accident Claims Tribunal,
Chamba (HP)

04.12.2025

Present: Sh. Vaneet K. Gupta, learned counsel for petitioners.
Sh. Vaneet Vaid, learned counsel for respondent
No.1.
Sh. Nitin Gupta, learned counsel for respondent
No.2.

Vide separate judgment, petition succeeds and is
hereby allowed. File, after due completion be consigned to the
Records.

Announced
04.12.2025.

(Preeti Thakur)
Motor Accident Claims Tribunal,
Chamba (HP)