BEFORE SHRI KAMALJIT LAMBA,
MOTOR ACCIDENT CLAIMS TRIBUNAL, BARNALA.
(UID No.PB0055).

CNR No.PBBR01-0000632-2022.
CIS No. MACP-10/2022.
DATE OF DECISION: **August 20, 2022**

1. Pardeep Singh, aged 17 years, minor son of Gurjeet Singh, Adhar No.5161 7305 9771, through his grand parents Nachhattar Singh and Nasib Kaur, being next friend and natural guardian;

2. Nachhattar Singh, aged 77 years, son of Jaggar Singh, Adhar No.5206 1362 1314

3. Nasib Kaur, aged 73 years, wife of Nachhttar Singh, Adhar No.8635 8725 1099, all residents of Chung Shaina, Barnala.

......Claimants.

Versus

1. Amritpal Singh son of Atma Singh, resident of village Khiyali Wala, Nathana Road, Bathinda.**(Driver of Innova Vehicle bearing RC No.PB-03T-2323)**.

2. M/s Creative Buildwel Pvt. Ltd., Hazi Rattan, Civil Road, Bathinda, through its authorized signatory.**(Owner of Innova Vehicle bearing RC No.PB-03T-2323)**.

3. The New India Assurance Co. Ltd., Joshi Complex, Opposite Maan Gas Agency, 100 Ft. road, North Estate, Bathinda.**(Insurer of Innova Vehicle bearing RC No.PB-03T-2323)**.

.....Respondents.

CLAIM PETITION UNDER SECTION 166
OF THE MOTOR VEHICLE ACT.

Present: Sh.Manpreet Singh Gill, Counsel for the claimants.
Sh.B.S.Mann, Counsel for respondent No.1.
Sh.RAkesh Kumar Garg, Counsel for respondent No.2.
Sh.Ashish Kumar Garg, Counsel for respondent No.3.

AWARD

1. Claimant No.1 Pardeep Singh being minor son, claimant No.2 Nachhattar Singh being father-in-law and claimant No.3 Nasib Kaur being mother-in-law of deceased Jaswinder Kaur wife of late Gurjeet Singh, have preferred the instant claim petition, under Section 166 of the Motor Vehicle Act, 1988 (here-in-after referred as 'Act' only) for compensation to the tune of Rs.115 lakhs along with interest @ 12% per annum from the date of accident till its actual realization, on account of the death of Jaswinder Kaur wife of late Gurjeet Singh(here-in-after referred to as `the deceased'), in a motor vehicular accident, which took place on 23.12.2021 at about 11.20 a.m., near village Hundian, within the jurisdiction of Police Station Barnala.

2. Briefly stated, the facts contained in the petition, are that the deceased was married with Gurjeet Singh, who expired about 7-8 years ago and as such, in order to run the household expenses, the deceased used to work at outlet showroom and also used to cultivate the land of her in-laws family and also kept buffaloes and used to sell milk and also did part time stitching work. On 23.12.2021, at about 11.20 a.m., the deceased alongwith her relative Harpreet Kaur had gone to attend her duty in the showroom, on Activa Scooty and when they reached near Handiaya, one Innova Car bearing registration No.PB-03T-2323(here-in-after referred as `the offending vehicle'), being driven by respondent No.1 at a very fast speed, in a rash and negligent manner and without blowing any horn, came and struck against the Scooty from its back side, as a result of which, the

deceased died at the spot. It is categorically pleaded that the accident took place entirely due to rash and negligent driving of the offending vehicle, by respondent No.1. The dead-body of the deceased was subjected to post-mortem examination in Civil Hospital, Barnala on 24.12.2021.

3. It is further averred that regarding this accident, a criminal case with FIR No.142 dated 23.12.2021, under Sections 304-A, 279, 337 & 427 of Indian Penal Code was registered against respondent No.1 with the police of Police Station Barnala, on the basis of the statement made by Nishan Singh son of Shinderpal Singh (brother of the deceased).

4. It is further averred by the claimants in the claim petition that at the time of the accident, the deceased was 37 years of age. She was hale and hearty, hard working and was not suffering from any type of ailment. Since the husband of the deceased has already expired, as such, the responsibility of entire family was on the deceased. She was doing job at outlet showroom Highway, Bathinda and also used to cultivate the land of her in-laws family and used to keep buffaloes and used to sell milk and also doing part time stitching work and was earning approx. Rs.50,000/- per month. The deceased was the only bread earner of her family. During the life time of the deceased, the claimants were enjoying all the comforts of life and were leading a happy life. She was taking proper care of the claimants but after her death, the claimants have been totally ruined and their future has become bleak. The claimants have been totally ruined and

they have suffered huge loss of love and affection, care and protection, loss of income, future prospects. In these circumstances, compensation to the tune of Rs.115 lakhs along with interest @ 12% per annum from the date of accident till its realization has, thus, been claimed from the respondents, who are the driver, owner and insurer of the offending vehicle.

5. On being put to notice, respondents appeared through their separate counsel. Respondent No.1 resisted the claim petition by filing written reply, raising legal objections that the claimants have got no cause of action or locus standi to file the petition; that claimants No.2 & 3 are not entitled to claim any compensation, as per Section 15 of Hindu Succession Act; that no accident, as alleged, ever took place; that the claim petition is not maintainable; and that the claim petition has been filed by the claimants on the basis of wrong and frivolous grounds. On merits, it is submitted that no accident, as alleged in the claim petition, ever took place and the story put forth by the claimants is concocted, on wrong and baseless facts, just to grab the compensation. The FIR, in question, has been falsely registered on the statement of Nishan Singh. All other allegations and assertions put-forth by the claimants have also been denied and prayer for dismissal of the claim petition has, thus, been made.

6. Respondent No.2 filed separate reply to the claim petition, wherein it is submitted that the deceased was idle and had no earning. No alleged accident has been caused by respondent No.1 and he has been falsely involved in the FIR. It is also submitted that the offending vehicle

was owned by him, but the same is not involved in any accident. Moreover, the amount claimed is very excessive. While refuting the other averments of the plaint, a prayer for dismissal of the claim petition has been made.

7. Respondent No.3 also resisted the claim petition, by filing separate written reply, raising legal objections that the liability of the Insurance Company, if any, that shall be according to the provisions of Motor Vehicle Act and as per the terms and conditions of the policy; that the claimants have not arrayed the Insurance Company of Activa Scooty in question; that the alleged accident took place due to rash and negligent driving of the Scooty and as such, answering respondent has no liability to pay any compensation to the claimants; that in case, if the Tribunal comes to the conclusion that the car driver was also negligent, then the liability of the answering respondent should be limited to the extent of negligence of the car driver. It is also submitted that the deceased was not earning hand. No accident took place with the offending vehicle and the FIR has been falsely registered against respondent No.1. Moreover, the amount claimed is very excessive and unreasonable. All other allegations and assertions put-forth by the claimants have also been denied and prayer for dismissal of the claim petition has, thus, been made.

8. On going through the pleadings of the parties, following issues were framed on 20.5.2022:-

1. Whether Jaswinder Kaur had died in motor vehicle accident on 23.12.2021 due to rash and negligent driving of respondent No.1 of vehicle Innova bearing registration No.PB-03T-2323 ?OPP.

2. If issue No.1 is prove, whether petitioners are entitled to claim compensation. If so, to what extent and from whom? OPP

3. Whether the present claim petition is not maintainable ? OPR

4. Whether the petitioners have got no cause of action or locus standi to file the present claim petition ? OPR

5. Relief.

9. In order to substantiate their version, claimants got examined Harpreet Kaur, who is stated to be accompanied with the deceased at the time of accident, in question, as PW-1, claimant No.3 Nasib Kaur herself stepped into the witness box as PW-2 and further got examined Nishan Singh, brother of the deceased as PW-3, at whose instance, criminal law was set into motion. Thereafter, learned counsel appearing on behalf of the claimants closed the evidence.

10. In contrast, respondent No.1 Amritpal Singh himself stepped into the witness box as RW-1 and thereafter closed his evidence. Learned counsels appearing on behalf of respondent No.2 & 3 also closed the evidence, after tendering in evidence copy of Insurance Policy Ex.R-1, copy of RC of offending vehicle Ex.R-2 and copy of driving license Ex.R-3.

11. I have heard the learned counsel for the parties and have minutely gone through the evidence available on the file. My issue-wise finding on the aforesaid issues, is as under:-

ISSUE NO.1.

> "Whether Jaswinder Kaur had died in motor vehicle accident on 23.12.2021 due to rash and negligent driving of respondent No.1 of vehicle Innova bearing registration No.PB-03T-2323 ?OPP."

12. In an action founded on the principle of fault liability, the proof of rash and negligent driving of offending vehicle is sine qua non. However, the standard of proof is not as strict as implied in criminal cases and evidence is to be tested on the touch stone of preponderance of probabilities. The holistic view is to be taken, while dealing with the claim petition based upon negligence. Strict rules of evidence are not applicable in an inquiry conducted by the Claim Tribunal. Having aforesaid principle in mind, this Tribunal has considered the available material on record, in order to adjudicate Issue No.1.

13. The case of the claimants, in brief, is that the deceased was married with Gurjeet Singh, who expired about 7-8 years ago and as such, in order to run the household expenses, she used to work at outlet showroom and also used to cultivate the land of her in-laws family and also kept buffaloes and used to sell milk and also did part time stitching work. On 23.12.2021, at about 11.20 a.m., the deceased alongwith her relative Harpreet Kaur had gone to attend her duty in the showroom, on

Activa Scooty and when they reached near Handiyaya, the offending vehicle, being driven by respondent No.1 at a very fast speed, in a rash and negligent manner and without blowing any horn, came and struck against the Scooty from its back side, as a result of which, the deceased died at the spot. The dead-body of the deceased was subjected to post-mortem examination in Civil Hospital, Barnala on 24.12.2021. As per the claimants, the accident took place entirely due to rash and negligent driving of the offending vehicle, by respondent No.1.

14. In order to establish that the deceased died in an accident occurred on 23.12.2021, caused by respondent No.1, while driving the offending vehicle rashly and negligently, claimants got examined Harpreet Kaur as PW-1, who is stated to be accompanied with the deceased at the time of accident in question and while appearing in the witness box, she almost reiterate the version of the accident, as set out in the claim petition itself and she has testified regarding the manner of accident. The witness was cross-examined at length by counsel for the respondents but nothing concrete could be elicited from her cross-examination, so as to discredit her version. During her cross-examination, the witness categorically denied the suggestion that the accident took place due to her own rash and negligent. She specifically stated that they were going on Handiaya road. She was driving the Activa Scooty. She further stated that she was sustained minor injuries.

15. Further more, on account of causing the accident, which is the subject matter of the instant claim petition, a criminal case with FIR No.142 dated 23.12.2021, was also registered under Sections 304-A, 279, 337 & 427 of the Indian Penal Code, in Police Station Barnala, against respondent No.1, on the basis of statement made by Nishan Singh, certified copy of which has been proved as Ex.P-1.

16. So far as the statement made by respondent No.1 Amritpal Singh (RW-1) to the effect that he did not cause the alleged accident and that the allegations levelled against him are false and baseless, is concerned, it is suffice to say that Amritpal Singh (RW-1) is an interested witness, being owner-cum-driver of the vehicle, in question and as such, it is not expected from him to speak repugnant to the plea taken by him in the reply. Moreover, Amritpal Singh (RW-1) has categorically stated, in his cross-examination, that he is working as driver with M/s Creative Buildwel Pvt. Co. and is getting salary of Rs.10,000/- per month. The witness, however, admitted during his cross-examination that on 23.12.2021, he was driving the offending vehicle and was going from Barnala towards Bathinda. He further stated that the accident took place at about 10.00 – 10.30 a.m. He was driving the offending vehicle and one more person was also with him. He also stated that after the accident, he had not fled from the spot and many persons gathered at the spot. He further admitted that in that accident, one lady had expired and another lady namely Harpreet Kaur also received injuries. The witness further admitted that FIR was registered

against him and challan against him has also been presented in the Court and case is pending against him. In these circumstances, when respondent No.1 admitted the factum of accident in question and criminal case has been registered against respondent No.1 and copy of the same has been proved on record as Ex.P-1, no weight can be given to the testimony of Amritpal Singh(RW-1).

17. In view of the testimony of Harpreet Kaur(PW-1) and the documents on record, which have remained un-rebutted, the negligence of respondent No.1 has been prima facie proved. It was stated that due to the accident, the deceased died. Certified copy of postmortem report of the deceased has been proved on record, as Ex.P-2, which shows that the cause of death was head injury, which was essentially lethal in ordinary course of nature and injury ante mortem in nature. Thus, it stands established that the deceased had sustained injuries in the alleged accident, due to which, she died. For the purpose of disposal of the instant claim petition, on the test on oath, preponderance of probabilities, it is held that the accident took place due to rash and negligent driving of offending vehicle, being driven by respondent No.1. Thus, Issue No.1 is answered in favour of the claimants.

ISSUE NO.2.

> "If issue No.1 is prove, whether petitioners are entitled to claim compensation. If so, to what extent and from whom? OPP"

18. In view of the findings on aforesaid Issue, the claimants are entitled to compensation. However, the quantum of compensation and the liability to pay the same etc., still needs to be adjudicated.

19. Section 168 of Motor Vehicles Act enjoins the Claims Tribunal to hold an inquiry into the claim, to make an Award, determining the amount of compensation which appears to be just and reasonable. It has to be borne in mind that the compensation is not expected to be windfall or a bonanza, nor it should be pittance. To determine the compensation in fatal case, the following factors need to be established by the claimants:-

(i) Age of the deceased.
(ii) Income of the deceased.
(iii) Number of dependents.
(iv) Increase of Income of the deceased on account of future prospectus.
(v) Deductions towards personal and living expenses of the deceased.
(vi) Multiplier to be applied with reference to the age of the deceased.
(vii) Compensation under Non-pecuniary Heads.

(i) Age of the deceased:-

20. The age of the deceased is necessary to apply the multiplier. The claimants, in their claim petition, mentioned the age of the deceased as 37 years. To prove the same, the claimants got examined Nishan Singh as PW-3, who is the brother of the deceased and at whose instance, criminal law was set into motion and while appearing in the witness box, he produced on record copy of postmortem report of deceased as Ex.P-2, copy

of her death certificate as Ex.P-3, copy of Adhar Card of claimant Pardeep Singh as Ex.P-4, copy of death certificate of husband of the deceased as Ex.P-5, copy of Adhar card of the deceased as Ex.P-7. Ex.P-7 i.e. copy of Adhar Card of the deceased shows her date of birth as 01.01.1983. The accident, in question, took place on 23.12.2021. Thus, on the basis of available material, this Tribunal finds that the age of the deceased, at the time of her death, was 39 years.

(ii) Income of the deceased:-

21. After deciding the age of the deceased, her income needs to be determined. The claimants, in Para No.4 of the claim petition, stated that the deceased was working as helper in outlet showroom Highway Bathinda and she also used to cultivate the land of her in-laws family and kept buffaloes and used to sell milk and also doing part time stitching work. In Para No.6 of the claim petition, the claimants stated that the deceased was earning approx. Rs.50,000/- per month from the said works.

22. It is true that no contrary evidence has been led by the respondents with regard to the income of the deceased, but in the absence of any cogent and convincing evidence, the income of the deceased, as declared by the claimants, is not liable to be accepted. So far as the plea of the claimants that deceased was keeping the milch cattle at home and used to sell the milk, is concerned, it is suffice to say that there is nothing on record, which could spell out that deceased was doing the business of

selling of milk. There is nothing on the record to show that to whom, the deceased used to sell the milk.

23. To prove the fact of cultivating the land of her in-laws family, claimant No.2 Nasib Kaur, while appearing in the witness box, produced the copy of Jamabandi for the year 2018-19 as Ex.P-6. A perusal of the said document shows that Nachhattar Singh claimant is shown to be cultivator, in the column of cultivation and the name of the deceased is not mentioned in the column of cultivation. Although the claimants also claim that the deceased was doing job in outlet showroom High way Bathinda and was also doing part time stitching work. But the claimants have failed to prove the income of the deceased from the said job and part time work. No income tax return, no statement of account of any Bank or any other ledger entry pertaining to the deceased have been placed on the file to prove her income. However, from the material on record, one thing is clear that deceased was a house-wife and was running the family, as her husband had already expired. Claimant No.1 Pardeep Singh is the son of deceased, whereas claimants No.2 & 3 are her in-laws. As such, the claimants were dependent upon the management and contribution of the deceased in running the family and providing services like cooking food, cleaning clothes, providing love and affection and managing the family etc. Therefore, being a house-wife, she must be rendering help and services in household duties. The assessment of compensation in case of death of a house-wife is virtually impossible in terms of money, as a house-wife takes

care of all the requirements of her family including cooking food, washing of clothes etc. and thus, rightly said to be a house maker. She teaches children and provides invaluable guidance to them for their future. All these chores could be performed by a maid servant, but she can never a substitute for a mother, who renders selfless service to her family. In **Arun Kumar Aggarwal & Anr. Vs. National Insurance Company Ltd., (2010) 9, SCC, 218**, Hon'ble Supreme Court has held that the contribution made by the wife to the house is invaluable and cannot be computed in terms of money. The gratuitous services rendered by wife with true love and affection to the children and her husband and managing the household affairs, cannot be equated with the services rendered by others. A wife/mother does not work by the clock. She is in the constant attendance of the family throughout the day and night, unless she is employed and is required to attend the employer's work for particular hours. She takes care of all the requirements of husband and children including cooking of food, washing of clothes, etc. She teaches small children and provides invaluable guidance to them for their future life. A housekeeper or maidservant can do the household work, such as cooking food, washing clothes and utensils, keeping the house clean etc., but she can never be a substitute for a wife/mother who renders selfless service to her husband and children. It is not possible to quantify any amount in lieu of the services rendered by the wife/mother to the family i.e. husband and children. However, for the purpose of award of compensation to the dependents, some pecuniary estimate has to be made of the services of housewife/mother. In that context, the term `services' is required to be given a broad meaning and must be construed by taking into account the loss of personal care and attention given by the deceased to her children as a mother and to her husband as a wife. They are entitled to adequate compensation in lieu of the loss of gratuitous services rendered by the deceased. In **Jitendra Khimshankar Trivedi Vs. Kasam Daud Kumbhar & Ors., (2015) 4, SCC, 237**, Hon'ble Supreme Court re-iterated the law laid down in **Arun Kumar Aggarwal's** case supra. Thus, in these circumstances, income of the deceased is to be assessed keeping in view the income earned by a semi skilled worker. Accordingly, the notional income of the deceased is assessed to be Rs.5,000/- per month i.e. Rs.60,000/- per annum, for the purpose of this claim petition.

(iii) Number of dependents of the deceased:-

24. The instant claim petition has been filed by three claimants i.e. minor son and parents in-law of the deceased. Claimant Nasib Kaur, while stepping into the witness box as PW-2, testified during her cross-examination, that her husband has two acres of land, which they have given on lease and lease amount for one acre is about Rs.50,000/-. She also testified that they have two more sons and both are married and living separately. She also stated that she alongwith her husband used to reside with the deceased. From the evidence on record, this Tribunal finds that though the claimants No.2 & 3 have two more sons, but they are stated to

be residing separately from them. As per the claimants, both of them used to reside with the deceased and her son, as husband of the deceased had already expired. As such, this Tribunal comes to the conclusion that all the three claimants were dependent upon the management and contribution of the deceased in running the family and providing services, at the time of her death. As such, this Tribunal is of the considered view that all the three claimants were dependent, upon the deceased, at the time of her death.

(iv) Increase of Income of the deceased on account of future prospectus:-

25. Learned counsel appearing on behalf of the claimants submitted that the claimants shall also be entitled to increase in the income of the deceased on account of future prospects. In this regard, he has placed reliance on case law titled as **Kirti & Anr. Vs. Oriental Insurance Company Ltd., Civil Appeal Nos.19-20 of 2021, arising out of Special Leave Petition(c) Nos.18728-29 of 2018, decided on 5.1.2021,** wherein it has been held by Hon'ble Apex Court that future prospects can be granted even in cases pertaining to notional income for homemakers, in case of her death in motor accident. On the other hand, learned counsel appearing on behalf of the contesting respondent has vehemently contended that since the deceased was a housewife, at the time of her death and as such, claimants are not entitled to any addition in the income of the deceased. In view of the aforesaid case law, this Tribunal is

of the view that the claimants are entitled to addition in the income of the deceased, on account of her future prospects.

26. This Tribunal further relies upon the Judgment delivered by the Constitution Bench of the Hon'ble Supreme Court of India in case of **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, **Special Leave Petition (Civil) 25590 of 2014, decided on 31.10.2017**, wherein it has been held that in case the deceased was self-employed or on a fixed salary, an addition of 40% of the established income should be the warrant, where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. It was further held that the established income means the income minus the tax component.

27. Thus, keeping in view the prominent law laid down in the above cited authority, since in the present case, the age of the deceased has been ascertained as 39 years at the time of her death and she was not doing any job and as such, 40% is to be increased as future prospectus. Since, in the instant case, the notional income of the deceased has been assessed as Rs.5,000/- per month. Accordingly, after adding future prospects income 40% to the monthly notional income of the deceased, the total amount of notional income comes out to be **Rs.7,000/- per month** (Rs.5,000/- + Rs.2,000) i.e. **Rs.84,000/- per annum.**

(v) Deductions towards personal and living expenses of the deceased:-

28. It is well settled that no deduction is to be made from the income of the house-wife towards personal expenses, as the services rendered by her cannot be measured in terms of money. The claimants are to be compensated for the loss suffered by them for personal care and attention and the services, which deceased was rendering gratuitously out of her love and affection. As such, this Tribunal is of the view that in this case, no amount is deducted towards personal and living expenses of the deceased. Accordingly, the monthly dependency of the claimants remains **Rs.7,000/-** and annual dependency of the claimants comes to **Rs.84,000/- (Rs.7,000/- X 12).**

(vi) Multiplier to be applied with reference to the age of the deceased :-

29. As the age of the deceased has been ascertained as 39 years, the appropriate multiplier has to be determined. The case law titled as **Sarla Verma and others Vs. Delhi Transport Corporation and another, (2009) 6 SCC, 121**, is relevant to consider the multiplier. In the said Judgment, Hon'ble Supreme Court has laid down the multiplier, as per the age of the deceased. Thus, in view of the abovesaid Judgment, the multiplier of 16 has to be applied in this case. Accordingly, after applying the multiplier of 16 to the annual dependency of the claimants, amount of compensation would come to **Rs.13,44,000/- (Rs.84,000/- X 16).**

(vii) Compensation under Non-pecuniary Heads :-

30. In view of the Judgment of Hon'ble Supreme Court in the case titled as **United Indian Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur, Civil Appeal No.2705 of 2020**, decided on **30.6.2020**, loss of consortium has to be fixed as Rs.40,000/-, for each claimant. Further Rs.15,000/- has to be awarded for loss of estate and Rs.15,000/- has to be awarded towards funeral expenses.

31. Apart from this, in the law laid down by the Constitution Bench of Hon'ble Supreme Court of India titled as **National Insurance Company Ltd. Vs. Pranay Sethi and Ors.**, **Special Leave Petition (Civil) 25590 of 2014, decided on 31.10.2017**, it was held that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. The said ratio has been further re-iterated in the Judgment titled as **United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur & Ors.(supra)**.

32. In view of the law laid down in aforesaid case law, the claimants are entitled to a sum of **Rs.16,500/-**(15,000/- + 10% of 15,000/-) towards funeral expenses; **Rs.16,500/-**(15,000/- + 10% of 15,000/-) as compensation towards loss of his estate; and **Rs.1,32,000/- each to claimants No.1 to 3** (40,000/- each + 10% of 40,000/- each) towards loss of consortium.

(Kamaljit Lamba)
District Judge/MACT,
Barnala/20.08.2022

33. Thus, the total amount of compensation is summarized as under:

Amount of compensation towards dependency	Rs.13,44,000/-
Amount of Funeral expenses	Rs.16,500/-
Compensation towards Loss of Estate	Rs.16,500/-
Compensation towards Consortium, to each claimant.	Rs.1,32,000/-(Rs.44,000/- each to claimants No.1 to 3)
Total amount of compensation	**Rs.15,09,000/-**

LIABILITY:

34. Now the question arises as to which of the respondents is liable to pay compensation amount ?

35. The legal representative of the deceased, by alleging that the accident took place on account of rash and negligent driving of the driver of the offending vehicle i.e. respondent No.1, which is owned by respondent No.2 and duly insured with The New India Assurance Company Ltd.(respondent No.3) filed the claim petition under Section 166 of the Act, claiming compensation. While adjudicating Issue No.1, this Tribunal held that respondent No.1 was responsible for causing this accident, due to his rash and negligent driving. FIR was also lodged against respondent No.1. Thus, in the considered opinion of this Tribunal, the liability to pay the compensation is upon, being driver, owner and insurer of the offending. Therefore, respondents shall be jointly and liable to pay the amount of compensation to the claimants along with interest at

the rate of 7 ½ % per annum from the date of filing the claim petition. Accordingly, Issue No.2 is decided in favour of the claimants and against the respondents.

ISSUES NO.3 & 4.

36. Onus to prove both these issues was upon the respondents. However, neither any evidence has been led by the respondents on these issues nor the same were pressed during the course of arguments. Hence, these Issues are determined against the respondents.

RELIEF.

37. In view of my findings on the aforesaid issues, the claim petition is partly accepted with costs. The claimants are awarded compensation of Rs.15,09,000/-(Rs.Fifteen lakhs and nine thousand) under the different heads along with interest at the rate of 7 ½% per annum from the date of the filing of the claim petition till its realization, to be paid by the respondents jointly and severally, as under:-

Amount of compensation towards dependency	Rs.13,44,000/-
Amount of Funeral expenses	Rs.16,500/-
Compensation towards Loss of Estate	Rs.16,500/-
Compensation towards Consortium, to each claimant.	Rs.1,32,000/-(Rs.44,000/- each to claimants No.1 to 3)
Total amount of compensation	**Rs.15,09,000/-**

(Rs.Fifteen lakhs and nine thousand)

(Kamaljit Lamba)
District Judge/MACT,
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38. Out of the aforesaid total amount of compensation, 40% shall go to claimant No.1 Pardeep Singh, minor son of the deceased and 30% each shall go to claimants No.2 & 3 namely Nachhattar Singh & Nasib Kaur, parents in-law. The amount qua the share of minor claimant, namely Pardeep Singh shall be deposited by the respondents jointly and severally, in a fixed account in the name of the minor with a nationalized Bank of the choice of the claimants, under the guardianship of his grandfather namely Nachhattar Singh (claimant No.2) till he attains majority. It is, however, made clear that the Bank may take the documents regarding the age of the minor, as required at the time of depositing the share of the minor in the Bank and the minor shall not be asked to bring fresh order from this Tribunal, to get the payment of the amount deposited in his name, after the date of attaining majority. This direction has been issued to save the claimants from the un-necessary harassment, caused due to the directions, the Bank usually give to bring the order of the Tribunal to get the payment, even after attaining the age of majority.

Counsel fee is assessed as Rs.2,200/-. Memo of costs be prepared. File be consigned to the Record Room.

Pronounced:
20.08.2022
J.Sharma/JW-I

(Kamaljit Lamba)
Motor Accident Claims Tribunal,
Barnala.
(UID No.PB0055).

(Kamaljit Lamba)
District Judge/MACT,
Barnala/20.08.2022