

GITA & OTHERS VERSUS DAVINDER SINGH & OTHERS

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BEFORE YASHWINDER PAUL SINGH, PRESIDING OFFICER,
MOTOR ACCIDENT CLAIMS TRIBUNAL, YAMUNA NAGAR AT
JAGADHRI (UID NO. HR-0491)

CNR No. HRYN01-006682-2022

CIS No. MACP-259-2022

Date of Institution: 20.08.2022/11.08.2025

Date of Decision: 25.08.2025

1. Gita Rani, aged 40 years, W/o Satish Kumar,
2. Aakash Kumar, aged 20 years, S/o Satish Kumar
3. Kavita (minor), aged 16 years, D/o Satish Kumar

Claimant No.3 being minor, through her mother Gita Rani, being natural guardian and next friend.

All Rs/o Village Leda Khas, Tehsil Chhachhrauli District Yamuna Nagar.

.....Claimants.

Versus

1. Davinder Singh S/o Paramjit Singh, R/o Village Tihano, P.O. Ledhi, District Yamuna Nagar.

(Driver of offending vehicle/Trax Cruiser No. HR58A-8193)

2. Satyapal S/o Shri Soran Lal R/o VPO Chhachhrauli, District Yamuna Nagar.

(Owner of offending vehicle/Trax Cruiser No. HR58A-8193)

3. The New India Assurance Company Ltd. having its Branch at Jagadhri Road, Opposite Madhu Hotel, Yamuna Nagar, through its Branch Manager.

(Insurer of offending vehicle/Trax Cruiser No. HR58A-8193)

.....Respondents.

CLAIM PETITION UNDER SECTION 166 OF
MOTOR VEHICLE ACT, AS AMENDED UPTO
DATE

GITA & OTHERS VERSUS DAVINDER SINGH & OTHERS

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Present: Sh. Ajay Deep Singh, Adv. for petitioners.
Respondent No.1 exparte vide order dated 10.04.2023.
Sh. G.S.Manipur, Advocate for respondent No. 2.
Sh. Rajiv Kumar Gupta, Advocate for respondent No.3.

AWARD:

The claimants have filed this petition under Section 166 of Motor Vehicles Act, 1988 as amended upto date, for seeking compensation to the tune of Rs.80,00,000/- (Rupees Eighty Lakhs Only), on account of death of Satish Kumar (*husband of claimant No.1 and father of claimants No. 2 & 3*), who died in a Motor Vehicle accident, which allegedly took place on 13.08.2022, at about 2:00 p.m.PM, near Factory, Taparian of Balachaur, Dadupur Road, P.S. Chhachhrauli, District Yamuna Nagar, due to rash and negligent driving of respondent No.1 while driving TRAX CRUIZER bearing registration No. HR58A-8193 (*hereinafter referred to as the 'offending vehicle' for brevity*).

2. Before proceeding further with decision of the present claim petition, it is apropos to note that earlier, this claim petition was decided by this Tribunal vide Award dated 24.07.2024. In the said Award, while deciding issue No.3, this Tribunal concluded that there had been fundamental statutory infraction by respondents No.1 and 2 for plying the offending vehicle without Permit and accordingly, held that the Insurance Company shall be entitled to recover the compensation amount from respondents No.1 and 2, who were proceeded against exparte vide order

dated 10.04.2023.

3. After passing of the Award and the payment having been made to the claimants by respondent No.3- Insurance Company, it filed execution petition No. EXE-178 of 2024 for recovery of the said paid amount from respondents No.1 & 2.

4. After receipt of notice in the said execution petition, respondent No.2 filed an application No. CM-83 of 2025 under Order 9 Rule 13 CPC for setting aside the exparte order dated 10.04.2023 and final Award dated 24.07.2024. During pendency of the said application, learned counsel for respondent No.2 handed over the copies of Driving Licence of respondent No.1 (Davinder Singh) as well as the Permit and Fitness Certificate of the offending vehicle, to the learned counsel for respondent No.3- Insurance Company, which were got verified by the Insurance Company. It was thereafter only, the exparte order dated 10.04.2023 qua respondent No.2 and the Award dated 24.07.2024 were set aside vide order dated 22.07.2025. However, respondent No.2 (*applicant in CM-83 of 2025*) was permitted to join from the stage of respondents' evidence only with a rider that he would be permitted to place on record the documentary evidence only. Accordingly, the application (CM-83 of 2025) was partly allowed subject to payment of cost of Rs.20,000/- to be paid to respondent No.3- Insurance Company within a period of 15 days from 22.07.2025.

5. The cost of Rs.20,000/- was paid to respondent No.3- Insurance Company on 28.07.2025 and the receipt was placed on record. Thus, the original claim petition was restored to its original number.

6. Learned counsel for respondent No.2 tendered copies of Registration Certificate of offending vehicle (Ex.R3), Insurance Policy (Ex.R4), Driving Licence of respondent No.1 (Ex.R5), All India Permit of offending vehicle (Ex.R6) as well as report of Fitness Certificate (Ex.R7) and closed the evidence on behalf of respondent No.2. Thereafter, learned counsel for respondent No.3- Insurance Company made a statement that he did not want to leave any evidence in rebuttal to the evidence led by respondent No.2. Learned counsel for the claimants has stated at bar that he did not want to lead any evidence in rebuttal. Thus, *this claim petition is being decided afresh.*

PLEADINGS OF THE CLAIMANTS

7. The case set up by the claimants is that on 13.08.2022, Satish Kumar (since deceased) was coming towards his village from the side of Dadupur Head, on his motor-cycle bearing registration No. HR02H-3132. At about 2:00 PM, Satish Kumar reached Near Factory, Taparian of Balachaur, Dadupur Road, P. S. Chhachhruali, District Yamuna Nagar, suddenly offending vehicle Trax Cruizer bearing No. HR-58A-8193 came from the opposite side at a very high speed, in a very rash and negligent manner and after coming on wrong side of the road, hit the motor cycle of

Satish Kumar from the front, due to which, Satish Kumar fell down on the road alongwith his motor-cycle. Due the impact, Satish Kumar (since deceased) received multiple grievous injuries on various parts of his body. He was shifted to Government Hospital, Yamuna Nagar, where the doctor declared him as dead. On the statement of PW2 Keshav, FIR No. 211 dated 13.08.2022, under Sections 279 and 304-A IPC, P.S. Chhachrauli, District Yamuna Nagar was registered against respondent No.1. It is further averred that deceased Satish Kumar, who was aged 48 years, was a wholesale vegetable dealer and earning Rs.30,000/- per month. It is pleaded that respondents No.1 to 2 being the driver and owner whereas respondent No.3 being the insurer of offending vehicle are jointly and severally liable to pay the compensation.

PLEADINGS OF RESPONDENTS NO.1 & 2 (DRIVER & OWNER)

8. On notice, initially respondents No.1 and 2 appeared through their counsel. However, when the case was fixed for filing written statement, no one appeared on behalf of respondents No.1 & 2 and as such, they were proceeded against ex-parte vide order dated 10.04.2023.

PLEADINGS OF RESPONDENT NO.3 (INSURANCE COMPANY)

9. Upon notice, respondent No.3 filed written statement denying the factum of alleged accident with offending vehicle bearing registration No. HR58A-8193. It is averred that Satish Kumar did not die due to injury suffered in any motor vehicle accident involving Trax Cruizer No. HR58-

A-8193. Respondent No.1 was neither rash nor negligent while driving the said vehicle and no accident was caused by him. It has been pleaded that the claimants and respondents No. 1 & 2 are in collusion with each other and said vehicle has been falsely involved in this case. The alleged accident, if any took place, though not admitted, the same was due to sole/contributory rash and negligent driving of Satish Kumar, who was driving his motorcycle in a rash and negligent manner, without wearing helmet and without observing traffic rules/provisions of M.V. Act. Further, driver of the alleged offending vehicle was not holding a valid and effective driving license, or license if any held by respondent No. 1, was fake at the time of alleged accident, which was also in the knowledge of respondent No.2. He was plying the same without any valid and effective registration certificate/permit and fitness certificate and in violation of the terms of the policy as to limitation as to use which has thus resulted in the willful violation of the provision of Motor Vehicle Act and terms and condition of insurance policy. All kind of general statutory defences as available to the insurance company have been taken. Rest of the contents of the claim petition regarding injuries, age, employment and income, etc. injured were denied and a prayer for dismissal of the claim petition was made.

REPLICATION TO THE WRITTEN STATEMENT

10. No replication to the written statement of respondent No.3 was filed by the claimants.

11. ISSUES SETTLED ON 13.02.2020 :-

1. Whether the accident in question resulting into death to the petitioner Satish Kumar S/o Chhaju Ram took place due to rash and negligent driving of vehicle bearing registration No. HR 58A-8193 by respondent No.1?OPP
2. If issue No.1 is proved in affirmative, what amount of compensation, the petitioners are entitled to, on account of death of Satish Kumar ?OPP.
3. Whether vehicle bearing registration No. HR58A-8193 in question was being driven in violation of the terms and conditions of insurance policy? If so, to what effect? OPR-3.
4. Relief.

EVIDENCE LED BY THE PARTIES

12. CLAIMANTS' EVIDENCE

Oral Evidence

PW1 Gita Rani (claimant No.1).

PW2 Keshav S/o Dharampal (eye-witness of accident)

Documentary evidence

Mark-A Copy of death certificate of Satish Kumar

Mark-B Copy of Postmortem Examination Report

Mark-C Copy of FIR

13. RESPONDENTS' EVIDENCE

Oral Evidence

Nil

Documentary Evidence

Ex R1	Copy of RC of vehicle No. HR58-A-8193
Ex.R2	Copy of Certificate of Insurance
Ex.R3	Copy of Registration Certificate of offending vehicles
Ex.R4	Copy of Insurance Policy
Ex.R5	Copy of Driving Licence of respondent No.1
Ex.R6	Copy of Permit of offending vehicle
Ex.R7	Application for verification of Fitness Certificate.

14. REBUTTAL EVIDENCE

Documentary Evidence

Ex.P1	Certified copy of report under Section 173 Cr.P.C. in FIR No.211 dated 13.08.2022
Ex.P2	Certified copy of FIR No.211 dated 13.08.2022
Ex.P3	Certified copy of Postmortem report of deceased
Ex.P4	Certified copy of site plan
Ex.P5	Certified copy of order dated 17.08.2022

ISSUE-WISE FINDINGS

ISSUE NO.1

15. The onus to prove this issue was upon the claimants. In support of their case, petitioners/claimants examined PW2 Keshav, who is eye-witness/complainant of criminal case registered against respondent No.1. He tendered his affidavit Ex.PW2/A in his examination-in-chief and has fully supported his version by giving details as to how the accident occurred. Despite being cross examined at length by learned counsel for respondents, nothing material detrimental to the case of claimants could be elicited from him. His testimony regarding the manner of accident and the

same having occurred due to rash and negligent driving of driver of offending vehicle has remained unshattered.

On his statement, FIR (*Ex.P2*) was registered on 13.08.2022. There is no delay in registration of FIR. The accident occurred at about 14:00 hrs on 13.08.2022 and the FIR was registered at 19:35 on the same day i.e. 13.08.2022. A perusal of document FIR (*Ex.P2*) would reflect that it was registered as eye-witness account of PW2 Keshav.

16. The learned counsel for respondent No.3 has pointed that in the rukka (giving intimation to the police) by the doctor, the name of alleged eye witness Keshav is not mentioned and only one mobile number is mentioned therein. PW2 Keshav did not own said mobile number and it shows that Keshav had not taken the deceased to the hospital. This Tribunal does not find it a reason to disbelieve PW2 Keshav who has withstood the lengthy cross-examination. The mobile number mentioned in the doctor rukka was not put to him to grant him opportunity to explain as to whose number it was. The accident occurred at 2 PM and the rukka was sent at 3.35 PM. Thus, about one and half hour had passed since the time of accident when the doctor rukka was sent. The said time was sufficient for other family members or villagers etc. to have reached in the hospital.

Merely because PW1 Geeta Rani stated in her cross-examination that 'some person' from the place of accident had called in

the village about the accident, is not sufficient to doubt PW2 Keshav being the eye-witness of the accident. This tribunal finds substance in the argument of the learned counsel for the claimant that it is general human conduct amongst the villagers that the news of accident would not have been given directly to PW1 Geeta Rani by her nephew PW2 Keshav but through co-villagers to avoid immediate shock.

17. FIR setting the criminal law into motion was recorded immediately and there is no delay in lodging the said FIR. After investigation, challan (Ex.P1) was presented against respondent No.1. It is expected that the investigation into a crime is conducted fairly by the police unless proved otherwise. Statement of eye witness/ complainant PW-2 Keshav is corroborated by contents of FIR (Ex.P2).

In Postmortem Report (Ex.P3), as per the information supplied by the police, Satish Kumar (*since deceased*) had received injuries in an accident. The cause of death was opined as ***‘death due to multiple injuries and injury to vital organ i.e. brain leading to haemorrhage and shock which is sufficient to cause death in ordinary course of life. All injuries are antemortem in nature.’***

18. Totality of the facts and circumstances lead to just conclusion about involvement of offending vehicle bearing Registration No. HR-58A-8193 in the accident in question and respondents No.1 and 2 being driver and owner respectively of the said vehicle. Respondent No.1 did

not make any complaint to any higher Authority at any stage regarding his false implication by police. It means, he was satisfied with the investigation. Respondent No.1 and 2 also not dared to step into witness box to state on oath that accident was not caused either with the offending vehicle owned by respondent No.2 or due to rash and negligent driving of respondent No.1.

Accordingly, it is safe to hold rash and negligent driving of respondent No.1 in causing the accident in question by driving offending vehicle i.e. No. HR-58A-8193 resulting in death of Satish Kumar.

Reference to judgments in case of *Girdhari Lal Vs. Radhey Shyam and others 1993(2) PLR 109, Harbans Lal and others Versus Rameshwar Singh 2023 (1) Law Herald 129, Raju Versus Sukhwinder Rai 2006 (4) RCR (Civil) 83, Royal Sundaram Alliance Insurance Company Ltd. vs Harvinder Kaur @ Harwinder 2017(4) ACC 329* may be made in support thereof.

19. In view of the above, this Tribunal finds that issue No.1 is proved against respondents and in favour of the claimants that accident in question was caused by respondent No.1. while driving offending vehicle i.e. No. HR-58A-8193 in a rash and negligent manner resulting in death of Satish Kumar.

ISSUE NO.2.

20. The onus to prove this issue was upon claimants.

INCOME OF DECEASED

PW1 Geeta Rani has orally stated that prior to his death, Satish Kumar (since deceased) was working as vegetable vendor and was earning Rs. 50,000/- per month. However, no documentary evidence qua his occupation or income has come on record. Thus, keeping in view the minimum wages in the State of Haryana prevalent on the date of accident as that of unskilled labourer, the income of deceased is taken as ₹10,243/- per month only, for the purpose of assessment of the payable compensation. The annual income of deceased would be **₹ 10,243/- x 12= 1,22,916/-**.

FUTURE PROSPECTS

As per Post Mortem Report (***Ex.P3***), Satish Kumar (since deceased) was aged about 48 years on the date of accident. The deceased was self-employed. In view of the judgment in case of ***National Insurance Company Limited Versus Pranay Sethi and others 2017 (4) RCR(Civil) 1009***; addition of 25% in the income of the deceased is permissible on account of future prospects as the deceased was between 40 to 50 years of age.

MULTIPLIER

As per the dictum of ***Sarla Verma Versus Delhi Transport Corporation 2009 (6) SCC 121*** and ***Pranay Sethi and others (Supra)*** multiplier for age between **46 to 50** years is '13'. Thus, the claimants are

held entitled for multiplier as '13'.

DEDUCTION TOWARDS PERSONAL EXPENSES

The claim petition has been filed by the wife and two children of the deceased.

As per ratio Sarla Verma (Supra) and Pranay Sethi and others (Supra), 1/3rd (one-third) of the income of deceased is liable to be deducted towards his personal expenses as the number of dependent upon the deceased is three.

LOSS OF CONSORTIUM

Claimants being wife and children of deceased are held entitled to a sum of ₹44,000/- each i.e. total ₹1,34,000/- on account of loss of spousal and parental consortium in view of the judgments in case of Magma General Insurance Company Ltd. Versus Nanu Ram @ Churhu Ram 2018 (18) SCC 130 ; Rahul Ganpat Rao Sabale Vs. Laxman Maruti Jadhav (dead) Through LRs 2023 (3) RCR (C) 573 (SC); Harpreet Kaur & others Vs. Mohinder Yadav 2023 (1) RCR (C) 327 (SC); Smt. Anjali & others Vs. Lokendra Rathod & Others 2023 (1) RCR (C) 229 (SC); Kiran Puri Versus New India Insurance Company Law finder Doc Id # 2168183.

FUNERAL EXPENSES AND LOSS OF ESTATE

Claimants are further held entitled to a sum of ₹ 16,500/- on account of funeral expenses and ₹ 16,500/- on account of loss of estate

respectively, as per judgment in case of *Pranay Sethi and others (Supra)*.

Thus, the claimant is held entitled to compensation as computed under:

ASSESSMENT

	Date of accident	13.08.2022
	Age of Deceased	48 years
	Occupation	Not proved
	Claimant	Wife and children
	Heads of claim	
1.	Annual income	₹ 1,22,916/-
2.	Addition (<i>Future Prospects @ 25% of annual income</i>)	₹ 30,729/-
3.	Total Income	₹ 1,53,645/-
4.	Deduction for personal and living expenses	1/3 rd of ₹ 1,53,645/- = ₹ 51215/-
5.	Net assessable Income	₹ 1,02,430/-
6.	Multiplier	₹ 13,31,590/-
7.	Loss of consortium	₹ 1,32,000/-
8.	Funeral expenses & Loss of estate	₹ 33,000/-
9.	Total	₹ 14,96,590/-

The computation of compensation is just, equitable, fair, adequate and reasonable. Accordingly, Issue No.2 qua assessment of quantum of compensation is decided in the above stated terms, in favour of the claimants and others and against the respondents.

LIABILITY TO PAY COMPENSATION AMOUNT

21. The next question for determination is as to who is liable to pay the said amount.

As determined in issue No.1, the accident occurred due to rash and negligent driving of respondent No.1 while driving the offending vehicle i.e. Trax Cruizer HR-58A-8193 which was owned by respondent No.2. Admittedly, the offending vehicle is insured with respondent No.3. The insurance policy, Ex. R2, clearly reveals that the offending vehicle was insured on the date of accident. As such, respondents No. 1 to 3 are held liable to pay the compensation jointly and severally.

This issue is decided accordingly in favour of the claimants and against **respondents No. 1 to 3.**

ISSUE NO.3

22. Onus to prove this issue regarding violation of terms and conditions of insurance policy, was upon respondent No.3. However, neither any evidence has been led by respondent No.3 to prove this issue nor its learned counsel advanced any argument on it. Moreover, learned counsel for respondent No.2 has placed on record the copy of Driving Licence of respondent No.1 (Ex.R5) as well as the copies of Registration Certificate (Ex.R3). Insurance Policy (Ex.R4), Permit (Ex.R6) of the offending vehicle and the application (Ex.R7) which was submitted by respondent No.2 before the R.T.O., Yamuna Nagar, for verification of validity of Fitness Certificate of the offending vehicle and the concerned official having made a report in this regard on the said application itself. Otherwise also, learned counsel for respondent No.3 also got verified the

validity of Permit of the offending vehicle and the Driving Licence of respondent No.1 (driver) during pendency of the application No. CM-83 of 2025 under Order 9 Rule 13 CPC, as discussed supra and the validity of other documents tendered by learned counsel for respondent No.2 has not been challenged by learned counsel for respondent No.3, at this stage. Accordingly, this issue is decided against respondent No.3- Insurance Company and in favour of respondents No.1 & 2.

ISSUE NO.4 (Relief)

23. Keeping in view the findings of this Tribunal on aforesaid issues, the present claim petition is ***partly allowed*** with costs. It is ordered that:-

(i) Out of total assessed compensation of ₹14,96,590/-; ***claimant No. 1 (wife)*** is held entitled to 50% of the compensation amount being wife of Satish Kumar (*since deceased*).

Claimants No.2 and 3 (*children of deceased Satish Kumar*) are held entitled to 25% each of the compensation amount.

(ii) The amount of compensation shall be paid by respondent No.3 along with interest at the rate of 7.5% per annum from the date of the filing of the claim petition till realization of the amount.

(iii) As per the claim petition, claimant No.3 has been shown to be 16 years of age (mentioned in the title), as on the date of institution of

the claim petition on 20.08.2022. She (claimant No.3) has now attained the age of majority. As such, all the claimants are major and are of sound mind. No one amongst them is stated to be suffering from any mental disability. The amount shall be paid to them by way of cheques/drafts/directly in their bank accounts by the Insurance Company without requiring the same to be deposited in Fixed Deposit in view of Judgments in case of *H.S. Ahammed Hussain Vs. Irfan Ahammed 2002 (3) RCR (Civil) 563* and *Sapna & Another Vs. Lajpat Rai Civil Revision No. 6468 of 2016 (P&H)*.

(iv) Counsel's fee is assessed to the tune of ₹5,500/- each. The claimants are directed to furnish the particulars of their bank accounts at the time of disbursement of the awarded amount or at the time of filing of petitions seeking execution of the Award, as the case may be.

(v) Memo of costs be prepared accordingly.

(vi) File be consigned to the records, after due compliance.

24. *Ahlmad is directed that the file for consignment should be prepared as per clauses 3, 4, 5 and 6 of Chapter 16F Volume-IV of High Court Rules and Orders (i.e. arranging the files in Part A & B) so that the record which is to be destroyed/weeded out shall be kept separately from the initial stage. Reader/Ahlmad are also directed to prepare the list of the witnesses and exhibits, if any, at the end in an annexure form as per clause*

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*(9) of Rule 2 of Chapter 11, Volume-I, Part A of the Rules and Orders of
Punjab and Haryana High Court.*

Pronounced in open Court.
Dated: 25.08.2025

(Yashwinder Paul Singh)
Presiding Officer
Motor Accidents Claims Tribunal
Yamuna Nagar at Jagadhri
(UID No. HR0491)

Note: All pages of this judgment have been checked and signed by me.

(Yashwinder Paul Singh)
Presiding Officer
Motor Accidents Claims Tribunal
Yamuna Nagar at Jagadhri
(UID No.HR0491)

‘Mohinder Singh’

(Yashwinder Paul Singh)
MACT/Yamuna Nagar at Jagadhri
25.08.2024 (UID No.HR0491)