

**Before Motor Accident Claims Tribunal presided over by
Ms. Shashi Chauhan, Additional District & Sessions Judge,
Nuh. UID No. HR0132**

	CNR No.	: HRNU01-004946-2019-0924-2020
	CIS No.	: MACP-505-2019/76-2020
	MACP Case No.	: RBT 246/329 of 2025
	Date of Institution	: 10.09.2019/14.2.2020/13.11.2025
	Date of decision	: 20.07.2026

1. Najma widow of Wahid aged 30 years
2. Sofiya daughter of Wahid aged 19 years
3. Vasim son of Wahid aged 18 years; all residents of village Silkho, Tehsil Tauru, District Nuh at present Javed Colony, Sohna, Tehsil Sohna, District Gurugram

...Petitioners

Versus

1. Sajid Khan @ Sajid son of Badlu Khan (since deceased) through his LRs namely (a) Badlu @ Badlu Khan son of Mehtu (b) Rabiya widow of Sajid Khan @ Sajid son of Baldlu Khan. Both residents of village Rajaka, Tehsil Nagina, District Nuh
(Driver of offending vehicle bearing registration No. HR-74-A-9851)
2. Subedin son of Birhan, resident of village Jogipur, Tehsil Nuh, District Nuh, Haryana.
(Owner of offending vehicle bearing registration No. HR-74-A-9851)
3. Oriental General Insurance Company Ltd. through its Divisional Office, Munjal Tower, Old Railway Road, Gurugram, Haryana.
(Insurer of offending vehicle bearing registration No. HR-74-A-9851)

...Respondents

4. Smt. Ruksina widow of Wahid aged 43 years
5. Jarina daughter of Wahid aged 19 years
6. Sarup Khan son of Wahid aged 18 years
7. Sabnam daughter of Wahid aged 14 years
8. Rahul Khan son of Wahid aged 16 years
9. Dilsana daughter of Wahid aged 8 years
10. Aaija daughter of Wahid
11. Jaibuna wife of Nasru aged 54 years

12. Fazri wife of Nasru aged 76 years all resident of village Alampur @ Masit, Tehsil Tauru, District Nuh (petitioners no. 7 to 10 are minors through their natural guardian and next friend, their mother Ruksina)
... Performa Respondents

CLAIM PETITION U/S 166 OF MOTOR VEHICLE ACT, 1988

Present: Sh. Shahid Khan, Advocate for the petitioners.
LR(a) & LR(b) of respondent no. 1 exparte vide order dated 12.02.2021 and 17.09.2021
Respondent no. 2 exparte vide order dated 13.11.2019
Sh. Manish Vashisht, Advocate for respondents no. 3.
Sh. T.H. Devla, Advocate for Performa respondents no. 4 to 11.

AWARD:

Vide this common award, this Court shall dispose off the two claim petitions bearing CIS no. MACP no. 505 of 2019 and MACP no. 76 of 2020, being arisen out of the same facts and accident as deceased has two wives and their children. in order to avoid contradictory findings both the petitions were ordered to be consolidated vide order dated 20.07.2026 after considering the statement of no objection endorsed by learned counsel for petitioners in both the petitions.

2. Case of the petitioners, in brief, is that on 11-10-2018 at about 9:00 p.m. Wahid (since deceased) and his brother namely Liyakat Ali were going from Punhana to Jurheri (Rajasthan) on motorcycle, when they reached near village Thek on Jurhera-Punhana Road, in the meantime, one truck bearing registration No. HR-74-A-9851 (hereinafter referred to as the 'offending vehicle') being driven by respondent no. 1 in a very high speed in rash, negligent manner came there from back side and struck with the motorcycle of Liyakat and Wahid. As a consequence of motor vehicular accident, Wahid received very serious and multiple injuries and Liyakat who

is brother of Wahid became narrow escape he with the help of one Rajjak take care of Wahid. Due to this impact the driver of the vehicle no. HR-74-A-9851 fled away from the spot alongwith his truck. Complainant Liyakat taking the help of the passerby person namely Rajjak and some villagers who arranged the vehicle and shifted Wahid to SKHM, Nalhar. Thereafter, he was referred to Trauma Centre New Delhi where he was died during treatment. The postmortem report was conducted in Trauma Centre, New Delhi. The petitioners spent an amount of ₹ 3,00,000/- on transportation and last rites of Wahid son of Nasruddin. In this regard, FIR bearing No.300 dated 16.10.2018 under Sections 279 & 337 IPC was registered at police station Punhana. Later on section 304-A IPC was added.

3. It has been stated that deceased Wahid son of Nasruddin was 38 years of age at the time of accident. He was Crusher Machine Operator and was earning ₹ 20,000/- per month.

Since the accident took place solely due to sole negligence of respondent No.1 i.e. the driver of the offending vehicle, he being driver; respondent No.2, being owner; and respondent No.3, being insurer of the offending vehicle are jointly and severally liable to pay compensation to the petitioners of both petitions bearing No. MACP 505 of 2019 & MACP 76 of 2020 have sought compensation of ₹ 35,00,000/- on account of death of Wahid.

4. Upon notice, none has appeared on behalf of LR's (a) & (b) of respondent no. 1 and respondent no. 2, therefore, they were proceeded against exparte vide orders dated 12.02.2021, 17.09.2021 and 13.11.2019.

5. Respondent No.3, the insurance Company filed its separate written statement while taking preliminary objections regarding locus-standi, cause of action, maintainability, non-joinder of necessary parties etc. On merits, it has submitted that no accident took place as alleged in the claim petition. The vehicle in question has been falsely involved in collusion with the respondent No.1 and local police. It has been further submitted that driver of the offending vehicle was not having a valid and effective driving licence and as such, the insurance company is not liable to indemnify the owner who also did not give any information in writing to the insurance company regarding the accident. It has been submitted that FIR has been registered by the police official of police station Punhana on 16.10.2018 with a delay of five days in collusion with the petitioner. The petitioners must produce the admissible documentary evidence to justify the delay in lodging the FIR. Therefore, the petitioners are not entitled for any claim. It has further been submitted that the nature of the injuries as mentioned in the petition and also the expenses and compensation claimed for is exorbitant and without any basis of medical treatment. Lastly, it is submitted that huge amount has been claimed as compensation and dismissal of the petition with costs has been sought.

6. From the pleadings of the parties, the following issues were framed by this Tribunal, Nuh on 06.03.2026 :-

(i) Whether the accident in question resulting into death of Wahid son of Nasruddin took place due to rash and negligent driving of vehicle bearing registration no. HR-74-A-9851 by its driver-respondent no. 1 ?O.P.P.

(ii) If issue no. 1 is proved, whether the petitioners are entitled to get compensation on account of death of Wahid son of Nasruddin in the accident and if so how much and from whom ? O.P.P.

(iii) Whether the respondent no. 1 was not holding a valid and effective driving licence at the time of alleged accident, if so, to what effect ? O.P.R-3.

(iv) Whether the insured has violated the terms and conditions of the insurance policy ? O.P.R-3.

(v) Relief.

7. Both the parties were called upon to lead evidence to settle their rival contentions.

8. The petitioners in order to prove their case had examined Smt. Najma & Ruksina herself as PW1 and Liyakat & Rajjak as PW2 (in both petition). Besides oral evidence, the petitioners placed on record documents Ex.P1 to Ex.P23 and closed the evidence.

9. On the other hand, the respondent no. 3 has tendered document Ex.R1 to Ex.R12 in his evidence and closed his evidence vide separate recorded statement.

10. I have heard learned counsel for the parties and have gone through the record. My issue wise findings are as under:

Issue No.1:-

11. Onus to prove this issue was upon the petitioners. To prove their case, petitioners have examined PW-2 Rajjak who was the eye witness of the accident. He tendered his affidavit Ex. PW2/A wherein he categorically stated that on 11-10-2018 at about 9:00 p.m. Wahid (since deceased) and his brother namely Liyakat Ali were going from Punhana to

Jurheri (Rajasthan) on motorcycle, when they reached near village Thek on Jurhera-Punhana Road, in the meantime, one truck bearing registration No. HR-74-A-9851 being driven by respondent no. 1 in a very high speed in rash, negligent manner came there from back side and struck with the motorcycle of Liyakat and Wahid. As a consequence of motor vehicular accident, Wahid received very serious and multiple injuries and Liyakat who is brother of Wahid became narrow escape he with the help of him take care of Wahid. Due to this impact the driver of the vehicle no. HR-74-A-9851 fled away from the spot alongwith his truck. Complainant Liyakat taking the help of him and some villagers who arranged the vehicle and shifted Wahid to SKHM, Nalhar. Thereafter, he was referred to Trauma Centre New Delhi where he was died during treatment. The postmortem report was conducted in Trauma Centre, New Delhi. The petitioners spent an amount of ₹ 3,00,000/- on transportation and last rites of Wahid son of Nasruddin. In this regard, FIR bearing No.300 dated 16.10.2018 under Sections 279 & 337 IPC was registered at police station Punhana. Later on section 304-A IPC was added. Similarly, the other eye-witness Liyakat has also examined and deposed on the same lines as of Rajjak. They cross examined at length by learned counsel for the respondents but nothing to shatter their veracity could be elucidated and their stand remained consistent throughout.

12. Per contra, stand of respondents is that no accident was caused by the offending vehicle. However, no evidence has been led by the respondents to prove this fact. The driver of offending vehicle has not stepped into the witness box to state his own case on oath or to offer himself

for cross-examination. In these circumstances, an adverse inference has to be drawn against the respondents that the case set up by them is not true. At the cost of repetition, respondent No.1 has been challaned for the offence under Sections 279, 337 & 304-A I.P.C. by the police. There is thus no reason to disbelieve the unrebutted testimony of the petitioners. Hence, it is established that the petitioner sustained injuries in the accident which took place due to rash and negligent driving of respondent No.1 while driving offending vehicle and Wahid son of Nasruddin died due to the injuries sustained in the accident which took place due to rash and negligent driving of respondent no. 1. Consequently, this issue is decided in favour of the petitioners.

Issue No.2 :

Compensation in respect of death of Wahid son of Nasruddin :-

13. Under this issue, the petitioners were required to prove that they were entitled to compensation as well as quantum of compensation in respect of death of Wahid son of Nasruddin.

14. At the outset, it is important to note that present petition bearing MACP-505-2019 has been filed by petitioner No.1 Najma being widow of the deceased, petitioners no. 2 and 3 being children of deceased and they are entitled to compensation.

The other widow of deceased i.e. performa respondent no. 4 Smt. Ruksina, performa respondents no. 4 & 5 being children of deceased and performa respondents no. 7 to 10 being minor children of deceased (performa respondents no. 7 to 10 are minor through his real mother

Ruksina) and they are also entitled to compensation.

15. So far as the age of the deceased is concerned, in the petition petitioners, the age of the deceased Wahid is pleaded as 38 years whereas in the Aadhar Card (Ex.R12) produced by learned counsel for respondent no. 3, the age of deceased Wahid is mentioned as 40 years So, for determination of the compensation in the present case, as per submission in petition, the age of deceased is hereby taken as 40 years at the time of accident.

16. Now coming to the question about the income of deceased at the time of his death, Najma (petitioner No.1) and Ruksina (petitioner no. 1) the widow of the deceased while appearing in the witness box as PW1 has deposed that her husband was crusher machine operator and was earning to the tune of ₹ 20,000/- per month. No document has been placed on record by the petitioners regarding the occupation as well as income of the deceased and this fact has been admitted by PW1 in her cross examination. However, the deceased must be doing some work to earn the livelihood of his family and the income of deceased cannot be less than that of a casual labourer. The accident took place in the year 2018 and it can be well presumed that he could earn ₹ 8497/- per month as minimum wages fixed by the Labour Department, Government of Haryana for unskilled labour in the year 2018. Accordingly, the income of the deceased is assessed as ₹ 8497/- per month.

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

xxx xxx xxx

61 (iv). 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. The established income means the income minus the tax component.

18. While applying the law laid down by Hon'ble Supreme Court in the aforesaid case, the petitioners/claimants are further entitled for the future prospects of 25% of total income of deceased in addition to his assessed income. In view of law reported in case law titled as **Smt. Sarla Verma and others versus Delhi Transport Corporation and others, 2009(3) RCR (Civil)** **77** the following points must be considered while deducting towards personal and living expenses of the deceased:-

(a)	Where deceased was married and number of dependent members is 2 to 3. Deduction should be one third.
(b)	Where number of dependent family members is 4 to 6. Deduction should be one forth.
(c)	Where number of dependent family members exceed six. Deduction should be one fifth.
(d)	Where deceased was bachelor. Deduction should be 50%.
	However, if family of bachelor is large and dependent on the income of the deceased, his personal and living expenses may be restricted to one third and contribution to family will be taken as two third.

As discussed above, all the petitioners were dependent upon the income of deceased, therefore, in view of law laid down in case titled **Sarla Verma and ors's case (supra)**, 1/5th is to be deducted towards his personal expenses, hence, this court takes the dependency of the petitioners as 4/5 the

of the income of the deceased at the time of accident.

19. So far as the question of applicability of multiplier is concerned, in the present case, the age of the deceased was 40 years at the time of his death. So in view of the law laid down in the case of **Sarla Verma's case (supra)**, the multiplier of '15' should be applied.

20. Hon'ble Apex Court in case titled **New India Assurance Vs. Somwati, Civil Appeal No.3093 of 2020 decided on 7.9.2020**) held in para No.23 of the judgment as under:-

"The claimant in a claim for award of compensation under Section 166 of Motor Vehicles Act, 1988, is entitled for just compensation. The just compensation has to be equitable and fair. The loss of life and limb can never be compensated in an equal measure but the statutory provisions under Motor Vehicles Act is a social piece of legislation which has been enacted with intent and object to facilitate the claimants to get redress for the loss of the member of family, compensate the loss in some measure and to compensate the claimant to reasonable extent.

21. In **Sarla Verma and ors's case (supra)**, Hon'ble Apex Court while elaborating the just compensation laid down following:-

"5....."Just compensation is adequate compensation which is fair and equitable, on the facts and circumstances of the case, to make good the loss suffered as a result of the wrong, as far as money can do so, by applying the well settled principles relating to award of compensation. It is not intended to be a bonanza, largesse or source of profit.

Now coming to the present case as regard to the conventional heads, the deceased left behind his parents as his dependents. On the basis of the judgments in **National Insurance Company Limited Vs. Pranay Sethi and Others**, Special Leave Petition (Civil) No.25590 of 2014, decided on 31.10.2017 and **Magma General Insurance Company Limited Vs. Nanu Ram**

@ **Chuhru Ram and others** 2018 18 SCC 130 relied upon in case titled **New India Assurance Vs. Somwati**, Civil Appeal No.3093 of 2020 decided on 7.9.2020), the petitioners are awarded an amount of ₹15,000/- on account of loss of estate, an amount of ₹15,000/- on account of funeral expenses and an amount of ₹ 40,000 x 12 = ₹ 4,80,000/- on account of loss of consortium as petitioners and proforma respondents as dependents.

22. Now, in the present petition, the petitioners are entitled to receive the compensation, on account of death of deceased as under:

Sr.No	Heads of claim	
1	Income	₹ 8497/-
2	25% future prospects	₹ 2124/-
3	Total Income	₹ 10,621/-
4	1/5th deduction as dependents are 12 in number	₹ 2124/-
5	After deduction, income	₹ 6373/-
6	Annual income of deceased	₹ 9319 x 12= 76,476/-
7	Compensation after applying multiplier of 15.	₹ 76,476 x 15 = 11,47,140/-
8	Loss of estate	₹15,000/-
9	Funeral expenses	₹ 15,000/-
10	Loss of consortium	₹ 40,000 x 12 = 4,80,000/-
11	Total compensation	₹ 16,57,140/-

The petitioners as well as performa respondents are accordingly held entitled to a sum of ₹ 16,57,200/- (round figure) as compensation.

23. Now it is to be seen as to who is liable to make the payment of the amount of compensation. The offending vehicle was insured with respondent No. 3, driven by respondent no. 1 and owned by respondent No.2 at the time of this accident. Resultantly, respondents No. 1 to 3 will be liable

to pay the compensation jointly and severally. Hence, this issue is answered in favour of petitioners as well as performa respondents and against the respondents subject to finding on issue No.3 & 4. Consequently, this issue is disposed of accordingly.

Issue No. 3 & 4 :

24. Admittedly, the offending vehicle was insured with respondent No.3 vide Insurance Policy (Ex.P12). Copy of registration certification (Ex.P11) placed on the file shows that the respondent No. 2 was the registered owner of the offending vehicle. The respondent No.1 being the driver of the offending vehicle has placed on the file copy of driving licence (Ex.P10).

Learned counsel for the respondent No. 3-Insurance company has contended that there is violation of terms and conditions of insurance policy as the respondent No.1 was not having a valid and effective driving licence at the time of the accident in question. Perusal of the driving licence (Ex.P10) reveals that the respondent no.1 is authorized to drive vehicle and the driving licence is valid upto 17.12.2027 (NT) and 7.1.2020 (T). In these circumstances, it is held that the respondent No.1 is duly authorized to drive the offending vehicle. Hence, issue No.3 & 4 are decided against the insurance company.

Relief:

25. As a sequel to the above findings, the petition is partly allowed with costs and the petitioners as well as performa respondents are awarded a sum of ₹ 16,57,200/- (Sixteen Lacs Fifty Seven Thousand and Two

Hundred only) alongwith interest @ 7.5% per annum from the date of filing of petition till actual realization, payable by respondent Nos. 1 to 3 jointly as well as severally. The compensation amount shall be paid to the claimants in equal shares. Firstly, the compensation amount be paid by insurance company (respondent no. 3). Since performa respondents no. 7 to 10 are minors, therefore, the amount of their share shall be deposited in some nationalized bank in the shape of FDRs fetching maximum rate of interest till they attain majority with a rider that no loan etc. shall be advanced against the said FDRs.

Counsel fee is assessed at the rate of ₹11,000/-. Memo of costs be prepared accordingly. Copy of award be also placed in connected case bearing MACP No. 76-2020 titled 'Ruksina etc. Vs. Subedin etc.' File be consigned to record room after due compliance.

Announced in the open Court:

(Shashi Chauhan)

Dated: 20.07.2026

Motor Accident Claims Tribunal
Nuh. (UID HR0132).

Note: This award contains 13 pages and each page has been checked and signed by me.

(Atul Kumar)

(Shashi Chauhan)

Motor Accident Claims Tribunal
Nuh. (UID HR0132).

Present: Sh. Shahid Khan, Advocate for the petitioners.
LR(a) & LR(b) of respondent no. 1 exparte vide order dated
12.02.2021 and 17.09.2021
Respondent no. 2 exparte vide order dated 13.11.2019
Sh. Manish Vashisht, Advocate for respondents no. 3.
Sh. T.H. Devla, Advocate for Performa respondents no. 4 to 11.

Learned counsel for petitioners vide separate recorded statement that he has no objection both petitions MACP no. 505 of 2019 titled 'Najma etc. Vs. Sajid etc. as well as and MACP no. 76 of 2020 titled 'Ruksina etc. Vs. Subeddin etc. as the same arisen out of the same facts and accident as deceased has two wives and their children. Therefore, keeping in view the aforesaid facts and in order to avoid contradictory findings both the petitions were ordered to be consolidated. Amended title filed. No rebuttal evidence is present. Rebuttal evidence closed by court order. Arguments heard. Now to come for order after lunch.

(Atul Kumar) (Shashi Chauhan)
Motor Accident Claims Tribunal
Nuh. (UID HR0132).
20.07.2026

Present: Sh. Shahid Khan, Advocate for the petitioners.
LR(a) & LR(b) of respondent no. 1 exparte vide order dated
12.02.2021 and 17.09.2021
Respondent no. 2 exparte vide order dated 13.11.2019
Sh. Manish Vashisht, Advocate for respondents no. 3.
Sh. T.H. Devla, Advocate for Performa respondents no. 4 to 11.

Ordered Pronounced.

Vide separate award of even date, present petitions are partly allowed with costs. Memo of costs be prepared. Copy of this order be placed in connected case files. File be consigned to records after due compliance.

Announced in open court. (Shashi Chauhan)
Motor Accident Claims Tribunal
(Atul Kumar) Nuh. (UID HR0132).
20.07.2026