**In the Court of Shri Sham Lal, Motor Accident Claims Tribunal, Rupnagar (UID No.PB0123)**

| | |
|---|---|
| MACP No. | 25 of 30.01.2020 |
| CNR No. | PBRO01-00-0552-2020 |
| Reg. No. | 25/2020 |
| Date of Decision | 03.11.2022 |

1. Manjit Kaur aged about 46 years wife of Sh. Major Singh.
2. Major Singh aged about 51 years son of Sh. Swarna, both residents of village Harwan, Post Office Binewal, Tehsil Garshankar District Hoshiarpur.

..........Claimants.

Versus

1. Makhan Singh son of Sh. Joga Singh, resident of village Bhatton PS, Nurpur Bedi, Tehsil Anandpur Sahib, District Rupnagar (Driver of Bus bearing registration No. PB-08-BN-9251).
2. M/S Kartar Bas Service Limited 169, Old Railway Road Jalandhar (Owner of Bus bearing registration No. PB-08-BN-9251).
3. The Oriental Insurance Company Limited through its Local Branch Manager, Nangal Chowk, Rupnagar (Insurer of Bus bearing registration No. PB-08-BN-9251).

…Respondents.

**Claim Petition under Section 166 of MV Act for the grant of compensation to the tune of ₹50,00,000/- on account of**

**death of Sukhwinder Singh in a motor vehicle accident which took place on 04.11.2019.**

***

Present: Shri Vishal Mehra Advocate, counsel for claimants.
Shri Udhey Verma Advocate, counsel for respondents No.1&2.
Sh. Rajesh Sharma Advocate counsel for the respondent No.3 Insurance Company.

**Award**

1. Claimant/petitioners Manjit Kaur and Major Singh have filed present claim petition under Section 166 of Motor Vehicle Act, 1988 against respondents Makhan Singh and others for grant of compensation on account of death of Sukhwinder Singh son of Major Singh, who died in a Motor Vehicle Accident, which took place on 04.11.2019 due to rash and negligent driving of Bus bearing Registration No. PB-08-BN-9251 by respondent No.1 Makhan Singh son of Joga Singh.

2. Brief facts of the case are that on 04.11.2019 Sukhwinder Singh since deceased was going to village Khanpur Khuhi on foot and when he reached in the area of village Habbowal Mour at about 6:00 Pm, a bus bearing registration No. PB-08-BN-9251 driven by respondent No.1 in a rash and negligent manner came from Anandpur Sahib side at very high speed and the driver of the said bus struck it against Sukhwinder Singh, as a result of which deceased Sukhwinder Singh received multiple grievous injuries on his abdomen and head. Sukhwinder Singh was taken to some private hospital immediately and due to his

serious condition, he was shifted to civil hospital Nawanshahar and later on he was referred to PGI Chandigarh where he succumbed to his injuries on 12.11.2019. The accident took place due to rash and negligent driving of aforesaid bus driven by respondent No.1. The claimant/petitioners have spent more than ₹2,00,000/- on the treatment of deceased. The deceased was hail and hearty at the time of accident. He was doing the work of vegetable vendor and his monthly income was ₹20,000/-. He was 23 years old at the time of accident. The claimant/petitioners being the parents of deceased are entitled to get compensation to the tune of ₹50,00,000/- along with interest at the rate of 12% per annum on account of his death in a Motor Vehicle Accident from the date of accident till its realization from the respondents No. 1 to 3, who being the driver, owner and insurer of offending vehicle are jointly and severally liable to pay the compensation. Hence, this claim petition.

3. On notice, respondents appeared and contested the claim petition by filing separate written replies. Respondents No.1&2 in their common written reply have taken the preliminary objections of maintainability, filing of the present claim petition on false facts, non-joinder and misjoinder of necessary parties, cause of action and jurisdiction. On merits it is averred that no accident took place with the bus bearing registration No.PB-08-BM-9252 on 04.11.2019 at about 6:00 PM in the area of village Habbowal Mour, Police Station Garhshankar.

The claimants have filed the present claim petition on false facts. The alleged bus has been falsely implicated in this case by the police in connivance with the claimants. A false FIR has been wrongly registered against the respondent no.1. Rests all the allegations of the claim petition were denied to be incorrect and it was prayed that claim petition filed by the claimant/petitioners may kindly be dismissed in the interest of justice.

4. Respondent No. 3 Insurer in its separate written reply has taken the preliminary objections of maintainability, non possessing of valid registration certificate, Insurance Policy, route permit and fitness certificate by the bus bearing registration No. PB-08-BM-9251 at the time of alleged accident, non holding of a valid and effective driving license by driver of the said bus and filing of the present claim petition on false facts. On merits it is averred that FIR No. 186 dated 13.11.2019 under Section 304,34 IPC was registered and as per the story mentioned in the FIR, it is a case of murder and police has not lodged the FIR under Section 302 IPC. It is not a case of accident, rather is it is a murder. The answering respondent is not liable to pay any compensation amount to the claimant/petitioners as claim petition was filed on false facts. Rest all the allegations of the claim petition were denied to be incorrect and it was prayed that claim petition of the claimant/petitioners may kindly be dismissed with costs in the interest of justice.

5. Rejoinders were not filed. Out of the pleadings of the parties,

following issues were framed on 23.05.2022:

> 1. Whether Sukhwinder Singh had died in a motor vehicular accident which took place on 04.11.2019 at about 6:00 PM in the area of village Habbowal with Bus bearing registration No. PB-08-BN-9251 being driven by respondent No.1 rashly and negligently ? OPP
>
> 2. If issue No.1 is decided in affirmative, whether the claimants are entitled to receive compensation? If so, to what amount and from whom? OPP
>
> 3. Whether respondent No.1 driver was not having valid and effective driving license at the time of alleged accident? If so, it is effect? OPR-3
>
> 4. Whether vehicle in question was being driven without valid RC, route permit and fitness certificate at the time of alleged accident? Of so, its effect? OPR-3
>
> 5. Relief.

6. To prove the case, claimant/petitioner Manjit Kaur herself came into witness box as PW-1 and examined eye witness Gurwinder Singh as PW-2. Thereafter, learned counsel for the claimant/petitioners closed the evidence by producing copy of FIR Ex.P1, copy of supplementary statement of Maninder Singh Ex.P2, copy of school leaving certificate of deceased Sukhwinder Singh Ex.P3, copy of arrest-cum-intimiation memo of accused Makhan Singh Ex.P4, copy of report under Section 173 Cr.P.C. Ex.P5, copy of list of witnesses Ex.P6 and copy of postmortem report of Sukhwinder Singh Ex.P7.

7. Against this, learned counsel for respondents No.1 and 2 closed the evidence on their behalf by producing attested copy of RC

Ex.R1, attested copy of fitness certificate Ex.R2, attested copy of Insurance Policy Ex.R3, attested copy of route permit Ex.R4, attested copy of driving license Ex.R5 and attested copy of GPA Ex.R6.

8. Respondent No.3 Insurance Company has examined Dr. Senthil Kumar Orthopedics Surgeon, PGI Chandigarh as RW-1. Thereafter, learned counsel for the respondent No.3 did not produce any other evidence despite availing ample opportunities and the evidence of respondent No.3 was closed vide order dated 3.11.2022.

9. I have heard learned Counsels for both the parties and have also gone through the written arguments submitted by the learned counsel for the respondent No.3 Insurance Company and evidence and documents on the file. My findings on various issues with reasons are as under.

**<u>Issues No.1 to 4</u>**

10. All these issues are inter-connected and therefore, I propose to decide all these issues collectively in order to avoid repetition in discussion of evidence. Onus to prove issues No. 1 and 2 was upon claimant/petitioners, whereas onus to prove issues No.3 & 4 was upon respondent No.3.

11. Claimant/petitioners Manjit Kaur and Major Singh filed the present claim petition under section 166 of Motor Vehicle Act to get compensation on account of death of their son Sukhwinder Singh in a motor vehicle accident occurred on 04.11.2019 due to rash and negligent

driving of bus bearing registration No. PB-08-BN-9251 by its driver Makhan Singh respondent No.1. In order to prove the said accident, claimant/petitioners examined eye witness Gurwinder Singh PW-2 who had witnessed the alleged occurrence. He has categorically stated in his statement on oath in affidavit form Ex.PW2/A that on 04.11.2019 he was coming from Garshankar towards Nurpur Bedi side on his motorcycle and when he reached in the area of village Habbowal Mour at about 6:00 PM, a bus bearing registration No. PB-08-BN-9251 which was being driven by respondent No.1 in a rash and negligent manner at a very high speed came from Anandpur Sahib side and struck against the person who was going on foot on his left side of the road, as a result of which he fell down on the road and received multiple grievous injuries on his abdomen and head. He has also stated that many persons gathered on the spot and on seeing the gathering respondent No.1 fled away from the place of accident. He has also stated that he with the help of other persons arranged private vehicle and sent the injured to his village. He has further stated that the accident took place due to rash and negligent driving of bus bearing registration No. PB-08-BN-9251 driven by respondent No.1. Claimants have also produced in evidence copy of FIR No.186 dated 13.11.2019 under Section 304, 34 IPC, Police Station Garshankar Ex.P1, copy of supplementary statement of Maninder Singh Ex.P2, copy of school leaving certificate of deceased Sukhwinder Singh Ex.P3, copy of arrest-cum-intimation memo of Makhan Singh Ex.P4, copy of report under Section 173 Cr.P.C. Ex.P5, copy of list of witnesses Ex.P6 and copy of postmortem report of Sukhwinder Singh Ex.P7. Against it respondent No.3 insurance company has examined Dr.Santhil Kumar RW-1, who has stated that as per patient death record issued by PGIMER, Chandigarh, the deceased was brought to the hospital with alleged history of assault while patient was sitting in the middle of the road got hit by bus and then assaulted by 15 to 20 people on 04.11.2019 at 7:00 PM near Kanpur Khui. The patient died on 12.11.2019 at 10:28 PM and as per MCCD the cause of death was septic shock with multiorgan dysfunction syndrome with jejunal perforation peritonitis with acute Kidney injury in a case of assault with blunt trauma abdomen.

12. Learned counsel for the claimant/petitioners has argued with stress that death of Sukhwinder Singh was caused in a Motor Vehicle Accident occurred on 04.11.2019 as he was hit by the bus of M/S Kartar Bus Service Limited at about 6:00 to 7:00 PM, when he was going towards Kahanpur Khuhi village side on foot. He has further submitted that though FIR No. 186 dated 13.11.2019 Ex.P1 regarding said occurrence was registered under Section 304/34 IPC, but in the said FIR it has also been mentioned that the bus hit Sukhwinder Singh who was going towards village Kahanpur Khuhi side on foot from his maternal grandfather's house situated at village Sekhowal on 04.11.2019 at about

6:00 PM. It is also submitted by him that author of FIR namely Maninder Singh was not an eye witness of the said occurrence and as such on the basis of said FIR itself, it cannot be said that it is a case of culpable homicide amounting to murder especially when the challan after concluding the investigation was presented against respondent No.1 under Section 279 and 304-A IPC as is apparent from the report under Section 173 Cr.P.C. Ex.P5. He has also submitted that Maninder Singh author of the said FIR in his supplementary statement Ex.P2 before the Investigating Officer has also got recorded that the death of his nephew Sukhwinder Singh was caused in a motor vehicle accident occurred on 04.11.2019 due to the hitting of Kartar bus bearing registration No. PB-08-BN-9251 by its driver with Sukhwinder Singh in a rash and negligent manner, when Sukhwinder Singh was going towards village Kahanpur Khuhi side on foot. He has also argued that Dr. Santhil Kumar RW-1 has also submitted in his cross examination that the possibility of injury No.1 caused by rod cannot be ruled out and the other injuries were caused by bus. He has also stated that the death of Sukwhinder Singh was caused due to head and abdomen injury. It is also argued by him that neither respondent No.1 himself has come into witness box nor respondents have examined any eye witness of the said occurrence to prove that the accident of Sukhwinder Singh since deceased was not caused with the offending bus bearing registration No.PB-08-BN-9251 owned by respondent No.2 on 04.11.2019. Therefore the claimant/petitioners being the legal heirs-cum-dependants of deceased Sukhwinder Singh are entitled to get compensation on account of his death in Motor Vehicle Accident from respondents who are driver, owner and insurer of the offending bus bearing registration No.PB-08-BN-9251.

13. On the other hand learned counsel for the respondents No.1&2 has also submitted that no accident has been taken place with the offending vehicle i.e. bus bearing registration No.PB-08-BN-9251 owned by the respondent No.2 on 04.11.2019. A false FIR under Section 304/34 of IPC was registered against an unknown driver and conductor of the said vehicle after a period of 9 days. The bus of respondent No.1&2 has been falsely implicated in this case to get illegal compensation by the claimants in connivance with the police officials. It is also submitted by him that the delay of 9 days in lodging the FIR has not been properly explained by the claimant/petitioners and it itself casts a cloud of suspicion upon the case of claimant/petitioners. He has further submitted that claimants have not examined author of the said FIR and Gurwinder Singh alleged eye witness of the occurrence got examined by the claimant/petitioners has not been cited as eye witness in the list of witnesses furnished by the prosecution in a criminal case bearing FIR No.186 dated 13.11.2019 Ex.P1 registered regarding the said incident. Thus respondents No.1&2 are not liable to pay any compensation to the

claimant/petitioners on account of death of Sukhwinder Singh.

14. On the other hand learned counsel for respondent no.3 Insurance Company in written arguments has submitted that it is not a case of Motor Vehicle Accident as according to the allegations in the FIR No. 186 dated 13.11.2019 Ex.P1 itself, it is a case of culpable homicide amounting to murder as FIR was registered under Section 304/34 IPC against the driver and conductor of Onkar Bus as well as Kartar Bus. He has also submitted that as per the medical record proved on file by the doctor Santhil Kumar RW-1 the deceased was brought to the hospital with alleged history of assault and the death of Sukhwinder Singh was caused due to the injuries received by him from the hands of 15/20 peoples who had assaulted him on 04.11.2019. It is further contended by him that as per Postmortem Report of deceased Sukhwinder Singh, the case of death was cerebral damage and septicemia due to jejunal perforation peritonitis consequent to blunt trauma to head and abdomen respectively. Therefore, it cannot be said that the death of Sukhwinder singh was caused due to the injuries received by him in a motor vehicle accident and as such the respondent no.3 insurance company is not liable to pay compensation to the claimant/petitioners on account of death of Sukhwinder Singh. He has also placed reliance upon **Konda Anuradha & Ors. Vs. Gopi Reddy Venkat Reddy & Anr. IV (2009) ACC 2, Bajaj Allianz General Insurance Co. Ltd. Vs. B.C.**

**<u>Kumar & Anr. I (2011) ACC 74, National Insurance Company Ltd. Vs. G. Umarani & Ors. IV (2021) ACC 532 (Mad.) and New India Assurance Co. Ltd. Vs. Anu Kumar & Ors. II (2012) ACC 953</u>**.

15. No doubt, FIR No.186 dated 13.11.2019 Ex.P1 was registered under Section 304/34 of IPC in Police Station Garshankar, but the perusal of the said FIR shows that when Sukwhinder singh son of Major Singh was going towards village Kahanpur Khuhi side from the house of his maternal grandfather on 04.11.2019 at about 6 to 7 PM, the side of a bus which was going from Grashankar to Anandpur Side hit with the Sukhwinder Singh due to which Sukhwinder Singh fell on the road. It is correct that it has also been alleged that in the said FIR that after hitting the bus with Sukhwinder Singh, Sukhwinder Singh threw a stone towards the bus which hit the said bus and the driver and conductor of the said bus armed with screwdriver and rod got down from the bus and assaulted Sukhwinder Singh and that the conductor of Kartar Bus who also came at the spot gave beating to Sukhwinder Singh and thereafter they went away by leaving Sukhwinder Singh in injured condition at the spot, from where he was brought to village Sekhowal by boys of that village who were coming towards Garshankar from Kahanpur Khuhi, but on the basis of aforesaid allegations in the FIR itself it cannot be said that it is not a case of motor vehicle accident as first of all according to the above said allegations the bus hit Sukhwinder Singh who was going on

foot towards village Kahanpur Khuhi side. It is nowhere mentioned in the FIR about the number, nature and seats of injuries allegedly caused by the driver and conductor of the said bus on the person of Sukhwinder Singh by means of rod and screwdriver. Neither driver nor conductor of the said bus was got examined by the respondents to prove the injuries allegedly caused on the person of Sukhwinder singh by them. Copy of postmortem report Ex.P7 shows that Sukhwinder Singh was having 12 injuries on his person and the cause of his death was cerebral damage and septicemia due to jejunal perforation peritonitis consequent to blunt trauma to head and abdomen respectively. Eye witness Gurwinder Singh PW2 got examined by the claimant/petitioners has stated in his statement on oath that Sukhwinder Singh received multiple grievous injuries on his abdomen and head due to hitting of the bus bearing registration No.PB-08-BN-9251 driven by respondent No.1 in a rash and negligent manner with him when he was going towards village Kahanpur Khuhi side on foot on 04.11.2019 at about 6:00 PM. It is correct that the name of eye witness Gurwinder Singh PW-2 has not been cited as a witness in the list of witnesses of criminal case bearing FIR No.186 dated 13.11.2019 Ex.P6, but the non citing of PW-2 as a witness in the list of witnesses in criminal case itself is no ground to discard his testimony especially when the respondents have not produced on file any iota of evidence to controvert or shatter the testimony of Gurwinder Singh PW-2. Moreover, Investigating Officer after conducting the investigation in case bearing No.186 dated 13.11.2019 under Section 304, 34 of IPC has presented the challan against accused Makhan Singh son of Joga Singh, resident of Bhutto Police Station Nurpur Bedi, District Rupnagar under Section 279,304-A IPC and the offence under Section 304, 34 of IPC was deleted as is apparent from the copy of report under Section 173 Cr.P.C. Ex.P5. Respondent No.3 Insurance Company has not examined any surveyor appointed in this case to get the report about the said occurrence. If the death of Sukhwinder Singh was not caused in Motor Vehicle Accident and the claim petition against the Insurance Company was filed on false facts, then the Insurance Company should have obtained the report by appointing a surveyor/Investigating Officer in this regard, but the respondent No.3 Insurance Company has neither produced any such report of surveyor/investigating officer on the file, nor examined surveyor/investigating Officer, if any, appointed by it to get the report in this case and as such it creates an adverse inference against the respondent Insurance Company. Moreover respondent No.3 Insurance Company which was allowed to take all the pleas in defence as are available to the driver and owner of the vehicle by the then learned Presiding Officer of the Motor Accident Claim Tribunal, Rupnagar vide order dated 02.09.2022, has not made any effort to examine the driver and conductor of the said bus to prove the allegations of the assault due to which death of Sukhwinder Singh was allegedly caused. The driver and conductor of said bus were the best witnesses to prove the said plea taken by respondent No.3 Insurance Company, but the Insurance Company has nat made any effort to examine them for the reasons best known to it and as such an adverce inference is drawn against respondent No.3 Insurance Company. Hence, it cannot be said that the death of Sukwhinder Singh was caused due to the injuries caused on his person by driver and conductor of the offending bus with rod and screwdriver, rather it has been proved on the file that the death of Sukhwinder Singh was caused in a motor vehicle accident occurred on 04.11.2019 due to hitting of the offending bus driven by respondent no.1 on a public way in a rash and negligent manner with Sukhwinder Singh when he was going on foot towards village Kahanpur Khuhi side on 04.11.2019.

16. The facts of the case titled as **Konda Anuradha & Ors. Vs. Gopi Reddy Venkat Reddy & Anr. IV (2009) ACC 2, Bajaj Allianz General Insurance Co. Ltd. Vs. B.C. Kumar & Anr. I (2011) ACC 74, National Insurance Company Ltd. Vs. G. Umarani & Ors. IV (2021) ACC 532 (Mad.) and New India Assurance Co. Ltd. Vs. Anu Kumar & Ors. II (2012) ACC 953** on which respondent No.3 placed reliance are not applicable to the facts of the present case as in this case claimant/petitioners have proved on record that the death of their son was caused in a motor vehicle accident occurred on 04.11.2019 due to hitting

of the offending bus driven by respondent No.1 in a rash and negligent manner on the public way by leading cogent evidence in this regard as referred to above and it cannot be said that it is a false claim.

17. The delay of 09 days in lodging the FIR Ex.P1 itself is no ground to discard the claim of the petitioner as **Hon'ble Supreme Court of India in Ravi Versus Badrinarayan and others 2011 (2) RCR (Civil) 190** has held that although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings if claimant has been able to demonstrate and cogent reasons for it. Knowing the Indian conditions Court cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the police station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the police. Delay in lodging the FIR thus, cannot be ground to deny justice to the victim. Therefore, it is held that delay in loading the FIR is well explained in the present case and thus it cannot be fatal to the case of the claimant/petitioner.

18. The claimant petitioner in the FIR Ex.P1 itself has explained the said delay as it has been mentioned in the FIR that injured was

brought to the house and they got the treatment from the private doctor in the village itself and when the injured did not feel better with the medicine of local doctor, the injured was brought to Civil Hospital Nawanshahr for treatment on 09.11.2019 from where he was referred to PGI Chandigarh due to his serious condition. Thus in view of the ratio of the above said judgment as well as the circumstances discussed above, it cannot be said that the respondent No.1 and bus in question have been falsely implicated in this case to get the compensation.

19. Postmortem report Ex.P7 shows that Sukhwinder Singh son of Major Singh received 12 injuries on his person in a road side accident and cause of his death is cerebral damage and septicemia due to jejunal perforation peritonitis consequent to blunt trauma to head and abdomen respectively which was antemortem in nature. The postmortem was conducted on 14.11.2019 and as per the opinion of the Doctor, the probable time between injury and death was around one week. Meaning thereby the death of Sukhwinder Singh was caused due to accident took place on 4.11.2019. Thus, there are sufficient evidence on the file to hold that said accident took place due to rash and negligent driving of bus bearing registration PB-08-BN-9251 by its driver respondent No.1 Makhan Singh on 04.11.2019.

20. Claimants though alleged that deceased was earning ₹20,000/- per month by doing the work of vegetable vendor, but no

documentary evidence in this regard has been produced on the file by them. Manjit Kaur PW-1, mother of deceased has stated in her cross-examination that she has no proof of the income of her son Sukhwinder Singh. Thus, on the bald statement of PW-1, it cannot be said that deceased Sukhwinder Singh was doing the work of vegetable vendor from which he was earning ₹20,000/- per month. Hence, income of deceased Sukhwinder Singh is assessed as ₹9000/- per month by considering him a casual labourer.

21. Hon’ble Supreme Court of India in a case titled as **National Insurance Co.Ltd. Vs. Pranay Sethi and others 2017 SCC Online SC 1270** has 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. The established income means the income minus the tax component. Since deceased Sukhwinder Singh was 23 years old at the time of his death as per the post mortem report Ex.P7 and he was self employed, therefore 40% of his income is added as income for future prospects as per the observations made by Hon’ble Apex Court in the above said case and as such total income of

Sukhwinder Singh comes out ₹1,08,000/- + ₹43,200/- = ₹1,51,200/- per annum.

22. Deceased Sukhwinder Singh was unmarried at the time of his death and he died leaving behind his mother and father as his legal heirs and dependents as per the assertions of the claimants. Therefore, the annual income of dependency after deducting 1/2 amount towards his personal living expenses as per the judgment of Hon’ble Supreme Court of India passed in a case titled as **Sarla Verma and Others vs Delhi Transport Corporation and Another reported in 2009 ACJ 1298**, comes out ₹1,51,200/- – ₹75,600/- = ₹75,600/- per annum. Since the age of deceased Sukhwinder Singh was 23 years at the time of his death, therefore, as per the aforesaid judgment of Hon'ble Supreme Court of India in **Sarla Verma’s case (supra)**, the multiplier of 18 is applicable to this case and as such, the total dependency income of deceased comes out ₹75,600/- x 18 = ₹13,60,800/-. Besides this, claimants being legal heirs of deceased Sukhwinder Singh are also entitled to get ₹16,500/- including 10% increase after 03 years towards loss of estate and ₹16,500/- including 10% increase after 03 years towards expenses for performing funeral and last rites, as per judgment of Hon'ble Supreme Court of India reported in **2017 SCC Online SC 1270 (5JJ) titled as National Insurance Co. Ltd. Vs. Pranay Sethi and others.** Claimants though alleged that they have spent Rs.2,00,000/- on the treatment of Sukhwinder

Singh since deceased, but no iota of evidence in this regard has been produced on the file by them. As such, claimants are entitled to get total compensation of ₹13,60,800/- + ₹16,500/- as loss of estate + ₹16,500/- as expenses incurred on funeral and last rites ceremonies = ₹13,93,800/-

23. Learned counsel for respondent No.3 Insurance Company has contended that offending bus was not holding a valid registration certificate, route permit and fitness certificate and the respondent No.1 alleged driver of the offending vehicle was not holding a valid and effective driving license at the time of alleged accident and as such, respondent No.3 is not entitled to pay the compensation amount to the claimant/petitioners on account of death of Sukhwinder Singh in motor vehicle accident.

24. Perusal of copy of driving license Ex.R5 shows that respondent No.1 Makhan Singh Balwinder Singh has been possessing driving license for plying Transportation vehicle valid up to 14.07.2021 issued on 08.12.1995 by the licensing authority. The alleged accident took place on 04.11.2019. Hence, respondent No.1 was holding an effective and valid driving license at the time of accident. Copy of Registration Certificate Ex.R1 shows that offending Bus bearing Registration No.PB-08-BN-9251 was owned by respondent No.2 M/S Kartar Bus Service Limited 169, Old Railway Road, Jalandhar, copy of Fitness Certificate Ex.R2 shows that the offending bus was fit to ply up to

05.04.2020 as per inspection of the said bus conducted on 05.04.2019 by the Transport Department, Jalandhar and copy of Permit Ex.R4 shows that offending bus was having permit No.486/SC/67 renewed up to 09.02.2021 as per Secretary RTA, Jalandhar order dated 25.01.2016. The copy of insurance certificate Ex.R3 shows that the above said offending vehicle bus was insured with respondent No.3 Oriental Insurance Company Limited through its local Branch Manager nangal Chowk, Rupnagar for the period w.e.f. 08.04.2019 to 07.04.2020. Hence, respondents No.1 being driver, respondent No.2 being registered owner and respondent No.3 being insurer of the offending vehicle are jointly and severally liable to pay the compensation amount to claimant/petitioners who being the parents are legal heirs and dependents of deceased Sukhwinder Singh. Therefore, all these issues are decided accordingly in favour of claimant/petitioners and against the respondents No. 1 to 3

**<u>Relief</u>**

25. In view of my findings on above issues, the claim petition filed by the claimant/petitioners succeeds and the same is, hereby, partly allowed with costs. Award of ₹13,93,800/- is passed in favour of claimant/petitioners No. 1 to 4 and against the respondents tabulated as under :-

| | | | |
|---|---|---|---|
| | **Fatal Accident** | | |
| | Date of accident | 04.11.2019 | |

| | | | |
|---|---|---|---|
| Age | 23 years | | |
| Occupation & Income | | Labourer | ₹9000/-P.M. |
| | Heads of Claim | Tribunal | |
| Sr.No. | | Amount(Rs) | |
| 1 | Monthly Income | ₹9000/- | |
| 2 | Total annual income | ₹1,08,000/- | |
| 3 | Future prospects (@40%) | ₹1,08,000/- + ₹43,200/- = ₹1,51,200/- per annum. | |
| 4 | Deduction 1/2 (being unmarried) | ₹1,51,200/- – ₹75,600/- = ₹75,600/- | |
| 5 | Multiplicand (annualized) | ₹75,600/- | |
| 6 | Multiplier (18) | ₹ 75,600/- x 18 = ₹13,60,800/- | |
| 7 | Loss of estate | ₹16,500/- | |
| 8 | Funeral expenses | ₹16,500/- | |
| 9 | Total | ₹ 13,93,800/- | |

26. The above said compensation amount is ordered to be apportioned among the claimant/petitioners as under:-

| | | |
|---|---|---|
| 1 | Manjit Kaur (Mother of deceased) | ₹ 6,96,900/- |
| 2 | Major Singh (Father of deceased) | ₹ 6,96,900/- |

27. Respondent No.1 and 3 are jointly and severally liable to pay the compensation amount to the claimant/petitioners, but since the offending vehicle was insured with respondent No.3 insurance company, therefore respondent No.3 is directed to pay the compensation amount to

the claimant/petitioners along with interest at the rate of 7.5% per annum from the date of claim petition till its realization. Compensation amount be disbursed vide account payee cheque issued in the name of the claimant/petitioners. Costs of petition is assessed as ₹1500/- payable by the respondents. Memo of costs be prepared. File be consigned to the record room.

Pronounced in open court: (Sham Lal)
Dated: 03.11.2022 Motor Accident Claims Tribunal,
Rupnagar. UID No.PB0123

**Rakesh Kumar Stenographer I**

| | |
|---|---|
| MACP No. | 25 of 30.01.2020 |
| CNR No. | PBRO01-00-0552-2020 |

Manjit Kaur and another VS Makhan Singh and others

Present: Shri Vishal Mehra Advocate, counsel for claimants.
Shri Udhey Verma Advocate, counsel for respondents No.1&2
Sh. Rajesh Sharma Advocate counsel for the respondent no.3 Insurance Company.

No other evidence has been produced by Learned counsel for respondent No.3 despite availing ample opportunities and the evidence of respondent No.3 is closed

Arguments heard. Ld Counsel for respondent No.3 submitted written arguments. Vide my separate detailed order of even date, claim petition filed by the claimant/petitioners is partly allowed and Award has been passed accordingly in favour of the claimant/petitioners and against the respondents No.1 to 3. Costs of petition is assessed as ₹1500/- payable by the respondents. Memo of costs be prepared. File be consigned to the record room.

Pronounced in open court: (Sham Lal)
Dated: 03.11.2022 Motor Accident Claims Tribunal, Rupnagar. UID No.PB0123

Rakesh Kumar Stenographer I