HRNU010087372021

Presented on	: 24.12.2021
Registered on	: 24.12.2021
Decided on	: 11.02.2026
Duration	: 4 years, 1 month

IN THE COURT OF

MOTOR ACCIDENT CLAIMS TRIBUNAL AT NUH

(PRESIDED OVER BY DR. RAHUL BISHNOI)

MACP - 910/2021

1. Rashid S/o Ashgar aged 37 years R/o Village Dingerhedi, Teshil Tauru, District Nuh.
2. Arbaj Khan S/o Rashid aged 10 years R/o Village Dingerhedi, Teshil Tauru, District Nuh.
3. Mohd. Farjan S/o Rashid aged 6 years R/o Village Dingerhedi, Teshil Tauru, District Nuh. (The petitioners no.2 & 3 are minors, through natural guardian and father Rashid).

....Petitioners/Claimants.

Versus

1. Parvej son of Sher Khan R/o Village Malab, Teshil Nuh, District Nuh.
   (Driver of the offending vehicle bearing registration no.HR-55T-8246)

2. Om Parkash Sharma son of Chhaju Ram proprietor of CARGO Carrier of India Transport Nagar Sector 33, Hero Honda pucci Parking Gurugram, District Gurugram.
   (Owner of the offending vehicle bearing registration no.HR-55T-8246)

3. Reliance General Insurance Company Ltd. Ground Floor Palm Court, near MDI Chowk, Gurgaon through Divisional Manager.
(Insurer of the offending vehicle bearing registration no.HR-55T-8246)

...Respondents.

Claim petition under Section 166 read with Section 140 of the Motor Vehicles Act, 1988.

Argued By:

Shri Zulfikar Gorwal and Shri Mubarik Kalyaka, Ld. counsel for the claimants.
Shri Shehzad Ahmed, Ld. Counsel for the respondents no.1 & 2
Shri S.K. Mittal, Ld. Counsel for the respondent no.3.

AWARD

The above mentioned claim petition has been preferred by the claimants under Section 166 read with Section 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”), for grant of compensation on account of death of Murfina wife of Rashid in a motor vehicular accident.

2. Succinctly, the facts of the case are that on 30.01.2021, Murfina wife of Rashid told Nissar i.e. her brother-in-law that the cylinder was leaking and to go with her at Indian Gas Agency, Jhamuwas. Nisar on asking of Rashid and Murfina, brought her to Indian Gas Agency on a motorcycle bearing registration no.HR-96-3654. At about 6.00 PM, when they reached at the Gas Agency and they found it was closed. While coming back, Nisar stopped to attend the call of nature and Murfina was standing on kucha portion of the road. In the meantime, the offending vehicle being driven by the respondent

no.1 in a rash and negligent manner came from Bilaspur side and hit Murfina. Due to the impact, Murfina fell down and received grievous injuries. The respondent no.1 fled away from the spot along with his vehicle. The complainant arranged a private vehicle and took her to PHC, Tauru but the doctor declared her brought dead. Her postmortem was conducted at CHC, Nuh vide PMR no.PMR/02/VY/2021 dated 31.01.2021. On the basis of statement of Nisar, a case bearing FIR no.12 dated 30.01.2021, under sections 279/304-A, IPC was registered in Police Station Tauru, District Nuh. The accident took place due to rash and negligent driving of the offending vehicle bearing no.HR-55T-8246 by its driver i.e. the respondent no.1. The said offending vehicle was owned by the respondent no.2 and it was insured with the respondent no.3. All the respondents are jointly and severally liable to pay the compensation amount to the claimants. Murfina, since deceased, was doing work of sewing clothes and she was earning around Rs.15,000/- per month. Murfina was 32 years old. The deceased used to contribute whole of her income upon the claimants, who were dependent upon her. The claimant Rashid is husband of the deceased Murfina, the claimant Arbaj Khan and Mohd. Farjan are sons of the deceased Murfina. Due to her untimely death, the claimants have suffered mental agony, pain and they are deprived of their love and affection. By way of the present petition, a sum of Rupees Fifty Lakhs has been claimed as compensation.

3. Respondents no. 1 & 2, in their joint written statement, have challenged the petition preliminary on the grounds of cause of action and locus standi. On

merits, material contents of the petition with regard to time, date and place of accident, age and income of the deceased have been refuted to be wrong. It is further submitted that the respondent no.1 was having a valid and effective driving licence and in case, the Tribunal comes to the conclusion that the accident took place due to rash and negligent driving of the respondent no.1, while driving the offending vehicle, in that eventually, the respondent no.3 being insurer is liable to indemnify the insured. Dismissal of the petition has been sought.

4. Respondent no.3, in its separate written statement, has refuted the contents of the claim petition. Involvement of the vehicle in question has been denied. It is alleged that the same has been falsely involved to claim compensation. It is further alleged that the driver was not having a valid and effective driving licence and the insured has violated the terms and conditions of the insurance policy and the insurance company is not liable to indemnify the insured. Remaining pleas are similar to what has been pleaded by the respondents no.1 & 2 and dismissal of the petition has been sought.

5. From the pleadings of the parties, the following issues were framed:

1. Whether the accident resulting in death of Smt. Murfina wife of Rashid, took place on 30.01.2021, in the area of Police Station, Tauru, on account of rash and negligent driving of respondent no.1 while driving vehicle, bearing registration no.HR-55T-8246?OPP

2. If issue no.1, is proved, to what amount of compensation petitioners are entitled to and from whom? OPP
3. Whether the respondent no.2 has violated the terms and conditions of insurance policy as respondent no.1 was not holding a valid and effective driving licence, if so, to what effect? OPR-3
4. Relief.

6. In order to prove the case, the claimant Rashid examined himself as PW2 and he further examined Nisar as PW1, Niyaz Mohd. as PW3 & Devender Yadav as PW4. Besides this, the claimants have also led the following documentary evidence namely copy of pen drive as Ex.P1, copy of Final report under Section 173, Cr.P.C. as Ex.P2, copy of registration certificate as Ex.P3, copy of insurance policy as Ex.P4, copy of driving licence as Ex.P5, copy of postmortem report as Ex.P6, copy of recovery memo of offending vehicle as Ex.P7, copy of Aadhar Card of Rashid as Ex.P8, copy of Aadhar Card of Arbaj Khan as Ex.P9, copy of Aadhar Card of Mohd. Farjan as Ex.P10, copy of Authorization Certificate of N. P. as Ex.P11, copy of Form N.P. Part A as Ex.P12, copy of letter of Ministry of Road Transport & Highways as Ex.P13, copy of Form N.P. Part B as Ex.P14 and copy of voter ID Card of Murfina as Ex.P15.

7. On the other hand, the respondent no.3 has examined Amandeep Sharma, Legal Manager as RW1. Besides this, the respondent no.3 has also led

the following documentary evidence namely copy of Insurance Policy as Ex.R1 and copy of extract of Driving Licence as Ex.R2.

8. I have heard Learned Counsel for the parties and have gone through the material on record. My issues-wise findings are as under:

Issue No.1

9. Onus to prove this issue is on the claimants. To prove the same, Nisar, who is an eye witness to the accident and author of the FIR, has been examined as PW1. PW1 Nasir tendered his affidavit Ex.PW1/A, wherein he has deposed that Murfina was wife of his elder brother Rashid. On 30.01.2021, his sister-in-law (bhabi) told him that the cylinder was leaking and to go with her at Indian Gas Agency, Jhamuwas. On asking of Rashid, he brought Murfina to Indian Gas Agency on the motorcycle bearing registration no.HR-96-3654. At about 6.00 PM, when they reached at Gas Agency and they found that it was closed. While coming back, he stopped to attend the call of nature and Murfina was standing on kucha portion of the road. In the meantime, the offending vehicle being driven by respondent no.1 in a rash and negligent manner came from Bilaspur side and hit to Murfina. Due to the impact, Murfina fell down and received grievous injuries. The respondent no.1 fled away from the spot along with his vehicle. He informed his brother Rashid and his family members and they arranged a private vehicle and took her to Government Hospital, Tauru where the doctor declared her brought dead. On checking the camera of toll tax and office of a property dealer, the registration number of the offending vehicle

was found as HR-55T-8246. The accident took place due to the rash and negligent driving of the respondent no.1. On the statement of PW1 Nasir, a case bearing FIR no.12 dated 30.01.2021 under Sections 279/304-A, IPC was registered in Police Station Tauru, District Nuh.

10. PW1 Nisar has categorically stated that the accident in question took place due to rash and negligent driving of the said vehicle. He has cross-examined at length by Learned Counsel for the respondents but there is nothing in his testimony to shatter veracity of the aforesaid witnesses. Registration of the FIR with regard to the accident was prompt and the same facts have also been mentioned in the FIR. Though details of the vehicle i.e. registration number etc. are not mentioned in the FIR but the claimants have examined as PW3 Niyaz Mohd. and PW4 Devender Yadav, who have proved pen drive Ex.P1, which contains CCTV footage of the incident and also CCTV footage of the toll tax barrier, from where the offending vehicle had crossed, wherein registration number of the offending vehicle can be clearly noted. Perusal of final report under Section 173, Cr.P.C. Ex.P2 reveals that the respondent no.1 has been charge sheeted and facing trial for commission of the offence punishable under Section 279/304-A, IPC. It has been held by our own Hon'ble High Court in the case cited as *Girdhari Lal v. Radhey Shyam,* 1993 (2) PLR 109 that if the driver of the offending vehicle is challaned by the police and is facing trial for causing accident due to rash and negligent driving, it is safe to presume that the accident took place due to rash and negligent driving on his part. In these circumstances, there is no reason to disbelieve the

testimony of PW1 Nasir, PW3 Niyaz Mohd. and PW4 Devender Yadav, and other unrebutted evidence led by the claimants.

11. The postmortem report Ex.P6 of the deceased Murfina reveal the cause of injuries as accident and all the injuries are anti mortem in nature. There is also no evidence on the file that the respondents no.1 and 2 have been falsely implicated or to reflect false involvement of their vehicle and their silence for such a long period also goes against them. In these circumstances, the only irresistible conclusion that can be drawn is that the offending vehicle was parked at the time of the accident, which resulted in death of Murfina. In holding so, I have relied upon the authority cited as *Sudama Devi & Ors. v. Kewal Ram & Ors.,* 2008 (2) RCR (Civil) 72.

12. In view of the aforesaid discussion and from the evidence on file, it stands proved that the accident in question, which resulted into death of Murfina, took place due to rash and negligent driving of the respondent no.1. Insurance policy Ex.R1 and registration certificate Ex.P3 also prove that the vehicle in question was owned by the respondent no.2 at the time of the accident and the respondent no.3 had insured the vehicle. Resultantly, issue no.1 is hereby decided in favour of the claimants and against the respondents.

Issues No. 2 & 3

13. Both the issues are taken up together, being interrelated and interconnected. Onus to prove the issue no.2 is on the claimants and onus to

prove the issues no.3 is on the respondent no.3. In order to claim compensation and its entitlement, it is imperative for the claimants/petitioners to initially establish the following three facts for computation of the compensation:

A. Age of the deceased.

B. Income of the deceased.

C. Number of dependents of the deceased.

14. With regard to age of the deceased Murfina, the same has been alleged to be 32 years at the time of her death. The claimants have placed on record Voter ID Card Ex.P15 of the deceased wherein her date of birth is mentioned as 01.01.1989. Hence, age of the deceased Murfina wife of Rashid is taken as 32 years, on the basis of her Voter ID Card Ex.P15.

15. So far as the dependents are concerned, the claimants no.2 and 3 are minor children of the deceased and as such, they were dependent upon the deceased. The claimant no.1 Rashid is husband of the deceased, but there is no evidence to reflect that the claimant no.1 is not capable of earning his livelihood or to show that he was dependent upon the deceased. As such, the claimant no.1 was neither dependent upon the deceased nor entitled to any compensation amount. The claimants no.2 and 3, being legal heirs, are entitled to claim the compensation amount. In support thereof, I would like to cite the authority reported as *National Insurance Company Ltd. v. Birender & Ors.,* 2020 (1) RCR (Civil) 694 SC.

16. Coming to income of the deceased, the claimants have alleged that the deceased Murfina was housewife and was earning about Rs.15,000/- per month by sewing clothes. However, no documentary proof, whatsoever, has been led by the claimants to prove the same.

17. So far as minimum wages fixed by Haryana Government as applicable on the date of death of the deceased are concerned, monthly minimum wages of unskilled labour is Rs.9704/- (rounded off) as per notification issued by the Government of Haryana through Labour Commissioner, Haryana vide letter no. IR-2/2021/20632-782 dated 01.09.2021. There is no dispute with the fact that the Claims Tribunal is not bound by the minimum wages so fixed by the Government and can fix income on the basis of real wages. But the aforesaid minimum wages fixed by the Haryana Government appears to be fair and real wage of the unskilled labour in the District Nuh and hence, this Court does not find any ground to steer away from the minimum wages so fixed. Hence, monthly income of the deceased Murfina is hereby assessed at Rs.9704/-. Thus, annual income of the deceased comes out to be Rs.1,16,448/-.

18. In light of the law laid down by Hon'ble Supreme Court of India in the case cited as *Smt. Sarla Verma & Ors. v. Delhi Transport Corporation & Anr.,* 2009 (3) RCR (Civil) 77, the deceased was married and has left behind two dependents and as such, 1/3rd of the income of the deceased, i.e. Rs.38,816/- has to be deducted towards personal and living expenses. After deducting the

same, her annual dependency comes out to be Rs.77,632/-. Keeping in view age of the deceased, suitable multiplier in this case shall be “16” and after applying the same, total compensation comes out to be Rs.12,42,112/- (Rs.77,632/- x 16). In addition thereto, the claimants no.2 & 3 are entitled to be compensated under the conventional heads i.e. loss of estate, loss of consortium and funeral expenses. The claimants no.2 & 3 are entitled to Rs.33,000/- towards loss of estate and funeral expenses. Hon'ble Supreme Court of India has held in the case cited as *Magma General Insurance Company Limited Vs. Nanu Ram @ Churu Ram @ Ors.*, 2018 (4) RCR (Civil) 333 that the claimants are entitled to compensation on account of loss of parental & filial consortium to siblings & children. All the claimants are entitled to Rs.44,000/- each towards loss of consortium. In respect of the future prospects, since the deceased was self employed, 40% of the aforesaid assessed income is to be added in the compensation on account of future prospects and 40% of the aforesaid amount comes out to be Rs.4,96,845/- (rounded off). Resultantly, total compensation payable to the claimants no.2 & 3 comes out to be Rs.18,59,957/- (12,42,112 + 4,96,845 + 33,000 + 44,000 + 44,000). The claimant no.1 is entitled to a sum of Rs.44,000/- towards loss of consortium. Besides this, the claimants shall be entitled to interest on the award amount at the rate of 7% per annum from the date of filing of the claim petition till actual realization of the compensation amount.

19. Next question to be decided is as to who is liable to pay compensation. The offending vehicle is insured with the respondent no.3 as per the insurance

policy Ex.P4 & Ex.R1. As per testimony of RW1 Amandeep Sharma, Legal Manager Claims, Reliance General Insurance Co. Ltd., Chandigarh, the respondent no.1 Parvej was having Driving Licence Ex.P5 and from extract of his Driving Licence Ex.R2, it is clear that the Driving Licence was not valid on the date of the accident and it had already expired in the year 2018. Meaning thereby, the respondent no.1 Parvej was not having any valid Driving Licence to drive the vehicle. As such, it is established that on the day of accident, the respondent no.1 was driving the vehicle in question without any valid driving licence to drive the same. The insured has, thus, violated the terms and conditions of the insurance policy and as such, the insurance company is not liable to indemnify the liability of the insured, but in view of the law laid down by Hon'ble Supreme Court of India in *Manuara Khatun and Ors. v. Rajesh Kumar Singh & Ors.* 2017 (2) RCR (Civil) 108 (SC), the respondent no.3 insurance company is liable to satisfy the award first of all, and it shall be entitled to recover the amount from the insured/owner/driver by filing execution petition and without filing a separate suit. As an upshot to the foregoing discussion, issue no.2 is hereby decided in favour of the claimants/petitioners and against the respondents. Thus, issue no.3 is hereby decided in favour of the respondent no.3.

Relief

20. In view of my findings on the aforesaid issues, the present claim petition is partly allowed with costs. The claimant no.1 Rashid is entitled to a sum of Rs.44,000/- towards loss of consortium along with interest at the rate of 7%

(Dr. Rahul Bishnoi)
MACT, Nuh.
11.02.2026

per annum from the date of filing of the petition till actual realization of the amount, which is payable by the respondents, jointly and severally. The petitioners/claimants no.2 and 3 are held entitled to a sum of Rs.18,59,957/- in equal shares as compensation along with interest at the rate of 7% per annum from the date of filing of the petition till actual realization of the amount, which is payable by the respondents, jointly and severally. However, in view of the findings under issues no.2 & 3, the respondent no.3 i.e. the insurance company shall satisfy the award first of all and it shall be entitled to recover the amount from the insured/owner/driver along with interest at the rate of 7% per annum from the date of deposit till its realization, by filing execution petition and without filing a separate suit. Since the claimants no.2 & 3 are minors, share of the minor claimants no.2 & 3 along with proportionate interest be deposited in their names in a nationalized bank in fixed deposit till they attain majority. However, the claimants no.2 & 3 shall be entitled to withdraw quarterly interest on the FDR, if they so desire. A note be given on FDR that the amount of FDR shall be released on the expiry of the period of FDR, after the claimants attain majority, without any formal order of the Tribunal and no loan shall be advanced against the said FDR. Manager of the concerned bank shall himself release the amount after verifying the identity proof of the claimants no.2 & 3 so that they may not have to move the Tribunal for payment of the amount of FDR to them. In view of directions of Hon'ble High Court in *Jyoti Burmi v. Anusandeep Burmi*, CR no.7407 of 2010, vide order dated 03.06.2011, it is directed that the insurance company shall deposit share of the claimant no.1 Rashid in his bank account no.77181901088542, Sarva

Haryana Gramin Bank, Branch Tauru (IFSC – PUNB0HGB001), so that cumbersome procedure of deposit and withdrawal from the court could be avoided by both the parties to save their own time as well as precious time of the Tribunal (Copy of the bank account details already placed on record by the claimant). Counsels' fee is assessed at Rs.2,200/-. Memo of costs be prepared accordingly. File be consigned to the records after due compliance.

Pronounced in Open Court. | **(Dr. Rahul Bishnoi)**
Date of Order: 11.02.2026 | **Presiding Officer,**
MACT, Nuh.

Note: All the fourteen pages of the award have been checked and signed by me.

(Dr. Rahul Bishnoi)
Dated: 11.02.2026 | **Presiding Officer,**
Anil Kumar | **MACT, Nuh.**
UID No.HR0209

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