

**In the Court of Ms Jatinder Kaur,
Motor Accident Claims Tribunal, Amritsar.**

CNR No.
PBAS010151922024

Case No. MACP/125/2024



Presented on : 07-09-2024

Registered on : 09-09-2024

Decided on : 07-08-2026

- 1) Jinder Kaur wife of Late S.Dharminder Singh, aged 38 years;*
- 2) Rajpreet Kaur d/o Late Sh.Dharminder Singh, aged 18 years;*
- 3) Akashdeep Singh son of Late S.Dharminder Singh, aged 21 years;*
- 4) Hussanpreet Singh son of Late S.Dharminder Singh, aged 15 years, minor through his mother, natural guardian, next friend i.e. petitioner No.1, who, has got no adverse interest against the minor;*

All Rs/o VPO Bandala, Patti Hindu Ki, Nawan Pind, Amritsar.

.....Claimants.

VERSUS

- 1) Lakhwinder Kaur d/o Balkar Singh, r/o Begampur, Tarn Taran (Owner of Car Toyota Innova Hybrid bearing No.PB-46-AJ-5400).*
- 2) Balkar Singh son of Charan Singh r/o Patti, District Tarn Taran (Driver of Car Toyota Innova Hybrid bearing No.PB-46-AJ-5400).*
- 3) Bajaj Allianz General Insurance Company Limited, through its authorized Signatory/Manager, Office at SCO-31, Distt.Shopping Complex, Ranjit Avenue Amritsar (Insurer of Car Toyota Innova Hybrid bearing No.PB-46-AJ-5400).*

.....Respondents.

CLAIM PETITION under section 164 of the Motor Vehicle Act, 1988 for the grant of compensation to the extent of Rs.50 Lacs on account of death of Dharminder Singh son of Jagir Singh in a road accident by the use of vehicle.

*Present: Shri M.S.Dhalla, Advocate, counsel for the claimants.
Shri S.S.Dawesar, Advocate, counsel for respondents No.1 &
2.
Shri R.P.Singh, Advocate, counsel for respondent No.3.*

AWARD

1. The present claim petition has been preferred by the aforementioned claimants, being legal heirs of deceased Dharminder Singh son of Jagir Singh.

2. It has been averred that on the ill fated day of 25.07.2024, Dharminder Singh alongwith Rajinder Singh son of Surjit Singh and Gurpreet Singh alias Gora son of Sukhdev Singh, all residents of village Bundala, Amritsar, in a routine manner had gone to Amritsar on motorcycle bearing No.PB-02-EH-4021 for doing labour work for earning their livelihood. After completing their work, they all were coming back to their houses on the aforesaid motorcycle and the motorcycle was being driven by Dharminder Singh and Rajinder Singh and Gurpreet Singh alias Gora were pillion riders on the said motorcycle. At the same time at about 8.00 p.m., Jinder Kaur wife of Dharminder Singh alongwith mother of Gurpreet Singh namely Rani Kaur wife of Sukhdev Singh and brother of Rajinder Singh namely Lovejit Singh were on night walk after taking dinner and were going from G.T.Road, Bundala to Tarn Taran side and when they reached at the turn of village Bundala ahead to Gill Kheti Store, Tarn Taran, they saw Dharminder Singh, Rajinder Singh and Gurpreet Singh coming to their village Bundala on their aforesaid motorcycle. Then from Amritsar side one car Toyota Innova Hybrid

bearing No.PB-46-AJ-5400 came at a very high speed and the driver of the said car hit the car against the motorcycle of Dharminder Singh as a result of which Dharminder Singh, Rajinder Singh and Gurpreet Singh alias Gora fell down on the road alongwith the motorcycle and Dharminder Singh and Rajinder Singh received multiple severe injuries due to this accident as a result of which they both died at the spot whereas Gurpreet Singh alias Gora suffered left leg and right foot injury. Motorcycle of Dharminder Singh was also damaged in this accident. Police of Police Station Jandiala, Amritsar, conducted proceedings under section 194 of BNSS vide DDR No.20 dated 26.07.2024 on the statement of Jinder Kaur wife of Dharminder Singh. The accident took place out of use of car Toyota Innova Hybrid bearing No.PB-46-AJ-5400. The postmortem examination of deceased Dharminder Singh son of Jagir Singh was conducted at Civil Hospital, Amritsar on 27.07.2024.

It is further averred that deceased was 40 years of age at the time of accident. The deceased was doing labour work and was earning about Rs.40,000/- per annum. In the end, prayer is made that claimants who are widow and daughter and sons of deceased Dharminder Singh be granted compensation to the tune of Rs.50 Lakhs under section 164 of Motor Vehicles Act.

3. Notice of the claim petition was issued to the respondents, who, appeared and contested the claim petition. Respondents No.1 and 2 filed joint written statement raising preliminary objections that the claim petition is not legally maintainable under section 164 of

Motor Vehicle Act as there is no FIR registered pertaining to the alleged occurrence except the DDR which was got registered after unexplained delay of one day from the date of alleged occurrence. The claim petition is bad for mis-joinder and non-joinder of necessary parties. The claimants themselves admitted in the petition that so called deceased Dharminder Singh alongwith Rajinder Singh and Gurpreet Singh were riding on one motorcycle No.PB-02-EH-4021, meaning thereby they were violating the traffic rules and regulations as well as provisions of Motor Vehicle Act. The claimants have not come to the court with clean hands and suppressed the true and material facts from the court. Infact no accident took place with Innova car No.PB-46-AJ-5400 owned by respondent No.1 as alleged in the petition and hence, question of driving the said vehicle by respondent No.2 at the time of alleged accident does not arise at all. On merits, denying the accident as well as other material averments, a prayer is made for dismissal of the claim petition.

4. Respondent No.3 by way of its written statement has taken preliminary objections that claimants have not come to the court with clean hands., The present claim petition is outrightly liable to be dismissed due to non-joinder and mis-joinder of necessary parties. The owner and insurance company of the motorcycle bearing registration No.PB-02-EH-4021 are necessary parties in the present claim petition. At the time of accident, the deceased was not wearing protection headgear (helmet) which is otherwise mandatory under section 129 of the Motor Vehicles Act. The claimants are not entitled

to claim any interest on non-pecuniary damages as per the observations of the various judgments of Hon'ble Apex Court. The claimants be put to strict proof that the registered owner used the vehicle without any breach of traffic rules as per concerned State Motor Vehicle Rules. The present petition is not maintainable under section 164 of the Motor Vehicle Act. The driver of the motorcycle bearing No.PB-02-EH-4021 was himself negligent as he was driving the said vehicle at a high speed, carelessly and the alleged accident occurred due to the sole negligence on the part of the riders of the motorcycle. The car Toyota Innova bearing No.PB-46-AJ-5400 has been implanted by the claimants in connivance with respondents No.1 and 2 and police officials just to get illegal compensation. On merits, denying the involvement of the car in question in the alleged accident as well as the other contents of the claim petition being wrong and incorrect, in the end, a prayer is made for dismissal of the claim petition.

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

1) Whether Dharminder Singh son of Jagir Singh died in a road side accident which took place on 25.07.2024 at about 8.00 p.m. in the area of Bundala turn G.T.Road ahead Gill Kheti Store, Tarn Taran, due to rash and negligent driving of vehicle Toyota Innova bearing registration No.PB-46-AJ-5400 by its driver respondent No.2, which was owned by respondent No.1? OPP.

- 2) Whether the petition is not maintainable? OPR.
- 3) Whether the claim petition is bad for mis-joinder of parties and non-joinder of necessary parties? OPR.
- 4) Whether the insured/owner has violated the terms conditions of insurance policy, if so, its effect? OPR-3.
- 5) Whether respondent No.2 was not holding a legal and valid driving licence at the time of accident? OPR-3
- 6) Whether the claimants are entitled to recover any compensation, if so, the amount and from whom? OPP.
- 7) Relief.

6. In order to prove their case, claimant No.1 Jinder Kaur (widow of the deceased) herself stepped into the witness box as CW1 and tendered into evidence her duly sworn affidavit Ex.CW1/A. The claimants further got examined Lovejit Singh (eye witness of the accident) as CW2, who, tendered into evidence his duly sworn affidavit Ex.CW2/A alongwith copy of DDR Ex.C1. Thereafter, counsel for the claimants tendered into evidence copy of postmortem report of Dharminder Singh Ex.C2 and then closed evidence on behalf of the claimants.

7. On the other hand, respondent No.2 Balkar Singh himself appeared as RW1 and tendered into evidence his duly sworn affidavit Ex.RW1/A alongwith copy of his driving licence Ex.R1, copy of registration certificate of the vehicle Ex.R2 and copy of insurance policy Ex.R3. Thereafter, counsel for respondents No.1 and 2 closed evidence on behalf of respondents No.1 and 2.

8. Respondent No.3 produced and examined its Senior Executive Shri Abhishek Thakur as RW2, who, tendered into evidence his duly sworn affidavit Ex.RW2/A. Since respondent No.3 failed to concluded its evidence despite availing numerous opportunities, thus finding no justification for further adjournment of the case for evidence of respondent No.3, the evidence of respondent No.3 was closed by order.

9. I have heard Learned Counsel for the parties and have gone through the file with their able assistance and proceed on to return my issue wise findings as under:-

ISSUES No.1, 4 & 5.

10. All these issues are interconnected and interlinked, hence they are being taken up together for the purpose of discussion and in order to avoid undue repetition. The onus to prove issue No.1 was upon the claimants whereas the onus to prove issues No.4 & 5 was upon the respondents.

11. In order to prove their case, claimant No.1 Jinder Kaur herself stepped into the witness box as CW1 and tendered into evidence her duly sworn affidavit Ex.CW1/A stating therein that she is wife of deceased Dharminder Singh, who, was doing labour work and was earnings Rs.40,000/- per month and they i.e. claimants were fully dependent upon the income of the deceased and deceased used to spend his entire income for their welfare. Lovejit Singh, witness of accident has been got examined as CW2, who, tendered into evidence his duly sworn affidavit Ex.CW2/A stating therein that on the ill fated

day of 25.07.2024, Dharminder Singh, Rajinder Singh son of Surjit Singh and Gurpreet Singh alias Gora son of Sukhdev Singh, all residents of village Bundala, Amritsar, in a routine manner had gone to Amritsar on motorcycle bearing No.PB-02-EH-4021 for doing shuttering work. After completing their work, they all were coming back to their houses on the aforesaid motorcycle and the motorcycle was being driven by Dharminder Singh and Rajinder Singh and Gurpreet Singh alias Gora were pillion riders on the said motorcycle. At the same time at about 8.00 p.m., Jinder Kaur wife of Dharminder Singh alongwith mother of Gurpreet Singh namely Rani Kaur wife of Sukhdev Singh and he were on night walk after taking dinner and were going from G.T.Road, Bundala to Tarn Taran side and when they reached at the turn of village Bundala ahead to Gill Kheti Store, Tarn Taran, they saw Dharminder Singh, Rajinder Singh and Gurpreet Singh coming to their village Bundala on their aforesaid motorcycle. Then from Amritsar side one car Toyota Innova Hybrid bearing No.PB-46-AJ-5400 came at a very high speed and the driver of the said car hit the car against the motorcycle of Dharminder Singh as a result of which Dharminder Singh, Rajinder Singh and Gurpreet Singh alias Gora fell down on the road alongwith the motorcycle and Dharminder Singh and Rajinder Singh received multiple severe injuries due to this accident as a result of which they both died at the spot whereas Gurpreet Singh alias Gora suffered left leg and right foot injury. Motorcycle of Dharminder Singh was also damaged in this accident. Police of Police Station Jandiala, Amritsar, conducted

proceedings under section 194 of BNSS vide DDR No.20 dated 26.07.2024 on the statement of Jinder Kaur wife of Dharminder Singh. The accident took place out of use of car Toyota Innova Hybrid bearing No.PB-46-AJ-5400. The claimants have also proved copy of DDR as Ex.C1 recorded regarding the accident in question involving car Toyota Innova bearing No.PB-46-AJ-5400 owned by respondent No.1 Lakhwinder Kaur. The present petition under section 164 of Motor Vehicles (Amendment) Act has been filed by the widow, daughter and sons/legal heir of deceased Dharminder Singh that they should be awarded compensation as the accident had arisen out of use of car Toyota Innova bearing No.PB-46-AJ-5400. Copy of postmortem report Ex.C2 shows that Dharminder Singh had died due to the injuries suffered in a road side accident.

12. During course of arguments, learned counsel for respondent No.3 has referred to the statement of RW1 Shri Abhishek Thakur, its Senior Executive, who, has stated that at the relevant time the vehicle in question was being driven in violation of terms and conditions of the insurance policy as the respondent No.2 i.e. driver of Toyota Innova bearing No.PB-46-AJ-5400 was not holding any driving licence to drive the abovesaid vehicle at the time of alleged accident which is a statutory violation of section 3 of the Motor Vehicle Act, 1988 and thus the respondent Insurance Company is not liable to indemnify the insured/respondent No.1 and liability, if any, shall be saddled upon the respondent No.1 alone. In support of his contention, he has relied upon the judgment of Hon'ble Supreme

Court of India passed in **Civil Appeal No.9322/2022** dated **15.12.2022** in the case of **“Gohar Mohammed Versus Uttar Pradesh State Road Transport Corporation & Ors.”** and has argued that in view of the Amendment of Motor Vehicle Act, owner of the offending vehicle i.e. respondent No.1 shall be liable for the violation of terms and conditions of the insurance policy.

13. I have considered this submission of learned counsel for the respondent No.3 and find force in the same. A perusal of copy of driving licence of respondent No.2 proved on record as Ex.R1 shows that the same was issued on 29.11.2024 with its validity for non-transport vehicles till 29.11.2029. The accident in the present case took place on 25.07.2024. Though driving licence Ex.R1 also bears the entry of its date of issue for non-transport vehicles as 12.02.2013 but then there is no date regarding its validity. Further, respondent No.2 Balkar Singh while appearing in the witness box as RW1 has stated in his cross-examination by counsel for respondent No.3 that he has not brought his previous driving licence which covered the date of accident i.e. 25.07.2024. He has specifically stated in his cross-examination that he cannot produce his driving licence which covered the date of accident. Though he voluntarily stated that his previous driving licence has been lost but then there is nothing on record which could show that he ever lodged any report with the police regarding missing of his earlier driving licence. Thus, it becomes clear that respondent No.2 Balkar Singh was not having legal and valid driving licence on the date of accident i.e. 25.07.2024

and as such, respondent No.1 Lakhwinder Kaur violated the terms and conditions of insurance policy as offending vehicle was being driven by person not holding a valid driving licence at the time of accident. In this regard reference is made to amended provisions of Motor Vehicles Act, 2019. By its virtue, w.e.f. 01.04.2022 Section 149(2) of the Pre-Amendment Act no longer exist on the statute. Thus, the respondent No.3 is not liable even to pay under the concept of pay and recover, as has been held by the Hon'ble Supreme Court of India in **Gohar Mohammed's case (Supra)**, and respondent No.1 Lakhwinder Kaur being registered owner alone is liable to pay the compensation to the claimants. Accordingly, issue No.1 is decided in favour of the claimants while issues No.4 and 5 are decided in favour of respondent No.3.

ISSUES NO.2 & 3.

14. The onus to prove these issues was upon the respondents but the learned counsel for the respondents have not pressed these issues at the time of arguments. Accordingly, both these issues are decided against the respondents.

ISSUE NO.6.

15. The onus to prove this issue was upon the claimants. The claimants have filed the present claim petition under the provisions of section 164 of the Motor Vehicles (Amendment) Act, 2019 which reads as under:-

“164. Payment of compensation in case of death or grievous hurt, etc.- (1) Notwithstanding anything contained in this Act

or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle or the authorized insurer shall be liable to pay in the case of death or grievous hurt due to any accident arising out of the use of motor vehicle, a compensation, of a sum of five lakh rupees in case of death or of two and a half lakh rupees in case of grievous hurt to the legal heirs or the victim as the case may be.

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which the claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or of the vehicle concerned or of any other person.

(3) Where, in respect of death or grievous hurt due to an accident arising out of the use of motor vehicle, compensation has been paid under any other law for the time being in force, such amount of compensation shall be reduced from the amount of compensation payable under this section.”

So, since the accident in the case in hand occurred/arisen out of use of car Toyota Innova Hybrid bearing No.PB-46-AJ-5400 and Rajinder Singh son of Surjit Singh died in the said accident, in view of the amended provisions of Motor Vehicles (Amendment) Act, claimants Jinder Kaur and others are definitely entitled to the compensation to the tune of Rs.5,00,000/- and they will be entitled to

receive the said amount from respondent No.1 as she has allowed the person to drive her vehicle who was not holding a valid driving licence. Therefore, issue No.6 is partly decided in favour of the claimants.

Issue No. 7 (Relief)

16. As a sequel of above discussion & decision on issues, claim petition is partly allowed with costs and compensation amounting to Rs.5,00,000/- is hereby awarded to claimants from respondent No.1 along with interest @ 7.5% per annum from the date of filing of claim petition till realization. However, if the entire payment is made within one month from today, then the interest shall be calculated from the date of filing of claim petition till the date of award, failing which, the interest shall be calculated from the date of filing of claim petition till its actual realization. Claimant No.1 Balbir Kaur being widow of the deceased shall be entitled to receive compensation amount to the extent of 70% whereas claimant No.2 Rajpreet Kaur being daughter, claimant No.3 Akashdeep Singh being son and claimant No.4 Hussanpreet Singh being minor son of the deceased shall be entitled to receive compensation amount to the extent of 10% each. In view of decision in **Civil Revision No.7407 of 2010** by our Hon'ble High Court dated 03.06.2011 in case “*Jyoti Burmi Vs. Anusandeeep Burmi*”, now it is desirable that if the claimants No.1, 2 and 3 have any account in the Bank, then they will intimate to this Tribunal within one month and by way of notice to the respondent No.1 after receipt of certified copy of Award. After

this compliance, the respondent No.1 is ordered to pay the award amount directly in the accounts of claimants No.1, 2 and 3 by RTGS or by way of drafts or cross-cheques in their name, 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 Court. The amount of compensation of the share of minor claimant No.4 be deposited in his name in the shape of FDR in any Nationalized bank till he attains the age of majority, on supplying requisite documents by claimant No.1. However, the present petition qua respondents No.2 and 3 stands dismissed. Counsel fee is assessed as Rs.5,000/-. Memo of costs be prepared accordingly. File be consigned to record room after due compilation.

*Pronounced:
7th August, 2026.*

*(Jatinder Kaur)
Motor Accident Claims Tribunal,
Amritsar (UID:PB0062)*

*Pardeep Kumar
Stenographer Grade-I*