

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(101)

**Reserved on: 16.04.2026
Pronounced on: 21.04.2026
Uploaded on: 21.04.2026****1. FAO No.361 of 2005 (O&M)**

Tirath Singh ... Appellant

Versus

Lachhman Singh And Others ... Respondents

AND**2. FAO No. 362 of 2005 (O&M)**

Tirath Singh ... Appellant

Versus

Lachhman Singh And Others ... Respondents

AND**3. FAO No. 1173 of 2005 (O&M)**

Shanti Devi And Another ... Appellant

Versus

Tirath Singh And Others ... Respondents

AND**4. FAO No. 1342 of 2005 (O&M)**

Shushila Devi And Another ... Appellants

Versus

Tirath Singh And Others ... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL



Present: Mr.A.K.Tyagi, Advocate
for the Appellants in **FAO-361 & 362-2005.**

Mr. Maneet Kaushik, Advocate and
Mr. Ashit Malik, Advocate
for the Appellants in **FAO-1173 & 1342-2005.**

Mr. Rahul Pathania, Advocate
for respondent No.2/New India Assurance Company.

Mr. Pardeep Goyal, Advocate
Mr. Ankit Kumar Sangwan, Advocate
for respondent/ United Insurance Company in **FAO-362-2005.**

Mr. Harsh Aggarwal, Advocate
for respondent no.5 in **FAO-361 & 362-2005.**

Mr. Gopal Mittal, Advocate
for respondent No.6/United India Insurance Company
in **FAO-1173 & 1342-2005.**

VIRINDER AGGARWAL,J.

1. These four appeals arise out of the common award dated 08.11.2004 passed by the Motor Accident Claims Tribunal, Karnal in MACT Case Nos. 137 of 1992 and 138 of 1992. By the impugned award, the learned Tribunal disposed of two claim petitions filed under Section 166 of the Motor Vehicles Act, 1988 awarding compensation of ₹72,000/- each to the parents of the deceased Sudhir Kumar and Satinder Kumar along with interest at rate of 9% p.a. from the date of award. Feeling aggrieved, Tirath Singh-driver of truck No. CHW-9583 has filed FAO Nos. 361 of 2005 and 362 of 2005 challenging the liability fastened upon him and his owner in both claim petitions. The parents of the deceased have filed FAO Nos. 1173 of 2005 and 1342 of 2005 seeking enhancement of compensation. Since all appeals arise out of the same accident and common award, they are being disposed of by this common judgment. For the sake of brevity, the facts are being taken from the FAO no.361 of 2005.

**BACKGROUND FACTS**

2. The facts leading to the present appeals, in brief, are that on 10.04.1992, Deceased Sudhir Kumar and Satinder Kumar were travelling in truck No. CHW-9583 (driven by appellant-Tirath Singh) carrying fruits from Delhi to Chandigarh. The said truck met with an accident near Urban Estate, GT Road, Karnal when it came into contact with truck No. HNX-2685 coming from the opposite direction. Both the deceased died on the spot. DDR No. 8 was recorded on the statement of driver-Tirath Singh. The parents of the deceased filed separate claim petitions claiming compensation of ₹5 lacs each. Upon appreciation of the oral and documentary evidence led by the parties, the learned Tribunal held the accident to be a case of composite negligence in the ratio of 50:50 between the drivers of both the trucks. However, it assessed compensation at ₹72,000/- each and fastened liability to pay 50% compensation upon the driver and owner of truck No. CHW-9583 while holding the insurer of the said truck (New India Assurance Company Ltd.) not liable on the ground that the deceased were gratuitous passengers in a goods vehicle. On the other hand, liability of 50% share of compensation to be jointly and severally pay by the owner, driver and insurance company of the truck HNX-2685.

CONTENTIONS

3. Learned counsel for the driver-appellant (in FAO Nos. 361 & 362 of 2005) has contended that the findings recorded by the learned Tribunal, insofar as fastening the liability upon the appellant is concerned, are erroneous and contrary to the material available on record. It is submitted that the Tribunal has failed to properly appreciate that the offending vehicle, i.e. truck No. CHW-9583, was duly insured at the relevant time and, therefore, the insurer ought to have been held liable to satisfy the award. It is further contended that the



appellant was holding a valid and effective driving licence and there was no violation of the terms and conditions of the insurance policy. Still further, it is argued that even otherwise, the liability could not have been fastened upon the appellant, who was merely a driver, and at best, the owner or the insurer was liable to indemnify the claim. It is further contended that the learned Tribunal has failed to consider the material placed on record in its correct perspective, particularly the documentary evidence in the shape of bills/bilties, which, according to the appellant, clearly indicate that the deceased were connected with the goods being transported. The impugned findings, therefore, are liable to be set aside being based on misreading and non-appreciation of evidence.

4. Per contra, learned counsel for the respondent/insurer (New India Assurance Company Ltd.) (in FAO Nos. 361 & 362 of 2005) has supported the impugned award and has submitted that the findings recorded by the learned Tribunal are just, proper and based on correct appreciation of evidence. It is contended that the Tribunal has rightly absolved the insurance company of its liability in view of the fact that the deceased were travelling in a goods carriage as gratuitous passengers, which is not covered under the policy. It is further submitted that there is no cogent evidence on record to establish that the deceased were travelling as owners or authorised representatives of the goods, and the bills/bilties relied upon do not establish any such nexus. Learned counsel thus submits that the findings of the Tribunal do not call for any interference.

5. Learned counsel for the appellants/claimants in FAO-1173-2005 and FAO-1342-2005 argued that the compensation awarded by the learned Tribunal is grossly inadequate and inconsistent with the settled principles for determining just compensation. It was submitted that the learned Tribunal failed



to grant amounts under the essential conventional heads, made no addition towards future prospects, and wrong deduction towards personal expenses in the circumstances of the death cases. It was thus urged that the award warrants enhancement to ensure fair and reasonable compensation to the claimants.

6. Per Contra, the learned counsel for the respondents in FAO no. 1173 & 1342 of 2005, while supporting the impugned award, submits that the learned Tribunal has appreciated the evidence in its correct perspective and has passed the award strictly in accordance with law. It is argued that all relevant factors including age, occupation and dependency of the deceased. It is further contended that no infirmity, perversity or misreading of evidence can be attributed to the conclusions arrived at by the learned Tribunal so as to warrant interference by this Court in exercise of appellate jurisdiction.

OBSERVATIONS AND FINDINGS

7. I have heard learned counsel for the parties and perused the complete records. On due consideration of the findings recorded by the learned Tribunal, particularly on the issue of composite negligence (50:50), I find no reason to take a different view. The findings on this aspect are accordingly affirmed. However, the core issues in these appeals are (i) liability of the insurer of truck No. CHW-9583 (in driver's appeals) and (ii) quantum of compensation (in claimants' appeals).

(I) Appeals Challenging Liability (FAO Nos. 361 & 362 of 2005)

8. In these two appeals, the sole question is whether the insurer of truck No. CHW-9583 (New India Assurance Company Ltd.) is liable to indemnify the award. The learned Tribunal has held the deceased to be gratuitous passengers and has absolved the insurer relying upon *New India Assurance Co. Ltd. v. Asha Rani, 2003 (2) SCC 223*. I find no reason to take a different view.



9. It is settled law that in a claim petition, once the claimants establish the accident and involvement of the insured vehicle, the onus shifts upon the insurer to prove that the deceased were travelling as gratuitous passengers and, therefore, not covered under the policy. The insurer has validly discharged this onus before the learned Tribunal. The evidence on record clearly establishes that the deceased were travelling in a goods vehicle (truck No. CHW-9583) without any proof of authorisation. The bills/bilties (Mark-1 to Mark-12) produced by the claimants do not bear the names of the deceased Sudhir Kumar or Satinder Kumar. Most of the documents are in the name of Raj Kumar Sharma. There is no cogent evidence produced by the owner or driver of Truck linking the deceased as owners or agents of the goods being transported. Mere travelling with fruits does not ipso facto make them authorised passengers.

10. Significantly, neither the driver (Tirath Singh) nor the owner (Lachhman Singh) pleaded in their written statement that the deceased were travelling as owners or agents of the goods. Their pleadings are completely silent on this aspect. In the absence of any specific plea in the written statement, no amount of evidence can be looked into. The driver, in his testimony as RW1, even disowned the DDR and took a contradictory stand, which was rightly discarded by the learned Tribunal as being beyond pleadings.

11. Even if, for the sake of argument, it is assumed that the deceased were travelling along with their own goods in the offending vehicle, they would still not be covered under the insurance policy as per the law applicable on the date of accident. The accident in question having occurred on 10.04.1992, i.e. prior to the amendment of Section 147 of the Motor Vehicles Act by Act 54 of 1994, the statutory policy did not extend coverage to the owner of goods or his authorised representative travelling in a goods carriage. The Apex Court in



Asha Rani (supra) has categorically held that passengers travelling in a goods vehicle, even if they are owners of the goods, are not covered under the statutory policy unless the policy specifically provides for the same. The subsequent amendment of 1994 is not retrospective.

12. In the present case, there not only absence of material on record to show that the insurance policy contained any special coverage to the deceased persons, but there is also a complete absence of pleadings and evidence on behalf of the owner or driver of the vehicle to establish that the deceased were travelling in the capacity of authorised representatives of the goods. In the absence of such foundational facts, the mere assertion that the deceased were accompanying goods cannot clothe them with the status of authorised passengers. Owner of Truck could at least examined Raj Kumar Sharma in whose name bills/bilties are, to prove that deceased were his employees but no evidence has been led to that effect. Consequently, their presence in the goods vehicle can only be construed as that of gratuitous passengers, who were travelling without any statutory or contractual coverage under the policy. Thus, in view of the law laid down in *Asha Rani (supra)* and *M/s National Insurance Co. Ltd. v. Baljit Kaur 2004 (2) SCC 1*, the insurance policy does not cover the risk of gratuitous passengers, and consequently, the insurer cannot be fastened with liability.

13. In view of the aforesaid legal and factual position, the learned Tribunal has rightly appreciated the evidence and has correctly absolved the insurer of truck No. CHW-9583 from its liability. Therefore, no ground for interference is made out in the appeals preferred by the driver. Consequently, the Both FAO Nos. 361 of 2005 and 362 of 2005 are **dismissed**.



(II) Appeals Challenging Quantum Of Compensation

14. Compensation requires reassessment strictly in terms of the principles laid down by Hon'ble the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi, 2017 (16) SCC 680, Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram, 2018 (18) SCC 130 and Sarla Verma v. DTC, 2009 (6) SCC 121*, wherein the framework for computation of "loss of dependency" by addition towards future prospects as per the nature of employment, deducting personal expenses of deceased, and applying appropriate multiplier on the basis of age of the deceased, and standardized amounts for conventional heads such as loss of estate, funeral expenses and loss of consortium, has been settled. The present matters, therefore, call for recalculation of the amount under each of these heads by applying the correct deduction on basis of dependency and correct multiplier relatable to the age of the deceased and by granting the admissible sum towards consortium and other conventional heads as mandated in the aforesaid decisions. The reassessment in each of the present appeals is, therefore, undertaken as under:

(i) FAO No. 1173 of 2005 (Death Case of Satinder Kumar)

Particulars	Awarded by Tribunal (₹)	Reassessed Award (₹)
Monthly Income	1,200/-	1,200/- (Unskilled Labour)
Income With Future Prospects (40%)	x	1,680/-
Income After Deduction (Unmarried)	500/-	840/- (50% For Personal Expenses)
Annual Contribution To Family	6,000/- (500 x 12)	10,080/- (840 x 12)
Multiplier (age 22 yrs)	12	18
Loss Of Dependency	72,000/-	1,81,440/- (10,080 × 18)
Parental Consortium	x	80,000/- (40,000 x 2)



Loss Of Estate	x	15,000/-
Funeral Expenses	x	15,000/-
Total Compensation	72,000/-	₹2,91,440/-

(ii) FAO No. 1342 of 2005 (Death Case of Sudhir Kumar)

Particulars	Awarded by Tribunal (₹)	Reassessed Award (₹)
Monthly Income	1,200/-	1,200/- (Unskilled Labour)
Income With Future Prospects (40%)	x	1,680/-
Income After Deduction (Unmarried)	500/-	840/- (50% For Personal Expenses)
Annual Contribution To Family	6,000/- (500 x 12)	10,080/- (840 x 12)
Multiplier (age 21 yrs)	12	18
Loss Of Dependency	72,000/-	1,81,440/- (10,080 × 18)
Parental Consortium	x	80,000/- (40,000 x 2)
Loss Of Estate	x	15,000/-
Funeral Expenses	x	15,000/-
Total Compensation	72,000/-	₹2,91,440/-

15. Consequently, the amount of compensation is enhanced from ₹72,000/- to **₹2,91,440/-** in both the appeals. The enhanced amount shall carry interest at the rate of 7% per annum from the date of filing of the respective claim petitions till the date of realization of the entire amount.

16. In the light of the above discussion and the computation undertaken hereinabove, appeals filed by the claimants (FAO Nos. 1173 of 2005 and 1342 of 2005) are **partly allowed** to the extent of enhancement of compensation as reassessed in each individual case as above, whereas the appeals filed by the driver (FAO Nos. 361 of 2005 and 362 of 2005) are **dismissed**. Except for the



modification of the quantum of compensation, all other findings recorded by the learned Tribunal, including those with regard to negligence, liability and mode of disbursement, shall stand affirmed.

17. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

18. A photocopy of this order be placed on the file of the connected case.

(VIRINDER AGGARWAL)
JUDGE

21.04.2026
Saurav Pathania

- (i) *Whether speaking/reasoned* : Yes/No
(ii) *Whether reportable* : Yes/No