

**FAO-3876-2017 (O&M)**

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

FAO-3876-2017 (O&M)

New India Assurance Co. Ltd.

.....Appellant

VS.

Badami Devi & ors.

.....Respondents

Date of Reserve: 06.03.2026

Pronounced on: 10.04.2026

Uploaded on:- 10.04.2026

<i>Whether only the operative part of the judgment is pronounced?</i>	<i>No</i>
<i>Whether full judgment is pronounced?</i>	<i>Yes</i>

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Vinod Gupta, Advocate
for the appellant.

Mr. Ashwani Arora and Mr. Vipul Sharma, Advocates
for respondent Nos. 1 and 2.

Mr. Harish Nain, A.A.G. Haryana

* * * *

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant-Insurance Company against the award dated 09.02.2017 passed by the learned Motor Accident Claims Tribunal, Chandigarh in the claim petition filed under Section 166 and 140 of the Motor Vehicles Act, 1988 (for short, 'the Tribunal') on the ground that the liability to pay compensation to the tune of Rs. 13,31,000/- along with interest @ 7.5% per annum has been wrongly fixed upon the appellant-Insurance Company and the compensation being on higher side.

BRIEF FACTS OF THE CASE

2. Brief facts of the case are that on 24.12.2014 at about 8:15 a.m., Rajinder Sharma @ Bintu Kumar, since deceased was crossing Ambala-Chandigarh road in the area of Devi Nagar towards Kohinoor Dhaba, Devi Nagar; that he

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crossed more than half of the road, when Haryana Roadways bus bearing registration No. HR68-A-1173 (hereinafter called as “offending vehicle”), owned by respondent No. 2 and driven by respondent No. 3 in rash and negligent manner, came from the side of Ambala and rammed against Rajinder Sharma; that as a result of accident, Rajinder Sharma fell on the road and was run over by the offending vehicle; that Rajinder Sharma was shifted to Civil Hospital, Derabassi, from where he was referred to PGI, Chandigarh, where he died due to the injuries suffered by him in the accident in question. First Information Report no. 300 dated 24.12.2014, was registered at Police Station Derabassi, District SAS Nagar, Mohali, under Section 279, 304-A of Indian Penal Code 071 dated 10.08.2015, against unknown vehicle.

3. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

4. From the pleadings of the parties, the following issues were framed by the learned Tribunal :-

“1. Whether Rajinder Sharma @ Bintu Kumar died in a road side accident due to rash and negligent driving of Bus bearing registration No. HR68-A-1173 by its driver?OPP.

2. Whether the claimants are entitled to compensation, if so to what amount and from whom?OPP.

3. Whether driver of the bus in question was not having a valid and effective driving license at the time of accident?OPR-3.

4. Relief.”

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/respondent Nos. 1 to 2 to the tune of Rs.13,31,000/-. However, the appellant-Insurance Company was held liable to pay the compensation. Hence, the present appeal.



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SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES

6. Learned counsel for the appellant–Insurance Company submits that the learned Tribunal has gravely erred in concluding that the accident in question occurred due to the rash and negligent driving of the offending vehicle, i.e., a Haryana Roadways bus. It is contended that neither the said vehicle nor the name of its driver finds mention in the First Information Report, thereby casting serious doubt on its alleged involvement.

7. It is further argued that the implication of the bus in the present case is wholly false and unfounded. Learned counsel draws attention to the documentary evidence on record to contend that the vehicle in question had departed from Ambala at 08:20 a.m., whereas the accident is stated to have occurred at Derabassi at about 08:15 a.m. Given that the distance between the two locations ordinarily requires 30–40 minutes of travel, it is urged that the presence of the said vehicle at the place of occurrence at the relevant time is rendered highly improbable.

8. He further contends that the amount awarded by the learned Tribunal to the claimants is on the higher side and deserves to be reduced. He further states that the learned Tribunal has erred in assessing the income of the deceased on the basis of guess work and the same ought to have been determined in accordance with minimum wages notification prevalent at the relevant time.

9. On the strength of the aforesaid submissions, learned counsel prays that the present appeal be allowed.

10. Per contra learned counsel for respondent Nos. 1 and 2 vehemently argues on the line of award. He further contends that learned Tribunal has rightly held that accident occurred due to sole rash and negligent driving of offending vehicle. He further contends that the compensation awarded by the learned



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Tribunal is on the lower side and deserves to be enhanced. He, therefore prays that the present appeal be dismissed.

12. Learned State counsel argues on the line of award and prays for dismissal of the appeal.

11. I have heard learned counsel for the parties and perused the whole records of the case.

12. Before advertng to the rival submissions, it would be apposite to examine the findings returned by the learned Tribunal in the impugned award, the relevant extract whereof has been reproduced hereinabove.:-

“Issue No. 1:

11. Onus of this issue was upon the applicants and they were required to prove that the accident in question took place due to rash and negligent driving of bus bearing registration No. HR68-A-1173 by respondent No. 3 belonging to respondents No. 1 & 2.

12. The argument of learned counsel for the applicants, at the outset, was that in the evidence of PW-1 Suresh Kumar @ Suresh Chand Sharma, who witnessed the accident, factum and manner of occurrence had been sufficiently proved. It was further contended that, though, respondent No. 3 along with the offending vehicle had fled away from the spot, but he was identified by PW-1 Suresh Kumar as he stopped the offending vehicle at the spot for a while and after noticing the rush of people, fled away from the spot. This fact also finds mention in FIR Ex.P-1, which was lodged with respect to the accident in question. The statement of PW-1 Suresh Kumar also fortified plea of the applicants as regards factum and manner of the accident showing that respondent no.3 was negligent in driving the bus in question, which resulted into the accident in which the deceased lost his life.

13. On behalf of the respondents it was argued by their learned counsel that factum and manner of occurrence remained unproved. The further contention of the learned counsel for the respondents No. 1 to 3 was that in fact no accident took place with bus bearing



registration No. HR68-A-1173. It was further argued that the driver of the bus was on duty with the bus in question from Kalka to Ambala and then from Ambala to Kalka and he left the bus stand Ambala Cantt. At 8:20 a.m. as per voucher of advance booking, copy of which is Ex.R-2 (running into four pages), whereas, as claimed by the applicants, the accident in question took place at 8:15 a.m. It was then argued that the present claim petition was based upon false details and concocted facts and the claim application was filed against the respondents with an ulterior motive to get compensation.

14. I have anxiously considered rival contentions of the learned counsel for the parties and have gone through the record carefully.

15. As per case of the applicants and as deposed by PW-1 Suresh Kumar @ Suresh Chand, eye-witness of the occurrence and author of FIR Ex.P-1, on 24.12.2014 at about 8:15 a.m., he was standing in the area of Devi Nagar towards Kohinoor Dhaba, Devi Nagar, Derabassi; that Rajinder Sharma @ Bintu Kumar was crossing Ambala – Chandigarh road in the area of Devi Nagar towards Kohinoor Dhaba, Devi Nagar; that he crossed more than half of Ambala-Chandigarh road, when a Haryana roadways bus bearing registration no. HR68-A-1173 being driven by respondent No. 3 in rash and negligent manner came from the side of Ambala and rammed against Rajinder Sharma, since deceased; that as a result of accident Rajinder Sharma fell on the road and was run over by the bus; that Rajinder Sharma was shifted to Civil Hospital, Derabassi from where he was referred to PGI, Chandigarh, where he died due to injuries suffered by him in the accident in question; that after causing the accident, the driver of the bus stopped his bus after covering some distance, got down and on seeing the serious condition of the deceased, sped away with the bus; that in respect of the accident, First Information Report no. 300 dated 24.12.2014 was registered at Police Station Darabassi, District SAS Nagar under Sections 279, 304-A of Indian Penal Code against unknown driver of Haryana Roadways Bus.

16. It is admitted case of the parties that respondent No. 3 Vinod Kumar had been deputed as driver on bus bearing registration No.



HR68-A-1173 for its route from Kalka-Ambala-Panchkula. Though, on behalf of the respondents, the accident in question was totally denied and it had been vehemently contended that registration number of the bus in question did not find reflected in the FIR Ex.P-1, got registered on the statement of Suresh Kumar, but nonetheless he emphatically stated that the bus involved in accident belonged to Haryana Roadways and that he had the occasion to notice the driver of the offending bus when he came near the injured Rajinder but slipped away after looking at his serious condition and in his statement at the trial being PW-1, he disclosed the number of the bus and identity of the driver of the bus. He also added that Vinod Kumar, respondent No. 3 was called by the Investigating Officer. Besides, we have the testimony of investigating officer PW-3 Head Constable Rameshwar Dass, who made a categorical statement that he called respondent No. 3 Vinod Kumar in the course of investigation and also directed him to produce the bus in question but the bus in question was not produced, rather Vinod Kumar had been appearing at the police station in the company of 10-12 persons. The Investigating Officer HC Rameshwar Dass, however, emphatically stated that he verified the factum of bus in question having crossed the Toll Barrier of Dappar near the place of the accident shortly prior to the accident in question. Thus, revelation having come in the testimony of the investigating officer of the case in hand rather indicates that the investigating officer acted under pressure, exerted from the respondent and lacked the courage to properly investigate the case, despite the fact that the identity of the bus and so also the name of the respondent surfaced during investigation. Though, respondent No. 3 Vinod Kumar, himself stepped into the witness box as RW-3 to deny the accident in question and also placed on record the advance ticket voucher Ex.R-2 in order to assert that he left the Bus Stand, Ambala Cantt. At about 8:20 a.m. and therefore, possibly could not be with the bus in question at the place of accident. He also admitted that he had been called by the investigating officer in the course of investigation of the case in hand. However, no independent person has been examined by the respondents with the



documentary evidence to show that the bus in question actually left Ambala Cantt. Bus stand at 8:20 a.m. and as already indicated this version of the witness stood contradicted from the testimony of investigating officer who confirmed from the Toll Barrier CCTV cameras regarding crossing of the bus in question from the said Toll Barrier shortly before the accident in question. Otherwise also, once the respondent-Haryana Roadways took up the specific plea that bus in question was not involved in the accident in question, it was for the Haryana Roadways to show as to which other bus of its Depot was involved but no such evidence was led. Therefore, the said plea of the respondents also remained unsubstantiated and goes against the respondent. Another matter which is to be considered is that the complainant party had no enmity against Vinod Kumar or for that matter with the Haryana Roadways and therefore, it could not shown by the respondents as to why the claimant party would leave the real culprit, if the accident had taken place with anybody else and to falsely implicate Vinod Kumar and the bus belonging to haryana Roadways. Further, despite lengthy cross-examination, respondents could not impeach the credit of the testimony of PW-1 Suresh Kumar @ Suresh Chand.

17. Even otherwise, the Tribunal, in terms of Section 166 of the Act, is not required to hold a regular trial but, according to scheme of Act, it holds an enquiry for adjudication of claims for award of compensation in respect of accidents involving the death or bodily injury to persons, arising out of use of motor vehicles. The adjudication of claim in those proceedings has to be made on the preponderance of probabilities. It may be added that in a case relating to motor accident claims, the claimants are not required to prove the case as it is required to be done in a criminal trial. The claimants are merely to establish their case on the touchstone of preponderance of probability. The standard of proof beyond reasonable doubt cannot be applied. Claimants have also placed and proved on record copy of postmortem report Ex.P-3 of deceased Rajinder Sharma wherein, FIR number of accident in question finds mention. Accordingly, it is held that Rajinder Sharma, deceased died



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due to negligent driving of bus bearing registration No. HR68-A-1173 by respondent No. 3. This issue is decided accordingly.”

ANALYSIS OF RECORD

13. A careful reading of the record reveals that the learned Tribunal has returned a well-reasoned and cogent finding with regard to the occurrence of the accident on account of rash and negligent driving of the offending Haryana Roadways bus bearing registration No. HR-68A-1173 by respondent No. 5.

14. The primary contention raised by learned counsel for the appellant is that the offending vehicle was neither named in the FIR nor was the driver identified therein. However, this argument does not merit acceptance. The FIR, as is well settled, is not an encyclopaedia of facts. In the present case, the eye-witness, PW-1 Suresh Kumar @ Suresh Chand, who is also the author of the FIR, has categorically deposed before the Tribunal regarding the manner of the accident and has specifically identified the offending bus as well as its driver during the course of trial. His testimony has remained consistent and has withstood the test of cross-examination, and nothing material has been elicited to discredit his version.

15. Furthermore, the testimony of PW-3, the Investigating Officer, lends substantial corroboration to the case of the claimants. The Investigating Officer has categorically stated that respondent No. 5-Vinod Kumar was called during investigation and was directed to produce the bus in question, which, however, was not produced. He further verified from the Toll Barrier at Dappar, on the basis of CCTV footage, that the bus in question had crossed the toll barrier shortly prior to the accident. This piece of evidence effectively demolishes the plea sought to be raised by the appellant regarding the non-involvement of the vehicle.

16. The contention of the appellant that the bus had left Ambala at 08:20 a.m. and, therefore, could not have been present at the place of occurrence at 08:15 a.m. at Derabassi, also does not inspire confidence. The said plea is based

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upon the advance ticket voucher (Ex. R-2), which, in the absence of any independent corroboration, cannot be treated as conclusive proof of the time of departure. No independent witness has been examined to substantiate this plea. On the contrary, the evidence led by the claimants, particularly the testimony of the Investigating Officer regarding the toll barrier verification, clearly belies the stand taken by the appellant.

17. Another important aspect, rightly noticed by the learned Tribunal, is the absence of any animus on the part of the claimants against the driver or the Haryana Roadways. There is no plausible reason as to why the claimants would falsely implicate the bus in question while letting the real offender go scot-free.

18. At this stage, it also deserves to be reiterated that the proceedings under Section 166 of the Motor Vehicles Act are summary in nature and the claim is required to be adjudicated on the touchstone of preponderance of probabilities and not on the standard of proof beyond reasonable doubt, as is required in criminal trials. In the present case, the evidence led by the claimants sufficiently establishes, on a preponderance of probabilities, that the accident occurred due to the rash and negligent driving of the offending bus by respondent No. 5.

19. In view of the aforesaid discussion, this Court finds no illegality or perversity in the findings recorded by the learned Tribunal. The conclusions drawn are based on proper appreciation of evidence and do not call for any interference. Accordingly, the findings of the learned Tribunal on the issue of negligence and involvement of the offending vehicle are hereby affirmed.

20. Now adverting to the contentions raised by the appellant–insurance company that the learned Tribunal has erred in assessing the income of the deceased on the basis of guesswork, and that the same ought to have been determined in

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accordance with the minimum wages notification prevailing at the relevant time.

The aforesaid contention is, however, devoid of merit.

21. A perusal of the record indicates that the deceased was engaged in the occupation of a scrap dealer and was stated to be earning ₹12,000 per month. In the absence of any cogent documentary evidence to substantiate the said income, the learned Tribunal, having regard to the nature of the occupation and attendant circumstances, assessed the monthly income of the deceased at ₹8,000. Such assessment cannot be said to be arbitrary or unfounded; rather, it is based on sound reasoning and proper appreciation of the material available on record.

22. The contention of the appellant-insurance company that the income ought to have been assessed strictly on the basis of minimum wages is misconceived and untenable.

23. Hon'ble the Supreme Court in a case of ***Chandra @ Chanda @ Chandraram & Anr. vs. Mukesh Kumar Yadav & Ors., 2021 INSC 593*** wherein the Apex Court held that where there is no direct evidence of income, the learned Tribunal is entitled to make a reasonable estimation having regard to the nature of avocation, skills, and surrounding circumstances of the deceased, which may necessarily involve a degree of judicious guesswork. Minimum wages, in such cases, cannot be treated as the sole determinative factor. The relevant portion of the same is reproduced as under:-

“ 10. It is the specific case of the claimants that the deceased was possessing heavy vehicle driving licence and was earning Rs.15000/- per month. Possessing such licence and driving of heavy vehicle on the date of accident is proved from the evidence on record. Though the wife of the deceased has categorically deposed as AW-1 that her husband Shivpal was earning Rs.15000/-



*per month, same was not considered only on the ground that salary certificate was not filed. The Tribunal has fixed the monthly income of the deceased by adopting minimum wage notified for the skilled labour in the year 2016. In absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of the deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs.15000/- per month. In the case of **Minu Rout & Anr. v. Satya Pradyumna Mohapatra & Ors., (2013) 10 SCC 695** this Court while dealing with the claim relating to an accident which occurred on 08.11.2004 has taken the salary of the driver of light motor vehicle at Rs.6000/- per month. In this case the accident was on 27.02.2016 and it is clearly proved that the deceased was in possession of heavy vehicle driving licence and was driving such vehicle on the day of accident. Keeping in mind the enormous growth of vehicle population and demand for good drivers and by considering oral evidence on record we may take the income of the deceased at Rs.8000/- per month for the purpose of loss of dependency.*



*Deceased was aged about 32 years on the date of the accident and as he was on fixed salary, 40% enhancement is to be made towards loss of future prospects. At the same time deduction of 1/3rd is to be made from the income of the deceased towards his personal expenses. Accordingly the income of the deceased can be arrived at Rs.7467/- per month. By applying the multiplier of '16' the claimants are entitled for compensation of Rs.14,33,664/-. As an amount of Rs.10,99,700/- is already paid towards the loss of dependency the appellant-parents are entitled for differential compensation of Rs.3,33,964/-. Further in view of the judgment of this Court in the case of **Magma General Insurance Company Limited v. Nanu Ram @ Chuhru Ram & Ors., 2018 SCC OnLine SC 1546 = (2018) 18 SCC 130** the appellants are also entitled for parental consortium of Rs.40,000/-each. The finding of the Tribunal that parents cannot be treated as dependents runs contrary to the judgment of this Court in the case of **Sarla Verma (Smt). & Ors. v. Delhi Transport Corporation & Anr., (2009) 6 SCC 121**. The judgment in the case of **Kirti & Anr. v. Oriental Insurance Company Limited, (2021) 2 SCC 166** relied on by the counsel for the respondent would not render any assistance in support of his case having regard to facts of the case and the evidence on record.*

11. For the aforesaid reasons this appeal is allowed and appellants are entitled for further compensation amount of Rs.3,33,964/- on account of loss of dependency and consortium amount of Rs.40,000/- each. Thus total compensation payable to the



appellants is fixed at Rs.4,13,964/- with interest @ 6% p.a. from the date of filing of claim petition.”

24. In view of the foregoing, the learned Tribunal has rightly assessed the income of the deceased, and no interference is called for in this regard.

25. A further perusal of the award reveals that the learned Tribunal has erred in adding 50% future prospects to the income of the deceased. However, as per settled law on compensation, 40% is to be added as future prospects.

26. A further perusal of the award reveals that the learned Tribunal has rightly deducted 1/ 2 as personal expenditure. Furthermore, amount awarded under the head of loss of estate is on the lower side and no amount is granted under the head of loss of consortium.

27. In view of the aforesaid discussion, the compensation is liable to be recalculated as under:

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.8000/-
2	Future Prospects @ 40%	Rs.3200/- (40% of 8000)
3	Deduction towards personal expenditure ½	Rs.5600/- (11200 X 1/2)
4	Total Income	Rs.5600/- (11200 – 5600)
5	Multiplier	18
6	Annual Dependency	Rs.12,09,600/- (5600 X 12 X 18)
7	Loss of estate	Rs.15,000/-
8	Funeral Expenses	Rs.25,000/-
9	Loss of Consortium Filial: 2 x 48,400	Rs.96,800/-
10	Total Compensation	Rs.13,46,400/-
11	Amount Awarded by the Tribunal	Rs.13,31,000/-
12	Enhanced amount	Rs.15,400/-



	(Rs.13,46,400 - Rs.13,31,000)
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28. The aforesaid re-computation gives rise to a further issue, i.e. whether the award passed by the Tribunal can be enhanced in an appeal preferred by the insurance company, when the claimant has not filed any cross-objection or cross-appeal. It is pertinent to mention that this Court in **FAO-5934-2015 titled as 'National Insurance Co. Ltd. Vs. Laltesh and others', decided on 31.01.2026** has already dealt with the similar issue and held that the compensation can be enhanced in appeal filed by the Insurance Company even in the absence of cross-objections and cross-appeals filed by the claimants. The relevant extract of the same is reproduced as under:-

*“28. This question came up for consideration before three-Judge Bench of the **Hon’ble Supreme Court in Surekha & Ors. v. Santosh & Ors., (2021) 16 SCC 467.** The relevant portion of the said order reads as follows:*

*1. Leave granted. This appeal takes exception to the judgment and order dated 4-1-2019 [Shriram General Insurance Co. Ltd. v. Surekha, 2019 SCC OnLine Bom 12] passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No. 2564 of 2016, whereby **the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.***

2. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take



hypertechnical approach and ensure that just compensation is awarded to the affected person or the claimants.

3. As a result, we modify the order passed by the High Court to the effect that the compensation amount payable to the appellants is determined at Rs 49,85,376 (Rupees forty-nine lakhs eighty-five thousand three hundred seventy-six only), with interest thereon as awarded by the High Court.

4. The appeal is allowed in the above terms. Pending applications, if any, stand disposed of."

29. In view of the above, settled principles of law as held by Apex Court this Court can award just and reasonable compensation by enhancing the amount of compensation, even in the absence of a cross-objection or cross-appeal by the claimants.

30. This conclusion is further strengthened by the settled principle that a Court adjudicating claims under the Motor Vehicles Act is duty-bound to award just and fair compensation to victims of road accidents, unrestrained by strict rules of pleadings and evidence, as laid down by the Hon'ble Supreme Court in Nagappa v. Gurudayal Singh & Ors (2003)2SCC 274.

31. Furthermore, this Court in FAO-5834-2016 titled as The Oriental Insurance Company Limited Vs. Smt. Mathri Devi and others decided on 12.09.2025 has already dealt with similar issue and held as under:-

"This Court in FAO-195-2006, titled Mamata and others v. Happy and others, decided on 29.05.2024, while examining the scope of the appellate jurisdiction under Section 107 CPC read with Order XLI Rule 33 CPC, has held as follows:-

"11. RELEVANT PROVISIONS UNDER THE CODE OF CIVIL PROCEDURE, 1908



Section 107 :- Powers of Appellate Court.— (1) Subject to such conditions and limitations as may be prescribed, an Appellate Court shall have power—

- (a) to determine a case finally;*
- (b) to remand a case;*
- (c) to frame issues and refer them for trial;*
- (d) to take additional evidence or to require such evidence to be taken.*

(2) Subject as aforesaid, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted therein.

Order XLI Rule 33 of the Code of Civil Procedure, 1908:-

33. Power of Court of Appeal.—*The Appellate Court shall have power to pass any decree and make any order which ought to have been passed or made and to pass or make such further or other decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection and may, where there have been decrees in cross-suits or where two or more decrees are passed in one suit be exercised in respect of all or any of the decrees, although an appeal may not have been filed against such decrees:*

[Provided that the Appellate Court shall not make any order under section 35A in pursuance of any objection on which the Court from whose decree the appeal is preferred has omitted or refused to make such order.]

12 to 18 XXX XXX XXX

19. As per Section 107 of Code of Civil Procedure, 1908 which refers to the powers of the Appellate Court, the Appellate Court shall have the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by the Code on Courts of original



jurisdiction in respect of suits instituted therein, and the Motor Vehicle Act 1988 since being a beneficial legislation, the evidence led by the parties cannot be ignored by the Appellate Authority.

20 to 25 XXX XXX XXX

CONCLUSION

26. *The Appellate Courts for the purpose of doing complete justice between the parties and completely adjudicating upon all the disputes, after appreciating the whole evidence on record, have power under Section 107 read with Order XLI Rule 33 of the Code of Civil Procedure, 1908 to pass any decree and make any order which ought to have been passed or made and to pass or make such further decree or order as the case may require, and this power may be exercised by the Court notwithstanding that the appeal is as to part only of the decree and may be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have filed any appeal or objection.*

27. *Motor vehicle statute is a beneficial legislation. Generally the victims/claimants/legal-representatives are not aware of their right to compensation and it is Advocates who decide under which provision of the statute the claim petition is to be filed. Before deciding the claim petitions, after appreciating the evidence on record, it is the bounden duty of the Court to apprise the parties of their legal rights as to under which provision they can get the maximum of benefit/compensation. The Judges should apply their judicial mind after appreciating the evidence on record, gravity of offence, gravity of loss, conduct of parties and over all facts and circumstances of each case and after that decide the same. The Court should not go into the technicalities that under which provision of statute case is to be filed, specially in the motor accident cases. If at any stage after appreciating*



the evidence, since it is original jurisdiction of the Court and the case is at initial stage, normally a person of ordinary prudence can calculate the loss of near and dear one's/relationship, the Judge feels that case of the claimant falls under a particular section he should apprise the parties regarding the same. The Courts should not apply straight jacket formula in every case and are presumed actually to do the justice by applying their judicial mind to the facts and circumstances of each and every case. The beneficial intent of the legislation ought to be borne in mind and procedural and technical formalities cannot be invoked to defeat the purpose of the legislation.

28. The Courts have to be very cautious and careful while accepting the prayer of the claimants/appellants to convert the claim petition filed under Section 163-A to Section 166 of the Motor Vehicles Act, 1988. Under Section 107 read with Order XLI Rule 33 of CPC the general rule is that an appeal is persistence of a suit and, therefore, an Appellate Court can do, while the appeal is pending, what the original Court could have done while the suit was pending. Thus, as per Section 107 Order XLI Rule 33 of CPC, an Appellate Court is empowered to re-appreciate the evidence. While hearing the appeal it is very important for a judge to apply his judicial mind. The Appellate Authority can re-appreciate the evidence before it. The grant of just and fair compensation is a statutory responsibility of the Court.

29. Over all conclusion of the above is that the Appellate Court has power to convert the petition under Section 163-A to Section 166 of the Motor Vehicles Act, 1988 to give justice to the claimants."

13. It is manifest from the above discussion that although respondents/claimants No.1 and 2 have not preferred any appeal seeking enhancement of compensation, and the present appeal has been instituted solely by the appellant-Insurance Company



challenging the quantum of compensation, the settled principle of law is that an appeal is a continuation of the original proceedings. Consequently, the appellate court is vested with ample jurisdiction to mould relief and to award just and proper compensation, even in the absence of a cross-appeal by the claimants.

14. In exercise of such appellate powers, this Court cannot overlook the beneficial nature of the Motor Vehicles Act, 1988, which has been consistently interpreted as a piece of social welfare legislation intended to provide just compensation to victims of motor accidents and their dependents. The statutory duty of the Court is to ensure that the claimants are not deprived of legitimate entitlement merely due to procedural technicalities such as the absence of a cross-appeal.

15. Accordingly, in the interest of justice, and to secure the ends of a fair adjudication, this Court deems it appropriate to award a further sum of ₹18,150/- under the head “Loss of Estate” in favour of respondents/claimants No.1 and 2.

*16. It is well settled by the Hon’ble Supreme Court in **K. Ramya v. National Insurance Co. Ltd., 2022 (4) RCR (Civil) 435** that the Motor Accident Claims Tribunals are vested with latitude to determine “just compensation” and are not shackled by rigid arithmetical rules or strict standards of evidence as in civil suits for damages. Interference by the Appellate Court is warranted only when the award of compensation is manifestly excessive, arbitrary, or contrary to settled principles.”*

29. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the respondent No.1 and 2-claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

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30. Vide order dated 21.07.2017, Coordinate Bench of this Court had stayed the recovery of amount beyond 50% of the awarded amount. Consequently, the appellant-Insurance Company is directed to deposit the remaining amount along with interest @ 9% per annum with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The Tribunal is directed to disburse the same to the respondent No.1 and 2-claimants in his bank accounts. The respondent No.1 and 2-claimants are directed to furnish their bank account details to the Tribunal.

31. Consequently, the present appeal, being devoid of merits, stands **dismissed**.

32. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

10.04.2026

Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes