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

136 (3 cases)

Date of decision: 12.05.2026

1) FAO-6173-2025 (O&M)

THE ORIENTAL INSURANCE CO. LTD.APPELLANT

VERSUS

SEIYARA AND OTHERS ...RESPONDENTS

2) CR-8844-2025 (O&M)

THE ORIENTAL INSURANCE CO. LTD.PETITIONER

VERSUS

SUHAIL AND OTHERS ...RESPONDENTS

3) CR-8849-2025 (O&M)

THE ORIENTAL INSURANCE CO. LTD.PETITIONER

VERSUS

SAHIL AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Vinod Chaudhri, Advocate and
Ms. Geeta Chaudhri, Advocate
for the appellant in FAO-6173-2025 and
for the petitioner(s) in CR-8844 & 8849-2025.

YASHVIR SINGH RATHOR, J. (ORAL)

1. The aforesaid appeal and revision petitions have been instituted against the award dated 26.05.2025 vide which a sum of Rs.15,59,213/- has been awarded as compensation to claimants (**in MACP No.162 of 2021 filed as FAO-6173-2025**) on account of death of their son, namely, Jubair and sums of Rs.20,000/- and Rs.24,054/- have been awarded as compensation to claimant Suhail (**in MACP No.178 of**



2021 filed as CR-8844-2025) and claimant Sahil (in MACP No.177 of 2021 filed as CR-8849-2025), respectively, on account of injuries suffered by them in the same accident.

2. I have heard learned counsel for the appellant/petitioner and have gone through the material placed on record.

3. Learned counsel for the Insurance Company argued that the impugned award is based on conjectures and surmises. The pleadings of the parties and material on file have not been appreciated in the correct perspective while fastening liability upon the Insurance Company. Learned counsel next contended that deceased Jubair who was driving the ill-fated tractor was a minor and did not possess a driving licence authorizing him to drive a tractor and he himself was negligent in driving a tractor. The offending vehicle insured by the appellant-Insurance Company was falsely implicated and challaned by the police in collusion with the claimants. Learned counsel next contended that the tractor was 40 years old and it was not roadworthy and the same could not have been plied on the road. The tractor was being driven by a minor while the other claimants who are the injured were sitting on the mudguard and as such, deceased Jubair and claimants, namely, Sahil and Suhail themselves were wrongdoers and are not entitled to any compensation. However, the Tribunal has awarded the compensation by holding that accident had taken place due to rash and negligent driving on the part of respondent No.1 while driving the offending truck which was insured with the appellant-Insurance Company and he contended that the impugned award is thus li-



able to be set aside.

4. However, I do not find any force in the contentions raised by the learned counsel for the appellant/petitioner.

5. As per facts of the case and evidence on file, tractor was being driven by Jubair while claimants namely, Sahil and Suhail were sitting on the mudguard. The tractor was being driven on the left side of the road at a normal speed and the offending truck was being driven rashly and negligently and it hit the tractor. As per testimony of PW3 Sahil and PW4 Suhail, who are the injured witnesses, the accident had taken place due to rash and negligent driving on the part of driver of the offending truck and FIR No.240 dated 13.05.2021 under Sections 279, 337, 338 & 304-A of IPC at Police Station Sadar, Yamuna Nagar was registered against the driver and final report under Section 173 Cr.P.C. has also been presented against him which has been led in evidence as Ex.P18 and he is facing the trial.

6. However, merely because the tractor was being driven by a minor cannot lead to the conclusion that the same was being driven in a rash and negligent manner or that his minority had contributed to the accident. No evidence has been led by respondents to establish that tractor was being driven in a rash and negligent manner. At the most, there is violation of provisions of Motor Vehicles Act, 1988, but this circumstance alone is not sufficient to come to the conclusion that the accident took place due to rash and negligent driving on the part of driver of tractor who was a minor and did not possess a driving licence. Learned Tribunal has



also placed reliance upon judgment passed by the Hon'ble Supreme Court in AIR 2008(SC) 2405 **Sudhir Kumar Rana Vs. Surinder Singh** in which it has been held as under:-

"9. If a person drives a vehicle without a licence, he commits an offence. The same, by itself, in our opinion, may not lead to a finding of negligence as regards the accident. It has been held by the courts below that it was the driver of the mini truck who was driving rashly and negligently. It is one thing to say that the appellant was not possessing any licence but no finding of fact has been arrived at that he was driving the two-wheeler rashly and negligently. If he was not driving rashly and negligently which contributed to the accident, we fail to see as to how, only because he was not having a licence, he would be held to be guilty of contributory negligence."

7. No evidence was led by respondents and the driver of truck was also not examined to establish that the tractor was being driven in a rash and negligent manner and as such, the Tribunal has rightly come to the conclusion that accident had taken place due to rash and negligent driving on the part of the driver of the offending truck which had hit the tractor after coming to the extreme wrong side of the road.

8. Besides this, merely because tractor was 40 years old would not mean that it was not roadworthy. It has come in evidence that the truck had hit the tractor after coming towards the wrong side and the tractor was being driven on its due left side and in case, the truck had hit the tractor after going towards the wrong side on the extreme side of the road, the age of the tractor is of no consequence. Even otherwise, the Insurance Company had itself insured the tractor which was allegedly 40 years old and if it was not roadworthy, Insurance Company should not have issued



the insurance policy and taken the premium from the owner. Once, Insurance Company itself has insured the tractor, it does not lie in its mouth to say that the tractor could not have been plied on the road and the Insurance Company is thus estopped to take their plea.

9. Another plea has been taken by the Insurance Company that the postmortem of the deceased was not got conducted and it is only from the postmortem report that it could have been established that the deceased died on account of injuries suffered by him in the accident. However, there is no force in the plea raised by learned counsel for the appellant. It has come in evidence that accident had taken place on 13.05.2021. The injured Jubair was first taken to Civil Hospital, Radaur for treatment from where he was shifted to Civil Hospital, Yamuna Nagar and later on, to PGI, Chandigarh, where he was operated upon. Thereafter, he was taken back to his home where he was died on the next day i.e. on 14.05.2021. His death, soon after the accident thus clearly establishes that he died on account of injuries suffered by him in the roadside accident. Learned Tribunal has thus rightly observed that it is normal tendency in the villages not to get the postmortem conducted because of certain rituals but the circumstances in the present case clearly establish that deceased died on account of the injuries suffered in the road traffic accident.

10. The Tribunal after going through the material on file has treated the deceased to be an unskilled labourer who was 16 years of age and has assessed his monthly income to be Rs.9,803/- per month on the basis of minimum wages and thereafter, has applied 40% future prospects



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in view of law laid down in SLP (Civil) No.25590 of 2014 **National Insurance Company Limited Vs. Pranay Sethi and Others**. Deceased was bachelor and 50% amount has been deducted towards personal expenses. Multiplier of 18 has applied, which is correctly applied by the Tribunal, as in 2025 ACJ 1624 titled **Karuna Parmar Vs. Prakash Sinha and others**, it has been held that in cases involving children below the age of 18 years, the multiplier of 18 is applicable. A sum of Rs.44,000/- has been awarded towards loss of consortium, besides Rs.16,500/- each for funeral expenses and loss of estate and adequate compensation thus has been awarded. Both the injured namely Sahil and Suhail have also been awarded a sum of Rs.24,054/- and Rs.20,000/- as compensation, respectively, which too is not on the higher side.

11. In view of the aforesaid discussion, I am of the view that there is no merit in the appeal as well as revision petitions and the same are ordered to be dismissed.

12. It is made clear that any observation or finding given above shall not have any affect on the appeals that may be instituted by the claimants which shall be independently decided without being influenced by the decision of the present appeal/revisions.

13. Pending misc application(s), if any, shall also stand disposed of.

12.05.2026

Vishal Vardhan

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No