



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

(133)

**FAO No.1274 of 2025(O&M)
Reserved on:29.01.2026
Pronounced on: 31.01.2026
Uploaded on : 31.01.2026**

The United India Insurance Company Limited

... Appellant

Versus

Meenakshi and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Ms. Anil Mehra, Advocate,
for the appellant.

Mr. Ashwani Bhardwaj, Advocate,
for the Respondents/claimants.

VIRINDER AGGARWAL, J.

1. The present appeal has been preferred by the appellant assailing the award dated 11.11.2024 passed by the learned Motor Accident Claims Tribunal, Hisar , whereby the claim petition filed by the Respondents/Claimants for grant of compensation on account of death of Bajrang Sharma was allowed. Award amount of Rs. 52,20,000/- along with interest at rate of 7% per annum from the date of filing the claim petition till actual realisation.

BACKGROUND FACTS

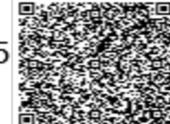
2. The claimants' case is that on 21.09.2021, Bajrang Sharma was travelling as a pillion rider on a motorcycle driven by his nephew Pardeep. At about 9:30 a.m., near the South bypass road close to Jindal Factory overbridge, offending truck bearing No. HR-39B/4225, driven rashly and negligently, struck the motorcycle, resulting in Bajrang's death. On Pardeep's statement, FIR No. 839



dated 21.09.2021 under Sections 279, 337, 304-A and 427 IPC was registered at P.S. Sadar, Hisar. After investigation, the police found respondent No.1 Manjeet negligent and filed a charge sheet under Section 173 Cr.P.C. It was asserted that the deceased was working as a Sales Manager with Edisafe Logistics Pvt. Ltd., earning ₹30,000 per month, and his widow and two minor children filed the claim petition seeking compensation.

3. Respondents No.4 and 5 (Driver and Owner respectively) in their written statement, denied the occurrence of the accident, rash and negligent driving, and involvement of the truck. They disclaimed liability and pleaded that, if compensation was held payable, the same should be borne by respondent No.3, the insurer, as the vehicle was insured. They sought dismissal of the claim petition. Appellant-Insurance Company also contested the claim, raising objections regarding locus standi, maintainability and alleged collusion. It denied the accident, as well as the age and income of the deceased, alleging that a false FIR was registered in collusion to extract money. It further pleaded violation of policy terms and prayed for dismissal of the claim petition.

4. Upon appreciation of the oral and documentary evidence, the learned Motor Accident Claims Tribunal recorded a finding that the accident had occurred due to rash and negligent driving of the offending vehicle driven by respondent no.1-Manjeet Singh. While determining the quantum of compensation, the learned Tribunal assessed Monthly Income as 30,000/- relying upon his last salary slips (Ex.P-38 to Ex.P-43) and testimony of PW7. Thereafter, learned Tribunal applied the structured formula as per the settled principles of law. Consequently, awarded a total compensation of only ₹52,20,000/- with interest at rate of 7% per annum from the date of filing the claim petition till actual realisation.. Aggrieved by the said award, the present

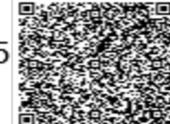


appeal has been filed by appellant/insurance company for modification of the impugned award.

CONTENTIONS

5. The Learned Counsel for the appellant contends that the learned Tribunal committed a grave error in allowing the claim petition by assessing the deceased's income at ₹30,000 per month on the premise that he was working as a Sales Manager. It is argued that while computing monthly income, the Tribunal failed to appreciate that allowances personal to the deceased could not be included. Consequently, inclusion of transport allowance and special allowance in the income assessment was erroneous. Learned counsel placed reliance on *The New India Assurance Company Ltd v. Shri Lal & Others, 2023(1) TAC 734*, wherein it was held that transport and travelling allowances are liable to be excluded from the total salary. On this basis, the appellant submits that the award deserves modification and the income of the deceased ought to have been assessed at ₹24,610 per month instead of ₹30,000. It is further urged that the settled position of law excludes conveyance and special allowances, being personal in nature, from the computation of income. The appellant asserts that the Tribunal erred in considering these allowances, and placed reliance on the appointment letter of the deceased with Inland World Logistics Private Limited, annexed as Annexure A-1, in support of its contention.

6. Furthermore, The learned counsel for the appellant argues that the Learned Tribunal failed to appreciate the contributory negligence of the deceased. It is contended that due to lack of due care on the part of the deceased, he substantially contributed to the occurrence of the accident.

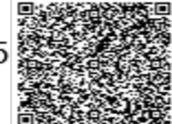


Accordingly, at least 50% negligence ought to have been attributed to the deceased, and liability to that extent should have been borne by the claimant himself.

7. Per contra, learned counsel for the Claimants argued that the appellant's objection to the assessment of income is wholly misconceived and founded on a distorted reading of the record. The deceased was last employed with Edisafe Logistics Private Limited, where he was paid a consolidated stipend of ₹30,000 per month, as duly proved by PW7 and through the offer letter (Ex.P37) and salary slips Ex.P38 to Ex.P43. These documents clearly establish that the amount of ₹30,000 was a fixed stipend and did not carry any component of travelling, conveyance or special allowance. The appellants are deliberately relying upon the salary structure (Annexure A-1) of the deceased's earlier employment with Inland World Logistics Private Limited, where travel allowance was granted, to seek deductions. Such an approach is factually incorrect and reflects an attempt to mislead the Court by mixing two distinct and unrelated employments.

8. That the evidence on record further demonstrates that the deceased had a consistent earning profile as a Sales Manager over several years. Even the ITR for A.Y. 2020–2021 (Ex.P7) reflects an annual income broadly consistent with a monthly earning of around ₹30,000. Thus, the income assessment must be based on the last drawn remuneration and proven earning capacity, both of which stand conclusively established through cogent oral and documentary evidence led by the claimants. It was further submitted that no interference by this Court is warranted.

9. Learned Counsel for claimants argue that the plea of contributory negligence to the extent of 50% is wholly untenable and stands conclusively

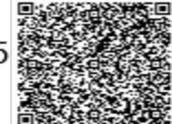


negated by the findings already returned by the Ld. Tribunal. The Tribunal, upon a holistic appreciation of evidence, has categorically held that the accident occurred solely due to rash and negligent driving of the offending truck by respondent No.1. The FIR was promptly lodged on the statement of PW2, an eye-witness to the accident, who consistently deposed that the truck, driven in a rash and negligent manner, hit the motorcycle of the deceased. This version stood fully corroborated by the police investigation, which culminated in filing of a charge-sheet. No material whatsoever was brought on record by the respondents to suggest any act of negligence on the part of the deceased.

Observations and Findings

10. I have heard learned counsels for the parties and perused the available record, particularly the award passed by the learned Tribunal.

11. The present appeal assails the award passed by the learned Tribunal primarily on the grounds of erroneous assessment of income of the deceased at ₹30,000 per month and alleged contributory negligence to the extent of 50%. So far as the assessment of income is concerned, the contention of the appellant that the Tribunal wrongly included travelling and special allowances is based on a complete misreading of the material on record and evidence. The material on record clearly establishes that the deceased was last employed with Edisafe Logistics Private Limited and was drawing a consolidated stipend/salary of ₹30,000 per month, as proved through the testimony of PW7 and documentary evidence including the offer letter (Ex.P37) and salary slips Ex.P38 to Ex.P43.. The said stipend did not include any travelling, conveyance or special allowance. The reliance placed by the appellant on the salary structure of the deceased's previous employment with Inland World Logistics Private Limited,

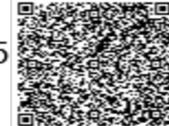


where travel allowance was granted, is wholly misconceived. Salary components of a prior employment cannot be mechanically imported into a subsequent and distinct employment. The judgment relied upon by the appellant regarding exclusion of travelling allowance are therefore inapplicable to the facts of the present case.

12. That the Tribunal has further rightly taken into account the consistent employment history of the deceased over several years, duly corroborated by income tax returns and salary records. As per the income tax return for A.Y. 2020–2021, the net annual income of the deceased was ₹3,51,888/-, which translates to a monthly income proximate to ₹30,000/-. The approach adopted by the Tribunal in assessing income on the basis of last drawn remuneration is in consonance with the settled principles of law. Therefore, no perversity or arbitrariness is shown in the said finding.

13. Further, the plea of contributory negligence is equally devoid of substance. The Tribunal, while deciding Issue No.1, has returned a categorical finding that the accident occurred solely due to rash and negligent driving of the offending vehicle. This finding is based on the eye-witness testimony (PW-2), prompt registration of FIR, police investigation and filing of charge-sheet against the driver of the offending vehicle. The driver did not step into the witness box to rebut the claimants' version or to establish negligence on the part of the deceased. In the absence of any cogent evidence, the plea of 50% contributory negligence has rightly been rejected by the Tribunal.

14. Accordingly, no ground for interference with the well-reasoned award passed by the learned Tribunal is made out. The appeal is accordingly **dismissed.**



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

(VIRINDER AGGARWAL)
JUDGE

31.01.2026

Saurav Pathania

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