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

**I.** **FAO-5188-2016 (O&M)**

**Smt. Harbans Kaur and Another** **. . . . Appellants**

**Vs.**

Bholla and Others . . . . Respondents

**II.** **FAO-2260-2018 (O&M)**

**M/s Sh. Jai Shiv Shankar Bhole** **. . . . Appellant**

**Vs.**

Harbans Kaur and Others . . . . Respondents

**Reserved on: 03.09.2026**
**Pronounced on: 07.09.2026**
**Pronounced fully/operative part: Fully**

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**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

Argued by:- Mr. Vipul Sharma, Advocate for the appellants in FAO-5188-2016.

Mr. Rakshit Gupta, Advocate for the appellant in FAO-2260-2018 and for respondent No.2 in FAO-5188-2016.

Mr. Ankur Gupta, Advocate for respondent No.3 in FAO-5188-2016 and for respondent No.4 in FAO-2260-2018.

**DEEPAK GUPTA, J.**

These two appeals arise out of the same award dated 05.05.2016 passed by learned Motor Accident Claims Tribunal, S.A.S. Nagar, Mohali, whereby compensation of ₹11,84,000/- along with 6% interest was awarded to the parents of deceased Jagtar Singh, who lost his life in a motor vehicular accident.

2. **FAO No.5188 of 2016** has been filed by the claimants seeking enhancement of compensation, whereas **FAO No.2260 of 2018** has been filed by the owner of the offending vehicle challenging the recovery rights

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granted by the Tribunal in favour of the insurance company. Since both appeals arise out of the same award and involve common questions of fact and law, they are being disposed of by this common order.

3. Briefly stated, the facts are that on 07.11.2014, Jagtar Singh was proceeding from Banur to Landran on his motorcycle. When he reached near the bus stand of Village Dehri, the offending vehicle, which was earlier parked on the left side of the road, suddenly came towards the right side without giving any indicator, as a result whereof the motorcycle of the deceased struck the offending vehicle. Jagtar Singh sustained grievous injuries and was taken to Government Medical College and Hospital, Sector-32, Chandigarh, where he was declared brought dead. The matter was reported to the police and an FIR was registered against respondent Bholla Singh, driver of the offending vehicle.

4. The claim petition was filed by the parents of the deceased. It was pleaded that Jagtar Singh was 23 years of age and was employed as an Engineer with Sony India, earning ₹15,000/- per month. Compensation was accordingly claimed from the driver, owner and insurer of the offending vehicle.

5. The claim petition was contested by the respondents. The insurance company, apart from disputing the claim, pleaded breach of the terms and conditions of the insurance policy on the ground that the driver was not holding a valid and effective driving licence at the time of the accident.

6. Upon appreciation of the evidence, learned Tribunal recorded a categorical finding that the accident had occurred due to rash and negligent driving of the offending vehicle by Bholla Singh and that such accident had resulted in the death of Jagtar Singh. The said finding regarding negligence has not been seriously disputed before this Court and, on consideration of the record, no ground is made out to interfere with the same. The finding of negligence is, accordingly, affirmed.

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7. As regards quantum, learned Tribunal noticed that the deceased was 23 years of age and had obtained a Diploma in Electronics and Communications from Shaheed Udham Singh Engineering College, Tangori, as proved by Ex.P1. However, since there was no cogent evidence establishing his employment with Sony India Ltd., the Tribunal assessed his income notionally at ₹7,000/- per month. It thereafter added 50% towards future prospects, deducted 50% towards personal expenses and awarded total compensation of ₹11,84,000/-, including amounts under the conventional heads.

8. Seeking enhancement, learned counsel for the claimants submits that although there was no documentary evidence establishing the deceased's employment with Sony India Ltd., it stands established that he was a qualified diploma holder in Electronics and Communications. It is argued that the Tribunal's assessment of income at ₹7,000/- per month was on the lower side. Reliance has been placed upon ***Gurmit Kaur and others v. Daljit Singh and another, Law Finder Doc Id No.2857435***, wherein, in respect of a student pursuing Diploma in Civil Engineering from the same institution, this Court had assessed notional income at ₹12,000/- per month in an accident which occurred in April 2012. Reliance has also been placed upon ***Joginder Singh and another v. ICICI Lombard General Insurance Co. Ltd., 2020(18) SCC 808***, wherein, in a case relating to the death of a 20-year-old student undergoing Air Hostess Training Programme in an accident, which occurred in September 2009, the Hon'ble Supreme Court had assessed income at ₹15,000/- per month.

9. Learned counsel for the owner, while assailing the recovery rights, submits that the driving licence Ex.R5 was wrongly discarded by the Tribunal. It is argued that although the licence was in the name of Gurjant Singh, there was a specific contention that Bholla Singh, the driver, was also known by the name of Gurjant Singh. It is further submitted that the Tribunal could not have presumed the licence to be fake merely because it had been issued by the District Transport Officer, Tuensang, Nagaland, particularly when there was no evidence from the concerned licensing author-

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ity to establish that the licence had not been issued by it. It is also submitted that the insurance company never issued any notice to the owner or driver requiring production or verification of the driving licence.

10. Learned counsel for the insurance company, on the other hand, supports the award to the extent of recovery rights. It is, however, fairly conceded that the addition towards future prospects, if reconsidered in the light of the subsequent judgment of the Constitution Bench of Hon'ble Supreme Court in ***National Insurance Company Ltd. v. Pranay Sethi, AIR 2017 Supreme Court 5157***, would be restricted to 40%.

11. This Court has considered the submissions advanced by learned counsel for the parties and has carefully examined the record.

***Quantum of compensation***

12. The first question is with regard to the income of the deceased. There is no dispute that Jagtar Singh was 23 years of age and had already completed his Diploma in Electronics and Communications from Shaheed Udham Singh Engineering College, Tangori. The Tribunal rightly declined to accept the pleaded income of ₹15,000/- per month in the absence of proof of his employment with Sony India Ltd. However, the absence of proof of a particular employment cannot justify ignoring the educational qualification and earning potential of a young person, who had already acquired a technical diploma.

13. In ***Joginder Singh and another v. ICICI Lombard General Insurance Co. Ltd (supra),*** the Hon'ble Supreme Court assessed the income of a 20-year-old student undergoing Air Hostess Training Programme at ₹15,000/- per month in an accident, which had occurred in September 2009. Likewise, in ***Gurmit Kaur and others v. Daljit Singh and another (supra),*** this Court, while considering the death of a student pursuing Diploma in Civil Engineering from the same institution, assessed notional income at ₹12,000/- per month in respect of an accident which had occurred in April 2012.

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14. The present accident occurred in the year 2014. The deceased had not merely been pursuing his diploma but had already completed a Diploma in Electronics and Communications. His educational qualification, age and the time gap from the accidents considered in the aforesaid cases are relevant circumstances while assessing his probable earning capacity.

15. At the same time, the Court cannot substitute proof of actual employment by an assumed salary without a rational basis. The assessment has to remain one of reasonable estimation rather than speculation. Balancing the aforesaid factors, this Court considers it just and reasonable to assess the notional income of the deceased at ₹14,000/- per month, i.e. ₹1,68,000/- per annum.

16. The next question concerns future prospects. The Constitution Bench of the Hon'ble Supreme Court in ***National Insurance Company Ltd. v. Pranay Sethi, AIR 2017 Supreme Court 5157,*** has settled the principles governing addition towards future prospects. Since the deceased was below 40 years of age, an addition of 40% is warranted. The annual income after addition of 40% thus comes to ₹1,68,000 + 40% = ₹2,35,200/- per annum.

17. The deceased was a bachelor. In terms of the principles laid down in ***Sarla Verma and others v. Delhi Transport Corporation and another, AIR 2009 Supreme Court 3104***, where the deceased is unmarried, 50% of the income is ordinarily liable to be deducted towards his personal and living expenses. There is no material on record to justify departure from the said principle. After deduction of 50%, the annual contribution towards the family comes to be ₹1,17,600/-.

18. The deceased was 23 years of age. In accordance with the multiplier table laid down in ***Sarla Verma (supra*** and approved by the Constitution Bench of the Hon'ble Supreme Court in ***Pranay Sethi (supra***, the appropriate multiplier for the age of 23 years is 18.

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19. The loss of dependency is, therefore, calculated to be ₹1,17,600 × 18 = ₹21,16,800/-.

20. The claimants are the parents of the deceased. In view of the law laid down in ***Pranay Sethi (supra)***, read with ***Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram, AIR ONLINE 2018 SC 1249***, the parents are entitled to compensation towards filial consortium. Since the accident occurred in 2014, an amount of ₹40,000/- each towards filial consortium to both the parents would be appropriate in the facts of the present case.

21. The claimants are further entitled to ₹15,000/- towards loss of estate and ₹15,000/- towards funeral expenses.

22. The total compensation is consequently reassessed as under:

| **Head** | **Amount** |
|---|---|
| • Loss of dependency | ₹21,16,800/- |
| • Filial consortium to mother | ₹40,000/- |
| • Filial consortium to father | ₹40,000/- |
| • Loss of estate | ₹15,000/- |
| • Funeral expenses | ₹15,000/- |
| **Total compensation** | **₹22,26,800/-** |

23. The Tribunal had already awarded ₹11,84,000/-. The claimants are, therefore, entitled to an enhanced amount of ₹10,42,800/-.

24. As regards apportionment, although both parents are legal heirs and are entitled to filial consortium, the material on record does not establish equal financial dependency of both parents upon the deceased. The compensation towards loss of dependency is, therefore, appropriately payable to the mother. Out of the total compensation, an amount of ₹40,000/- towards filial consortium, along with proportionate interest, shall be payable to the father, while the remaining compensation, along with proportionate interest, shall be payable to the mother.

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***Liability and recovery rights***

25. The next issue concerns the recovery rights granted to the insurance company. The Tribunal relied upon Ex.R5, the driving licence produced through Munish Kumar, partner of the owner of the offending firm. The Tribunal discarded the licence principally on the ground that it was in the name of Gurjant Singh son of Harnek Singh, whereas the driver was Bholla Singh, and there was no evidence establishing that both names referred to the same individual. The Tribunal further doubted the genuineness of the licence because it had been issued by the District Transport Officer, Tuensang, Nagaland, although there was no evidence that Bholla Singh had ever resided in Nagaland.

26. The approach adopted by the Tribunal cannot be sustained. The fact that a driving licence was issued by an authority in another State, by itself, cannot constitute a ground for holding the licence to be fake or invalid. A Court cannot proceed on the basis of geographical suspicion or conjecture. If the insurance company sought to establish that Ex.R5 was not a genuine licence issued by the concerned licensing authority, the burden was upon it to produce cogent evidence to that effect, ordinarily by examining the competent official from the concerned licensing authority or by otherwise proving the relevant official record.

27. In the present case, there is no evidence from the office of the District Transport Officer, Tuensang, Nagaland, to establish that Ex.R5 was not issued by that authority. There is, therefore, no evidentiary basis for the conclusion that the licence was fake merely because it originated from Nagaland.

28. The second circumstance relied upon by the Tribunal was the difference in the name of the driver and the name appearing on Ex.R5. No doubt, Ex.R5 is in the name of Gurjant Singh son of Harnek Singh, whereas the driver was described as Bholla Singh. However, the contention was raised that Bholla Singh was also known as Gurjant Singh and that the father's name appearing on the licence was consistent with the father's

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name pleaded by the claimants in relation to Bholla Singh. Whether both names represented the same person was a question requiring evidence and could not have been conclusively answered against the owner merely on the basis of the difference in nomenclature.

29. More importantly, the insurance company, which alleged breach of the policy condition, was required to discharge the initial burden of proving the breach. The evidence on record shows that no notice was issued by the insurance company to the owner or driver requiring production of the driving licence for verification, nor was any appropriate direction sought from the Tribunal for such production.

30. It is settled that the insurer cannot succeed merely by raising a plea of breach. It must establish the breach by cogent evidence. In the present case, the insurance company has failed to establish that the driver did not possess a valid driving licence at the relevant time. The mere existence of a licence bearing a different name, coupled with its issuance from another State, is insufficient to discharge that burden.

31. Consequently, the finding of the Tribunal granting recovery rights to the insurance company cannot be sustained. The same is accordingly set aside. The liability to pay the compensation shall remain joint and several upon all the respondents, with the insurance company being primarily liable to satisfy the award in view of its statutory liability. The insurance company shall have no right of recovery from the owner or driver.

***Conclusion***

32. In view of the aforesaid discussion, **FAO No.5188 of 2016** filed by the claimants is allowed. The compensation is enhanced from ₹11,84,000/- to ₹22,26,800/-, resulting in an enhancement of ₹10,42,800/-. The enhanced compensation of ₹10,42,800/- shall carry an interest at the rate of 7.5% per annum from the date of filing of the claim petition till the date of actual realisation.

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33. Out of the total compensation of ₹22,26,800/-, an amount of ₹40,000/- towards filial consortium, along with proportionate interest, shall be payable to the father-claimant. The remaining amount, along with proportionate interest, shall be payable to the mother-claimant.

34. **FAO No.2260 of 2018** filed by the owner is also allowed. The finding granting recovery rights to the insurance company is set aside. The respondents shall remain jointly and severally liable for payment of the compensation, with the insurance company having the primary obligation to satisfy the award and without any right of recovery against the owner or driver.

35. Both the appeals stand disposed of in the aforesaid terms. Pending application(s), if any, shall also stand disposed of. A photocopy of this order be placed on the file of the connected case.

**(DEEPAK GUPTA)**
**JUDGE**

**07.09.2026**
*Neetika Tuteja*

Whether speaking/reasoned? Yes
Whether reportable? Yes

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