IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(106)

Reserved on: 26.02.2026
Pronounced on: 12.03.2026
Uploaded on: 12.03.2026

1. F.A.O. No. 919 of 1992(O&M)

Oriental Insurance Company Ltd. ...Appellant

Versus

Saroj Rani and Others ...Respondents

AND

2. F.A.O. No. 920 of 1992(O&M)

Oriental Insurance Company Ltd. ...Appellant

Versus

Savitri Devi Sardana and Others ...Respondents

AND

3. Cross Objection No. 8 of 2020(O&M) in F.A.O. No. 919 of 1992(O&M)

Oriental Insurance Company Ltd. ...Appellant

Versus

Saroj Rani and others ...Respondents/Cross-Objectors

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Shrenik Jain, Advocate and
Mr. Hari Pal, Advocate
for the appellant.

Mr. Ashish Gupta, Advocate
for the cross-objectors.

Mr. Divyanshu Bansal, Advocate and
Mr. A.S.Virk, Advocate
for the respondent no.4.

VIRINDER AGGARWAL, J.

1. These two connected appeals have been preferred by the appellant-insurer under Section 173 of the Motor Vehicles Act, 1988, challenging the awards

dated 04.03.1992 passed by the learned Motor Accident Claims Tribunal, Panipat. The awards pertain to two separate claim petitions arising out of the same motor vehicular accident, granting compensation of Rs. 1,53,600/- to the claimants in one case (in favour of Saroj Rani and others for the death of Subhash Chander) and Rs. 1,15,200/- to the claimants in the other (in favour of Savitri Devi Sardana and another for the death of Rakesh Sardana). Additionally, cross-objection have been filed by the claimants in FAO-919-2002 seeking enhancement of the compensation awarded by the learned Tribunal in claim petition of deceased Subash Chander (MACT Case no.44/1990). Since both appeals and the cross-objection involve common questions of fact and law arising from the same accident, they are being disposed of by this common judgment.

BACKGROUND FACTS

2. On 06.06.1990, a tragic motor vehicular accident occurred involving a Tempo (Matador) bearing registration No. HR-05-2335, owned by M/s Hari Engineers (respondent-owner) and insured with the appellant-Insurance Company. The vehicle had earlier been hired by RW-1 Mohan Singh, the driver, for transporting certain goods to Jind. After delivering the goods at Jind, the driver was returning in the said four-wheeler and, during the course of the return journey, reached the bus stand at Asandh while proceeding towards Karnal. At that place, the deceased Subash Gupta met the driver and requested him to allow him to travel up to Karnal along with his belongings. It has come on record that Subash Gupta was carrying two bags (kattas) of wheat along with certain grocery and domestic articles, and after paying a sum of Rs.20 as fare to the driver, he was permitted to sit in the tempo along with his goods. After the

vehicle had covered some distance from Asandh, the second deceased Rakesh Sardana also met the driver and was allowed to board the tempo with his belongings upon payment of Rs.70 as fare. Rakesh Sardana was carrying a folded bed, chairs and other personal luggage with him. While the tempo was proceeding towards Karnal, and when it reached near the area of village Jai Singhpura, the vehicle collided with a tree, resulting in a serious accident in which both the aforesaid persons sustained fatal injuries and succumbed to the same. Consequently, separate claim petitions were filed by the legal representatives of the deceased persons under the provisions of the Motor Vehicles Act seeking compensation on account of their death in the said accident. The claimants in the first petition (pertaining to Subash Gupta) included his widow Saroj Rani and his minor children, who asserted that the deceased was aged about 27 years, employed in the Haryana Government, earning approximately Rs.1,500/- per month, and that they were wholly dependent upon his income. Similarly, the second claim petition (pertaining to Rakesh Sardana) was filed by his parents Savitri Sardana and P.D. Sardana, asserting that the deceased was aged about 28 years and that his untimely death caused severe financial and emotional loss to the family. In both petitions, compensation was claimed by holding the driver, owner and insurer jointly and severally liable.

3. The learned Tribunal, after appreciating the oral and documentary evidence led by the parties, including eyewitness accounts(PW1 to PW6), police reports (FIR No.255 dated 06.06.1990), post-mortem reports(Ex.P2 and Ex.P4), and income proofs, held that the accident was solely attributable to the negligence of the driver of the insured vehicle. The claim petitions were

accordingly allowed and compensation was awarded to the claimants. For deceased Subhash Chander, the learned Tribunal awarded the total compensation of Rs. 1,53,600/- inclusive of interest at 12% per annum from the date of petition. For deceased Rakesh Sardana, the total compensation resulted in Rs. 1,15,200/- with similar interest. While determining the issue of liability, the learned Tribunal interpreted the clause relating to "Limitation as to Use" contained in the insurance policy to mean that up to six passengers, other than employees and the driver, could be carried in the vehicle under the purview of the Workmen's Compensation Act. On this interpretation, the learned Tribunal held that deceased persons were travelling in the vehicle along with their goods and, therefore, treated them as authorised passengers accompanying their goods in the vehicle and their the presence in the vehicle did not violate the terms of the policy. On that basis, the learned Tribunal held that their risk stood covered under the insurance policy and consequently fastened the liability upon the Insurance Company to indemnify the insured. Aggrieved against the fastening of liability upon it, the present two FAOs have been preferred by the Insurance Company challenging the findings of the learned Tribunal on the issue of liability.

CONTENTIONS

4. Learned counsel for the appellant–insurance company in both FAOs contends that the learned Tribunal has erred in fastening liability upon the insurer. It is argued that the vehicle involved in the accident was a Matador being used as a goods carriage and the deceased were travelling therein as fare paying passengers. According to the appellant, such occupants were not covered under the policy and therefore the insurer could not have been directed to

indemnify the owner. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***New India Assurance Co. Ltd. v. Asha Rani, 2003 (2) SCC 223,*** to contend that gratuitous passengers travelling in a goods vehicle are not covered under the statutory policy contemplated under the Motor Vehicles Act, 1988. It has further been argued that as per the pleadings of the claimants themselves, the deceased had allegedly agreed to pay the driver for giving them lift in the vehicle and therefore they were fare-paying passengers. In view of the endorsement in the policy extending legal liability only in respect of authorised non-fare paying passengers, the insurer cannot be saddled with liability.

5. Learned counsel for the cross-appellants (claimants) seek enhancement of the compensation on the grounds that the learned Tribunal adopted a conservative approach in assessing the income of the deceased, failed to account for future prospects and inflation, applied an inadequate multiplier considering the young ages of the deceased, and did not award sufficient amounts towards loss of consortium, funeral expenses, and mental agony. They pray for the compensation to be enhanced with higher interest.

6. Learned counsel for respondent No. 4 (the owner of the vehicle, M/s Hari Engineers) contented that the learned Tribunal's findings on negligence and quantum are unassailable, based on cogent evidence, and that any liability should be borne by the insurer as per the policy. It is submitted that the deceased were travelling along with their belongings including grocery articles, wheat bags and other luggage. The learned Tribunal, upon appreciation of evidence, has rightly recorded the finding that the deceased were accompanying their goods. It is further contended that the insurance policy itself permitted

carriage of passengers up to a specified number and therefore the insurer cannot avoid its contractual liability.

OBSERVATIONS AND FINDINGS

7. I have heard learned counsel for the parties and have perused the entire record, including the impugned award. At the outset, it deserves to be noticed that the findings recorded by the learned Tribunal on the issue of negligence are correctly based on the evidence available on record and do not call for any interference by this Court. The controversy raised in the cross-appeal pertains to the quantum of compensation, whereas in both the appeals, the principal question that arises for determination relates to the extent of liability of the appellant–Insurance Company.

Cross-Objections: Enhancement of Compensation

8. Turning first to the cross-objections filed by the claimants seeking enhancement of compensation, as directed to be dealt with prior to the main appeals. The learned Tribunal's assessment of compensation in the case of deceased Subhash Chander (MACT Case no.44/1990), appears somewhat conservative in light of the principles laid down by the Hon'ble Supreme Court for determining just compensation under Section 166 of the Motor Vehicles Act, 1988.

9. Thus, the 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 matter, 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 is structured as under:

REASSESSED COMPUTATION

Particulars	**Award by Tribunal (₹)**	**Reassessed Award (₹)**
Monthly Income (As Per Ex.P1)	1,200/-	1,200/-
Income With Future Prospects (40%)	x	**1,680/- (1200 + 480)**
After Deduction (3 Dependents)	800 (1/3rd for personal expenses)	1,120/- (1/3rd for personal expenses)
Annual Contribution To Family	9,600 (800 x 12)	**13,440/-** (1,120 x12)
Multiplier **(age 27 yrs)**	16	**17**
Loss Of Dependency	1,53,600/-	**2,28,480/- (13,440 × 178)**
Spousal Consortium	x	40,000/-
Parental Consortium (2 Children)	x	80,000/-
Funeral Expenses	x	15,000/-
Loss Of Estate	x	15,000/-
Total	1,53,600/-	**₹3,78,480/-**

10. Resultantly, the compensation awarded by the learned Tribunal in MACT Case no.44/1990 is enhanced from ₹1,53,600/- to **₹3,78,480/-**. The enhanced amount shall carry the interest at rate of 7% per annum from the date of filing of the claim petition till realization.

11. Accordingly, the cross-objection is **allowed**, and the compensation stands enhanced as aforesaid.

Appeals by Insurer: Liability under Insurance Policy

12. Now addressing the twin appeals by the appellant-insurer together, as they raise identical issues regarding the insurer's liability. The principal question which arises for determination is:

> ***"Whether the deceased persons travelling in the Matador were persons whose risk stood covered under the insurance policy Ex.R-1, or whether they were unauthorized fare-paying passengers in respect of whom the insurer bears no liability ?"***

13. The learned Tribunal, while determining the question of liability, proceeded on an interpretation of the policy clause relating to "Limitation as to Use", holding that the policy permitted carriage of passengers up to **six** in number other than employee and the driver under the purview of the Workmen's Compensation Act. The learned Tribunal proceeded on the premise that the deceased persons were travelling along with their goods and, on that basis, treated them as authorised passengers within the permissible limit of six persons under the policy. On such reasoning, the learned Tribunal concluded that the presence of the deceased persons in the vehicle was not in violation of the policy conditions, thereby holding that their risk stood covered under the

insurance policy. Therefore the insurer was liable to indemnify the owner. However, upon a careful scrutiny of the record, this Court finds that the said interpretation of the policy clause does not appear to be in consonance with its plain language and intent. Therefore, the issue requires reconsideration by examining the evidence on record in the light of the terms and conditions of the insurance policy. As the correct interpretation of the policy and also determination of the status of the both deceased persons travelling in the vehicle assumes crucial significance for adjudicating the liability of the insurer. It would, therefore, be appropriate to first advert to the relevant stipulations contained in the policy (Ex.R-1) itself.

Terms of the Insurance Policy (Ex.R-1)

(i) The insurance policy Ex.R-1 produced on record contains the following clause under the heading **"Limitation as to Use"**:

> *"Use for carrying passengers in the vehicle except employees (other than driver) not exceeding six in number coming under the purview of the Workmen's Compensation Act, 1923."*

A plain reading of the aforesaid clause makes it manifest that the policy permitted carriage of only such persons who were **employees of the insured**, other than the driver, and whose liability would fall within the purview of the **Workmen's Compensation Act, 1923**, subject to the specified numerical limit. Thus, the coverage envisaged under this clause is confined strictly to employees of the insured and **does not extend to other categories of passengers**.

(ii) Further, the policy contains an endorsement to the effect **"Add for L.L. to authorised non-fare paying passengers as per Endorsement IMT-14(b)"**. The expression **"non-fare paying passengers"** assumes considerable significance. By its very language, the endorsement limits the insurer's liability to those passengers who may be authorised to travel in the vehicle but who **are not travelling on payment of any fare or consideration**. The endorsement, therefore, cannot be construed to extend coverage to passengers travelling for hire or reward.

14. In the present case, it is not disputed that both the deceased persons were not employees of the owner of the vehicle. Rather, they were independent travellers who had hired the transport for themselves and their belongings upon settlement of fare with the driver of the offending vehicle at the Bus Stand, Asandh. Therefore, they cannot be brought within the category of persons contemplated under clause (i) of the policy, which exclusively covers employees of the insured (other than the driver) not exceeding six in number, and does not extend to ordinary passengers such as the deceased. Further, the evidence on record further reveals material circumstances which throw light on the nature of their travel. PW-6 Om Parkash, an eye-witness, categorically deposed that the deceased Subash Gupta had settled the fare with the driver at Rs.20 for travelling from Asandh to Karnal, and after making such payment he placed his luggage in the vehicle. The witness further stated that Subash Gupta was carrying two kattas of wheat and certain grocery articles with him. Similarly, RW-1 Mohan Singh, the driver of the vehicle, admitted that the other

deceased Rakesh Sardana had paid Rs.70 as fare to travel in the vehicle and that he was carrying a folded bed, chairs and other personal luggage. These statements, read conjointly, clearly indicate that the occupants of the vehicle had engaged the vehicle for transportation upon payment of fare, though they were also carrying certain personal belongings with them.

Effect of breach of policy conditions

15. The insurance policy Ex.R-1 clearly circumscribes the permissible use of the vehicle and specifies the categories of persons whose risk stands covered thereunder. The terms of the policy do not contemplate the carriage of fare-paying passengers in the insured vehicle. When passengers are allowed to travel in the vehicle on payment of consideration in contravention of the limitations imposed by the policy, such act constitutes a breach of the policy conditions relating to the use of the vehicle. In the present case, once the payment of fare by the deceased persons to the driver stands established from the evidence on record, they cannot be treated as “non-fare paying passengers” within the meaning of the endorsement contained in the policy. Rather, their status would be that of unauthorised passengers travelling in a goods vehicle on payment of fare, a category of risk which is clearly outside the scope of the coverage provided under the policy. Consequently, the presence of such passengers in the vehicle cannot be regarded as a risk undertaken by the insurer under the terms of the policy.

16. The Hon'ble Supreme Court, in ***New India Assurance Co. Ltd. v. Asha Rani, 2003 (2) SCC 223,*** categorically held that the statutory policy of insurance does not cover passengers travelling in a goods vehicle. The Court made it clear that such passengers are “unauthorised” and the insurer has no

liability towards them. It was held that the insurers are not liable to compensate for the death or injury of unauthorised passengers in goods vehicles, as such risks are not statutorily required to be covered unless expressly included in the policy. The said principle makes it clear that where persons travel in a goods vehicle in a manner not contemplated under the terms of the policy, the insurer cannot be fastened with liability merely on the ground that an insurance policy existed in respect of the vehicle. The ratio of the aforesaid judgment thus provides guidance in determining the extent of the insurer's liability in the present case as well.

17. Applying the aforesaid principle to the facts of the present case, it becomes evident that the deceased persons cannot be treated as employees of the insured, nor can they be regarded as authorised non-fare paying passengers under the policy. The evidence on record indicates that they had settled fare with the driver of the offending vehicle, thereby placing themselves outside the scope of the policy coverage. In such circumstances, when the dominant purpose of their journey appears to have been passenger travel for consideration and not in the capacity of employees accompanying the vehicle, their risk cannot be said to be covered under the terms of the policy. In these circumstances, the interpretation adopted by the learned Tribunal of the "Limitation as to Use" clause as permitting carriage of six passengers other than employees under the Workmen's Compensation Act does not appear to be borne out from the actual terms of the policy.

18. Hence, in the present cases, both deceased persons cannot be covered by the insurance policy being unauthorised passengers, and resultantly the insurer cannot be held responsible. The learned Tribunal, in the present matters,

appears to have misread the "Limitation as to Use" clause of the policy by assuming that it permitted carriage of six passengers other than employees and the driver, whereas the clause in fact restricts such carriage to six employees (other than driver) falling within the purview of the Workmen's Compensation Act. Viewed holistically, the learned Tribunal's imposition of liability on the insurer is unsustainable in law and fact, warranting setting aside on this ground.

19. In view of the foregoing discussion, this Court is of the considered opinion that the learned Tribunal committed an error in interpreting the policy condition relating to "Limitation as to Use" and consequently in fastening liability upon the insurer for the payment of compensation to the claimants. The insurer cannot be held liable in the present circumstances, as the deceased were unauthorised passengers in the insured vehicle, and the compensation awarded shall remain payable solely by the owner of the offending vehicle.

20. Accordingly, both the appeals filed by the insurance company are **allowed**, and the impugned awards of the learned Tribunal are modified to the extent that the appellant-insurer stands exonerated from all liability. The enhanced/reassessed compensation in Claim Case No. MACT Case no.-44/1990 (as determined in the cross-objection) and the compensation awarded by the learned Tribunal in the connected Claim Case No. MACT Case no.-75/1990 shall be payable by the owner (M/s Hari Engineers). The insurer shall be entitled to recover any amounts already deposited by it towards satisfaction of the award from the owner, if so applicable.

21. In conclusion, the cross-objection stand **allowed** with enhancement of compensation as detailed above. The main appeals (F.A.O. Nos. 919 of 1992

and 920 of 1992) are also **allowed** to the limited extent of exonerating the insurer from liability, with the awards modified accordingly.

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

23. The photocopy of this judgment be placed on the files of connected cases.

(VIRINDER AGGARWAL)
JUDGE

12.03.2026
Sourav Pathania

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