IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

XOBJC-19-2025 in/and
FAO No. 2416 of 2024 (O&M)
Reserved on: 26.11.2025
Pronounced on : 09.01.2026.
Uploaded on: 12.01.2026.

Sushil Kumar and another

…Appellants

VS

Sameer and others

…Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vivek Chauhan, Advocate
for appellants.

Mr. Tarun Dhingra, Advocate
for respondents No.1, 3 and 4.

Mr. Sachin Ohri, Advocate
for respondent No.5-Insurance Company.

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VIKRAM AGGARWAL, J

The instant appeal has been preferred by the driver (Sushil Kumar) and owner (Rohit Kumar) of tractor trolley bearing registration No. HR-08S-8529. Further claimants No.1, 3 and 4 have instituted cross-objections.

2. The appellants have been saddled with the liability of paying the compensation to the claimants on account of the death of one Arvind who expired in a Motor Vehicular Accident which took place on 08.04.2022. Since only the tractor was insured and the trolley was not insured, the Motor Accident Claims Tribunal, Kaithal (for short 'Tribunal') has held that the Insurance Company would not be liable to satisfy the award. It has further been held that since the driver was having licence only for a Light Motor

Vehicle, he was not authorized to drive a tractor and, therefore, the Insurance Company would not be liable to satisfy the award. The driver and owner are aggrieved of the said findings.

3. The claimants, on the other hand seek enhancement in compensation and also assails the findings of contributory negligence.

4. On 08.04.2022, two persons namely Arvind and Sameer were returning home from Village Kotra at about 10 p.m., on a motorcycle. Arvind was driving the motorcycle whereas Sameer was riding pillion. When they reached near the GT Road *via* Village Harsaula, a tractor-trolley loaded with sugarcane, which was going ahead of them, took a sudden turn while the duo was trying to overtake the same. It was claimed that the turn had been taken in a rash and negligent manner as a result of which the motorcycle hit the rear side of tractor-trolley. As a result of the impact, Arvind fell on the road whereas Sameer fell on the non-metalled portion of the road. Arvind was taken to Civil Hospital, Kaithal by Sameer, where he was declared brought dead.

4.1 On the statement of Sameer, FIR No. 62 dated 09.04.2022 was registered under Section 279, 304-A IPC at Police Station Titram.

5. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as the 'M.V.Act') was instituted by Sameer and Rajesh, brothers of deceased Arvind along with Pooja and Usha, both sisters of the deceased. Arvind was claimed to be 24 years old at the time of his death and was stated to be unmarried. He was claimed to be a labourer by profession and was stated to have been earning Rs.25,000/- per month. It was claimed that the accident, as a result of which Arvind had expired, had

taken place on account of the rash and negligent driving of the offending vehicle by its driver. A sum of Rs.1 Crore was claimed as compensation.

6. The driver and owner of the offending vehicle opposed the claim petition. In the written statement, certain preliminary objections as regards maintainability, *locus standi*, cause of action, the tractor having falsely been involved in the accident in connivance with the local police etc., were raised. On merits, all averments including the factum of the accident were denied.

7. The Insurance Company also raised its usual defences in the written statement and denied all other averments including the factum of the accident. It was averred that at the time of the alleged accident, the offending vehicle was being driven in contravention of the terms and conditions of the policy of Insurance and the MV Act. It was also averred that in case the Tribunal came to the conclusion that the alleged accident had taken place, the same was the result of rash and negligent driving of deceased-Arvind himself who was driving the motorcycle rashly and negligently and without wearing a helmet. It was averred that he had struck the motorcycle on the backside of the tractor-trolley and had himself contributed to the accident. It was, therefore, submitted that it was a case of composite negligence.

8. From the pleadings of the parties following issues were framed.

> ***"1. Whether Arvind s/o Lakhi had died in a road accident which took place on 08.04.2022 at about 10.00 PM, in the area of Police Station Titram, Distrit Kaithal, due to rash and negligent driving of vehicle (Tractor-Trolley) No. HR08S-8529, by the respondent No.1?OPP***

2. If issue No.1 is proved in affirmative, what would be the amount of compensation and who would be liable to pay the same? OPP

3. Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident and the terms and conditions of insurance policy were violated?OPR-3

4. Relief."

9. Parties led their respective evidence.

10. The Tribunal held that it was a case of contributory negligence since the motorcycle on which the deceased was travelling with his brother struck the tractor-trolley from the rear side. It was held that had the deceased been driving the motorcycle at a reasonable speed, the accident may not have happened.

10.1 As regards the quantum of compensation, the age of Arvind was assessed as 24 years. Being a labourer and there being no other proof of his income, the same was assessed as ₹10,000/- per month. 40% future prospects were applied taking the income to ₹14,000/- per month. 50% of the annual income (₹1,68,000/-) was deducted on account of personal expenses as the deceased was unmarried. This income came to ₹84,000/-. After applying a multiplier of 18, the dependency came to ₹15,12,000/-. ₹15,000/- each were awarded on account of last funeral expenses and loss of estate taking the total compensation to ₹15,42,000/-. It was held that the sisters of the deceased, being married and settled in their matrimonial homes, could not be taken to be dependent upon the deceased and therefore, only the brothers were held to be entitled to compensation.

11. As regards the liability to pay the compensation, it was held that since the trolley was not separately insured, the Insurance Company

could not be made liable to pay. It was further held that since the driver of the offending vehicle was having the licence for a Light Motor Vehicle and he was driving a tractor, he had violated the terms and conditions of the policy of Insurance and, therefore, the Insurance Company would not be liable to pay the compensation to the claimants and it would be the driver and owner of the offending vehicle who would be liable to pay.

12. Learned counsel for the parties were heard.

13. It was submitted by learned counsel representing the claimants-cross-objectionists that inadequate compensation was assessed by the Tribunal. It was submitted that the notional income was erroneously assessed as ₹10,000/-. It was further submitted that the sisters were wrongly not taken as dependents. Learned counsel also submitted that compensation under the heads of consortium had not been awarded. It was further submitted that even for funeral expenses and loss of estate, the amount deserves to be enhanced in view of the judgment of the Supreme Court of India in ***National Insurance Company Limited Vs.*** **Pranay Sethi and others, SLP (Civil No. 25590 of 2014), decided on 31.10.2017.**

13.1. It was also argued that the liability should have been of the Insurance Company and not that of the driver and owner.

14. In so far as the appellants (driver and owner) are concerned, it was submitted that the Tribunal had erroneously fastened the liability to pay the compensation on them. It was submitted that there was no requirement of registering the trolley separately as the accident had taken place on account of the rash and negligent driving of the tractor and not on account of any independent action of the trolley. In support of his contentions, learned counsel placed reliance upon judgment of a Coordinate Bench in the case of

United India Insurance Company Limited Vs. Smt. Kitabo Devi, 2010(52) RCR (Civil), 323, wherein it had been held that there was no requirement of a trolley being separately registered once the accident had taken place on account of the rash driving of the tractor. Reliance was also placed upon the judgment of a Coordinate Bench in the case of ***The New India Assurance Company Limited Vs. Sohan Lal and others, 2013 (1) PLR 706***. It was submitted that the Tribunal had wrongly applied these judgments against the appellants, whereas, in-fact, they support the contentions of the appellants.

15. As regards the issue of the driver of the offending vehicle having the licence of a Light Motor Vehicle, it was submitted that it is now well settled that where the unladen weight of a vehicle is below 7500 kg, a person having the licence of a Light Motor Vehicle would be authorised to drive the same even if it is a transport vehicle and it cannot be said to be a violation of the terms and conditions of the policy of Insurance. Reliance in this regard was placed upon the judgment of a three judges Bench of the Apex Court in the case of ***Mukund Dewangan Vs. Oriental Insurance Company Limited, 2017(14) SCC 663***.

16 In so far as the Insurance Company is concerned, learned counsel representing the same supported the findings recorded by the Tribunal and submitted that there is no scope of interference in the same.

17. I have considered the submissions made by learned counsel for the parties.

18. Coming first to the issue of negligence, this Court finds that the Tribunal erroneously recorded that it was a case of contributory negligence. It has to be borne in mind that contributory negligence has to be properly pleaded and proved. No doubt, a plea as regards the same was taken by the

Insurance Company in the written statement. However, practically, no evidence was led to prove the said contention. Further, if one goes through the record, it clearly emerges that it was the tractor which had taken a sharp turn to the right as a result of which the occupants of the motorcycle dashed into the rear side of the trolley. It is not unknown that such tractor-trolleys laden with agricultural produce or other things are driven rashly and negligently and often take sharp turns. If one peruses the contents of the FIR (Ex.P-1), the final report under Section 173 Cr.P.C (Ex.P-2), the site plan of the place of the incident (Ex.P-3), copies of the mechanic reports and the statement of PW-1 Sameer, it clearly emerges that the accident as a result of which Arvind unfortunately expired in the prime of his youth had taken place on account of the rash and negligent driving of the offending vehicle by its driver. There is absolutely no evidence on record to even *prima facie* suggest that Arvind was driving the motorcycle at a fast speed or in a rash and negligent manner. No one bothered to step into the witness box on behalf of the respondents even to *prima facie* prove their contentions. In the absence of the same, this Court finds the findings recorded by the Tribunal holding that it was a case of contributory negligence to be totally unsustainable. The findings are accordingly set aside and it is held that the accident had taken place on account of the rash and negligent driving of the tractor-trolley by its driver (Sushil Kumar).

19. In so far as the quantum of compensation is concerned, the age of the deceased Arvind was rightly assessed as 24 years. He was claimed to be a labourer earning ₹25,000/- per month. Since no evidence was led to this effect, the Tribunal rightly assessed the monthly income at ₹10,000/- per month. The Tribunal also rightly held that the married sisters of the deceased

could not be said to be dependent upon him. The deduction of 50% in the dependency on account of the deceased being unmarried was also rightly made. There is, therefore, no scope of any interference in the assessment of compensation of ₹15,12,000/-. However, consortium at the rate of ₹48,400/- deserves to be awarded to all four claimants meaning thereby that a sum of ₹1,93,600/- would be payable on account of the same. In addition to this, in terms of the decision of the Apex Court in the case of ***National Insurance Company Limited Vs.*** **Pranay Sethi and others** ***(supra)*** and ***Magma General Insurance Co. Ltd Vs. Nanu Ram Alias Chuhru Ram and others, 2018(18) SCC 130,*** the amount for the funeral expenses and loss of estate deserves to be enhanced to ₹18,150/- from ₹15,000/- on account of each head. Meaning thereby that a total of ₹6,300/- would be added to the said amount. The total enhancement in the compensation beyond ₹15,42,000/- (₹15,12,000/- + 15,000/- +15,000/-), comes to ₹1,99,900/. This amount would be payable in addition to the amount already assessed along with interest at the rate of 7.5% per annum.

20. Now coming to the issue of liability to pay the compensation, this Court is again of the opinion that the findings recorded by the Tribunal are not sustainable. Concededly, the trolley was not separately insured and it was only the Tractor which was insured. The trolley was loaded with sugarcane which is an agricultural produce. The tractor-trolley was, therefore, clearly being used for an agricultural purpose and not for a commercial purpose. Further, the case pleaded and proved is that the accident had taken place on account of the rash and negligent driving of the tractor. It was pleaded and proved that the driver of the tractor took a sudden right turn as a result of which the driver of the motorcycle dashed into the

trolley. The accident had not taken place on account of any individual or solitary act of the trolley. Had only the trolley turned turtle and an occupant of the trolley had died, somebody could have raised an argument that since the trolley was not insured, no compensation would be payable. Further, there may be a case where a trolley gets unhinged from the tractor and dashes into someone causing some human loss or other loss. Under such a circumstance also, somebody could have contended that since the trolley was not insured, no compensation would be payable. However, as already noticed, in the present case, the accident had taken place on account of the rash and negligent driving of the tractor by its driver. This precise situation was dealt with by a Coordinate Bench in the case of ***United India Insurance Company Vs. Smt. Kitabo Devi (supra)***. In that case, a collision took place between a tractor-trolley and jeep. Claimants were passengers in the jeep. The defence of the insurer was that since the trolley had not been insured, the Insurance Company would not be liable to pay the compensation. This defence was struck down by the Coordinate Bench and it was held that the Insurance Company would be liable to pay the compensation to a third party who were the passengers in the jeep. A similar view was taken by a Coordinate Bench in the case of ***The New India Assurance Company Vs. Sohan Lal and others*** (Supra). This Court is in concurrence with the said view.

21. The Hon'ble Apex also took the same view in the case of ***Fahim Ahmad and others Vs. United India Insurance Company Co. Limited and others, 2015(1) SCC (Civil) 258;***

> ***"5. A perusal of the records shows that, at the time of the accident, a trolley was attached with the tractor, which was***

carrying sand for the purpose of construction of underground tank near the farm land for irrigation purpose(s). However, merely because it was carrying sand would not mean that the tractor was being used for commercial purpose and consequently, there was a breach of the condition of policy on the part of the insured. There is nothing on record to show that the tractor was being used for commercial purposes) or purposes) other than agricultural purposes), i.e., for hire or reward, as contemplated under Section 149(2)(a)(i)(a) of the said Act.

6. Although the plea of breach of the conditions of policy was raised before the Tribunal, yet neither any issue was framed nor any evidence led to prove the same. In our opinion, it was mandatory for respondent No. 1-Insurance Company not only to plead the said breach, but also substantiate the same by adducing positive evidence in respect of the same. In the absence of any such evidence, it cannot be presumed that there was breach of the conditions of policy. Thus, there was no reason to fasten the said liability of payment of the amount of compensation awarded by the Tribunal on the appellants herein.

7. We may also notice that this Court in National Insurance Co. Ltd. v. V. Chinnamma & Ors., 2004(4) RCR (Civil) 300 : JT 2004(7) SC 167, held that carriage of vegetables being agricultural produce would lead to an inference that the tractor was being used for agricultural purposes, but the same itself would not be construed to mean that the tractor and trailer can be used for carriage of goods by another person for his business activities. Thus, a tractor fitted with a trailer may or may not answer the definition of goods carriage' contained in Section 2(14) of the said Act."

22. A Coordinate Bench of this Court had also taken a similar view in the case of ***Yunus Vs. Wajid Khan and others, FAO No. 4072 of 2013, decided on 29.08.2025.***

23. The matter finally stands settled by the Hon'ble Apex Court vide its judgment in the case of ***The Royal Sundaram Alliance Insurance Company Limited Vs. Smt. Honnamma and others, 2025 AIR SC 2641,*** wherein it has been held that in such cases, it would the Insurance Company which would be liable to pay the compensation and it cannot avoid its liability merely because the trailer was not separately insured.

24. Coming to the issue of the driver having licence for a Light Motor Vehicle, the issue is now well settled by the Hon'ble Apex Court vide its constitution Bench judgment in the case of ***M/s Bajaj Alliance General Insurance Co. Ltd. Vs. Rambha Devi and others, 2025(1) RCR (Civil) 5*** which, in no uncertain turns held that where the unladen weight of a vehicle was less than 7500 kg, a driver having licence to drive a Light Motor Vehicle could not be said to have violated the terms and conditions of the policy of insurance.

> ***"131. Our conclusions following the above discussion are as under:-***
>
> > ***(I) A driver holding a license for Light Motor Vehicle (LMV) class, under Section 10(2)(d) for vehicles with a gross vehicle weight under 7,500 kg, is permitted to operate a `Transport Vehicle' without needing additional authorization under Section 10(2)(e) of the MV Act specifically for the `Transport Vehicle' class. For licensing purposes, LMVs and Transport Vehicles are not entirely separate classes. An overlap exists between the two. The special eligibility***

> ***requirements will however continue to apply for, inter alia, e-carts, erickshaws, and vehicles carrying hazardous goods.***
>
> ***(II) The second part of Section 3(1), which emphasizes the necessity of a specific requirement to drive a `Transport Vehicle,' does not supersede the definition of LMV provided in Section 2(21) of the MV Act.***
>
> ***(III) The additional eligibility criteria specified in the MV Act and MV Rules generally for driving `transport vehicles' would apply only to those intending to operate vehicles with gross vehicle weight exceeding 7,500 kg i.e. `medium goods vehicle', `medium passenger vehicle', `heavy goods vehicle' and `heavy passenger vehicle'.***
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> ***(IV) The decision in Mukund Dewangan (2017) is upheld but for reasons as explained by us in this judgment. In the absence of any obtrusive omission, the decision is not per incuriam, even if certain provisions of the MV Act and MV Rules were not considered in the said judgment."***

25. By way of the aforesaid judgment the Hon'ble Apex Court also approved the judgment of the Apex Court in the Case of ***Mukund Dewangan Vs. Oriental Insurance Company Limited*** (supra).

26. In the present case, the Registration Certificate of the tractor was produced on record as Ex.R3, as per which the unladen weight of the tractor was 2065 kgs which less than 7500 kgs. Under the circumstances, the Tribunal erred in holding that there had been a violation of the terms and conditions of the policy of Insurance.

27. In view of the aforementioned facts and circumstances, the appeal is allowed and the cross-objections are partly allowed. The findings

of the MACT as regards the contributory negligence and liability to pay the compensation are set aside. It is held that the accident had taken place on account of the rash and negligent driving of the offending vehicle by its driver. It is further held that the liability to pay the compensation would be that of the Insurance Company. As regards the quantum, it has already been held that over and above the sum of ₹15,42,000/-, a sum of ₹1,99,900/- would be payable along with interest at the rate of 7.5% per annum from the date of institution of the present appeal till realization.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 09.01.2026
Rekha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No