

2026.PHHC.089382



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

FAO NO.- 2002-2016 (O&M)

1	The date when the judgment was reserved	24.04.2026
2	The date when the judgment is pronounced	02.07.2026
3	The date when the judgment is uploaded on the website	03.07.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment and reasons thereof.	Not applicable

GOPAL AND ANR

....Appellants

Vs.

NEPAL SINGH AND ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Abhinav Kaushik, Advocate for
Mr. Rajesh Lamba, Advocate,
for the appellants.

Mr. Rajbir Wasu, Advocate,
for respondent no. 3- Insurance Company.

HARKESH MANUJA, J.

1. The present appeal has been preferred against the award dated 10.11.2015 passed by the learned Motor Accident Claims Tribunal, Palwal (for short “the Tribunal”), whereby the claim petition filed by the appellant(s) seeking compensation of an amount of Rs. 30,00,000/- on account of death of Anil in a motor vehicular accident stood dismissed.

FACTS

2. Briefly stating, on 09.07.2014, Anil (since deceased) was proceeding on his bicycle to irrigate his fields. When he reached the road between villages Harfali

and Chhaprola, a car bearing registration No. HR-29AB-9101 (hereinafter referred to as "the offending vehicle"), being driven by respondent No.1 in a rash and negligent manner and at a high speed, struck against him. As a consequence of the impact, Anil fell on the road and sustained multiple grievous injuries. The driver of the offending vehicle shifted the injured to Metro Hospital, Faridabad. Upon reaching the said hospital, the deceased's brother found both the offending vehicle and its driver present there who after sometime fled away along with the vehicle from the hospital. Thereafter, the injured was referred to Safdarjung Hospital, New Delhi, where he succumbed to his injuries on 15.07.2014 during the course of treatment. Subsequently, FIR No.388 dated 16.07.2014 under Sections 279 and 304-A of the IPC was registered at Police Station Sadar, Palwal, in relation to the accident in question.

3. The learned Tribunal, by the impugned award, dismissed the claim petition primarily on the ground that the FIR had been lodged after a delay of about seven days. It further observed that the FIR was lodged by the deceased's brother, who was not even an eyewitness to the occurrence. Ld. Tribunal also disbelieved the testimony of Sandeep, PW-1, holding him to be a planted witness on the reasoning that although he claimed to have witnessed the accident, he neither shifted the injured to the hospital nor accompanied him there, and instead merely informed the family members telephonically, while the injured was taken to the hospital by the driver of the offending vehicle. On the aforesaid premises, the Tribunal concluded that the involvement of the offending vehicle and the alleged rash and negligent driving had not been established, resulting in the dismissal of the claim petition.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANT(S)/CLAIMANT(S).

4. Learned counsel for the appellants contended that the findings recorded by the learned Tribunal were perverse and contrary to the settled principles of law. It was submitted that the delay in lodging the FIR stood duly explained in view of the medical condition of the deceased (then injured) and that the FIR, coupled with the evidence on record, sufficiently established the involvement of the offending vehicle in the accident. Learned counsel further argued that the Tribunal erred in holding the conduct of PW-1 Sandeep to be unnatural and in treating him as a planted witness, as there was no uniform standard governing the conduct of an eyewitness and the same varied from person to person depending upon the circumstances. It was also contended that the non-appearance of the driver and owner of the offending vehicle warranted drawing of an adverse inference against them. Accordingly, it was prayed that the impugned award be set aside and the claim petition be allowed by granting just and fair compensation in accordance with law.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No.3/INSURANCE COMPANY.

5. Learned counsel for respondent No.3/Insurance Company supported the impugned award and contended that the same was well-reasoned and required no interference. It was argued that the unexplained delay of about 48 days in lodging the FIR, coupled with inconsistencies in the evidence, casted serious doubt on the genuineness of the claim. He further submitted that the appellant(s) failed to establish rash and negligent driving on the part of the offending vehicle and that

the possibility of collusion with respondents No.1 and 2 could not be ruled out. Accordingly, prayer was made for dismissal of the appeal.

DISCUSSION AND REASONING

6. I have heard learned counsel for the parties and perused the record of the case. I find force in the arguments raised on behalf of the learned counsel for the appellant(s).

7. Ld. Tribunal while dismissing the claim petition placed undue emphasis on the delay in lodging the FIR. However, it is well settled that mere delay in lodging the FIR cannot be a ground to discard an otherwise genuine claim, particularly in motor accident cases. The Hon'ble Supreme Court in **Ravi v. Badrinarayan, 2011 (4) SCC 693**, has held that delay in lodging the FIR is not fatal where the injured is under treatment or otherwise incapacitated. Relevant para thereof is reproduced hereunder:-

“20. It is well-settled that delay in lodging FIR cannot be a ground to doubt the claimant's case. Knowing the Indian conditions as they are, we cannot expect a common man to first rush to the Police Station immediately after an accident. Human nature and family responsibilities occupy the mind of kith and kin to such an extent that they give more importance to get the victim treated rather than to rush to the Police Station. Under such circumstances, they are not expected to act mechanically with promptitude in lodging the FIR with the Police. Delay in lodging the FIR thus, cannot be the ground to deny justice to the victim. In cases of delay, the courts are required to examine the evidence with a closer scrutiny and in doing so; the contents of the FIR should also be scrutinised more carefully. If Court finds that there is no indication of fabrication or it has not been concocted or engineered to implicate innocent

persons then, even if there is a delay in lodging the FIR, the claim case cannot be dismissed merely on that ground.

21. The purpose of lodging the FIR in such type of cases is primarily to intimate the police to initiate investigation of criminal offences. Lodging of FIR certainly proves factum of accident so that the victim is able to lodge a case for compensation but delay in doing so cannot be the main ground for rejecting the claim petition. In other words, although lodging of FIR is vital in deciding motor accident claim cases, delay in lodging the same should not be treated as fatal for such proceedings, if claimant has been able to demonstrate satisfactory and cogent reasons for it. There could be variety of reasons in genuine cases for delayed lodgment of FIR. Unless kith and kin of the victim are able to regain a certain level of tranquility of mind and are composed to lodge it, even if, there is delay, the same deserves to be condoned. In such circumstances, the authenticity of the FIR assumes much more significance than delay in lodging thereof supported by cogent reasons.”

8. Equally untenable is the reasoning adopted by the learned Tribunal with regard to the informant not being an eyewitness to the occurrence. It is a settled proposition of law that an FIR is only intended to set the criminal law in motion and need not necessarily be lodged by a person having direct or personal knowledge of the occurrence. An FIR can validly be lodged even by a person who has received information regarding the commission of a cognizable offence from another source. In this regard, reference may be made to Hallu v. State of M.P., 1974 (4) SCC 300, wherein the Hon'ble Supreme Court held as under:-

7. “...The High Court however refused to attach any importance to the circumstance that the names of the appellants were not mentioned in the report on the ground that though it was earliest in point of time it could not be treated as the First Information report under Section [154](#), Criminal Procedure Code, as Tibhu had no personal knowledge of the incident and the Report was based on hearsay evidence. In this view the High Court clearly erred for Section 154 does not require that the Report must be given by a person who has personal

knowledge of the incident reported. The section speaks of an information relating to the commission of a cognizable offence given to an officer in charge of a police station. Tibhu had given such information and it was in consequence of that information that the investigation had commenced.”

9. The legal position becomes even more significant in proceedings under the Motor Vehicles Act, which are summary in nature and are not governed by the strict rules of evidence. Further, in **Bimla Devi v. Himachal Road Transport Corporation, 2009 (13) SCC 530**, it has been held that strict proof of the accident, as required in a criminal trial, is not necessary and the Tribunal is required to adopt a pragmatic approach while appreciating the evidence. **In Kaushnuma Begum v. New India Assurance Co. Ltd., 2001 (2) SCC 9**, the Hon’ble Supreme Court held that such claims are to be decided on the touchstone of preponderance of probabilities rather than proof beyond reasonable doubt. The same principle was reiterated in **Mangla Ram v. Oriental Insurance Co. Ltd., 2018 (5) SCC 656**, wherein it was observed that once the involvement of the offending vehicle stands established, the Tribunal ought to adopt a liberal and pragmatic approach while considering the claim.

10. In view of the legal position discussed above, the findings recorded by the learned Tribunal cannot be sustained. The accident, in the present case took place on 09.07.2014. Immediately thereafter, the driver of the offending vehicle himself shifted the injured to Metro Hospital, Faridabad, from where he was referred to Safdarjung Hospital, New Delhi, for further treatment. The injured remained admitted there and unfortunately succumbed to his injuries on 15.07.2014. The FIR came to be registered on 16.07.2014 at the instance of Ajay, the brother of the deceased. Thus, the delay in lodging the FIR stood sufficiently explained in view of the continuous medical treatment of the injured for nearly six days and his eventual demise. In such circumstances, it would be unrealistic to expect the

family members to abandon the immediate concern of securing medical treatment to the victim and rush to the police station. Their foremost priority was naturally to save the life of the injured, and the delay occasioned on that account cannot be viewed adversely.

11. This Court also finds itself unable to agree with the finding of the learned Tribunal that PW-1 Sandeep was a planted witness. Human conduct cannot be measured by any straightjacket formula, for the reaction of each individual varies according to the facts and circumstances prevailing at the time of the occurrence. As per the cross examination of PW-1, the driver of the offending vehicle was known to him and the injured was his brother. He further deposed that once the injured had already been taken to the hospital by the driver of the offending vehicle, he immediately informed the family members of the deceased telephonically and thereafter proceeded to the hospital, where he reached at about 10.00 p.m. and made enquiries regarding the injured from the reception. Such conduct appears to be perfectly natural and consistent with ordinary human behaviour and does not, in any manner, suggest that he was a planted witness.

11.1 The subsequent act of leaving the hospital does not dilute the significance of his earlier conduct. Rather than creating any doubt, these circumstances reinforce and corroborate the version put forth by PW-1 Sandeep, PW-3 Gopal, father of the deceased and the contents of the FIR, as regards the manner in which the accident occurred and the identity of the offending vehicle.

12. Furthermore, respondents No.1 and 2, in their joint written statement, admitted that respondent No.1 was the driver and respondent No.2 the owner of the offending vehicle and that the vehicle stood insured with respondent No.3, though they denied the factum of the accident. However, the involvement of the

offending vehicle stood duly established from the deposition of PW-2 Anil Kumar, Ahlmad, who produced the judicial record and deposed that in FIR No.388 of 2014, respondent No.1 had been charge-sheeted under Sections 279 and 304-A IPC. Significantly, neither respondent No.1 nor respondent No.2 entered the witness box to rebut the evidence led by the prosecution witnesses. Thus, in such circumstances, adverse inference ought to be drawn against the respondents.

13. In view of the foregoing discussion, this Court is of the considered opinion that the findings recorded by the learned Tribunal are unsustainable in the eyes of law. The Tribunal misdirected itself by discarding reliable and cogent evidence on hyper-technical grounds and by applying erroneous standard of proof. The delay in lodging the FIR stands sufficiently explained, the involvement of the offending vehicle is duly established from the record, and the testimonies of the prosecution witnesses inspire confidence.

14 Accordingly, it is held that the accident in question occurred due to rash and negligent driving of the offending vehicle i.e Swift car bearing no. HR-29AB-9101 by respondent No.1. The findings of the ld. Tribunal to the contrary are hereby set aside.

15. Since the ld. Tribunal has dismissed the claim petitions, no compensation was assessed. Therefore, this Court proceeds to determine just and fair compensation payable to the appellant(s).

QUESTION OF INCOME ASSESSED

16. As per the claim petition, the deceased was stated to be an agriculturist who was also involved in milk vending and was alleged to be earning a monthly

income of Rs.15,000/- at the time of the accident. However, appellants-claimants failed to produce any cogent documentary evidence to substantiate either the nature of his avocation or his monthly income. Nonetheless, it may be noted that the proceedings in Motor Accident Claims, are summary in nature and strict rules of evidence are not required to be adhered to. It is equally well settled that while determining the notional income in cases where strict proof is not forthcoming, the Court is required to adopt a pragmatic and realistic approach so as to arrive at a just and reasonable figure, keeping in view the surrounding circumstances and the economic realities of life.

16.1 In this regard, the Hon'ble Supreme Court in case of **“Chandra @ Chanda @ Chandraram vs. Mukesh Kumar Yadav & Ors.”**, reported as **(2022) 1 SCC 198**, held that in the absence of proof of income, the minimum wage notification can be a yardstick but at the same time cannot be absolute one to fix the income of the deceased and some guesswork is required to be done to assess the income. Relevant excerpt thereof is reproduced hereunder:-

“.....In the absence of salary certificate the minimum wage notification can be a yardstick but at the same time cannot be an absolute one to fix the income of the deceased. In the absence of documentary evidence on record some amount of guesswork is required to be done. But at the same time the guesswork for assessing the income of deceased should not be totally detached from reality. Merely because claimants were unable to produce documentary evidence to show the monthly income of Shivpal, same does not justify adoption of lowest tier of minimum wage while computing the income. There is no reason to discard the oral evidence of the wife of the deceased who has deposed that late Shivpal was earning around Rs. 15,000/- per month.....”

16.2 Further, the Hon'ble Supreme Court in **Jakir Hussein v. Sabir and others**, reported as **2015(2) R.C.R (Civil)141** has held as under:

"the wage rate as per the minimum wage notification is only a yardstick and not an absolute factor to be taken to determine the compensation under the future loss of income. Minimum wage, as per

the State government notification alone may at times fail to meet the requirements that are needed to maintain the basic quality of life since it is not inclusive of factors of cost of living index."

16.3. In the present case, although the appellants-claimants have two other elder sons, the said fact by itself cannot lead to the conclusion that the deceased was not contributing towards the support and maintenance of the family. The deceased was a healthy 32-year-old man and was stated to be engaged in agriculture as well as milk vending, both of which constitute gainful sources of livelihood. In such circumstances, having regard to the nature of his avocation, his age, the responsibility of maintaining a family, and the general rise in the cost of living, this Court deems it just and appropriate to reassess the monthly income of the deceased at Rs.10,000/-

QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES

17. In the present case, no evidence other than the Post Mortem Report (Ex. P-35) of deceased Anil was brought on record and the same reflects the age of the deceased as 32 years. Accordingly, it can safely be taken that the deceased was 32 years of age at the time of the accident. Thus, in view of the law laid down in **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another"**, reported as **2009(3) RCR (Civil) 77**, and **"National Insurance Co. Ltd. vs. Pranay Sethi and others"** reported as **(2017) 16 SCC 680**, 40% of the income is granted towards future prospects. Accordingly, multiplier of 16 is applied.

17.1 Furthermore, in accordance with the law laid down by the Hon'ble Supreme Court in ***Sarla Verma's case (supra)***, where the deceased was a bachelor, it has been categorically held that 50% of the income of the deceased is liable to be deducted towards his personal and living expenses, particularly where

the claimants are the parents. The relevant paragraph of the judgment is reproduced hereunder:-

“15. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In this regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependent and the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be dependent, and 50% would be treated as the personal and living expenses of the bachelor 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.”

17.2 In the present case, the deceased was admittedly a bachelor and is also survived by two elder brothers. In such circumstances, no exceptional ground is made out to depart from the settled principle or to reduce the deduction from 50% to 40%. Consequently, the deduction towards personal and living expenses is rightly to be assessed at 50% in terms of the ratio laid down in ***Sarla Verma’s case (supra)***.

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

18. Furthermore, in view of the judgment of the Hon’ble Apex Court in **Smt. Sarla Verma’s case (supra)**, **Pranay Sethi’s case (supra)** and **“United India Insurance Co.Ltd. vs. Satinder Kaur”**, reported as **(2021) 11 SCC 780**, compensation awarded under conventional heads is also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as

compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of Consortium is assessed to the tune of Rs. 96,000/- (48,000 x 2) as appellants/claimants being the parents are entitled to filial consortium.

MEDICAL EXPENSES

19. As per the claim petition, immediately after the accident, the deceased Anil was admitted to Metro Hospital, Faridabad, and was thereafter referred to Safdarjung Hospital, New Delhi, on 15.07.2014, where he unfortunately succumbed to the injuries sustained in the accident during the course of treatment on the very same day. Thus, the deceased remained admitted for nearly six days. These facts stand duly corroborated by the medical bills (Ex. P-6 to Ex. P-33) and the Post-Mortem Report (Ex. P-35) placed on record. The claimants appellants further averred that they incurred an expenditure of ₹3,00,000/- towards the treatment of the deceased, transportation of the dead body and allied medical expenses, in support whereof the aforesaid medical bills have been duly proved. It is well settled that while assessing medical expenses in motor accident claim cases, a pragmatic and realistic approach is required to be adopted, as the family of a victim cannot be expected to preserve each and every bill and receipt during the period of medical emergency and treatment. In the facts and circumstances of the present case, the medical evidence on record sufficiently establishes that substantial expenditure was incurred on the treatment of the deceased. Accordingly, a sum of Rs.3,00,000/- is awarded to the claimants towards medical expenses. The amount awarded towards funeral expenses shall remain separate and in addition to the aforesaid compensation.

CONCLUSION

20. In view of what has been discussed hereinabove, the appellant/claimant shall be entitled for the grant of compensation in the following manner:-

S No.	Nature	Amount (in Rs.)
1.	Annual Income of the deceased (Rs.10,000 x 12)	Rs. 1,20,000/-
2.	Deduction (50%)	Rs. 60,000/-
3.	Net Income (Rs. 1,20,000-Rs. 60,000))	Rs. 60,000/-
4.	Future Prospects (40%)	Rs. 24,000/-
5.	Total Income (60,000/- + 24,000/-)	Rs. 84,000/-
6.	Loss of Income after applying multiplier of 16 as deceased aged 32 years(84,000 x 16)	Rs. 13,44,000/-
7.	Loss of Estate	Rs. 18,000/-
8.	Funeral Expenses	Rs. 18,000/-
9.	Loss of Consortium (48,000 x 2)	Rs. 96,000/-
10.	Compensation towards medical expenses	Rs. 3,00,000/-
11.	Total Compensation	Rs. 17,76,000/-

21. In the present case, respondent No.1 is the driver of the offending vehicle and respondent No. 2 is the registered owner of the same. On the date of the accident, the said vehicle was validly insured with respondent No.3/ Insurance Company. Thus all the three respondents are held jointly and severally liable to pay compensation to the petitioners.

22. In view of the observations made by the Hon'ble Supreme Court in **"Smt. Supe Dei and others vs. National Insurance Company Limited and other,** reported as **(2009) (4) SCC 513** and approved in a subsequent judgment titled as **"Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443,** the interest is granted @ 9% per annum on the amount of

compensation awarded to the claimants from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today.

QUESTION OF APPORTIONMENT

23. It is ordered that the enhanced compensation amount, along with all statutory benefits accrued thereupon, shall be apportioned amongst the dependants/LRs in the ratio of 60:40, whereby 60% share shall devolve upon the mother of the deceased, she being a Class-1 legal heir, and the remaining 40% shall be apportioned to the father, in accordance with law.

24. In view of the aforesaid, the present appeal stands allowed.

25. Pending miscellaneous application(s), if any, shall stand disposed of.

JULY 02, 2026
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>