

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO (MVA) Nos. 254 & 444 of 2017
Reserved on : 25th February, 2026
Decided on : 18th March, 2026

1. FAO (MVA) No.254 of 2017

Reliance General Insurance Company Ltd.Appellant

Versus

Jeewana Devi and Others ...Respondents

2. FAO (MVA) No.444 of 2017

Jeewana Devi & OthersAppellants

Versus

Vikas Guleria and Others ...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹ Yes.

1. FAO No. 254 of 2017

For the appellant: Mr. Jagdish Thakur, Advocate

For the respondents: Mr. Vikrant Chandel, Advocate
for respondent No.1.

Mr. Reham Tulla, Advocate vice
Mr. Devender K. Sharma,
Advocate for respondents No.2
and 3.

¹ Whether the reporters of Local Papers may be allowed to see the judgment? Yes.

2. FAO No. 444 of 2017

For the appellant: Mr. Vikrant Chandel, Advocate

For the respondents: Mr. Reham Tulla, Advocate vice
Mr. Devender K. Sharma,
Advocate, for respondents No.1
and 2.

Mr. Jagdish Thakur, Advocate for
respondent No.3.

Virender Singh, Judge

The above titled appeals are being disposed of, by a common judgment, as both these appeals have arisen out of the award dated 19.10.2016, passed by learned Motor Accidents Claims Tribunal-III, Mandi, District Mandi, H.P. (hereinafter referred to as 'the MACT'), in Claim Petition No.34/2012, titled as Jeewana Devi versus Vikas Guleria & Others.

2. For the sake of convenience, the parties to the present *lis* are, hereinafter, referred to, in the same manner, in which, they were referred to, by the learned MACT.

3. Brief facts, leading to the filing of present appeals, before this Court, may be summed up, as under:-

3.1. Claimant Jeewana Devi, unfortunate mother of Shri Sandeep Chauhan, has filed the claim petition under Section 166 of the Motor Vehicles Act (hereinafter referred to as 'the M.V. Act'), seeking compensation on account of death

of her son Sandeep Chauhan, in road side accident involving vehicle No.HP65-4420, (hereinafter referred to as the 'offending vehicle'), being owned by respondent No.1, driven by respondent No.2 and insured with respondent No.3.

3.2. The claimant has sought the relief on the ground that on 18.10.2011, her son Sandeep Chauhan, along with Matul Chauhan, was coming back to home on motorcycle No.HP33B-1697, and at about 8.30 p.m., when, they reached at a place Rani-ki-Bain, meanwhile, the offending vehicle, being driven by respondent No.2, in a rash and negligent manner, reached there and hit the motorcycle being driven by the son of the claimant.

3.3. Consequently, the rider, as well as, the pillion rider sustained injuries and both, the motorcyclist and the pillion rider, died on the spot. Their dead bodies were taken to hospital for postmortem examination.

3.4. The information regarding the incident was given to the police of Police Station Balh, where FIR No.254/11, dated 18.10.2011, under Sections 279, 201 and 304-A of the IPC and Section 187 of M.V. Act, was registered.

3.5. According to the claimant, her son, at the time of his death, was about 25 years of age and was working as

Assistant Engineer in Rural Development and Panchayati Raj Department and was earning Rs.18,000/- per month. As per the claimant, the accident has solely been occurred on account of rash and negligent driving attributed to respondent No.2, the driver of the offending vehicle.

4. On the basis of the above facts, the compensation of Rs.50,00,000/- (fifty lacs), along with 18% interest has been sought from the respondents.

5. When put to notice, the claim petition has been contested by the respondents.

6. Respondents No.1 and 2 have filed their joint reply, in which, they have taken the preliminary objections that the claim petition is not maintainable, as no accident had taken place with the bus owned by respondent No.1 and driven by respondent No.2. They have also termed the FIR to be registered on the basis of assumption. They had also alleged that the accident had taken place due to the fault of rider of motorcycle No.HP33B-1697 and according to them, owner, as well as, insurer of the motorcycle has not been impleaded as party, in the present case.

7. On merits, the factum of accident has been denied and the amount of compensation, as claimed in the petition, is also stated to be exaggerated.

8. Insurance Company has filed the separate reply by taking the preliminary objections that the petition is not maintainable against the Insurance Company, as the driver of the offending vehicle was not having a valid and effective driving licence at the time of accident.

8.1. According to the Insurance Company, as per Section 134 (C) of the M.V. Act, owner and driver of the offending vehicle have not supplied requisite documents to the Insurance Company. As per the Insurance Company, the accident in question, had taken place due to the contributory negligence of rider of Motorcycle No.HP33B-1697. Rest of the contents have mainly been denied for want of knowledge.

9. On the basis of the above facts, a prayer has been made to dismiss the petition.

10. Claimant has filed the rejoinder to the replies filed by the respondents, by denying the preliminary objections, as well as, the factual position, by virtue of which, the claim petition has been contested and controverted by the respondents.

11. From the pleadings of the parties, the following issues were framed, by the learned MACT, vide order dated 31.12.2014:-

1. *Whether deceased Sandeep Chauhan died in an accident with vehicle bearing No.HP-65-4420, which was being driven in a rash and negligent manner by respondent No.2, as alleged? OPP*
2. *If issue No.1 is proved in affirmative, whether the petitioner is entitled for compensation, if so to what amount and from whom, as alleged? OPP*
3. *Whether the petition is bad for non joinder of necessary parties, as alleged ? OPR 1 and 2.*
4. *Whether the vehicle of respondent No.1 is insured with respondent No.3, as alleged ?
OPR 1 & 2*
5. *Whether the vehicle in question was being plied in violation of terms and conditions of Insurance Policy, as alleged? OPR2.*
6. *Relief.*

12. Thereafter, the parties to the *lis* were directed to adduce evidence.

13. After the closure of evidence and after hearing learned counsel for the parties, the learned MACT has decided the petition, vide award impugned herein, by giving the following relief:-

“As a sequel to my findings on all issues above, the instant claim petition is allowed with cost which is assessed at Rs.5,000/-. The petitioner is awarded total compensation of Rs.14,60,600/-

with interest @7.5% per annum, from the date of filing of this petition till payment to be paid by the respondent No.1 and 2. However, the respondent No.3 being insurer of the offending vehicle shall indemnify this award. This award is inclusive of amount, if any, awarded under Section 140 of the Act. The respondent No.3 is directed to deposit the award amount within 45 days.”

14. Feeling aggrieved from the said award, claimant, as well as, the Insurance Company have preferred the present appeals, before this Court.

15. The Insurance Company, aggrieved from the said award, has filed FAO No. 254 of 2017, mainly, on the ground that in the FIR, particulars of the offending vehicle have not been mentioned and after a period of 8 days, the offending vehicle was impounded and name of the driver had been added in the FIR.

16. The Insurance Company has also assailed the award, on the ground that the person, who had lodged the FIR was not present on the spot. The award has also been assailed on the ground that the learned MACT has wrongly given 50% addition in the income of the deceased, whereas, the claimant could not make out a case for grant of 50% addition in the income of the deceased in the present case.

17. On the basis of the above facts, Shri Jagdish Thakur, Advocate, has prayed that the appeal (FAO No.254 of

2017), may kindly be allowed, by dismissing the claim petition.

18. In this case, claimant Jeewana has also filed appeal on the ground that the adequate compensation has not been awarded and wrong multiplier has been applied.

19. In addition to this, enhancement has also been sought on the ground that the learned MACT has failed to take into consideration the actual income of the deceased. As per the claimant/appellant, more amount has been deducted towards personal expenses of the deceased had he been alive. In addition to this, learned MACT has wrongly deducted the income tax @ 20%, which is stated to be against the legal provisions.

20. On the basis of the above facts, Mr. Vikrant Chandel, Advocate has prayed that the appeal (FAO No.444 of 2017), may kindly be allowed, and amount of compensation may kindly be enhanced accordingly.

21. The Insurance Company has assailed the award mainly on the ground that the claimant could not prove the involvement of the offending vehicle, in the accident in question, what to talk about the rashness and negligence of the driver of the offending vehicle.

22. Perusal of the record shows that the copy of FIR No.254 of 2011, has been proved by PW-2 HC Ashwani No.62, as Ex.PW-2/A. Perusal of the same shows that the said FIR has been registered at the instance of one Rajinder Pal Dhiman, who admittedly has stated in the FIR that some unknown vehicle has hit the motorcycle bearing HP33B-1697.

23. However, the factum of accident stood proved from the testimony of PW-3 Balak Ram, who has categorically deposed about the rash and negligent driving of the offending vehicle. Admittedly, the FIR in question was not lodged by making a statement on oath, as such, non-mentioning of the description/registration number of the offending vehicle is not fatal, as, the proceedings under the M.V. Act are summary in nature, where, the matter has to be decided, on the touchstone of preponderance of probability.

24. The statement on oath made by PW-3, in the absence of any ulterior motive, which even has not been suggested to him, cannot be ignored and considering the evidence of PW-3, coupled with the copy of FIR, as well as, copy of postmortem report Ex.PW-1/A, this Court is of the view that the claimant has proved the factum of accident, which had taken place due to rash and negligent driving of

offending vehicle on the touchstone of preponderance of probability.

25. Specific allegations have been levelled against respondent No.2, Hans Raj, about the fact that he was driving the offending vehicle in a rash and negligent manner. Except denying the factum of accident in the reply, respondent No.2, has not bothered to step into the witness-box to depose, on oath, about the fact that he was not driving the offending vehicle at the relevant time. His non appearance in the witness-box, gives an occasion for this Court to draw an adverse inference that the stand taken by respondent No.2, in his reply is not correct. Moreover, the offending vehicle was in the exclusive control of respondent No.2 and he has not bothered even to make a complaint to police/higher authorities about his wrong involvement in the FIR No.254/2011, dated 18.10.2011, under Sections 279, 201 and 304-A of the IPC and Section 187 of MV Act.

26. Hence, the contention of the learned counsel appearing for the Insurance Company is liable to be rejected and the same is accordingly rejected.

27. Since the claimant has also filed the appeal against the award passed by the learned MACT and

Insurance Company has also assailed the award apart from the other grounds that the learned MACT has wrongly awarded 50% addition on account of future prospects, as such, this Court would now proceed further to decide the moot question whether the compensation awarded to the claimant falls within the definition of 'just compensation', or not.

28. The Hon'ble Apex Court in ***Oriental Insurance Company Limited vs. Mohd. Nasir and another, (2009) 2 SCC (Cri.) 987***, has held that the provisions of M.V. Act are beneficial piece of legislation and the endeavour of the Court should be to provide "just compensation" to the claimant. The relevant paras 23 and 24 of the judgment are reproduced as under:-

"23. Both, the 1923 Act and 1988 Act are beneficent legislation insofar as they provide for payment of compensation to the workmen employed by the employers and/or by use of motor vehicle by the owner thereof and/or the insurer to the petitioners suffering permanent disability. The amount of compensation is to be determined in terms of the provisions of the respective Acts. Whereas in terms of the 1923 Act, the Commissioner who is a quasi judicial authority, is bound to apply the principles and the factors laid down in the Act for the purpose of determining the compensation, Section 168 of the 1988 Act enjoins the Tribunal to make an award determining the amount of compensation which appears to be just.

24. Both the Acts aim at providing for expeditious relief to the victims of accident. In these cases, the accidents took place by reason of use of motor vehicles. Both the statutes are beneficial ones for the workmen as also the third parties. The benefits thereof are available only to the persons specified under the Act besides under the Contract of Insurance. The statutes, therefore, deserve liberal construction. The legislative intent contained therein is required to be interpreted with a view to give effect thereto.

(self emphasis supplied)

29. In order to ascertain the above object of the M.V. Act, i.e., 'just compensation', the first and foremost question is about the fact as to whether the learned MACT has rightly determined the compensation on account of death of son of the claimant.

30. As per the claim petition, son of the claimant, at the time of accident and death, was about 25 years. In order to prove this fact, matriculation certificate of Sandeep Chauhan, has also been annexed with the claim petition as Ex.PW-6/B. As per the said certificate, the date of birth of Sandeep Chauhan, was 06.05.1983 and the accident had taken place on 18.10.2011.

31. Thus, at the time of accident the age of the son of the claimant was 28 years, whereas, learned MACT has determined the age of the son of the claimant as 25 years. To

that extent learned MACT has fallen into error. Thus, the age of son of the claimant at the time of death was proved to be 28 years.

32. Now, the next question, which arises for determination before this Court is about the earnings of the son of the claimant during his life time.

33. As per the claim petition, he was working as Assistant Engineer with Director, Rural Development and Panchayati Raj, Dharampur Block, District Mandi, H.P. His salary certificate has been proved as Ex.PW-5/A and as per this certificate, he was working on contract basis and his salary was Rs.18,000/- per month.

34. In view of the law laid down by Hon'ble Apex Court in ***National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680***, 50% amount is required to be added in the income of the deceased towards his future prospects, had he been alive, in order to award just compensation, as the son of the claimant, during his life time was working in public sector. Thus, by adding 50%, on account of future prospects, in his salary, his monthly income comes to Rs.27,000/- (Rs.18,000/- + Rs.9,000/-). As such, the annual income comes to Rs.3,24,000/- (Rs.27,000/- X

12). The income tax component is liable to be deducted from the said income. Out of Rs.3,24,000/-, the amount of total taxable income comes to Rs.1,44,000/- (Rs.3,24,000/- minus Rs.1,80,000/-).

35. The son of the claimant died in the year 2011 and at the relevant time, this income falls within the tax slab of 10%. Meaning thereby, Rs.14,400/- is liable to be deducted as income tax, from the annual income of the deceased. Thus, after deduction of the tax, the annual income of the son of the claimant comes to Rs.3,09,600/- (Rs.3,24,000/- minus Rs.14,400/-).

36. Learned MACT has wrongly applied the multiplier, at the age of the claimants, which is not sustainable, in view of the judgment of Hon'ble Apex Court in **Pranay Sethi's** case supra, as, the multiplier should be applied on the basis of age of the deceased, as held in para 59.7 of the said judgment.

37. The age of son of the claimant was held to be 28 years and as per the judgment of the Hon'ble Apex Court in **Sarla Verma versus Delhi Transport Corporation and Another, (2009) 6 Supreme Court Cases 121**, multiplier of 17, is applicable, in the present case.

38. Son of the claimant was bachelor, at the time of death, as such, 50% amount, out of his annual income, is liable to be deducted, towards personal expenses, had he been alive. Thus, his contribution towards the family comes to Rs.1,54,800/-. As such, the amount of compensation awarded to the claimants on account of loss of dependency, comes to Rs.1,54,800/- x 17 = Rs.26,31,600/-.

39. In view of the decision of the Hon'ble Apex Court in **Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, (2018) 18 SCC 130**, the claimant is also entitled for the consortium.

40. In addition, the claimant is also held entitled for the following amount:-

Loss of estate	=	₹15,000/-
Funeral expenses	=	₹15,000/-
Loss of consortium	=	₹40,000/-

41. In view of the decision of the Hon'ble Apex Court in **Pranay Sethi's** case supra, the aforesaid amount should be enhanced at the rate of 10% in every three years.

42. Thus, the amount, for which the claimant, is held entitled, is assessed, as under:-

1. Loss of contribution = ₹1,54,800/- x 17 = ₹26,31,600/-
2. Loss of estate = ₹19,500/- (₹15,000/- + ₹4500/-)

3.Funeral expenses=	₹19,500/- (₹15,000/- + ₹4500/-)
4.Loss of consortium=	₹52,000/- (₹40,000/-+₹12,000/-)
Total=	Rs.26,31,600+19,500+19,500+ Rs.52,000=Rs.27,22,600/-

43. In view of the above, the compensation awarded by the learned MACT is liable to be enhanced.

44. Accordingly, FAO No.444 of 2017 is allowed and the awarded amount is enhanced, in the above terms. Accordingly, the claimant is held entitled for the amount of Rs.27,22,600/-, along with interest @ 7.5%, from the date of filing of petition till the realization of amount, from respondents No.1 and 2. However, respondent No.3, being insurer of the offending vehicle shall indemnify this award and deposit the same within eight weeks from today. The award is inclusive of the amount, if any, awarded under Section 140 of the Act. The award passed by the learned MACT is modified in the above terms. However, FAO No.254 of 2017, is dismissed.

45. Memo of costs be prepared.

46. Pending application(s), if any, are also disposed of.
Record be sent back.

March 18, 2026 (ps)

(Virender Singh)
Judge