

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO (MVA) Nos. 167 & 475 of 2017
Reserved on : 25th February, 2026
Decided on : 18th March, 2026

1. FAO (MVA) No.167 of 2017

Reliance General Insurance Company Ltd.Appellant

Versus

Sapna Devi and Others ...Respondents

2. FAO (MVA) No.475 of 2017

Sapna Devi & AnotherAppellants

Versus

Vikas Guleria and Others ...Respondents

Coram

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

Whether approved for reporting?¹ Yes

FAO No. 167 of 2017

For the appellant: Mr. Jagdish Thakur, Advocate

For the respondents: Mr. Vikrant Chandel, Advocate
for respondents No.1 and 2.

Mr. Reham Tulla, Advocate vice
Mr. Devender K. Sharma,
Advocate for respondents No.3
and 4.

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

2. FAO No. 475 of 2017

For the appellants : 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.33/2012, titled as Sapna Devi & Another 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. Claimants Sapna Devi and Singro Chauhan, unfortunate wife and mother of Shri Matul Chauhan, have 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 husband of claimant No.1 Sapna Devi and son of claimant No.2 Singro 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 claimants have sought the relief on the ground that on 18.10.2011, her son Matul Chauhan, along with Sandeep 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 Sandeep Chauhan.

3.3. Consequently, the rider, as well as, the pillion rider (husband of claimant No.1 Sapna Devi and son of claimant No.2 Singro Chauhan) 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 claimants, the deceased, at the time of his death, was about 28 years of age and was working as Forest Guard in Forest Department in Sundernagar, District Mandi and was earning Rs.14807/- per month. As per the claimants, 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.30,00,000/- (thirty lacs), along with interest @ 18% per annum, 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. Claimants have 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 Matul 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 petitioners are awarded total compensation of Rs.25,58,000/- 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. The share of the petitioner No.1 is 70% and the share of respondent No.2 is 30#. Out of the share of petitioner No.1, 20% of the share shall be released to her and out of the share of petitioner No.2, 10% of the share shall be released to her and remaining amount of the shares of the petitioners shall be deposited in the fixed deposit in some nationalized bank initially for a period of 37 months.”

14. Feeling aggrieved from the said award, claimants, 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. 167 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 claimants 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.167 of 2017), may kindly be allowed, by dismissing the claim petition.

18. In this case, claimants have also filed appeal (FAO No. 475 of 2017), 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 claimants/appellants, 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.475 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 claimants 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 claimants have 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 contract of respondent No.2 and he has not bothered even to make a complaint to police/higher authorities about his wrong involvement in 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 claimants have 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 claimants 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 claimants. 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 husband of claimant No.1 and son of claimant No.2.

30. As per the claim petition, the deceased, at the time of accident and death, was about 28 years. In order to prove this fact, matriculation certificate of Matul Chauhan, has also been annexed with the claim petition as Ex.PW-7/C. As per the said certificate, the date of birth of Matul Chauhan, was 28.01.1983 and the accident had taken place on 18.10.2011.

31. Thus, at the time of death, the age of the deceased Matul Chauhan was proved to be 28 years.

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

33. As per the claim petition, he was working as Forest Guard with Forest Department, Mandi, District Mandi, H.P. His salary certificate has been proved as Ex.PW-5/A and as per this certificate, his salary was Rs.15,033/- 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 deceased Matul Chauhan, 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.22,549/- (Rs.15,033/- + Rs.7,516/-). As such, the annual income comes to Rs.2,70,588/- (Rs.22,549/- X 12). The income tax component is liable to be deducted from the said income. Out of Rs.2,70,588/-, the amount of total taxable income comes to Rs.90,588/- (Rs.2,70,588/- minus Rs.1,80,000/-).

35. Deceased Matul Chauhan, died in the year 2011 and at the relevant time, this income falls within the tax slab of 10%. Meaning thereby, Rs.9,058/- 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 deceased comes to Rs.2,61,530/- (Rs.2,70,588/- minus Rs.9,058/-).

36. The age of the deceased 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.

37. The deceased was married, at the time of death, as such, 1/3rd amount, out of his annual income, is liable to be deducted, towards his personal expenses, had he been alive. Thus, his contribution towards the family comes to Rs.1,74,354/-. As such, the amount of compensation awarded to the claimants on account of loss of dependency, comes to (Rs.1,74,354/- x 17) Rs.29,64,018/-.

38. 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 claimants are also entitled for the consortium.

39. In addition, the claimants are also held entitled for the following amount:-

Loss of estate	=	₹15,000/-
Funeral expenses	=	₹15,000/-
Loss of consortium	=	₹80,000/- (₹40,000x2)

40. 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.

41. Thus, the amount, for which the claimants are held entitled to, is assessed, as under:-

1. Loss of contribution = Rs.29,64,018/-(₹1,74,354/-x17)

2.Loss of estate	=	₹19,500/- (₹15,000/- + ₹4500/-)
3.Funeral expenses	=	₹19,500/- (₹15,000/- + ₹4500/-)
4.Loss of consortium	=	₹1,04,000/- (₹40,000 x 2+ ₹24,000/-)
Total	=	Rs.29,64,018+19,500+19,500+ Rs.1,04,000=Rs.31,07,018/-

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

43. Accordingly, FAO No.475 of 2017 is allowed and the awarded amount is enhanced, accordingly. The claimants are held entitled for the amount of Rs.31,07,018/-, 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.167 of 2017, is dismissed.

44. Memo of costs be prepared.

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

(Virender Singh)
Judge

March 18, 2026 (ps)