

(2025) 12 SHI CK 0005

Himachal Pradesh HC

Case No: First Appeal From Order No. 513, 514, 540, 563 Of 2019

Oriental Insurance Company Ltd
And Others

APPELLANT

Vs

Satya Thakur & Others

RESPONDENT

Date of Decision: Dec. 3, 2025

Acts Referred:

- Motor Vehicles Act, 1988-Section 166

Hon'ble Judges: Satyen Vaidya, J

Bench: Single Bench

Advocate: Jagdish Thakur, Dhanwanti, Sanjay Bhardwaj, Karun Negi

Final Decision: Disposed Of

Judgement

Satyen Vaidya, J

1. All these appeals have been heard and are being decided together as common questions of facts and law arise.

2. On 11.05.2018, a motor vehicle accident took place at place near KTS School, Sainj, District Solan, involving a motorcycle No.HP-64-8775 and truck No. HP-63B-2051. The rider of the motorcycle Ashish Tyagi and the person on the pillion, Sahil Thakur, both aged 19 years, sustained grievous injuries, which resulted in their death.

3. Legal representatives/dependents of both the deceased persons filed separate claim petitions under Section 166 of the Motor Vehicles Act. Claim petition filed by legal representatives/dependents of deceased Ashish Tyagi was registered as MAC Petition No.33-S/2 of 2018 and the claim petition filed by the legal representatives/dependents of deceased Sahil Thakur was registered as MAC Petition No.34-S/2 of 2018 before the Motor Accident Claims Tribunal-I, Solan (for short, "the Tribunal").

4. In both the cases, the cause of accident was attributed to the driver of the truck. It was alleged that the truck was being driven by its driver in rash and negligent manner and as a result thereof, the motorcycle of the deceased persons had been hit by the truck.
5. Deceased Ashish Tyagi was a student of B.Tech. 4th Semester in Shoolini University, Solan and deceased Sahil Thakur was student of 2nd semester of BSc Hotel Management and Hospitality in the same University.
6. In the case of Ashish Tyagi, his mother, father and brother were the claimants, whereas in the case Sahil Thakur his mother, father and sister filed the claim petition.
7. The owner and driver of the truck had jointly contested the claim petitions by denying the cause of accident as alleged by the claimants. As per the owner and driver of the truck, the truck was being driven in a slow speed and there was no rashness or negligence that could be attributed to the driver of the truck. The factum of the offending truck being insured with the Oriental Insurance Company Ltd. (appellant-insurer herein) was also disclosed. Remaining averments of the petition were denied in generality.
8. The appellant-insurer by way of a separate reply had sought to absolve itself from the liability to indemnify the insured by alleging serious breaches of terms and conditions of the policy. Objections were raised as to validity of driving licence of the driver besides registration certificate and permit etc. of the truck. It was also alleged that the accident had occurred due to negligence of the rider of the motorcycle.
9. Learned Tribunal has found the cause of accident attributable to the rash and negligent driving of driver of the truck. The allegations regarding breach of terms and conditions of policy of insurance have been held not proved.
10. The claimants had examined an eye witness to the accident as their witness. Witness Prateek Guleria had appeared on behalf of the claimants before learned Tribunal and deposed that the accident had taken place in his presence. He had further stated that the cause of accident was rash and negligent driving of driver of the truck. Said Prateek Guleria was also the informant of the incident to the police and it was on his information that the FIR relating to incident had been registered. The evidence had also been led to the extent that after investigation, the challan was presented against the driver of the truck. The driver of the truck did not step into the witness box. In such circumstances, no fault can be found with the findings recorded by learned Tribunal.
11. The appellant-insurer did not lead any evidence whatsoever to discharge the burden and to prove violation of terms and conditions of the policy of insurance.
12. It was proved that Ashish Tyagi was a student of B.Tech. and Sahil Thakur was a student of BSc (Hons) Hotel Management and Hospitality in Shoolini University Solan. Thus, both were students of professional courses. Both the deceased persons were aged 19 years.

13. In the case of Ashish Tyagi, learned Tribunal has awarded the compensation by considering the income of deceased as Rs.20,000/-per month and in case of Sahil Thakur, it has been assessed as Rs.15,000/- per month. In both the cases, 40% has been added for loss of future prospects. 50% of the notional monthly income has been deducted in each of the cases towards personal expenses.

14. Multiplier of 18 has been applied in both the cases. In addition, a sum of Rs.1,00,000/- has been awarded towards loss of love and affection and Rs.15,000/- towards funeral expenses. In this manner in the case of Ashish Tyagi, a total sum of Rs.31,39,000/- has been awarded as compensation and in the case of Sahil Thakur total compensation has been assessed as Rs.23,83,000/-. Interest has been awarded at the rate of 6% per annum from the date of filing of respective petitions till realization/deposit of the amount. A sum of Rs.10,000/- each has been awarded as litigation expenses.

15. Aggrieved against the awards passed by the learned Tribunal in both the cases, the appellant/insurer has filed appeals FAO No.513 of 2019 in the case of Sahil Thakur and FAO No.514 of 2019 in the case of Ashish Tyagi. The claimants have also filed appeals for enhancement of compensation being FAO No.563 of 2019 in the case of Sahil Thakur and FAO No.540 of 2019 in the case of Ashish Tyagi.

16. Learned counsel for the appellant-insurer has argued primarily on the ground that the assessment of monthly income of deceased persons in both the cases was excessive. He submitted that since there was no objective basis before the learned Tribunal, the income should have been assessed by taking into consideration the minimum wages fixed under the Minimum Wages Act by the State Government.

17. On the other hand, learned counsel for the claimants have sought the enhancement by alleging that the income has been assessed on the lower side. It has also been pointed out that the impugned awards are not in consonance with the principles laid down by a Constitution Bench of Hon'ble Supreme Court in National Insurance Company vs. Pranay Sethi, 2017 (16) SCC 680 and also later judgment by a two judge bench of Hon'ble Supreme Court in Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018(18) SCC 130

18. In support of his contention learned counsel for the appellant-insurer has placed reliance on the judgment passed by Hon'ble Supreme Court in Arvind Kumar Mishra vs. New India Assurance Company Limited and another, (2010) 10 SCC 254, in which monthly income of final year student of a professional college was assessed at Rs.5,000/- per month (Rs.60,000/- per annum). He also relied upon the judgment passed by Hon'ble Supreme Court in Meena Pawaria and others vs. Ashraf Ali and others, 2022 ACJ 528, in which a student of B.E. 3rd year was held entitled for Rs.10,000/- per month as notional income. Further reliance has been placed on the judgment passed by Hon'ble Supreme Court in Vishal and others vs. Yugraj Singh Dhindsa and others, 2023 ACJ 333, in which the income of B.Com graduate aged 20 years was assessed as Rs.7,000/- per month. On the basis of these precedents, it has been contended that the learned Tribunal was not justified in assessing the income of the deceased persons in these cases at the

rate of Rs.20,000/- and Rs.15,000/- per month respectively.

19. Learned counsel for the claimants have also placed reliance on the judgment passed by Hon'ble Supreme Court in Rajani and others vs. The Oriental Insurance Company Limited and others, Civil Appeal No.6194 of 2022, wherein a sum of Rs.12,000/- was assessed as reasonable monthly income of a self-cultivating agriculturist. In recent judgment passed by Hon'ble Supreme Court in S. Mohammed Hakkim vs. National Insurance Co. Ltd. & others, SLP(C) No(s). 28062-63 of 2023, the income of a 3rd year Engineering student has been assessed at Rs.20,000/-per month. To similar effect is the judgment relied upon by learned counsel for the claimants in A ul Tiwari vs. Regional Manager, Oriental Insurance Company Limited, Civil Appeal No.151 of 2025, in which again the income of a B. Tech, 3rd year student was notionally assessed at Rs.15,000/- per month. To add to the list, learned counsel for the claimants placed reliance on the judgment passed by Hon'ble Supreme Court in S. Vasanthi & another vs. M/s Ad iparasakthi Engg. College and another, Civil Appeal No.7180 of 2022, wherein the income of a B.Tech. graduate undergoing MBA course was assessed at Rs.30,000/-

20. In Navjot Singh vs. Harpreet Singh, 2020 SCC OnLine SC 1562, the Hon'ble Supreme Court has observed that the notional income of a student undergoing a degree course in Engineering should not be taken to be equivalent to the minimum wages admissible to an unskilled worker. It has been noticed that the student recruited through campus interviews are at least offered a sum of Rs.20,000/- per month.

21. After going through the judgments cited by both sides, it transpires that these are not contradictory to each other. The principle that a robust view is to be taken in such like fact situation has consistently been applied. The only difference is with respect to the period and dates of respective cause of action in all the above cited cases. In Arvind Kumar Mishra (supra), the accident was of the year 1993 and monthly income of a student of professional college was assessed at Rs.5,000/- per month. In Meena Pawaia (supra), the accident was of the year 2012 and the income of a B.E. 3rd year was notionally assessed at Rs.10,000/- In Vishal and others (supra), the accident had taken place in the year 2010 and thus, the notional income of a B. Com graduate was assessed at Rs.7,000/- per month.

22. On the other hand, in S. Mohammed Hakkim (supra), the accident had taken place in the year 2017 and Hon'ble Supreme Court has assessed the monthly income of a 3rd year engineering student notionally at Rs.20,000/-. In S. Vasanthi and another (supra), though, the accident was of the year 2010, the monthly income was notionally assessed at Rs.30,000/- because the victim was a B.Tech. graduate and was further undergoing MBA course from a premier institute. In Atul Tiwari (supra), even though, the accident had taken place in the year 2019, the notional income of a 3rd year student of B.Tech. was assessed at Rs.15,000/-

23. The accident in the instant cases had taken place on 11.05.2018. Keeping in consideration the aforesaid precedents, the assessments made by learned Tribunal for monthly income of the deceased persons on notional basis cannot be said to be unreasonable or unjustified. Thus, this Court finds no reason to interfere with the impugned awards to that extent.

24. However, the compensation awarded under conventional heads is not found to be in tune with the settled principles. Instead of grant of compensation for love and affection, the claimants in both the cases were entitled for compensation under the head Loss of consortium at the rate of Rs.40,000/- each. Compensation of Rs.15,000/- each under the heads loss of estate and funeral charges was also liable to be added. Further, the claimants are also entitled to enhancement at the rate of 10% on the amount of compensation under conventional heads. Reference can be had to the constitutional Bench judgment of Hon'ble Supreme Court in National Insurance Company vs. Pranay Sethi, 2017 (16) SCC 680 and Magma General Insurance Co. Ltd. vs. Nanu Ram, 2018(18) SCC 130

24. Thus, the claimants in both the cases are held entitled to compensation as under:

In the case of Sahil Thakur (FAO Nos.513 & 563 of 2019)

Sl.No.	Head	Amount payable
1.	Loss of dependency	Rs.10,500X12X18=Rs.22,68,000/-
2.	Loss of consortium	Rs.40,000X3= Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of estate	Rs.15,000/-
5.	Enhancement @ 10% after three years	Rs.30,000/-
	Total	Rs.24,48,000/-

In the case of Ashish Tyagi (FAO Nos.514 & 540 of 2019)

Sl.No.	Head	Amount payable
1.	Loss of dependency	Rs.14,000X12X18=Rs.30,24,000/-
2.	Loss of consortium	Rs.40,000X3= Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of estate	Rs.15,000/-
5.	Enhancement @ 10% after three years	Rs.30,000/-
	Total	Rs.32,04,000/-

25. The claimants shall be entitled to interest on the entire compensation amount at rate of 6% per annum from the date of filing of respective petitions till actual realization/deposit as awarded

by learned Tribunal.

26. In view of the above discussion, FAO Nos.513 & 514 of 2019 are dismissed. FAO Nos.563 & 540 of 2019 are partly allowed. The impugned awards dated 04.09.2019 and 05.09.2019 in MAC Petition Nos.34-S/2 of 2018 & 33-S/2 of 2018 passed by learned Motor Accident Claims Tribunal-I, Solan, are modified to the extent as held above.

27. The appeals are accordingly disposed of along with pending application(s), if any.