

## The New India Assurance Co. Ltd. Vs Labh Kaur

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** March 5, 2001

**Acts Referred:** Civil Procedure Code, 1908 (CPC) â€” Order 16 Rule 19  
Motor Vehicles Act, 1988 â€” Section 166, 173

**Hon'ble Judges:** V.S. Aggarwal, J

**Bench:** Single Bench

**Advocate:** Y.K. Sharma, for the Appellant; Jagdev Sharma, for the Respondent

### Judgement

V.S. Aggarwal, J.

This is an appeal filed by the New India Assurance Company Limited, hereinafter described as ""the appellant"", directed

against the award of the Motor Accident Claims Tribunal, Ambala, dated 29-11-1995. By virtue of the impugned award, he learned Tribunal had

awarded compensation of Rs. 2,30,000/- to the claimants with interest at the rate of 12% per annum from the date of filing of the petition till final

realisation.

2. The facts alleged by the claimants Labh Kaur and others are that on 6-10-1992 at about 8.00 p.m. Nachhater Singh, husband of Smt. Labh

Kaur, was coming from village Mastpur after completing his work in the field. He was accompanied by Jarnail Singh. When they were on the

outskirts of the village, one Amarjit met them. They were standing on the earthen berm of the road running from Matheri Sheikhan to village

Kalaur. In the meantime, truck bearing registration No. HNA-6195 driven by Baldev Singh in a rash and negligent manner came from the side of

village Matheri Sheikhan. He did not blow any horn, and over ran Nachhattar Singh. Nachhattar Singh received multiple injuries and later on

succumbed to his injuries in the Mission Hospital, Ambala. The deceased was 40 years of age at the time of accident, It was alleged that he was

having six acres of land and used to earn Rs. 10,000/-per month from the truck and Rs. 5000/- per month from agriculture.

3. The petition as such was contested and so far as appellant is concerned, liability to pay compensation was den ied and it was asserted further

that the truck was not being driven by a person having a valid driving licence.

4. The learned Tribunal held that the truck was being driven in a rash and negligent manner and further concluded that the insurance company,

appellant, was liable to pay the compensation. It was taken note of that after the death of Nachhatar Singh, the claimants had employed a driver at

a salary of Rs. 1500/- per month or Rs. 18,000/- per annum. Taking stock of the said fact, compensation of Rs. 2,30,000/- was awarded and

multiplier of 10 had been applied. Rs. 5000/- was awarded per year for the loss of Nachhatar Singh to the members of the family.

5. Aggrieved by the same, present appeal has been filed by the appellants while the claimants preferred cross-objections.

6. So far as cross-objections are concerned, the main grievance was that multiplier of 10 was on the lower side. It was asserted that multiplier of

20 should have been applied. In this regard, the contention has to be stated to be rejected. The facts and circumstances of each case have to be

taken note of before applying the multiplier. The deceased was about 40 years of age at the time of his death. Keeping in view his age and there

being no other circumstance to permit a higher multiplier, there is no ground to interfere. The cross-objections filed by the claimants are dismissed.

7. As regards the appeal filed by the insurance company is concerned, it was only asserted that no proper opportunity was given to examine the

witness from Ranchi to show that Baldev Singh was not holding a valid licence. A perusal of the record shows that opportunity was given. Since

the witness was at Ranchi, he could not be summoned. The appellant did not deposit the necessary fee towards the expenses of the counsel so that

he could record the statement of the witness at Ranchi. Therefore, the appellant itself is to be blamed in this regard.

No other argument was raised.

For these reasons, the appeal being without merit must fail and is accordingly dismissed.

8. Appeal dismissed.