CNR No: PHHC011666832026
2026:PHHC:186193

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

129 FAO-5438-2026 (O&M)
Date of Decision: 30.09.2026

National Insurance Company Limited ..... Appellant

Versus

Anju Gulati and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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Present: Mr. Harjinder Singh, Advocate,
for the appellant.

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HARSH BUNGER J. (ORAL)

1. This is an appeal filed on behalf of the Insurance Company challenging the award dated 15.07.2026 passed by the learned Motor Accident Claims Tribunal, Kurukshetra (hereinafter referred to as the "Tribunal") passed in MACP No.151 of 2024 filed by respondents No.1 and 2/claimants on account of death of Shri Munish Kumar Gulati in a motor vehicular accident.

2. Briefly, respondents No.1 and 2/claimants filed a claim petition under Sections 140/166 of the Motor Vehicles Act, 1988 (in short the "1988 Act") seeking compensation on account of death of Shri Munish Kumar Gulati in a road accident on the plea that on 08.03.2024, Shri Munish Kumar Gulati was coming from Delhi to his village Rasulpur while driving his car bearing registration No. HR-71A-4111 at a moderate speed and on correct left hand side of the road. At about 04.30 AM, when he reached near Shivalik College in the area of village Binjalpur, Mullana, District Ambala, another car bearing registration No.HR-97-6298 (hereinafter referred to as the "offending

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2026.10.14 14:30
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vehicle") came from behind at a very high speed, which was being driven by Shiv Kumar (respondent No.4 herein) in a rash and negligent manner, hit the car of Shri Munish Kumar Gulati without blowing any horn. Due to the said impact of accident, Shri Munish Kumar Gulati lost the balance over his car, which hit a tree after going on the side of the road. Resultantly, Shri Munish Kumar Gulati received multiple, serious and grievous injuries and he was shifted to the MMIMSR Mullana. A case FIR No.33 dated 08.03.2024, under Sections 279 and 304A IPC was registered at Police Station Mullana, District Ambala. Accordingly, the aforesaid claim petition was filed by the claimants before the learned Tribunal.

3. Upon notice being issued by the learned Tribunal, the owner of the car, namely, Shri Narinder Kumar, filed a written statement opposing the claim of the claimants by taking various preliminary objections. On merits, he pleaded that no accident took place with the car in question and that a false FIR had been registered in connivance with the police. He stated that no accident was caused by Shiv Kumar (driver), while driving the car in question. The other averments of the claim petition were denied and prayer for dismissal of the petition was made.

4. Similarly, respondent No. 4 herein, Shiv Kumar (driver), also filed a separate written statement denying the factum of accident and stating that a false FIR had been registered against him in collusion with the police. He also denied the contents of the claim petition and prayed for dismissal of the same.

5. The present appellant-insurance company also opposed the claim petition by filing a separate written statement, denying the involvement of the car in question in the accident and also by taking a plea that the accident took

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2026.10.14 14:30
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place due to the sole negligence of the deceased himself. It was also pleaded that the offending vehicle was being driven by Shiv Kumar without a valid and effective driving licence, registration certificate and other requisite documents, in violation of law. The other averments of the claim petition were also denied and a prayer for dismissal of the petition was made.

6. From the pleadings of the parties, learned Tribunal framed the following issues:-

> *"1. Whether Munish Kumar Gulati died in the accident which occurred on 08.03.2024 at about 04.30 AM, in the area of village Binjalpur, P.O. Mullana, District Ambala, caused by rash and negligent driving of offending car bearing registration no.HR-97-6298 being owned by respondent no.1 Narinder Kumar, insured with respondent no.2 and being driven by respondent no.3 Shiv Kumar? OPP*
>
> *2. If issue no.1 is proved in affirmative, what amount of compensation, the petitioners in the claim petition are entitled to and from whom? OPP*
>
> *3. Whether the car in question was being driven in violation of the terms and conditions of the insurance policy? If so, to what effect? OPR-2*
>
> *4. Relief."*

6.1 Thereafter, the parties led their respective evidence on the aforesaid issues.

7. Learned Tribunal, upon appraisal of the evidence, returned the findings under issue No.1 that the accident in question took place due to rash and negligent driving of the offending vehicle, being driven by Shiv Kumar and that Shri Munish Kumar Gulati died in the said accident.

8. Under issue No.2, learned Tribunal took notice of the fact that the deceased, Shri Munish Kumar Gulati was practising as an Advocate in the

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2026.10.14 14:30
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Punjab and Haryana High Court at Chandigarh and keeping in view his income tax returns, his annual income was considered as Rs. 4,16,990/-. Further, as per the date of birth of deceased, Shri Munish Kumar Gulati, mentioned on his ID card (Ex.P13) and PAN card (Ex.P14) as 17.09.1987, the age of the deceased was considered as 36 years, 5 months and 21 days on the date of the accident.

9. Accordingly, by keeping in view the various judicial pronouncements on the issue, learned Tribunal vide award dated 15.07.2026 assessed the compensation as under:-

1.	*Annual Income of the deceased*	*₹4,16,990/-*
2.	*Future Prospects @ 40% (since deceased was 36 years of age)*	*₹1,66,796/- (4,16,990 x 40 / 100)*
3.	*Total Annual Income*	*(416990+166796)= ₹5,83,786/-*
4.	*Deduction for personal and living expenses (50% of deduction as personal expenses of the deceased ₹2,91,893/-)*	*583786 x 1/2 = ₹2,91,893/-*
5.	*Annual dependency*	*583786-2,91,893 =₹2,91,893/-*
6.	*Multiplier*	*15*
7.	*Total dependency*	*2,91,893x15=₹43,78,395/-*
8.	*Loss of Estate (Reliance in this regard is placed on law laid down in **Kirosata Devi & Ors. Vs. Ram Ji Lal others 2026 ACJ 51 (SC)**.*	***₹18,150/-** (10% enhancement as per **Pranay Sethi's case** (supra) every 3 years)*
9.	*Funeral Expenses (Reliance in this regard is placed on law laid down in Kirosata Devi & Ors. Vs. Ram Ji Lal others 2026 ACJ 51 (SC).*	*₹18,150/- (10% enhancement as per **Pranay Sethi's case** (supra) every 3 years)*
10.	*Loss of Consortium (48,400/-) [Reliance in this regard is placed on law laid down in **Kirosata Devi & Ors. Vs. Ram Ji Lal others 2026 ACJ 51 (SC)**].*	*₹48,400/- (10% enhancement as per **Pranay Sethi's case** (supra) every 3 years*
11.	*Total Compensation*	*₹44,63,095/-*

10. The aforesaid amount of Rs. 44,63,095/- has been further directed to be paid to the claimants with interest at the rate of 6% per annum

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from the date of institution of the petition till realization and the present appellant-insurance company had been held liable to actually pay the amount of compensation to the claimants in the manner as indicated in para 18 of the impugned award dated 15.07.2026.

11. In the aforesaid circumstances, the present appeal has been filed by the insurance company.

12. Before this Court, the sole argument raised by learned counsel for the appellant is that learned Tribunal has erred in assessing the annual income of the deceased as Rs.4,16,990/- per annum by taking into account only one income tax return for the assessment year 2022-23 (Ex.P6); whereas the Tribunal should have taken the average of the last three income tax returns of the deceased Shri Munish Kumar Gulati.

13. No other argument has been raised by learned counsel for the appellant.

14. I have heard learned counsel for the appellant and perused the paper-book with his able assistance.

15. At the outset, it is apposite to refer to a recent judgment by the Hon'ble Supreme Court of India in case of ***"Rashmirekha Tripathy and Ors. versus The Branch manager (Legal Claims), Sriram General Insurance Company Limited and others", (SLP (C) No.27220 of 2024; decided on 01.07.2026)***, wherein the Hon'ble Supreme Court has made the following observations:-

> *"17. In the considered view of this Court, there can be no hard and fast formula for computing the annual income of a deceased person/claimant. ITRs being a statutory document are an*

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important reference point when it comes to assessing one's income, for the purposes of compensation under the Motor Vehicle Act.

18. We find force in the submission put forth by Mr. J.R Midha, learned senior counsel. There must be a bifurcation made between salaried individuals and self-employed individuals when it comes to assessment of annual income. In our view, for salaried individuals, only the ITR of the previous year will be sufficient for showcasing the annual income from salary. The reason for considering only the preceding year is that the financial impact of promotions is significant and may be reflected in the ITR for only that year. A situation may also arise whereby the deceased/claimant might not have completed a year in the promoted position before the accident or might not have filed ITR for such period. In such cases the Court concerned shall take reference to the promotion letter and other corroboratory financial statements.

19. When it comes to self-employed / individuals carrying out their own business, in our view, the average of the income specified in the ITRs of up to the previous three years is to be taken as a reference point for assessment of annual income from their business. There may also be a scenario where only one or two ITRs have been filed. Given such scenarios and the fluctuation of income in these professions, surrounding circumstances are also to be taken into consideration. These would include:

a) The nature of the business (including geographic location, category etc.);

b) Growth pattern of the business and impact of death on the business;

c) Potential growth of business (for instance certain businesses are capital intensive at the outset and are profitable at scale/in the future);

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2026.10.14 14:30
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d) Negative income (certain businesses may require losses in the initial years, which may not reflect the true financial standing); and

e) Any other relevant factor relating to the business.

20. The date when the ITRs are filed would also become a relevant consideration, as there may be scenarios where inflated income is showcased after death/injury. In these circumstances, the surrounding factors of the business would become more relevant. However, if sufficiently supported by financial statements, such ITRs may also be taken into consideration."

15.1 A perusal of the above-extracted observations made by the Hon'ble Supreme Court of India would show that there is no bar in considering one or two Income Tax Returns (ITRs) in respect of the deceased, however, the same would have to be done by considering the surrounding circumstances as well, which includes the nature of business (including geographical location, category etc.), growth pattern of business, potential growth of business and/or any other relevant fact relating to the business.

16. In this case, learned Tribunal upon appreciation of evidence on record, returned the following findings under issue No.2, as regards the income of deceased Shri Munish Kumar Gulati:-

"16. *...Claimants have stated that deceased Munish Kumar Gulati was practicing as an Advocate in Punjab and Haryana High Court at Chandigarh and he was earning ₹50,000 /- per month from profession. In order to prove the profession and income, the claimants have examined Raksh Kumar, Tax Assistant as PW3, who has proved the ITRs of deceased as Ex.P2 to Ex.P6. Ld counsel for the claimants has argued that in the assessment year 2019-20 (Ex.P2), the gross total income of the deceased Munish Kumar Gulati was ₹1,40,290/-, in the assessment year for the year 2020-21 (Ex.P3) the gross total*

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2026.10.14 14:30
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income of deceased Munish Kumar Gulati was ₹2,13,470/-, in the assessment year for the year 2020-21 (Ex.P4) the gross total income of deceased Munish Kumar Gulati was ₹4,00,720/-, in the assessment year for the year 2021-22 (Ex.P5) the gross total income of deceased Munish Kumar Gulati was ₹1,08,310/- and in the assessment year for the year 2022-23 (Ex.P6) the gross total income of deceased Munish Kumar Gulati was ₹4,16,990/- and in that sense the income of the deceased was increasing and hence, the income of the deceased Munish Kumar Gulati be taken to be on the higher side in the year 2023. However, ld. counsel for the respondent no.2 has argued that the income of the deceased was fluctuating and not consistent. PW3, Tax Assistant, was cross examined at length by the learned counsel for insurance company, however, nothing material was extracted in his cross-examination which could dispute the relevancy and authenticity of documents proved by PW3. There is no other admissible evidence on the case file which can rebut the version of PW3 relating to the income of the deceased. In the present case the income tax record which has been relied upon by the claimants has been duly proved on the case file by summoning of witness from the concerned department who has been examined as PW3. Moreover, he has tendered the record of ITR pertaining to year 2022-23 and the accident in question took place on 08.03.2024, which therefore assumes significance with regard to the financial year pertaining to which the relevant income tax return has been exhibited as Ex.P6. There is no such material on the record of the case which can indicate that the income so indicated in document Ex.P6 cannot be relied upon or that the said return was falsely prepared to seek any concession of loan etc. On perusal of each of the Income Tax Returns proved by PW3, they have been filed in the same year and not retrospectively for creating false evidence of income. Thus income for the relevant assessment year pertaining to the year of the accident, has been duly proved on the case file by tendering

DINESH
2026.10.14 14:30
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the income tax return of year 2022-23. Hence, it would be safe as well as in the interest of justice to rely on the income tax return document Ex.P6, for the purpose of computation of assessment of compensation. No evidence has been led by the respondents that the income of the deceased had decreased. Hence in these circumstances keeping in view the observations of Hon'ble Punjab and Haryana High Court in ***United India Insurance Company Limited Vs. Manjit Kaur & Ors. FAO-2996-2021 (O&M) decided on 12.11.2021 (P&H)****, it is observed that the ITR for the assessment year 2022-23 Ex.P6 would be relevant for determining the income of the deceased, according to which the income of the deceased was ₹4,16,990/-. Hence for the purpose of determining the quantum of compensation, the annual income of the deceased would be considered as* ***₹4,16,990/-****..."*

17. Admittedly, the deceased was a practising Advocate in this Court and at the time of accident, he was about 36 years of age. He was an income tax payee and as per the income tax returns of last three years, his income was progressive.

18. Keeping in view the parameters prescribed in para 19 of judgment in case of ***Rashmirekha (supra)****,* it is observed that undoubtedly, at the beginning of practice, a lawyer has to struggle to establish his reputation and to increase his practice. The professional life of a lawyer, unlike cases of Government servants, is a life of hardship and of struggle. The fruit of his labour come to him during the course of time. His practice also depends on various factors which may be beyond his control. It is undisputable that experience at Bar is an asset to a practising Advocate and enlarges scope of practice.

18.1 One also cannot forget the fact that litigation has been on the increase for the last three decades; one cannot overlook the fact that the

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2026.10.14 14:30
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economic prosperity has ushered in. The economic prosperity and the increase in litigation have certainly contributed to the economic upliftment of the lawyers as a professional community. For, with the increase in the paying capacity of the clients, the lawyers have benefited therefrom.

19. Thus, considering the fact that the deceased-Munish Kumar Gulati was a practising Advocate in this High Court and taking judicial notice of the fact that in the last three decades, the litigation has been on the increase coupled with the fact that with the increase in the paying capacity of the clients, the lawyers have also benefitted therefrom and even the income tax returns (ITRs) of last three years of deceased-Munish Kumar Gulati (prior to his death) reflects progressive trend; I see no reason which may warrant interference in the assessment of yearly income of the deceased-Munish Kumar Gulati by learned Tribunal below.

20. Keeping in view the above discussion, I see no merit in this appeal and the same is accordingly, dismissed.

21. All the pending application(s), if any, shall also stand closed.

30.09.2026 **(HARSH BUNGER)**
dinesh **JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No

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