2026:PHHC:065889

IN THE HIGH COURT OF PUNJAB & HARYANA

AT CHANDIGARH

247 **Date of decision : 03.11.2026**

247(1) **FAO No.4429 of 2004 (O&M)**

ANJU @ RANJU …APPELLANT

VERSUS

THE NEW INDIA ASSURANCE COMPANY LTD. ...RESPONDENTS

247(2) **FAO No.4430 of 2004 (O&M)**

SHANTI DEVI AND OTHERS …APPELLANTS

VERSUS

THE NEW INDIA ASSURANCE COMPANY LTD. ...RESPONDENTS

247(3) **FAO No.4431 of 2004 (O&M)**

SHANTI DEVI …APPELLANT

VERSUS

THE NEW INDIA ASSURANCE COMPANY LTD. ...RESPONDENTS

247(4) **FAO No.4432 of 2004 (O&M)**

MISS RITIKA RAMPAL …APPELLANT

VERSUS

THE NEW INDIA ASSURANCE COMPANY LTD. ...RESPONDENTS

247(5) **FAO No.4433 of 2004 (O&M)**

MASTER ABHISHEK RAMPAL …APPELLANT

VERSUS

THE NEW INDIA ASSURANCE COMPANY LTD. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sushil Saini, Advocate
for appellants.

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate
for respondent No.1.

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PARMOD GOYAL, J. (ORAL)

Present appeals have been preferred by appellants-claimants being aggrieved by common impugned award dated 20.03.2004 passed by learned Motor Accident Claims Tribunal, Amritsar (hereinafter referred to as '**Tribunal**'), whereby their claim petitions seeking compensation on account of death of Dr. Rajiv Rampal (hereinafter referred to as '**deceased**') and injuries suffered by them in motor vehicular accident dated 09.03.1997, were dismissed. Gist of appeals being decided is as under:-

Sr. No.	**Case title before the MACT**	**MACT Case No. / Appeal No.**	**Claim pertains to/claim by**	**Compensation awarded by the Tribunal**
1.	Anju Vs. The New India Assurance Company Limited	MACT No.127 of 1997/FAO No.4429 of 2004	Compensation for injuries suffered by her.	Dismissed
3.	Shanti Devi and Ors. Vs. The New India Assurance Company Limited	MACT No.128 of 1997/FAO No.4430 of 2004	Compensation for death of Dr. Rajiv Rampal by wife and children (2).	Dismissed
3.	Shanti Devi Vs. The New India Assurance Company Limited	MACT No.129 of 1997/FAO No.4431 of 2004	Compensation for injuries suffered by him.	Dismissed
4.	Ritika Rampal Vs. The New India Assurance Company Limited	MACT No.123 of 1997/FAO No.4432 of 2004	Compensation for injuries suffered by him.	Dismissed
5.	Master Abhishek Rampal Vs. The New India Assurance Company Limited	MACT No.126 of 1997/FAO No.4433 of 2004	Compensation for injuries suffered by her.	Dismissed

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2. Learned Tribunal had dismissed claim petitions preferred by appellants-claimants after concluding that accident was an ‘Act of God’ and appellants-claimants had failed to prove negligence on the part of any other vehicle in present case.

3. It was the case of appellants-claimants that they being member of the same family were travelling in car being driven by deceased-Dr. Rajiv Rampal. That accident had taken place near Lakkar Mandi, Dalhousie when deceased was driving the car at high speed, rashly and negligently. It was asserted that a fight had ensued between deceased and his wife Shanti Devi, and snow was also falling at the time of accident. Deceased was requested to park the vehicle, however, he continued to drive the car and in the meanwhile huge bulk of ice had fallen on their car, resulting into accident and death of Dr. Rajiv Rampal and grievous injuries to other occupants of car i.e. appellants-claimants. The facts so stated by appellants-claimants in their respective claim petitions were reiterated by injured-claimant-Anju Bala who appeared as AW5 and injured-claimant-Shanti Devi who appeared as AW6. DDR entry regarding the accident was duly placed on record as Ex.R1.

4. Learned Tribunal after taking into consideration evidence of AW5, AW6 as well as assertions made while lodging DDR, had concluded that present is a case where glacier/ice bulk had fallen on the car of appellants-claimants, therefore, the car was pushed down in a deep gorge resulting into death of deceased-Dr. Rajiv Rampal, who was driving the car as well as injuries to other occupants i.e. appellants-claimants. It was held that since it was an ‘Act of God’, therefore, appellants-claimants had failed

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to prove negligence on the part of driver of the car and accordingly, claim petitions against Insurance Company of the car were dismissed.

5. Learned counsel for appellants-claimants has argued that both AW5 as well as AW6 had reiterated the manner of occurrence as was stated by appellants-claimants in their claim petitions and had clearly stated that it was deceased-Dr. Rajiv Rampal who was driving the car rashly and negligently and despite warnings by AW6, he instead of parking the car continued to drive the car in rash and negligent manner and therefore car owner and Insurance Company are liable to pay compensation. However, perusal of award goes to show that learned Tribunal had rightly appreciated the evidence of AW5 and AW6 who were interested witnesses and had rightly concluded that falling of glacier cannot be held to be an act of negligence on the part of driver of offending vehicle or any other vehicle as the said car alone was involved in the accident.

6. Faced with the conclusion drawn by learned Tribunal, learned counsel for appellants-claimants has argued that even if it is held that falling of glacier on the car was an 'Act of God' and not result of rash and negligent driving attributable to any person, even then use of car in the accident is proved and learned Tribunal ought to have granted compensation for no fault liability. He has further argued that with changed circumstances and in view of amendment in Motor Vehicles Act, 1988 (hereinafter referred to as '**1988 Act**'), whereby amended Section 164 of 1988 Act has been substituted, appellants-claimants shall be entitled to compensation under no fault liability.

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7. Learned counsel for respondent-Insurance Company has, however, opposed the appeals by asserting that the finding of learned Tribunal is as per law and no negligence on the part of any vehicle could be proved by appellants-claimants, therefore, present appeals are also liable to be dismissed.

8. The first question which requires to be decided in present appeals is whether appellants-claimants are entitled to compensation for no fault liability as the accident had taken place on account of use of car bearing registration No.PID 3086. Testimony of both AW5 and AW6 as well as contents of DDR go to show that deceased as well as appellants-claimants were travelling in said car bearing registration No.PID 3086. In these circumstances, it is clearly made out that when accident had occurred on account of avalanche i.e. breaking of glacier upon the car, deceased as well as appellants-claimants were occupying the same. Once it is proved that deceased and appellants-claimants were travelling in the car when they had met with an accident which may be an ‘Act of God’, the use of motor vehicle also stands proved so as to invoke no fault liability for payment of compensation. No fault liability shall include even ‘Act of God’. Therefore, in present case, even though the accident had taken place on account of ‘Act of God’ i.e. falling of glacier/snow on the vehicle in which deceased and appellants-claimants were travelling, they shall be entitled to compensation under no fault liability as death, and injuries had occurred on account of use of motor vehicle bearing registration No.PID 3086 which was duly insured with respondent-Insurance Company.

9. The second question which arises in present case is whether

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appellants-claimants are entitled to compensation under newly enacted Section 164 of 1988 Act which has come into force w.e.f. 01.04.2022 or not. Prior to amendment in 1988 Act in 2019, no fault liability as well as fault liability were covered by provisions of Sections 140, 163A, and 166 of 1988 Act. Under Section 140 of 1988 Act, compensation under no fault liability was payable irrespective of financial status or any other reasons which were incumbent to be proved either under Section 163A or Section 166 of 1988 Act. Compensation for no fault liability under Section 140 of 1988 Act was payable once it was proved that the accident was on account of use of motor vehicle. Similarly, under Section 163A of 1988 Act, the principle of no fault liability was invoked by Legislature for awarding compensation by way of structured formula as given in Schedule II of the 1988 Act. However, invocation of Section 163A of 1988 Act was subject to eligibility conditions as stated in Section 163A of 1988 Act which stood omitted by 2019 Act. In order to invoke Section 163A of 1988 Act, it was incumbent upon a claimant to show his entitlement by pleading that he was not earning more than Rs.40,000/- per annum as remedy under Section 163A of 1988 Act was only available to claimant whose income was Rs.40,000/- per annum or less than Rs.40,000/- per annum and claimant having income more than Rs.40,000/- was not entitled to invoke Section 163A of 1988 Act. Hence, no fault liability under Section 163A of 1988 Act had limited scope and was available only to eligible claimants. The fault liability was covered under Section 166 of 1988 Act which was dependent upon showing rash and negligent driving of the offending vehicle by a third party.

10. However, with amendment of 1988 Act w.e.f. 01.04.2022, the

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manner in which compensation is payable to a victim has undergone drastic change. Instead of having three compartments i.e. two for 'no fault liability' and one for 'fault liability', the Legislature has simplified payment of compensation to a victim of road accident by dividing into two compartments – first in case use of vehicle is shown which is irrespective of any fault of said vehicle and second on account of fault liability of offending vehicle.

11. In present case as held above, provisions of Section 166 of 1988 Act would not be applicable as learned Tribunal had rightly held that appellants-claimants had failed to prove fault on the part of driver while driving car and accident had taken place on account of sudden fall of snow over the car. Present is a case, which is covered by principles of no fault liability as deceased and appellants-claimants were travelling in the car involved in the accident.

12. The next question which is required to be considered is whether a petition under Section 166 of 1988 Act can be converted to a petition under Section 164 of 1988 Act. Prior to amendment, the view taken by the Courts was that if a petition under Section 163A of 1988 Act has been preferred the same cannot be easily converted to be one under Section 166 of 1988 Act. Similarly, if if a petition has been preferred under Section 166 of 1988 Act, same cannot be easily converted to petition under Section 163A of 1988 Act, unless so permitted by the Court. There was no automatic conversion available from Section 163A to 166 of 1988 Act or from 166 to 163A of 1988 Act. However, compensation under Section 140 was payable irrespective of failure or success on the part of claimants to prove fault on

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the part of offending vehicle.

13. With amendment of 1988 Act in the year 2019, it is clearly made out that provisions of Section 140 as well as that of Section 163 of 1988 Act have been taken away and both the provisions after clubbing together have been enacted by way of Section 164 of 1988 Act, whereby structured formula as well as eligibility to invoke 'no fault liability' as provided under Section 163A of 1988 Act were done away.

14. Therefore, with amendment w.e.f. 01.04.2022, the intent of Legislature is clear that in all cases where a claimant or a victim fails to prove fault on the part of defending vehicle but succeeds in proving use of motor vehicle, he would be entitled to invoke provisions of Section 164 of 1988 Act to claim compensation under no fault liability. Therefore, with amendment even if a petition under Section 166 of 1988 Act fails, the provisions of Section 164 of 1988 Act would come in play and compensation would be payable under no-fault liability irrespective of fact that whether the petition was filed under 164 of 1988 Act or not or whether any application to convert the petition from under Section 166 to 164 of 1988 Act has been preferred or not. The invocation of Section 164 would automatically come in operation on failure of victim to prove rash and negligent driving on the part of offending vehicle but by showing involvement of offending vehicle in the accident.

15. Therefore, in present case provisions of Section 164 of 1988 Act would be operational upon concluding that injuries as well as death was caused on account of use of motor vehicle. The next question which arises in

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present case is whether provisions of Section 164 of 1988 Act which have come in operation w.e.f. 01.04.2022 can be used to invoke no fault liability in the accident which had occurred way back in year 1997 especially when the provisions of Section 164 of 1988 Act have been made effective w.e.f. from 01.04.2022.

16. The above noted issue is not *res integra*. Hon'ble Supreme Court in **Roopa Vs. The Manager, Orix Auto Infrastructure Service Ltd. and Anr.**, Civil Appeal No.6797 of 2026 decided on 27.04.2026; **The New India Assurance Co. Ltd. Vs. Urmila Halder**, 2025 ACJ 244; and **K.R. Jagadish and Anr. Vs. M/s. National Insurance Company Ltd. And Anr.**, 2025 ACJ 188 has dealt this very issue and has held that since amendment in Section 164 of 1988 Act is procedural in nature therefore, it is applicable retrospectively and compensation in cases where the accident had taken place prior to 01.04.2022 shall be payable in all such cases despite amendment w.e.f. from 01.04.2022.

17. Accordingly, in present case compensation is payable under Section 164 of 1988 Act in view of changed circumstances i.e. amendment in 1988 Act.

18. As far as appeal (**FAO No.4430 of 2004**) which has been preferred by appellants-claimants on account of death of deceased-Dr. Rajiv Rampal is concerned, same has been opposed by learned counsel for respondent-Insurance Company on the ground that since deceased was owner of the car involved in the accident and he himself was driving the car at the time of accident, therefore being owner he is not covered by term

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'third party' and appellants-claimants are not entitled to any compensation on account of death of deceased unless covered by contractual obligation under the contract of insurance. Learned counsel for respondent-Insurance Company has further drawn my attention to the Insurance Policy (Ex.R2), wherein premium was only paid to cover the paid driver and no premium for covering damage suffered by owner of the vehicle was paid. Therefore, learned Tribunal noting this fact had concluded that respondent-Insurance Company is not liable to pay compensation on account of death of deceased-owner, namely Dr. Rajiv Rampal.

19. In view of above noted factual aspect of the case, this Court has no option except to agree with the contention raised on behalf of respondent-Insurance Company as well as conclusion drawn by learned Tribunal that no compensation is payable to appellants-claimants on account of death of deceased-Dr. Rajiv Rampal as he was owner who was driving the ill-fated vehicle. Accordingly **FAO No.4430 of 2004** is dismissed even after treating the same under Section 164 of 1988 Act.

20. As far as injured-appellants-claimants in appeals (**FAO No.4429 of 2004; FAO No.4431 of 2004, FAO No.4432 of 2004 and FAO No.4433 of 2004**) are concerned, they have have suffered grievous injuries in the accident, therefore, they are entitled to lumpsum compensation of **Rs**.**2,50,000**/- each under Section 164 of 1988 Act. Appellants-claimants had suffered following injuries:-

Sr. No.	Name of appellant-claimant	Nature of injuries
1.	Anju @ Ranju	Multiple injuries on head.

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2.	Shanti Devi	Multiple fractures of backbone vertebrates, pelvis and head injuries.
3.	Ritika Rampal	Multiple injuries on right femur, left tibia and fibula, face inversion of right foot plastered upto chest and shortening of leg.
4.	Master Abhishek Rampal	Multiple injuries on head and dis-figuration of face.

The compensation shall be payable along with interest @ 6% per annum from the date of filing of claim petition till its realization as was awarded by Hon'ble Supreme Court in case titled **K.R. Jagadish and Anr. Vs. M/s. National Insurance Company Ltd. And Anr. (supra)**.

21. Accordingly, appeals (**FAO No.4429 of 2004; FAO No.4431 of 2004, FAO No.4432 of 2004 and FAO No.4433 of 2004**) are allowed in above terms.

22. Pending application(s), if any, stand disposed of. Photocopy of this order be placed on the files of connected cases.

(PARMOD GOYAL)
JUDGE

03.11.2026
Sunil Chander

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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