



IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

FAO (MVA) Nos. 50 & 51 of 2024

Reserved On: 16.7.2025

Date of decision: 7.10.2025

1. FAO (MVA) No. 50 of 2024

Kamli & others.

....Appellants.

Versus

Boby Chauhan & others

....Respondents.

2. FAO (MVA) No. 51 of 2024

Kamli & others.

....Appellants.

Versus

Boby Chauhan & others

....Respondents.

Coram

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Whether approved for reporting?¹ Yes

For the Appellants :

Mr.H.S. Rangra, Advocate, for the appellants in both appeals.

For the Respondents :

Mr.Jai Dev, Advocate, for respondent No. 1 in both appeals.

Mr.Gurinder Singh Parmar, Advocate, for respondent No. 2, in both appeals.

Mr.Bhupinder Singh Pathania, Advocate, for respondent No.3, in both appeals.

Vivek Singh Thakur, Judge

These appeals, arising out of one and the same accident, for involvement of common question of facts and law, are being decided by this common judgment.

¹***Whether the reporters of the local papers may be allowed to see the Judgment? Yes***

2. Parties to the lis, hereinafter, shall be referred as per their status before the MACT.

3. Claimants/petitioners in both the appeals are common.

4. On 28.8.2016, at about 10.30 A.M. Ghanshyam son of Thakar Dass, his wife Neetu Devi, Usha and driver Gian Chand were traveling in a Car bearing No. HP-06A-2153 from Village Darkali to Village Kotlu. When they reached at place Shalini Mod (curve), driver Gian Chand could not control the vehicle and it rolled down to deep gorge. Resultantly, there was total loss of vehicle and three persons, i.e. Ghanshyam, Neetu Devi W/o Ghanshyam and Usha died on the spot, whereas driver Gian Chand succumbed to his injuries in CHC Karsog after some time.

5. Claimant/petitioner Kamali is mother of Ghanshyam and mother-in-law of Neetu. Petitioner No. 2 Manish Khanna, petitioner No. 3 Poonam Kumari are son and daughter of Ghanshyam and Neetu. All three of them preferred two separate petitions for awarding compensation on account of death of Ghanshyam and Neetu Devi in the accident alleging rash and negligent driving of the car involved in the accident by driver Gian Chand.

6. Respondent No. 1 Bobby Chauhan is registered owner of the car, whereas Leela Devi is surviving legal heir of deceased driver Gian Chand. Respondent No. 3 Insurance Company is insurer of the vehicle.

7. MAC Petition No. 18 of 2017, titled as Kamali and others Vs. Bobby Chauhan and others was preferred for compensation on account of death of Neetu Devi which was dismissed by MACT vide impugned order dated 8.12.2023 with the findings that claimants had failed to prove rash and negligent driving on the part of car driver.

8. MAC Petition No. 19 of 2017, titled as Kamali and others Vs. Bobby Chauhan and others was preferred for compensation on account of death of Ghanshyam, which was also dismissed by MACT vide impugned order dated 8.12.2023 for the same reason.

9. Assailing the impugned awards FAO No. 50 of 2024, titled as Kamali & others Vs. Bobby Chauhan and others and FAO No. 51 of 2024, titled as Kamali and others Vs. Bobby Chauhan and others; have been preferred, respectively against even dated awards dated 8.12.2023 passed in Claim Petition Nos. 18 of 2017 and 19 of 2017, respectively.

10. Evidence in both Claim Petitions is identical except claim with respect to respective contribution/income of deceased Neetu Devi and Ghanshyam.

11. After completion of pleadings, following issues were framed by MACT in both Claim Petitions:-

Claim Petition No. 18 of 2017

- "1. Whether the deceased Smt. Neetu died as a result of the accident took place on 28.08.2016 at place Shalini Mod (curve) due to rash and negligent driving of deceased driver Gian

Chand, who could not control Ford Figo car bearing No. HP-06A-2153, when said vehicle rolled down to deep gorge at about 150 meters?

OPP

2. If issue No. 1 is proved in affirmative, then whether the petitioners are entitled for compensation, to what and from whom?

OPP

3. Whether the present petition is bad for non joinder and mis-joinder of the necessary parties?

OPP-1

4. Whether the driver of Ford Figo Car bearing No. HP-06A-2153 was not holding a valid and effective driving licence?

OPR-3

5. Whether Ford Figo car bearing registration No. HP-06A-2153 was plied without RC and fitness certificate?

OPR-3

6. Whether Ford Figo car bearing registration No. HP-06A-2153 was plied in breach of the terms and conditions of the insurance Policy?

OPR-3

7. Relief."

Claim Petition No. 19 of 2017

1. Whether the deceased Ghanshyam died as a result of the accident took place on 28.08.2016 at place Shalini Mod (curve) due to rash and negligent driving of deceased driver Gian Chand, who could not control Ford Figo car bearing No. HP-06A-2153, when said vehicle rolled down to deep gorge at about 150 meters?

OPP

2. If issue No. 1 is proved in affirmative, then whether the petitioners are entitled for compensation, to what extent and from whom?

OPP

3. Whether the present petition is bad for non joinder and mis-joinder of the necessary parties?

OPR-1

4. Whether the driver of Ford Figo Car bearing No. HP-06A-2153 was not holding a valid and effective driving licence?

OPR-3

5. Whether Ford Figo car bearing registration No. HP-06A-2153 was plied without RC and fitness certificate?

OPR-3

6. Whether Ford Figo car bearing registration No. HP-06A-2153 was plied in breach of the terms and conditions of the insurance Policy? OPR-3

7. Relief.”

12. Issues No. 1 and 2 in both petitions have been decided against claimants and no findings have been returned with respect to Issues No. 3 to 6 with observation that in view of findings rendered in Issues No. 1 and 2, these issues have become redundant.

13. The only ground for rejection of Claim Petitions, assigned in the impugned awards, is that claimants had failed to prove rash and negligent driving of the car by driver Gian Chand, with observation that in the FIR Ex. PW-3/A, nothing has been mentioned regarding rash and negligent driving of the driver of offending vehicle, and Gian Chand alias Gopal driver of offending vehicle has not been examined to prove the manner of the accident or rash and negligent driving on part of offending vehicle.

14. Respondent No. 2 had not filed reply to the Claim Petitions, but had adopted reply filed by respondent No. 1.

15. Petitioners have examined five witnesses. PW-1 Dr. Pankaj Sharma, PW-2 Gulab Singh, PW-3 HC Pawan Kumar, PW-4 Hari Saran and PW-5 Kamali Devi in both petitions and they have placed reliance upon copy of postmortem report of Ghanshyam and Neetu (Ex. PW-1/A) in both petitions, abstract of Pariwar Register (Ex. PW-2/A), copy of FIR

(Ex. PW-3/A), affidavit of Kamali (Ex. PW-5/A), copy of legal heirs certificate (Ex. PW-5/B in MAC Petition No. 18 of 2017 and Ex. PW-5/C in MAC Petition No. 19 of 2017). Copy of death certificate of Neetu Devi has been proved on record as Ex. PW-5/C in MAC Petition No. 18 of 2017 and copy of death certificate of Ghanshyam as been proved on record as Ex. PW-5/B in MAC Petition No. 19 of 2017.

16. Respondents have examined three witnesses. Out of them owner-respondent No. 1 Bobby Chauhan has examined two witnesses i.e. RW-1 Khem Raj Junior Office Assistant (IT) from the Office of Licensing Authority, SDM Rampur and himself as RW-2. Whereas respondent No. 2 has examined one witness RW-1 Pradeep Kumar Licence Clerk SDM Office Karsog for proving DL of deceased Gian Chand Ex. RW-1/A. Registration Certificate Ex. R-1, Insurance Policy Ex. R-2 was tendered in evidence by counsel of respondent No. 2. No evidence has been lead by respondent No. 3-Insurance Company.

17. Stand of respondent No. 1 is that prior to occurrence of accident on 6.8.2016, offending vehicle had been sold by him to Gian Chand, the person who was driving the vehicle. It has been stated in the reply that on 6.8.2016, agreement of transfer of vehicle was executed between Bobby Chauhan and Gian Chand, which was duly attested by Notary and for transfer of vehicle to Gian Chand, 'No Objection Certificate' was issued in favour of Gian Chand by RLA Rampur to RLA

Karsog on 9.8.2016. . To substantiate his plea respondent No. 1 Bobby Chauhan has relied upon documents produced by RW-1 Khem Raj, who has produced the record related to offending vehicle and has proved on record copy of 'No Objection Certificate' Ex. RW-1/A. He was not cross-examined on behalf of Insurance Company. In cross-examination on behalf of claimants, this witness has admitted that as per record 'No Objection Certificate' was issued on 17.8.2016, but with further admission that 'No Objection Certificate' issued to RLA Karsog was also available in office record.

18. RW-2 Leela Devi by examining witness Pradeep Kumar, License Clerk SDM Office Karsog has proved license of Gian Chand Ex. RW-1/A. None of other parties have cross-examined RW-1 Pradeep Kumar in this regard.

19. On 9.6.2022, copy of Registration Certificate of offending vehicle and copy of Insurance Policy was tendered in evidence as Ex. R-1 and R-2, which was not disputed by any party.

20. PW-1 Dr. Pankaj Sharma has proved copy of postmortem reports of deceased Neetu Devi and Ghanshyam as Ex. PW-1/A and Ex. PW-1/A in respective cases. This witness was not cross-examined.

21. PW-2 Gulab Singh, Secretary Gram Panchayat Seri Bangla has proved on record copy of Parivar Register Ex. PW-2/A with entry of Neetu Devi and Ghanshyam, who died in accident on 28.8.2016. There

is no cross-examination to dispute the details of Parivar Register, except clarification sought in cross-examination that name of Ghanshyam and Neetu Devi and Poonam Kumari has been struck off the record, because of death of Neetu Devi and Ghanshyam and marriage of Poonam Kumari. This witness was examined on 12.8.2021, whereas accident took place on 28.8.2016. At the time of accident existence of all members of the family member has not been disputed.

22. PW-3 HC Pawan Kumar has proved on record copy of FIR No. 124/2016 dated 28.8.2016 registered in Police Station Karsog, District Mandi, H.P. Ex. PW-3/A. Registration of FIR or contents thereof have not been disputed by either party except suggesting that this witness had neither conducted investigation in the FIR nor had prepared it under his signatures.

23. PW-4 Hari Sharan in his examination-in-chief, in respective claim petitions, has stated that Neetu Devi was earning ₹12,000/- per month from selling cow milk, teaching children and also as a house wife and deceased Ghanshyam was a mason who was earning ₹600/- per day and apart from that he was also earning by doing work in orchard and agriculture field and was earning around about ₹22,000/- per month. In cross-examination he has admitted that deceased had not disclosed their income to him and he was not having any record to substantiate his plea.

24. PW-5 Kamali is petitioner No. 1, who has re-iterated the details, age and surviving dependent legal heirs of deceased Ghanshyam and Neetu Devi as well as the occurrence of accident, registration of FIR, postmortem of dead bodies of deceased. She has also claimed earning of deceased Neetu Devi and Ghanshyam as ₹12,000/- and ₹22,000/- per month respectively. In her cross-examination she has admitted that she was not on the spot and she did not place on record any document or any evidence with respect to earning of her son and daughter-in-law as well as any records of horticulture or agricultural income of deceased Ghanshyam.

25. Insurance Company has neither examined any witness nor lead any documentary evidence.

26. In reply to the petitions, standard objections were raised by the Insurance Company that the person driving the vehicle at the relevant time was not having valid and effective driving license to drive the offending vehicle, and vehicle was being driven in violation of terms and conditions of Insurance Policy, especially route permit, and there was collision of two vehicles and, therefore, for determining the contributory liability, owner as well as insurer of other vehicle was also required to be arrayed as party and right to raise defence on all issues was reserved by the Insurance Company. However, no other defence was ever raised nor any evidence was ever produced by the Insurance Company.

27. The trend of cross-examination on behalf of Insurance Company also depicts that documentary evidence with respect to registration of vehicle and issuance of insurance cover, validity of driving licence, has not been disputed by the Insurance Company.

28. It is also apt to record that defence in the reply, alleging that in the accident there was collision of two vehicles, taken by the Insurance Company is also false and incorrect as both petitions have been filed stating that on 28.8.2016 Gian Chand could not control the vehicle and the same rolled down to a deep gorge of about 150 meters and the accident took place on account of rash and negligent driving of driver Gian Chand and plea has been substantiated in the FIR. It appears that reply on behalf of Insurance Company has been filed in a stereo typed manner, without verifying the facts.

29. In the claim petitions, in clear terms, petitioners have alleged that accident took place due to rash and negligent driving of the vehicle by driver, as evident from pleadings contained in para 24 of both petitions. This statement has been re-iterated by petitioner Kamali in her examination-in-chief placed on record by way of affidavit Ex. PW-5/A. In her cross-examination, the only question put to her in this regard is that she was not eye witness to the accident, but there is no suggestion put to her to dispute the plea that accident took place on account of rash and negligent driving of Gian Chand. In fact with respect to the facts deposed

in the petitions as well in the examination-in-chief, there is no question or dispute in the cross-examination as well as in the reply filed to the petitions, and thus such facts have to be deemed to have been admitted by the opposite parties.

30. Not only in the Claim Petitions as well as in examination-in-chief of Kamali, but also in statement of Padam Nabh recorded under Section 154 Cr.P.C., FIR, which has not been disputed by either party, it had been stated that there is possibility that accident took place on account of rash and negligent driving of Gian Chand alias Gopal, the person driving the car. Thereafter Investigating Officer has recorded his observation, stating that from the statement of Padam Nabh as well as on spot inspection, it was found that accident took place on account of high speed, rash and negligent driving on the part of Gian Chand (Gopal) and, therefore, offense was found to have been committed under Sections 279, 337 and 304A of the Indian Penal Code.

31. Section 279 of the Indian Penal Code is attracted on account of rash and negligent driving of the vehicle on public way, providing punishment for such rash or negligent driving endangering human life or likely to cause hurt or injury to any other person.

32. Section 337 of the IPC also provides punishment for causing hurt by act endangering the life and personal safety of others by doing any act rashly and negligently.

33. Section 304 A IPC provides punishment for causing death of any person by doing any rash or negligent act, not amounting to culpable homicide.

34. Though copy of FIR is not a substantial piece of evidence, and corroboration is required to prove its contents, however, in present case circumstances are entirely different as none of the party, at any point of time has disputed the contents of the FIR, rather have admitted the same during the recording of evidence. There is sufficient corroboration amongst the contents of petitions, deposition of witnesses in the Court and facts recorded in the FIR, as it has been unambiguously concluded by the Investigating Officer by saying that as per his observation and investigation it was found that for rash and negligent and high speed driving of driver of car, case was required to be registered under Sections 279, 337 and 304-A IPC.

35. It is also apt to record that MACT has observed that Gian Chand has not been examined by the petitioners to prove and disclose the manner in which accident took place. This observation depicts that these findings have been recorded without noticing that Gian Chand had succumbed to injuries at CHC Karsog and it was not possible for the petitioners to summon a dead person as witness for deposing in the Court.

36. Findings of MACT that there is no evidence on record either in FIR produced on record or in statements, is also perverse being contrary to record. The MACT has misread the pleadings and evidence on record with respect to Issue Nos. 1 and 2 and has wrongly decided the same against the petitioners.

37. From the above discussion, it is apparent that findings returned by the MACT on Issues No. 1 and 2 deserve to be reversed and accordingly it is held that accident took place on account of rash and negligent driving of the car by deceased Gian Chand.

38. Respondents including Insurance Company have not lead any evidence with respect to issues No. 3 to 6, whereas there is sufficient evidence on record that driver Gian Chand was having valid and effective driving licence to drive the vehicle in reference with valid registration and fitness certificate and there was no breach of terms and conditions of the Insurance Policy of the vehicle. There is nothing on record to hold that Claim Petitions were bad for non-joinder or mis-joinder of necessary parties.

39. From the copy of driving licence proved on record as Ex. PW1/A, it is apparent that license was valid for driving light motor vehicle w.e.f. 25.6.2012 and license was valid up to 27.8.2032. Admittedly, offending vehicle was a private car, but not a transport vehicle. Even otherwise for the judgment passed by the Apex Court in **Bajaj Alliance**

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SCC 95, person having driving license to drive light motor vehicle is authorized to drive any light motor vehicle including transport light motor vehicle.

40. MACT has not decided all issues despite the fact that repeatedly it has been held that at the time of final adjudication, all issues should be decided on merits. In this regard, it has been held by the Full Bench of this High Court in ***Prithvi Raj Jhingta & Another Vs. Gopal Singh & Another, AIR 2007 Himachal Pradesh 11 (FB)***, that once Court frames all issues together, in such a situation judgment as a whole must be pronounced covering all issues framed in the matter. (Also see ***Sathyanath and another Vs. Sarojamani, (2022) 7 SCC 644***, and ***Civil Appeal No. 1842 of 2024, decided on 8.2.2024*** by Apex Court). For this purpose, matter may be remanded to the MACT, however, taking into consideration that accident took place in the year 2016 and we are in 2025, it would be further undue harassment to the claimants to relegate them to the MACT for deciding the issues, which were not decided by the MACT on merits.

41. In order to prove the income of Neetu Devi and Ghanshyam, as stated in respective Claim Petitions, claimants have relied upon statement of Kamali, (Ex. PW-5/A) and deposition of PW-4 Hari Sharan. As discussed supra, there is nothing on record to

substantiate the claim that Neetu Devi and Ghanshyam were earning ₹12,000/- and ₹22,000/- respectively per month.

42. Faced with aforesaid paucity of evidence to substantiate the plea of monthly income of deceased Neetu Devi and Ghanshyam, learned counsel for the appellants/claimants has fairly conceded that monthly income of Neetu Devi and Ghanshyam at relevant point of time can be determined on the basis of minimum wages @200/- per day, prescribed at relevant time for unskilled and semiskilled workers. Accordingly, monthly income of Neetu Devi and Ghanshyam would be ₹6,000/- each per month. Taking into consideration age of deceased persons i.e. 33 years, multiplier of 16 would be applicable in present case.

43. Interest @ 9% per anum appears to be slightly on higher side, therefore, interest payable by the Insurance Company shall be @ 6% per annum from the date of filing of the petitions till realization of the amount.

44. Taking into consideration ratio of law laid down by the Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and others, (2017) 16 SCC 680; Megma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram and others, (2018) 18 SCC 130; and Kirti Vs. OIC, 2021 (1) ACJ 1***, claimants in these cases shall be entitled for compensation in the following terms:-

Neetu Devi

Sr. No.	Different Heads	Amount
A	Monthly Income	₹6000/- Per month
B	Increase in income for special circumstances in case of house wife female, as settled by Hon'ble Apex Court in Kirti Vs. OIC case 25%	₹1500/- as such total income (A+B) ₹6000+ ₹1500=₹7500/- per month.
C	Future prospectus 40% which comes $₹7500 \times 40\% \div 100 = ₹3000/-$	₹3000/-
D	Deduction for personal expenses (1/3) which comes	(₹7500+ ₹3000=₹10,500) comes ₹7,000/-
E	Multiplier (30-35 age)	16
F	Loss of consortium for 40,000X3	₹1,20,000/-
G	Loss of Estate	₹15,000/-
H	Funeral Charges	₹15,000/-
Amounts	$₹7,000 \times 12 \times 16 = ₹13,44,000 + ₹15,000 + ₹15,000 + ₹1,20,000 = ₹14,24,000/-$	₹14,94,000/-

As such compensation amount comes ₹14,94,000/- plus interest @6% per annum from the date of petition i.e. 9.6.2017.

Ghanshayam

Sr. No.	Different Heads	Amount
A	Monthly Income	₹6000/- Per month
B	Future prospectus 40% which comes $₹6,000 \times 40\% \div 100 = ₹2400/-$	₹2400/-
C	Deduction for personal expenses (1/3) which comes	₹5,600/-
D	Multiplier (30-35 age)	16
E	Loss of consortium for 40,000X3	₹1,20,000/-
F	Loss of Estate	₹15,000/-
G	Funeral Charges	₹15,000/-
Amounts	$₹5,600 \times 12 \times 16 = ₹10,75,200 + ₹15,000 + ₹15,000 + ₹1,20,000 = ₹12,25,200/-$	₹12,25,200/-

As such compensation amount comes ₹12,25,200/- plus interest @6% per annum from the date of petition i.e. 9.6.2017.

45. In present case, agreement to sell the vehicle was executed on 6.8.2016. The information was submitted to the Registration Authority, whereupon Registration Authority issued 'No Objection Certificate' on 9.8.2016 to Registration Authority of purchaser i.e. Registration and Licensing Authority, Karsog, H.P.. Thereafter transferee had 30 days time to report transfer of the vehicle to Registration and Licensing Authority within whose jurisdiction he had been residing or place of business where the vehicle was normally proposed to be kept. In present case, prior to expiry of 30 days vehicle met with an accident on 20.8.2016.

46. Section 50 of the Motor Vehicles Act provides that where ownership of any motor vehicle registered under the MV Act is transferred, transferor shall have to report the fact of transfer to Registration Authority within 14 days and simultaneously send copy of said report to transferee. Transferee shall report the transfer to Registration Authority of his area of residence or place of business within 30 days thereafter.

47. In present case transferor has informed the Registration Authority within 14 days and after transfer on 6.8.2016 No Objection Certificate was also issued by the Registration Authority on 9.8.2016.

After 9.8.2016 Gian Chad had to report the transfer of vehicle to Registration Authority, Karsog within 30 days, but prior to that accident took place and, therefore, at the relevant point of time there was no complete transfer of the vehicle from respondent No. 1 Bobby Chauhan to Gian Chand and transfer was under process as prescribed under the Act. Thus there is no lapse on the part of respondent No. 1 Bobby Chauhan or Gian Chand with regard to completion of process of transfer. Before completion of process of transfer, registered owner was respondent No. 1 Bobby Chauhan.

48. In view of judgments of the Apex Court registered owner of the vehicle is liable to pay compensation on account of death or bodily injury in an accident of the motor vehicle, owned by him. In present case also at the time of accident registered owner was Bobby Chauhan, therefore, liability to pay compensation would be of registered owner Bobby Chauhan.

49. Even if Gian Chand is considered to be owner after issuance of NOC, then also there shall be no change in the status of the Insurance Company as Insurer and liability to pay as insurer, and to indemnify the owner, either considering the previous owner as registered owner or Gian Chand as such. (See: **Naveen Kumar Vs. Vijay Kumar and others, (2018) 3 SCC 1; Prakash Chand Daga Vs. Saveta Sharma and others, (2019) 2 SCC 747; Surendra Kumar Bhilawe Vs. New**

India Assurance Company Limited, (2020) 18 SCC 224 and Vaibhav Jain Vs. Hindustan Motors Private Limited, (2025) 2 SCC 208 (para-19).

50. Next issue requires to be decided is whether there was any breach of terms and conditions of the Policy on the part of owner or driver of the vehicle. Vehicle was having valid Fitness Certificate and Registration Certificate, valid up to 15.1.2026. Insurance Cover of Private Car Package Policy was valid from midnight 3.11.2015 to midnight of 2.11.2016. Driver Gian Chand was having effective driving license to drive the vehicle.

51. Limits of liability under the Package Policy placed on record, there is no exclusion of liability of the Insurance in certain cases. There is nothing in the exclusion clause, so as to construe that liability of Insurance Company to pay compensation to the claimants of deceased persons traveling in the car was excluded. It was a Private Car Package Policy cover. Therefore, respondent No. 3 cannot be absolved from its legal duty to indemnify the owner of the vehicle. Sitting capacity of the offending vehicle including driver was 5. Four persons were sitting in the vehicle. Accordingly, Insurance Company is liable to indemnify the owner of the vehicle for payment of compensation to the claimants.

52. In view of above, respondent No. 1 Bobby Chauhan, owner of the vehicle is held liable to pay the compensation and Insurance

Company is liable to indemnify respondents No. 1 Bobby Chauhan for payment of compensation amount of ₹14,94,000/- in FAO No. 50 of 2024 and ₹12,25,200/- in FAO No. 51 of 2024. Claimants in both appeals shall be entitled for compensation in equal proportion alongwith interest in equal proportion thereon @ 6% per annum. Respondent-Insurance Company shall indemnify respondent No. 1 Bobby Chauhan by making payment of compensation to the claimants directly or by depositing the amount in the Registry of this Court on or before 31st October, 2025.

Appeals are allowed and disposed of in aforesaid terms.

7th October, 2025
(Keshav)

(Vivek Singh Thakur),
Judge.