



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-4859-2002 (O&M)
Reserved on : 14.08.2026
Pronounced on : 02.09.2026

LAKHWINDER KAUR AND OTHERS ...APPELLANTS

VERSUS

DALJIT SINGH AND OTHERS ...RESPONDENTS

Present: Mr. Pranav Agnihotri, Advocate for
Mr. Amandeep Agnihotri, Advocate
for appellants.

Mr. Prabhsher Singh Walia, Advocate for
Mr. Karminder Singh, Advocate
for the respondent No.3.

PARMOD GOYAL, J.

Present appeal has been preferred by appellants-claimants being the wife, children (two) and mother of deceased Karanbir Singh seeking enhancement of compensation awarded vide award dated 02.05.2002 passed by learned Motor Accident Claims Tribunal, Patiala (hereinafter referred to as '**Tribunal**'), whereby appellant-claimants were awarded total compensation of Rs.1,15,000/- on account of death of Karanbir Singh (hereinafter referred to as '**deceased**') in motor vehicular accident dated 14.02.1997 allegedly caused due to rash and negligent driving of respondent-driver while driving motorcycle bearing registration No. PB-30-1510 (hereinafter referred to as '**offending vehicle**')

2. In the present appeal, appellants-claimants have challenged the

impugned award on twin grounds, firstly, that accident had solely occurred on account of rash and negligent driving by respondent-driver and, secondly, that compensation awarded by learned Tribunal is not just and needs enhancement.

3. Learned Tribunal while determining issue No.1 as regards to rash and negligent driving on the part of offending motorcycle had concluded that deceased was equally responsible in contributing to the accident dated 14.02.1997 and had accordingly found deceased as well as respondent-driver equally liable for accident to the extent of 50% each.

4. The case set up by appellants-claimants was that on 14.02.1997 at about 6 PM, deceased was going from Village Loh Simbli to Ambala City on his motorcycle bearing No.HRX-555, after making some purchase. Deceased was driving the motorcycle whereas Jaspal Singh was the pillion rider. At about 6 PM when they had reached near brick kiln of Village Jameetgarh, respondent-driver had struck offending vehicle against the motorcycle of deceased while driving offending vehicle rashly and negligently. At the time of accident Balbir Singh was the pillion rider of respondent-driver. It was claimed that accident had taken place on account of rash and negligent driving of respondent-driver-Daljit Singh, on account of which deceased had suffered injuries and was taken to Sukhnandan Hospital, Ambala City in unconscious state where he was declared dead.

5. Respondents in their written statement had denied the accident in totality.

6. In order to prove manner of accident, appellants-claimants had placed reliance upon evidence of Jaspal Singh who appeared as AW3. Jaspal

Singh (AW3) claimed that he was pillion rider on the motorcycle driven by deceased and their motorcycle was struck by motorcycle driven by respondent-driver being driven in rash and negligent manner after coming to the wrong side. Appellants/claimants have also relied upon evidence of AW1-Karambir Singh who claimed himself to be eye-witness to the accident dated 14.02.1997 and stated that he was also going from Ambala City to Loh Simbli on his scooter. That near brick kiln respondent-driver-Daljit Singh overtook his motorcycle and went on the wrong side of the road and hit the motorcycle of deceased. AW1 claimed that he had taken deceased-Karanbir Singh to Sukhnandan Hospital where he died. He also claimed that deceased was accompanied by Jaspal Singh. Reliance was also placed upon FIR No.8 dated 15.02.1997 (Ex.A1) under Sections 304A, 279, 337, 427 of IPC, registered with Police Station Ghanaur, which was lodged by Jaspal Singh.

7. Respondent-driver-Daljit Singh appeared as RW1 and had denied the accident in totality. He claimed that he was implicated in a false criminal and MACT case.

8. Learned Tribunal after considering evidence of AW1, AW3 and RW1 had concluded that accident had taken place on account of contributory negligence of deceased and respondent-driver.

9. While considering evidence of RW1, same was rejected in totality by learned Tribunal being statement made in self-interest. The evidence of AW1 and AW3 were taken with a pinch of salt by stating that AW1 was real brother of deceased and AW3 was his co-villager, however, AW3 had failed to show that he had also received any injuries being pillion rider on the motorcycle being driven by deceased. Learned Tribunal further

concluded that since accident was head-on-collision and in claim petition it was not stated that respondent-driver was coming from opposite direction and after coming to wrong side had struck his motorcycle, therefore, both deceased and respondent-driver had equally contributed in causing the accident. What constitutes contributory negligence is not *res integra*. Hon'ble Supreme Court in case titled **Parmod Kumar Rasikbhai Jhaveri Vs. Karmasey Kunvargi Tak**, 2002 (3) RCR (Civil) 688 has held as under :-

“The question of contributory negligence arises when there has been some act or omission on the claimant's part, which has materially contributed to the damage caused, and is of such a nature that it may properly be described as 'negligence'. Negligence ordinarily means breach of a legal duty to care, but when used in the expression "contributory negligence" it does not mean breach of any duty. It only means the failure by a person to use reasonable care for the safety of either himself or his property, so that he becomes blameworthy in part as an "author of his own wrong.”

10. Therefore, from the above noted observations made by Hon'ble Supreme Court, it is clear that contributory negligence can only be attributed in case there is any act of omission or commission on the part of both the drivers. In case, the act of omission or commission is on the part of offending driver, the negligence would be of said driver and such case would not be a case of contributory negligence. Similarly in head-on-collision, the Courts cannot blindly conclude contributory negligence. Even in case of head-on-collision finding of contributory negligence is dependent upon facts and circumstances of each case. It is only when act of omission or commission is shown on the part of other vehicle (i.e. vehicle of victim/or on the part of victim), then only the finding of contributory negligence can

be recorded. Mere head-on-collision would not automatically result in finding of contributory negligence.

11. In the present case, no doubt AW1 was brother of deceased and AW3 was co-villager, however, they cannot be held to be interested witness merely on account of their acquaintance with the deceased. Interested witness is a person who wants to implicate other side by all means. In the present case, neither AW1 nor AW3 had any specific reasons to falsely implicate the respondent-driver.

12. In the present case, respondent-driver had denied the accident in totality and his denial has been specifically rejected by learned Tribunal as same is clearly a self interested assertion. When respondent-driver is not asserting any act of omission or commission on the part of deceased by concealing manner of accident by denying accident in totality, then the only evidence left for consideration is of AW1 and AW3.

13. Both AW1 and AW3 have specifically stated that accident had occurred when respondent-driver while driving his motorcycle rashly and negligently came on the wrong side of the road and had struck against the motorcycle of the deceased. The manner as stated by AW1 and AW3, therefore, is consistent and reliable and clearly shows that it was only respondent-driver who was responsible for causing the accident. A person going on his correct side as per traffic rules cannot be faulted if his vehicle is struck by another vehicle coming from opposite direction in a rash and negligent manner. Even though the accident was head-on collision, the liability in such cases would be of vehicle which had come on wrong side and was being driven rashly and negligently, therefore, in the present case,

accident had occurred solely on account of rash and negligent driving of respondent-driver.

14. The finding of learned Tribunal on issue No.1 is accordingly set aside. Issue No.1 is decided in favour of appellants/claimants and against respondents. It is held that respondent-driver alone was responsible for causing the accident dated 14.02.1997.

15. In the present case, learned Tribunal had awarded the following compensation to appellant-claimants :-

Income	Rs.2,000/- per month
Deduction	1/4 th
Multiplier	12
Loss of dependency	Rs.2,16,000/- (1500 x 12 x 12)
50% deduction on account of contributory negligence	Rs.1,08,000/-
Funeral expenses	Rs.2,000/-
Loss of spousal consortium	Rs.5,000/-
Total compensation	Rs.1,15,000/-

16. Appellants-claimants have sought enhancement in compensation on following grounds that :-

- Learned Tribunal has erred in not assessing the income of the deceased as pleaded and proved by the claimants.
- That the learned Tribunal has failed to apply the correct multiplier, despite the fact that the deceased was 42 years of age at the time of the accident.
- That the deduction towards the personal and living expenses of

the deceased is excessive and contrary to the settled principles of law.

- That no addition towards future prospects has been made while calculating the loss of dependency. Future prospects ought to have been added, as the deceased was 42 years of age at the time of the accident.
- Learned Tribunal has also failed to award just and appropriate compensation under the conventional heads, namely funeral expenses, loss of estate, and loss of spousal, parental, and filial consortium, in accordance with the law laid down by the Hon'ble Supreme Court.

17. It was the case of appellants-claimants that deceased was working as an agriculturalist and was running a dairy farm, earning Rs.15,000/- per month from agriculture and Rs.5,000/- per month from dairy farming. Lakhwinder Kaur AW-2 wife of deceased has stated that the deceased was an agriculturalist and running a dairy farm. No evidence regarding dairy is available on record except for oral assertions. Therefore, deceased has to be taken as an agriculturist. The appellants-claimants have placed on record jamabandi for the year 1988-89 as Ex A-1 along with jamabandi for the year 1998-99 as EX-A2 showing that the deceased was an agriculturalist landlord owning 82 bigha of agricultural land. The appellants-claimants have succeeded more than 15 acres of land and the land must still be used by appellants/claimants for agricultural purposes, therefore, only managerial skills invested by deceased can be taken in consideration. Therefore, income of deceased is assessed as Rs.5,000/- per

month. Accordingly, the income of the deceased is taken as Rs.5,000/- per month as per the evidence placed on record showing deceased to be an agriculturalist.

18. It is admitted fact that deceased was 42 years old at the time of his death. Keeping in view age of the deceased future prospects to the extent of 25% needs to be added for purposes of determining loss of dependency, in view of judgment passed by Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**, 2017 (16) SCC 680. Similarly, multiplier which needs to be applied would be '14' instead of '12' as per judgment passed by the Hon'ble Supreme Court in **Smt. Sarla Verma & Ors. Vs, Delhi Transport Corporation & Anr.**, 2009 (6) SCC 121. Since deceased is survived by four dependents i.e. his wife, two children and mother of deceased deduction of 1/4th needs to be made towards personal expenses.

19. Loss of dependency has to be determined by taking monthly income of deceased as Rs.5,000/- per month by applying multiplier of '14' and 25% future prospects. 1/4th deduction towards personal expenses is to be made to calculate loss of dependency.

20. Appellants-claimants shall be entitled to compensation @ Rs.40,000/- for loss of spousal consortium, appellants-claimants No.2 & 3 shall be entitled to compensation of Rs.40,000/- each for loss of parental consortium and appellant-claimant No.4 shall be entitled to Rs.40,000/- for loss of filial consortium. Appellants-claimants shall also be entitled Rs.15,000/- for loss of estate and Rs.15,000/- for funeral expenses. It is however made clear that in case Hon'ble Supreme Court answer the

reference regarding quantum of compensation under conventional head made in **Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919 in favour of appellants, appellants shall be free to seek said amount by moving appropriate application in this regard.

21. Accordingly, reworked compensation is as under :-

Income	Rs.5,000/- per month	Rs.5,000/- per month
Future Prospects	25% (Rs.5,000 + 1,250)	Rs.6,250/-
Deduction	1/4 th (Rs.6,250 – 1,562)	Rs.4,688/-
Multiplier	14	14
Total loss of dependency	Rs.4,688 x 12 x 14	Rs.7,87,584/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		Rs.15,000/-
Loss of spousal consortium to claimant no. 1		Rs.40,000/-
Loss of parental consortium to claimant Nos.2&3	Rs.40,000 x 2	Rs.80,000/-
Loss of filial consortium to claimant no. 4		Rs.40,000/-
Total Compensation awarded in appeal		Rs.9,77,584/-
Total Compensation awarded by the Tribunal	Rs.1,15,000/-	
Enhanced amount of compensation	Rs.9,77,584/- (awarded in appeal) – Rs.1,15,000/- (awarded by the Tribunal)	Rs.8,62,584/-

22. Appellants/claimants shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization of entire amount (except under the conventional heads i.e. loss of consortium, funeral expenses, loss of estate). Under conventional heads interest shall be payable from August 2017 onwards till realization. Apportionment and liability to pay compensation shall be as per

award.

23. Pending application(s), if any, stand disposed of.

02.09.2026
Sunil Chander/Chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes
Whether Reportable : Yes/No