



FAO no.1976 of 1998(O&amp;M)

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

(104)

FAO no.1976 of 1998(O&amp;M)

Reserved On: 28.10.2025

Pronouncement On: 30.10.2025

**PREM KAUR ALIAS PREMO AND OTHERS****... Appellants****Versus****RAMESH KUMAR AND OTHERS****... Respondents****CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Naveen Jhajholia, Advocate  
for the appellants.

Mr. Rakesh Nagpal, Advocate  
for respondent No. 1&2.

Mr. Neeraj Khanna, Advocate  
for respondent No. 3.

Mr. B.R Rana, Advocate  
for respondent No. 4.

Mr. Vinod Gupta, Advocate,  
for respondent No. 5.

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**VIRINDER AGGARWAL, J.**

1. The present appeal has been filed by the claimants-appellants challenging the award dated 24.04.1998 passed by the learned Motor Accident Claims Tribunal, Fatehgarh Sahib, whereby compensation of only ₹50,000/- was granted under Section 140 of the Motor Vehicles Act on the principle of no-fault liability, in respect of the death of Zorawar Singh in a motor vehicular accident that occurred on 25.02.1993.



## **BACKGROUND FACTS**

2. The brief facts of the case are that on 25.02.1993, at about 8:30 p.m., a Maruti Van bearing registration No. DAE-6636, driven by Narinder Singh, was proceeding towards Patiala with passengers Zorawar Singh, Dharam Singh, Rupinder Singh, and Devinder Singh. When the van reached near village Adampur, it collided with a truck bearing No. HYS-8585 which was driven by Ram Kumar. According to the claimants, the truck was being driven rashly and negligently in the middle of the road and without any rear lights or indicators, as a result of which the Maruti van struck against it, causing the death of all four occupants of the van. The Claim petition was filed by the legal representatives of the deceased under Section 166 of the Motor Vehicles Act, 1988, seeking compensation for the said deaths.

3. Upon consideration of the pleadings and the oral as well as documentary evidence on record, the learned Tribunal concluded that the accident indeed took place on 25.02.1993 at about 8:30 p.m. near village Adampur, resulting in the death of Zorawar Singh and others. Relying upon the FIR (Ex. R-1), post-mortem reports (Ex. A-1, A-2, A-3, and A.W.6/B), and the testimonies of Narinder Singh (AW-4) driver of the Maruti van, and Ram Kumar (RW-1) driver of the truck, the learned Tribunal found that the Maruti van bearing registration No. DAE-6636 had collided with the rear side of the truck bearing registration No. HYS-8585, driven by Ram Kumar. The learned Tribunal observed that there was no cogent evidence to establish that the truck had been driven rashly or was improperly parked at the time of the accident. Accordingly, the learned Tribunal returned a finding that the accident could not be attributed to the negligence of either driver and, therefore, actionable



Motor Vehicles Act. Nevertheless, applying the statutory principle of no-fault liability, the learned Tribunal awarded a sum of ₹50,000/- in favour of the claimants under Section 140 of the Motor Vehicles Act.

### CONTENTIONS

4. Learned counsel for the appellant assailed the award on ground that learned Tribunal has erred in law and on facts in dismissing the claim under Section 166 of the Motor Vehicles Act and restricting compensation only under Section 140. The counsel for appellants contended that the learned Tribunal failed to appreciate that the accident occurred due to the rash and negligent act of the truck driver, who had parked his vehicle on the road during night hours without any tail lights, reflectors, or warning signals. Further, the learned counsel of appellant pleaded that the finding of the learned Tribunal exonerating the truck driver is perverse and contrary to the evidence on record, as once it stood proved that the truck was left on a public road without switching on the indicators, the negligence of its driver was apparent. The appellants have also submitted that the learned Tribunal ignored settled principles of law and the evidence of eyewitnesses. Therefore, the learned counsel for appellant prayed for setting aside the impugned award and for grant of just and adequate compensation under Section 166 of the Act.

5. Per contra, learned counsel appearing for respondent Nos. 1 and 2 (the truck owner and driver) and respondent No. 3(the insurer of the truck) supported the findings of the learned Tribunal, contending that the claimants had failed to discharge the essential burden of proving negligence on the part of the truck driver. It was argued that the truck was neither being driven rashly nor negligently at the time of the accident but had been parked on the extreme left



side of the road. Learned counsel submitted that all necessary precautions had been taken and that the accident occurred solely due to the rash and negligent driving of the Maruti van, which came at a high speed and struck the stationary truck from behind. Hence, it was submitted that the impugned award of the learned Tribunal was based on proper appreciation of evidence and warranted no interference by this Court.

6. Further, learned counsel for respondent No.4 (driver of van) and respondent No.5 (insurer of van) submitted that the impugned award of the learned Tribunal was based on proper appreciation of evidence and warranted no interference by this Court.

### **OBSERVATIONS AND FINDINGS**

7. I have heard the learned counsel for the parties and perused the record, particularly the award passed by the learned Tribunal. Upon consideration, this Court finds that the appellant's case merits favorable consideration.

8. As this Court finds, the learned Tribunal appears to have proceeded on the assumption that since the Maruti van struck with the truck from behind, negligence must necessarily lie with the Maruti van driver. Such an inference, however, is legally unsound and factually incomplete. The true test is whether both drivers discharged the duty of reasonable care expected of them in the prevailing circumstances. It is apparent from the record that the driver of the Maruti van, Narinder Singh (AW-4), asserted that he was driving at a moderate speed on the correct side and that the accident occurred when the truck ahead, being driven by Ram Kumar (RW-1), was suddenly stopped on the road without warning or lights, and he failed to notice the unlit truck in time to avert the collision, and his van struck the rear portion of the truck and that half of the vehicle went underneath it. Conversely, Ram Kumar (RW-1), claimed that he



had parked the truck safely on the *kacha* portion of the road to take water and that the Maruti van, being driven rashly and at high speed, struck the rear of his stationary vehicle. Both drivers attempted to shift blame, but neither produced convincing corroboration of their respective versions.

9. However, it has been established from the deposition of Jasmer Singh, Ex-Sarpanch of Village Adampur, who was an independent witness and among the first to reach the spot. He categorically stated that the offending truck was parked on the main road without any tail lights, reflectors, or switching on the indicators, and that the accident occurred because the Maruti van which was being driven at a high speed in a rash and negligent manner, struck against the stationary truck in the darkness. Thus, his testimony, being natural, consistent, and unshaken in cross-examination, inspires full confidence. Further, his statement finds support from the surrounding circumstances and from the contents of the FIR (Ex. R1). The record also discloses that the truck driver, Ram Kumar (RW-1), admitted in cross-examination that he had parked the truck partly on the metalled road and not entirely on the *kacha* berm. The site plan and the mechanical inspection reports also corroborate that the truck was standing on the main road without any warning signs or parking lights.

10. At the same time, the van driver also failed to exercise due caution expected of a reasonable and prudent driver. Narinder Singh (AW-4) himself admitted that he was driving at about 60 km per hour. If that was the case, then it must be appreciated that the truck would have been visible ahead when accident occurred at about 7.00 p.m., when visibility was not much poor, and on noticing it, he could have stopped the van in time and avoided it from ramming it into the rear portion of the truck and going half of the van underneath it. This clearly establishes that he did not maintain a safe distance between the two



vehicles and could not control his vehicle when required. Even if the truck was unlit or stationary, the driver of the following vehicle was under a continuing duty to drive at such a speed and distance as would enable him to stop safely upon encountering an obstruction on the road. His failure to do so amounts to negligence within the meaning of settled law governing motor accident liability. Van after striking the rear portion of truck went underneath the truck to the extend of half portion, from the same it can be safely be presumed that van was driven at excessive speed.

11. Accordingly, while the van driver was negligent in not controlling his vehicle and maintaining a safe distance, the truck driver was equally negligent in leaving his heavy vehicle on the road without proper illumination or warning signals. Both vehicles were therefore being used in a manner dangerous to others, and both drivers failed in their respective duties of care. The negligence of the truck driver lay in creating an obstruction on the road without signals, while that of the van driver lay in failing to anticipate and avoid such obstruction and to drive at safer speed. This Court, therefore, holds that the accident was the result of **composite negligence** of both drivers Ram Kumar, driver of the truck, and Narinder Singh, driver of the Maruti van and that the driver, owner, and insurer of both vehicles are **jointly and severally liable** to compensate the claimants for the loss caused by the said accident.

12. As far as the quantum of compensation is concerned, the award passed by the learned Tribunal does not fully reflect the settled principles of law and thus warrants reassessment by this Court. It is admitted that the deceased was **30 years** of age at the time of death, as established from the pleadings placed on record. Further, the claimants had asserted that the deceased was agriculturist and drawing the monthly income of ₹6000/-. However, in the absence of any



income proof, the notional monthly income of the deceased to be taken as ₹2000/- (annual income ₹24000/-) as per minimum income of daily wager applicable at the time of accident. In line with *National Insurance Company Limited v. Pranay Sethi, 2017 (16) SCC 680*, a 40% addition is to be made towards future prospects in the case of persons in self employed and below 40 years of age. The annual income thus works out to ₹33600/-. After a deduction of 1/4rd towards personal expenses (considering six dependents), the annual loss of dependency amounts to ₹25,200/-. Applying a multiplier of 17 as per the table in *Sarla Verma v. Delhi Transport Corporation, 2009 (6) SCC 121* (appropriate for age 30), the loss of dependency comes to ₹4,28,400/-. Under the conventional heads, following *Pranay Sethi (supra)*, ₹15,000/- is awarded towards loss of estate and ₹15,000/- towards funeral expenses. Lastly, the claimant/appellant widow is entitled to spousal consortium of ₹40,000/- in line with *Pranay Sethi (supra)*, and ₹40,000/- to each sons (considering 3 sons) of deceased as parental Consortium and ₹40,000/- to each parents of deaceased as filial consortium as per the *Magma General Insurance Co. Ltd. vs. Nanu Ram alias Chuhru Ram, 2019(18) SCC 130*. Therefore, the total compensation works out to ₹6,98,000 /-.

**REASSESSED COMPUTATION**

| Particulars                                                | Reassessed Award<br>(₹) |
|------------------------------------------------------------|-------------------------|
| Notional Monthly Income                                    | 2,000 /-                |
| Annual Income                                              | 24,000/-                |
| Future Prospects (40%)                                     | 9,600/-                 |
| Total Annual Income                                        | 33,600/-                |
| Deduction<br>1/4th For Personal Expenses<br>(6 Dependents) | 8,400/-                 |
| Annual Contribution To Family                              | 25,200/-                |



|                                       |                             |
|---------------------------------------|-----------------------------|
| Multiplier (age 30 yrs)               | 17                          |
| Loss Of Dependency                    | 4,28,400/-<br>(25,200 × 17) |
| Spousal Consortium                    | 40,000/-                    |
| Parental Consortium<br>(3 minor sons) | 1,20,000/-<br>(40,000 x 3)  |
| Filial Consortium                     | 80,000/-<br>(40,000 x 2)    |
| Loss Of Estate                        | 15,000/-                    |
| Funeral Expenses                      | 15,000/-                    |
| Total                                 | ₹6,98,400/-                 |

13. Accordingly, the appeal is **allowed**. In view of the evidence discussed above, this Court holds that the accident occurred due to **composite negligence** of both the truck driver Ram Kumar and the Maruti van driver Narinder Singh. Hence, both vehicles are equally liable, and the negligence is apportioned in the ratio of **50:50**. The claimants shall accordingly be entitled to compensation of ₹6,98,400/- under Section 166 of the Motor Vehicles Act, 1988, with interest at the rate of 7% per annum, payable from the date of filing of the claim petition. The liability to pay compensation shall be shared equally by the respective owners, drivers, and insurers of both vehicles. The apportionment among the claimants shall remain as determined by the learned Tribunal, with only the quantum of compensation modified and enhanced as per the reassessed computation.

14. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

(VIRINDER AGGARWAL)  
JUDGE

30.10.2025  
Saurav Pathania

- (i) Whether speaking/reasoned : Yes/No
- (ii) Whether reportable : Yes/No