



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

FAO-4212-2008

Reserved on: 28.10.2025

Date of decision : 23.12.2025

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YOG RAJ AND ANR.

.....Appellants

Vs.

CHUHAR SINGH @ MAKHAN & ORS.

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Amit Kaith, Advocate
Mr. Alankar Narula, Advocate
for the appellants.

Mr. K.S. Dhanora, Advocate
Ms. Kritika Mandhan, Advocate
for respondents No.1 and 2.

Mr. Vikas Kumar Gupta, Advocate
for respondent No.3.

Mr. Vinod Gupta, Advocate
for respondent No.4.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred for setting aside the award dated 16.07.2008 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988, by the learned Motor Accident Claims Tribunal, Hoshiarpur (for short, 'the Tribunal'), whereby, claim petition filed by the appellants/claimants, was dismissed.

FACTS NOT IN DISPUTE

2. The brief facts of the case are that on on 22.10.204, at about 7.00 PM, Balwinder Kumar along with his mother Saroj Rani was going



towards their fields and when they reached in front of a bank in village Samudra, a Mahindra Jeep bearing No.PB-32-D-3805 (hereinafter referred as Offending vehicle), which was owned by respondents No.2 and 3, came from the opposite direction, respondent which was driven by a rash and in No.1 Chuhar Singh negligent manner and that jeep ran over Balwinder Kumar, who died at the spot. It was averred that a criminal case was registered against the driver of the jeep with the intervention of the State Human Rights Commission, Punjab, Chandigarh. It was further averred that the deceased Balwinder Kumar at the time of his death was just 11 ears old and was studying in a school. He had a bright academic future and the claimants had high hopes upon their son who was to look after them in the fag end of their lives.

3. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

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

“1. Whether Balwinder died Kumar on 22.1.204 at about 7.00 PM in the area of village Samudra, P.S Garhshankar, due to rash and negligent driving of Mahindra Jeep No.PB-32-D-3805 by its driver respondent No.1 ? OPA

2. Whether the respondent No.1 holding a valid and effective driving license at the time of accident ? OPR

3. To what amount of compensation, the claimants are entitled and from whom? OPA

4. Relief.”



5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition. Hence, the present appeal.

SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES

6. The learned counsel for the appellants/claimants contends that the learned Tribunal erred in dismissing the claim petition only on the ground that the appellants/claimants have failed to prove that accident in question occurred due to rash and negligent driving of offending vehicle. Therefore, he prays that the present appeal be allowed.

7. *Per contra*, learned counsel for respondent No.4-Insurance Company, however, vehemently argues on the lines of the award dated 16.07.2008 and submits that the claim petition has rightly been dismissed by the learned Tribunal. Therefore, he prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. Before proceeding further, it is appropriate to reproduce the relevant portion of awarded dated 16.07.2008, which is as under:-

“ISSUES NO.1 & 3:

7. Issues No.1 and 3 have been taken up together in order to avoid repetition since both these issues are interconnected. The onus to prove these issues was on the claimants and in order to discharge the said onus, the claimants stepped into the witness box as PW1 (Jog Raj) and PW2 (Saroj Rani) and they, in their affidavits Ex. PW1/A and Ex.PW2/A respectively, have deposed on oath all the facts mentioned in the petition.



8. *Saroj on Rani (PW2) had deposed that 22.10.2004 at about 7.00 PM, while she along with No.1 the her son Balwinder Kumar was going to her fields the respondent No.1 Chuhar Singh by driving the offending vehicle in a rash and negligent manner, caused the accident wherein Balwinder Kumar was run over by the offending vehicle and died at the spot. She also deposed that the accident had taken place due to rash and negligent driving of respondent No.1.*

9. *Jog Raj (PW1) in his statement, apart from stating the manner in which his son had died, also stated that earlier the police officials did not initiate any action against respondent No.1 and it was only on the intervention of the State Human Rights Commission that formal FIR Ex.C1/1 was recorded. He also placed on record Ex.C1/2 death certificate of his son and further deposed that his son at the time of his death was just 11 years old and due to his untimely death, the claimants have suffered mental agony as they had high hopes from their son in their old age. He also deposed that he had spent Rs.10,000/- approximately for performing the last rites of his son.*

10. *Thakur Varinder Singh (PW3) in his statement, in the shape of affidavit Ex. PW3/A, has also deposed on the similar lines.*

11. *Respondents No.1 to 3, as already discussed above, did not adduce any evidence and it was respondent No.4, the insurer of the offending vehicle, who had summoned respondent No.1 Chuhar Singh, the driver of the offending vehicle as one of its witnesses. At the time of examination of RW1 Chuhar Singh, an objection was raised by learned counsel for the claimants as well as learned counsel for respondents No.1 to 3 with regard to*



respondent No.1 Chuhar Singh to be examined as one of the witnesses of the respondent No.4 and that objection was kept open at that time. During the arguments advanced by learned counsel for the parties, it has come on the record that Chuhar Singh driver as well as owner of the offending vehicle appears to be in collusion with the claimants, in as much as none of respondents No.1 to 3 had stepped into witness box to support the contentions made in the written statement and further perusal of the judgment dated 1.9.2007 passed by the court of Shri Harjinder Pal Singh, Sub Divisional Judicial Magistrate, Garhshankar, depicts that Chuhar Singh has since been acquitted of the charge framed against him under Section 304- A of the Indian Penal Code with regard to causing death of Balwinder Kumar since the claimants who were also prosecution witnesses in the said case had not supported the prosecution version. Thus, it appears that in order to prove the collusion of claimants and respondents No.1 to 3, Chuhar Singh has been summoned by respondent No.4 so as to prove his veracity. Thus, finding the claimants and respondents No.1 to 3 to be in collusion with each other, the objection made by learned counsel for the claimants and respondents No.1 to 3 does not carry much weight and as such that objection stands overruled.

12. Chuhar Singh (RW1) while appearing in the court had deposed that the accident had occurred with the offending vehicle and in the said accident Balwinder Kumar had died and further that after the accident, he remained present at the spot and did not flee. He also deposed that he was arrested lateron. He also deposed that earlier the fact of accident having been caused with



the offending vehicle was mentioned in the written statement which was read over and explained to him by his counsel and after admitting the same to be correct, he had signed it.

13. Learned counsel for the claimants vehemently argued that even if the post mortem examination of the deceased was not got conducted or earlier the case was not reported to the police, it does not have any bearing on the merits of the case since earlier the police did not take any action against respondent No.1 and it was only with the intervention a of the State Human Right Commission that criminal case was registered against respondent No.1. It was further submitted that the death of Balwinder Kumar having been proved in an accident involving the mother vehicle, the claimants have become entitled compensation and further that the Motor Accident Claims Tribunal is not bound by the acquittal of respondent No.1 by a criminal court. to recover

14. These submission in my view do not carry much weight in as much as although it has come on the record that formal FIR Ex.C1/1 was recorded by the intervention of State Human Right Commission, but there is no evidence if at any earlier point of time, the claimants had made any effort to report the matter to the police. PW1 Jog Raj, as per his cross-examination was at Amritsar when the alleged accident had occurred and he did not ask from his wife if she had reported the matter to the police after his arrival from Amritsar. In his cross-examination, this witness had admitted that he had enquired from his wife after 4-5 days of the accident and strange enough, before lodging any complaint with the police, this witness as per his admission in the cross-



examination performed the last rites of the deceased. He had also admitted that he had not asked any Sarpanch, Lambardar or any member of the Panchayat of the village to accompany him to the police station when the police did not initiate any action with regard to the accident. He has also admitted that earlier the post mortem examination of the dead body Balwinder Kumar was not got performed. of PW2 Saroj Rani, in her cross-examination, has stated that at the time of accident, she became unconscious due to injuries regained suffered by her, but she consciousness after two hours while she was taken to her house and that the police was telephonically informed by the villagers with regard to the accident and further that the police officials arrived at the spot and had taken the photographs of the place of occurrence. Thus, PW1 Jog Raj and PW2 Saroj Rani have come up with a contradictory and their statements do not inspire confidence... of Further more, even the statement of PW3 Varinder Kumar do not extend any help to the cause claimants since this witness in his cross- examination has admitted that he did not make any effort to report the matter to the police and further did not attend the cremation ceremony of deceased Balwinder Kumar. He also admitted that he contacted the claimants on the third day of the accident and further did not ask the claimants to move The any written complaint to the police. [veracity of this witness also stands shaken since had he been an eye-witness of the accident, he could have reported the matter to the police but he failed to do so and as per his cross-examination, he after leaving Saroj Rani to her house, went to attend his job and did not bother for atleast three days to report the matter to the police.



15. The case of the claimants further stands shattered by none else but RW1 Chuhar Singh, who, for the reason best known to him while appearing in the court has contradicted his own stand mentioned in his written statement. The perusal of the written statement filed by respondent No.1 depicts that he had specifically denied the factum of accident but while appearing as RW1 he came up with the plea that accident had occurred on 22.10.2004 flee rather of Shri and he after the accident did not remained present there. The respondent No.4 has also placed on record Mark-A copy of the judgment dated 1.9.2007 passed by the Court Harjinder Pal Singh, learned Sub Divisional Judicial Magistrate, Garhshankar, and the perusal of the same depicts that PW1 Jog Raj and PW2 Saroj Rani did not support the prosecution version with regard to the death of Balwinder Kumar in an accident caused by Chuhar Singh by driving the offending vehicle in a rash and negligent manner. No doubt, the copy of that judgment is not exhibited but since it is an admitted fact that Chuhar Singh has already been acquitted of the charge framed against him, the judicial notice of MarkA can be taken. Even otherwise this fact had been admitted by none else but by Chuhar Singh in his cross-examination. Thus, there is no inspiring evidence to prove that Balwinder Kumar had died in an accident caused by respondent No.1 by driving the offending vehicle in rash and negligent manner. A

16. The present petition has been filed by the claimants under Section 166 of the Motor Vehicle Act and in order to prove their case, the claimants were duty bound to lead sufficient cogent and convincing evidence, but however, they have failed to do so. It is not a case preferred by the



claimants under Section 163A of the Motor Vehicle Act and consequently the plea of learned counsel for the claimants that the death of Balwinder Kumar having been caused in an accident involving a motor having vehicle makes the claimants entitled for the compensation, is devoid of any force. In the present case, the claimants as already discussed above have not adduced any cogent, convincing and unblemished evidence to prove fact of death of Balwinder Kumar having been caused by respondent No.1. Chuhar Singh by driving the offending vehicle in a rash and negligent manner and now at this stage, learned counsel for the claimants can not come up with the plea that by taking into consideration the requirement of Section 163 (A) of the Motor Vehicle Act, compensation can be granted to the claimants, since the claimants at any stage during proceedings of present case got the claim petition amended SO as to bring it within the preview of Section 13 (A). Even for the sake of repetition it would not be out of place to mention here that the claimants as well as respondent No.1 constantly changed their version. The claimants did not get criminal case registered against respondent No.1 promptly, without losing any time and, therefore, when as per their own version, criminal case was registered against Chuhar Singh by a of a the intervention State Human Right Commission, both the claimants during the criminal trial against Chuhar Singh did not stick to their version rather for the reasons best known to them, they categorically deposed in the criminal trial that Chuhar Singh never caused death of Balwinder Kumar by driving the offending vehicle in a rash and negligent manner. Consequently, Chuhar Singh He was acquitted of the



charge framed against him. The claimants in the present claim petition for the reasons best known to them came up with the contradictory version by stating that it was Chuhar Singh who had caused death of their son by driving the offending vehicle in rash and negligent manner. So far as Chuhar Singh is concerned against his act and conduct does not appear to be above-board. along with the owners of the offending vehicle filed written statement wherein he categorically denied that he never caused accident wherein Balwinder Kumar had died, neither Chuhar Singh nor any of owners of the vehicle dared to step into the witness box to depose as per the facts mentioned in Chuhar Singh already their written statement. stood acquitted of the charge framed against him T and respondent No.4 smelling that Chuhar Singh as well as the owners of the vehicle had joined hands with the claimants in order to make respondent No.4 accountable for payment of compensation, took an extreme step of examining Chuhar Singh and again for the reasons best known to their witness, he deposed in contradiction with the facts mentioned in the written statement. He has tried to come up that Balwinder Kumar had died in an accident alleged to have been caused by him by driving the vehicle in a The rash and negligent manner. testimony of Chuhar Singh has demolished the case of the claimants and consequently it is not proved on record if death of Balwinder Kumar was result of rash and negligent driving of the offending vehicle by Chuhar Singh.

17. Learned counsel for the claimants during the course of arguments placed reliance of certain cases but the



ratio laid down in the said cases does not extend any help to the cause of the claimants.

18. In case reference Irusumalla Varalakshmi and others vs Chilakapati Raju and others, 2007 (2) Transport and Accidents Cases 108 (Andhra Pradesh), it was observed that testimony of an eye witness can not be disbelieved merely because he did not lodge complaint with the police but in the present case as already discussed above, the testimony of eye witness does not inspire confidence in as much as in a criminal trial against Chuhar Singh qua the same accident both the claimants did not support the prosecution case with regard to the fact of death of Balwinder Kumar having been caused by Chuhar Singh by driving the vehicle in a rash and negligent manner. In case reference Shabbir Ahmad and another Vs MPSRTC Bhopal and others, AIR 1984, Madhya Pradesh, 173, the testimony of a witness recorded before the tribunal was accepted even though he had deposed some different facts in a criminal case but the facts of the instant case are quite distinguishable in as much as in the case relied upon the crux of the testimony of the witnesses before the tribunal and in criminal case were almost identical except for few points with regard to the distance of a witness from the place of accident. Again in the case relied upon the was of granted irrespective compensation the acquittal of the driver in a criminal case since the eye witness account was not found believable in the criminal case although those witnesses deposed against the driver but in the present case, the claimants turned hostile in the criminal trial and categorically deposed that respondent No.1 was not negligent in driving the offending vehicle. In case reference Prem Kanwar and others vs Aadam and



it was others, 2006(2) Transport and Accidents Cases, 847 observed that the tribunal (Rajasthan) committed an illegality in not appreciating oral as well as documentary evidence since the eye witness account was supported by the charge sheet and the FIR wherein the vehicle number was given, but in the present case no doubt, the FIR has been proved on record but claimants and respondent no.1 Chuhar Singh, the driver of the offending vehicle, appear to be in collusion with each other since the eye- witnesses account of the claimants given in the present petition stands contradicted by their own version spelled out in a criminal case registered against the driver of the offending vehicle. In case reference Harbans Raj vs Nazar Singh, 2001(4) Recent Civil Reports, 523, the injured or survivors of deceased did not immediately rush to the police station for lodging complaint but the claimants of that case otherwise proved rash and negligent act of the driver of the vehicle and it the was observed that the act of the tribunal in passing award of compensation cannot be held to be an infirmity but again in the present case as already discussed above, even if it is assumed that due to some reasons, the matter of accident could not be reported to the police well in time, but the version of the claimants in the claim petition and in the criminal trial is quite contradictory and the testimonies of the claimants as such do not inspire confidence so as to prove the case of the claimants.

19. In case reference Yashwant Singh Baghel and another vs Shiv Prasad Vishwakarma and others, 2006(1) Recent Civil Reports 373, it was observed that compensation can be granted irrespective of the fact whether the police has registered the offence regarding the incident or not



because such a claim can not be left over on the mercy of the police but again the ratio laid down in the case relied upon is not applicable to the facts of the present case since even if it is ignored that delay in lodging the FIR is not detrimental to the interest of the claimants, but the fact remains that the claimants have not come up with a true version and have contradicted themselves by their deposition in the criminal trial.

20. As an upshot of my above discussion, I am of the view that the claimants have failed to prove if Balwinder Kumar died in an accident caused by respondent No.1 Chuhar Singh by driving the offending vehicle in a rash and negligent manner and consequently even if it has been proved on record that the respondent No.1 was holding a valid driving license and the offending vehicle was insured with respondent No.4, the claimants are not held entitled to recover any compensation. these issues claimants. Both as such are decided against the claimants.”

10. A perusal of the impugned award reveals that learned Motor Accident Claims Tribunal has erroneously dismissed the claim petition filed by the appellants/claimants on the untenable premise that the claimants/appellants failed to establish that the accident occurred due to the rash and negligent driving of the offending vehicle by respondent No.1, the driver thereof. The findings so recorded are contrary to the evidence on record, based on misappreciation of material testimony, and are unsustainable in the eyes of law.



11. The record unequivocally reflects that PW-2 Saroj Rani, mother of the deceased and an eye-witness to the occurrence, gave a cogent and consistent account of the accident. She categorically deposed about the entire sequence of events leading to the accident and specifically stated that the accident was caused due to the rash and negligent driving of the offending vehicle by respondent No.1. Her testimony remained unimpeached in cross-examination. She further deposed that she herself sustained injuries in the accident and became unconscious and regained consciousness after two to four hours. There is nothing on record to discredit her testimony or to suggest that her presence at the spot was doubtful.

12. The learned Tribunal, however, discarded the testimony of PW-2 on the erroneous ground that no FIR was lodged immediately after the accident. This approach is legally flawed. The record clearly demonstrates that the claimants had consistently stated that respondents were influential persons and, despite their efforts, the police did not initially register the FIR. It is further borne out from the evidence that the claimants/appellants were constrained to approach the Punjab State Human Rights Commission, and it was only upon the intervention of the Commission that the FIR came to be registered. The factual matrix reveals a disturbing reality wherein poor and uneducated claimants were compelled to run from pillar to post merely to secure registration of an FIR in respect of the tragic death of their minor son.

13. In addition, PW-3 Varinder Kumar, independent eye-witness, also categorically supported the version of PW-2 (Saroj Rani). PW-3 deposed that the accident occurred due to the rash and negligent driving of



respondent No.1 and that PW-2 (Saroj Rani) became unconscious after the accident. His testimony remained consistent on the material aspects relating to the manner of the accident and the negligent conduct of the driver (respondent No.1). The learned Tribunal failed to appreciate this evidence in its correct perspective and discarded it on wholly untenable grounds.

14. The learned Tribunal further gravely erred in placing undue reliance on the acquittal of respondent No.1 in the criminal proceedings and in drawing an inference of alleged collusion between the claimants/appellants and the driver/owner of the offending vehicle. Such findings are legally impermissible.

15. It is a settled proposition of law that the judgment of a criminal court is not binding on proceedings before the Motor Accident Claims Tribunal, particularly on the issue of negligence, which is to be determined independently on the basis of evidence adduced before the Tribunal. The standard of proof in MACT proceedings is that of preponderance of probabilities and not proof beyond reasonable doubt, as required in criminal trials.

16. Moreover, the finding of collusion is wholly conjectural and unsupported by pleadings or evidence. It is trite law that collusion between the claimants and the driver or owner of the offending vehicle must be specifically pleaded and proved by the insurance company. Reliance in this regard may be placed on the judgment of the Hon'ble Supreme Court in ***Geeta Dubey v. United India Insurance Co. Ltd., 2024 INSC 998***, wherein it has been categorically held that the burden to establish collusion lies



squarely upon the insurer. The relevant portion of the same is reproduced as under:-

“23. As held in [Sajeena Ikhbal](#) (supra) and [Bimla Devi](#) (supra), we are convinced that on the principle of preponderance of probability, the claimants have established the involvement of vehicle bearing registration no. MP-19-HA-1197. The insurance company having set up a specific plea of collusion has not established the same. As was held in [Bimla Devi](#) (supra), here too, we feel that there was no reason for the police to falsely implicate the vehicle concerned in the matter and launch prosecution against the driver. If the insurance company had suspected collusion, they would have taken steps to file appropriate complaints including moving the higher police authorities or the court to order an investigation into the alleged wrongful involvement of the vehicle. There is no case for the insurance company that the police officer also colluded. The investigation by the police has resulted in charge-sheet being filed.

24. For all these reasons, we restore the findings of the MACT that death of the claimant no.1's husband was caused by the driving of the truck bearing registration no. MP-19-HA-1197 by respondent no. 2-Ajay Kumar in a rash and negligent manner at about 08:15 PM on 18.06.2018, in a place one kilometer ahead of Sonwari Toll Plaza at Maihar.”

17. In the present case, the respondent-insurance company has miserably failed to discharge this burden.

18. On the contrary, the testimony of RW-1, the driver of the offending vehicle, is riddled with contradictions. His stand in the written statement is completely at variance with his deposition before the learned Tribunal, rendering his testimony wholly unreliable and unworthy of credence. The learned Tribunal committed a serious error in placing reliance



on such a vacillating and self-contradictory witness while discarding the consistent and trustworthy evidence led by the claimants/appellants.

19. It is further well settled that proceedings before the Motor Accident Claims Tribunal are summary in nature and not strictly governed by the technicalities applicable to criminal trials. The Hon'ble Supreme Court in *Anita Sharma v. New India Assurance Co. Ltd.*, AIR 2021 *Supreme Court* 302 has reiterated that negligence in motor accident claims is to be assessed on the touchstone of preponderance of probabilities and that minor contradictions or delay in lodging FIR cannot defeat a just claim.

20. In view of the aforesaid discussion and the settled legal position, it is evident that the appellants/claimants have successfully proved, on the touchstone of preponderance of probabilities, that the accident occurred due to the rash and negligent driving of the offending vehicle by respondent No.1. The findings recorded by the learned Tribunal are therefore perverse, contrary to the evidence on record, and legally unsustainable.

21. Accordingly, the impugned award deserves to be set aside and claimants/appellants are held entitled to compensation.

22. Hon'ble Supreme Court in the case of *Sarla Verma Vs. Delhi Transport Corporation and Another* [(2009) 6 Supreme Court Cases 121], laid down the law on assessment of compensation and the relevant paras of the same are as under:-

“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply



standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only d the mother would be considered to be a



dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

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42. *We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas³, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.*

23. Hon'ble Supreme Court in the case of **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-



- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;
- (E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

*“52. As far as the **conventional heads** are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable*



foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

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59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

59.4. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

59.5. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma⁴ which we have reproduced hereinbefore.



59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma¹ read with para 42 of that judgment.

59.7. The age of the deceased should be the basis for applying the multiplier.

59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”

24. Hon’ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

“21. A Constitution Bench of this Court in Pranay Sethi² dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his



family. With respect to a spouse, it would include sexual relations with the deceased spouse.

*21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded



compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.

24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi². In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.

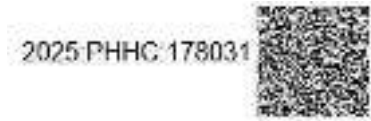
25. A perusal of the impugned award reveals that the deceased, Master Balwinder Singh, was a minor child aged merely 11 years at the time of the accident.



26. It is by now a well-settled and consistently reiterated principle of law that the death or permanent disability of a minor child in a motor vehicle accident cannot be equated with that of a non-earning individual for the purposes of computing compensation. The reason is obvious: a child, by virtue of tender age, is not engaged in gainful employment and, therefore, any rigid categorisation as a “non-earner” would not only be artificial but would also defeat the very object of just compensation under the Motor Vehicles Act, 1988.

27. In such cases, the proper course for determination of compensation under the head of “loss of income” is to adopt, at the very least, the minimum wages notified for a skilled worker in the State concerned at the relevant time. The Hon’ble Supreme Court has, in categorical terms, laid down this principle in ***Kajal v. Jagdish Chand & Ors. [(2020) 4 SCC 413]*** and ***Baby Sakshi Greola v. Manzoor Ahmad Simon & Anr. [2024 SCC OnLine SC 3692]***, wherein it was held that a minor’s potential and future prospects cannot be curtailed by treating him/her as a non-earner, and the yardstick of minimum wages of a skilled worker is the just and reasonable benchmark.

28. Applying the aforesaid ratio to the present case, the monthly notional income of the deceased minor, Master Balwinder Singh, is accordingly assessed at ₹4,375/-, being the minimum wages of a skilled worker as notified for the relevant period in the State of Punjab.



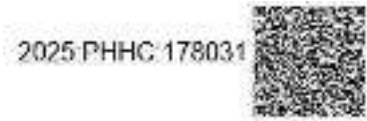
29. It is further held that future prospects at the rate of 40% would be applicable and multiplier of 18 will apply for calculating the compensation as per the settled law.

30. In view of the above, the present appeal is allowed and appellants/claimants are held entitled to the compensation as calculated below:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.4,375/-
2	Future prospects @ 40%	Rs.1,750/- (40% of 4375)
3	Deduction towards personal expenditure 1/2	Rs.3,062/- (6125 X 1/2th)
4	Total Income	Rs.3,062/- (6125-3062)
5	Multiplier	18
6	Annual Dependency	Rs.6,61,392/- (3062 X 12 X 18)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150/-
9	Loss of Consortium Parental : 2 x 48,400	Rs.96,800/-
10	Total Compensation	Rs.7,94,492/-

31. So far as the interest part is concerned, as held by Hon’ble Supreme Court in **Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma** 2019 ACJ 3176 and **R.Valli and Others VS. Tamil Nadu State Transport Corporation (2022) 5 Supreme Court Cases 107**, the appellants-claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

32. The respondent No.4-Insurance Company is directed to deposit the enhanced amount along with interest at the rate of 9% with the Tribunal within a period of two months from the date of receipt of copy of this



judgment. The Tribunal is directed to disburse the same to the appellants-claimants in their bank accounts. The appellants-claimants are directed to furnish their bank account details to the Tribunal.

23.12.2025

Ayub

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/non-speaking : *Speaking*
Whether reportable : *Yes/No*