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

**FAO-4474-2023 (O&M)
Date of Decision : 10.11.2025**

AMARJIT KAUR AND ANR Appellants

VERSUS

MOTI RAM AND ORS Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Dheeraj Narula, Advocate
for the appellants.

Mr. Ajay Singla, Advocate
for respondent No.3.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellants aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sirsa (hereinafter referred to as 'the Tribunal') vide award dated 13.03.2023.
2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.
3. The Tribunal in the present case had awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Annual income	₹30,000
2.	Deduction @50%	[₹30,000 - ₹15,000] = ₹15,000
3.	Future prospects 40%	[₹15,000 + ₹6,000] = ₹21,000
4.	Multiplier of '18'	[₹21,000 x 18] = ₹3,78,000
5.	Funeral expenses	₹15,000
6.	Loss of estate	₹15,000
7.	Loss of consortium	₹80,000
8.	Medical expenses	₹18,000
	Total Compensation	₹5,06,000
	Interest	@ 6% per annum

4. Learned counsel for the claimant-appellants would contend that the claimant-appellants have challenged the impugned award on two counts. Firstly, on the ground that it has wrongly been held to be a case of contributory negligence as three people were riding the motorcycle. Learned counsel would contend that at best it can be treated as a case of traffic violation. It is further the contention of the learned counsel that the offending vehicle had hit the motorcycle from behind and there was no contribution on the part of any of the riders in the accident. It is further contended that no issue was framed by the Tribunal regarding contributory negligence. In support of his contentions the learned counsel for the claimant-appellants has relied upon the judgments of the Hon'ble Supreme Court in the case **Anjana Narayan Kamble & Ors. vs. Branch Manager, Reliance General Insurance Company Limited & Anr. [2023 (2) CivilLJ 727]** and **M. Nithya & Ors. vs. SBI General Insurance Company Limited [SLP (Civil) Nos.833-834 of 2023 decided on 03.01.2025]**. Secondly, that the notional income of the deceased has been assessed as ₹30,000 per annum. It is the contention of the learned counsel that

in the absence of any evidence, the income ought to have been assessed as at least that of an unskilled worker which was ₹8,827 per month at the relevant time. Learned counsel for the claimant-appellants would further contend that though the claimant-appellants do not challenge the amount awarded towards medical expenses, the deduction, the addition made towards the future prospects and the multiplier as applied by the Tribunal, however, the amounts awarded under the conventional heads i.e. funeral expenses and loss of estate and under the head loss of consortium are on the lower side. It is further the contention of the learned counsel that no amount has been awarded to the brother of the deceased (respondent No.4 herein) under the head loss of consortium. In support of his contentions the learned counsel for the claimant-appellants has relied upon the judgments of the Hon'ble Supreme Court in the cases of **National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Chola mandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra*, the learned counsel for respondent No.3-Insurance Company has vehemently argued that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement. Learned counsel would contend that the Tribunal has rightly assessed the contributory negligence on the part of the driver of the ill-fated motorcycle and has relied upon the judgment dated 13.02.2024 of the Hon'ble

Supreme Court in **Civil Appeal No.2196 of 2024** titled **Rekha Versus Naresh Prasad @ Ram Naresh & Ors..**

6. Heard.

7. In the present case the Tribunal has held it to be a case of contributory negligence on the ground that it was a case of triple riding. The Hon'ble Supreme Court in the case of **Anjana Narayan Kamble** (supra) has held as under :

“6. The Learned Counsel for the Appellant relied upon the judgement of this Court in Mohammed Siddique & Anr. v. National Insurance Company Limited & Others reported in (2020) 3 SCC 57, wherein this Court held that the deceased was negligent as 3 persons on a motorcycle could have added to the imbalance. It was held that motorcyclist may be violating the Motor Vehicle Act, 1988 for which the deceased may be liable to penalty but such violation by itself, cannot lead to a finding of contributory negligence. This court held :-

"13. But the above reason, in our view, is flawed. The fact that the deceased was riding on a motor cycle along with the driver and another, may not, by itself, without anything more, make him guilty of contributory negligence. At the most it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988,

imposes a restriction on the driver of a two wheeled motor cycle, not to carry more than one person on the motorcycle. Section 194C inserted by the Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motor cycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motor cycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim. It may so happen at times, that the accident could have been averted or the injuries sustained could have been of a lesser degree, if there had been no violation of the law by the victim. What could otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim. It is in such

cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimized, that the principle of contributory negligence could be invoked. It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motorcycle. It is not even the case of the insurer that the accident would have been averted, if three persons were not riding on the motorcycle.....

(Emphasis Supplied)

In the present case, there is no such evidence of contributory negligence except fact of three riders on the motor cycle and of not wearing helmet by the deceased. Therefore, in view of the enunciation of law, we find that the High Court was not justified in deducting 30% of the amount of compensation assessed by the Tribunal for the reason that the deceased was triple riding the motor cycle or was not wearing a helmet. The violation of rules for driving a motor vehicle is not a ground to deduct the amount of compensation awarded unless there is proof of either the accident could have averted or the impact could have been minimized”.

8. Further, the Hon’ble Supreme Court in the case of **M. Nithya** (supra) has reiterated that in the absence of any specific issue having been

framed regarding the contributory negligence, any finding qua the same could not have been returned. It was held as under :

“7. It is pertinent to observe that the Tribunal noted that the Insurance Company in their Counter contend that contributory negligence of the part of the deceased has to be fixed. However, the Tribunal did not frame any specific issue in that regard for determination. The Tribunal clearly finds negligence only on part of the driver of the lorry and therefore, the owner of the lorry and the Insurance Company which insured the said lorry are jointly and severally found liable to pay compensation. Therefore, when the Tribunal did not even frame an issue on contributory negligence, the High Court ought not to have considered that argument in order to reduce the compensation awarded. Even otherwise the Insurance Company did not lead any evidence on this aspect nor insisted for framing an issue. Merely making a bald assertion in their Counter Affidavit cannot derive any advantage. Hence, we are in agreement with the findings of the Tribunal that the accident took place only due to the negligence of the driver of the lorry and therefore, the contributory negligence awarded on part of the deceased by the High Court suffers from an error and cannot be sustained.”

Merely because it was a case of triple riding, it cannot be said that the same was a case of contributory negligence. Admittedly, the offending vehicle, which was a truck bearing No. RJ-19-GE-6014, hit the motorcycle from behind and there is no evidence to the contrary which was led by respondent No.3. Once the vehicle was hit from behind the question of the accident having been caused because of triple riding cannot be upheld.

9. While relying upon the judgment in the case of **Rekha** (supra), learned counsel for respondent No.3 has contended that in the said case, holding it to be a case of contributory negligence, 10% was reduced from the compensation awarded. The said judgment would not come to the aid of the learned counsel for respondent No.3 inasmuch as the Hon'ble Supreme Court in **M. Nithya** (supra) had clearly held that in the absence of any specific issue having been framed qua the contributory negligence, no finding qua the same could have been returned by the Tribunal.

10. In the present case there is absolutely no evidence led by respondent No.3 to show that it was a case of contributory negligence and there was also no issue framed qua the same. In view of the settled law noticed above and the fact that the learned counsel for respondent No.3 has been unable to point out to any evidence on the record that the act of the rider of the motorcycle had contributed in any manner to the accident, the finding of the Tribunal qua contributory negligence cannot be sustained and the same is accordingly set aside.

11. The argument of the learned counsel for the claimant-appellants that the income of the deceased has wrongly been assessed as ₹30,000 per

annum notionally and that the same should have been assessed as that of an unskilled worker deserves to be accepted. Some rationale has to be applied while assessing the income of the deceased in the absence of any evidence regarding the vocation or education of the deceased. The minimum wages provide a good yardstick for assessing the income. In view thereof, income of the deceased is assessed as ₹8,827 per month i.e. that of an unskilled worker at the relevant time. Since there is no challenge to the amount awarded towards medical expenses, the deduction, the addition made towards the future prospects and the multiplier as applied by the Tribunal, the same are maintained.

12. Further, the amounts awarded under the conventional heads i.e. loss of estate and funeral expenses and under the loss of consortium are on the lower side and that no amount has been awarded to the brother of the deceased (respondent No.4 herein) under the head loss of consortium. Hence, as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimant-appellants would be entitled to ₹18,000 (₹15,000 + 20% increase) towards loss of estate and ₹18,000 (₹15,000 + 20% increase) towards funeral expenses. The claimant-appellants and respondent No.4, being the parents and brother of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

13. Accordingly, the reworked compensation to which the claimant-appellants are entitled to is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹8,827
2.	Annual income	[₹8,827 x 12] = ₹1,05,924
3.	Deduction @50%	[₹1,05,924 - ₹52,962] = ₹52,962
4.	Future prospects @40%	[₹52,962 + ₹21,185] = ₹74,147
5.	Multiplier 18	[₹74,147 x 18] = ₹13,34,646
6.	Loss of estate	₹18,000
7.	Funeral expenses	₹18,000
8.	Loss of Consortium : (i) Filial	[₹48,000 x 3] = ₹1,44,000
9.	Medical expenses	₹18,000
	Total Compensation	₹15,32,646

14. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount. The amount shall be apportioned between the claimant-appellants and respondent No.4 as directed by the Tribunal.

15. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713]**, after calculation of the enhanced amount, the same be transferred by respondent No.3-Insurance Company in the bank account(s) of the claimant-appellants and respondent No.4 within a period of six weeks from today. The particulars of the bank account(s) along with the requisite documents in support thereof shall be furnished by the claimant-appellants and respondent No.4 to respondent No.3-Insurance company within a period of two weeks from today and needful shall be done by respondent No.3-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-

date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

16. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

10.11.2025

Aman Jain

(ALKA SARIN)

JUDGE

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