

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****209****FAO-1793-2010 (O&M)****Date of decision: 20.11.2025****Sarabjit Kaur****...Appellant(s)****Vs.****Surinder Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. P.P.S.Tung, Advocate for the appellant.

Mr. Subhash Goyal, Advocate with
Mr. Vipul Sharma, Advocate
for respondent No.3-Insurance Co.

NIDHI GUPTA, J.**CM-8813-CII-2010**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 60 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of learned counsel for the applicant/appellant, the same is allowed and delay of 60 days in filing the accompanying appeal is condoned.

FAO-1793-2010 (O&M)

The present appeal has been filed by the sole claimant seeking enhancement of compensation of Rs.4,97,250/- awarded by the learned Motor Accident Claims Tribunal, Barnala (hereinafter referred to as "the



learned Tribunal”) vide Award dated 01.06.2009 passed in MAC Case No. 38 dated 25.09.2008 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The sole claimant is the mother of the deceased Sandeep Singh, who was 19-20 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased had died due to the injuries suffered by him in motor vehicular accident that took place on 24.06.2008 due to the rash and negligent driving of a Motor Car bearing registration No.PB.06.F/0006 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The Tribunal awarded the above said compensation along with interest @ 6% per annum. All the respondents were held liable to pay the said compensation jointly and severally.

3. Learned counsel for the appellant assails the impugned Award by submitting that nothing has been awarded by way of future prospects. It is submitted that even the income of the deceased has been taken on the lower side. The appellant had proved on record that the deceased was having agricultural income and he was also milk vendor. Even deduction of 50% towards contributory negligence has been incorrectly made.

4. It is accordingly prayed that the present Appeal be allowed; and the compensation amount be enhanced.



5. *Per contra*, counsel for respondent No.3 opposes submissions made on behalf of the appellant and submits that the impugned Award suffers from no infirmity as the compensation awarded to the appellant is just and fair. Hence, present Appeal deserves to be dismissed.

6. No other argument is raised on behalf of the parties. I have heard Id. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

7. It is the contention of learned counsel for the appellant that deceased was having agricultural income and was also milk vendor. However, the record reveals that appellant has failed to produce any evidence in this regard. As such, learned Tribunal has assessed income of the deceased as Rs.3,000/- p.m. on the basis of minimum wages prevailing in the year 2008. I find no error in the same. Furthermore, admittedly, deceased was a 19–20-year-old unmarried man. Age of the deceased was proved from his Postmortem Report Ex.PW1/B. As such, deduction of 50% was liable to be made towards personal expenses. However, learned Tribunal has made deduction of only 1/3rd. Multiplier of 18 has been correctly applied. Learned Tribunal has further granted medical expenses of Rs.60,250/-; and has also awarded Rs.5,000/- under the conventional heads; thereby granting total compensation of Rs.4,97,250/-.

8. However, learned Tribunal had deducted 50% of the compensation towards contributory negligence of the deceased; thereby granting total compensation as Rs.2,48,625/-.



9. In this regard, the circumstances in which the accident had taken, place are required to be considered. The case as pleaded by the appellant in the Claim Petition as recorded in para 2 of the impugned Award is as under:-

"2. It is averred in the claim petition that on 24.6.2008 Dalip Kaur (since deceased) along with Paramjit Kaur, wife of Gulab Singh, two children of Gulab Singh and Sandeep Singh @ Soni (since deceased) son of Late Darshan Singh, residents of Attar singh Wala had gone to Dhanaula on motor cycle bearing No.PB.19.C/0560 which was driven by aforesaid Sandeep Singh alias Soni, for getting treatment to Paramjit Kaur and two children, who were sick. When they were returning from Dhanaula to Attar Singh Wala and had reached near Attar Singh Wala Chowk, Dhanaula at about 3.15 PM, a motor car came from the side of Bhikhi, which was being driven by respondent No.1 at a very high speed and in a rash and negligent manner, in a zig zag manner, without blowing any horn. Respondent No.1 struck the said car into the motor cycle driven by Sandeep Singh alias Soni and dragged the motor cycle and its occupants to a considerable distance and went out of control, as a result of the same, Dalip Kaur and other occupants of the motor cycle sustained multiple accidental injuries, on their person and Sandeep Singh succumbed to the injuries sustained by him, in the said accident on the intervening night of 30.6.2008 and 1.7.2008 while on his way to PGI Chandigarh from DMC and Hospital, Ludhiana, whereas Dalip Kaur succumbed to the injuries at the spot, sustained by her in he said accident. The accident was witnessed by Boota Singh son of Jaswant Singh, resident of Attar Singh Wala, who had got registered the FIR.



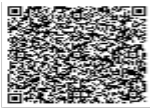
The accident had taken place due to the rash and negligent driving of motor car bearing No. PB.06.F/0006 by respondent No.1.”

10. From the above averments it is clear that it has been admitted by the appellant that at the time of accident, there were **5 persons riding on the motorcycle bearing registration No. PB.19.C/0560 being driven by the deceased Sandeep**; the same being Dalip Kaur, Paramjit Kaur, Sandeep Singh, driver himself and 2 children. Although 50% contributory negligence has been attributed to the offending vehicle, however from this fact, it is evident that primary negligence was on the part of the deceased Sandeep Singh who was riding his motorcycle in flagrant violation of the rules, regulations and law as per the Act.

11. At this stage, reference is made to a judgment passed by this Court in **Angrejo Devi v. Jai Parkash (P&H): Law Finder Doc Id # 401182**; wherein it is held as under:-

“Motor Vehicles Act, 1988, Section 128 - Motor Vehicles Act, 1988, Section 166 - Contributory negligence - Fatal motor accident - Deceased was driving with two passengers on pillion seat in violation of Section 128 of M.V. Act - Accident caused by rash and negligent driving of motor cycle by respondent - The deceased was aged 50 years and there was every possibility of losing control - Held, it was case of contributory negligence of deceased in the ratio of 50% each.

12. Reference is also made to another judgment passed by Madras High Court in **Managing Director, Tamil Nadu State Trans. Corpn.**



Ltd. v. Abdul Salam (Madras)(DB): Law Finder Doc Id # 380518; holding that:-

“A. Rash and Negligence - Contributory negligence - Pillion rider - Triple riding - Collision between a bus and motor cycle resulting in death of one of the pillion riders - Deceased was travelling in motor cycle as one pillion riders - Tribunal held that accident occurred due to rash and negligent driving of the bus - Defence that three persons were riding the motor cycle and it was unbalanced and accident occurred due to rash and negligent driving of the motor cycle - Motorcyclist was at fault for carrying two pillion riders not permitted by law - Hence, Held that deceased was liable for 5% of contribute or negligence and consequently 50% of the compensation is deducted to words contributory negligent - Appellate court reversed the finding and held the deceased guilty of contributory negligence to the extent of 50 per cent - Therefore, appeal partly allowed.”

13. In this view of the matter, no ground is made out for enhancement of compensation as it is clear that it was the deceased himself who was primarily responsible for causing the accident in question.

14. Present Appeal is hereby **dismissed**.

15. Pending application(s) if any also stand(s) disposed of.

20.11.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No