



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

**FAO-7916-2016 (O&M)
Date of decision: 09.09.2025**

GURMIT KAUR AND OTHERS

... APPELLANTS

V/S

MALKIAT SINGH AND OTHERS

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Arvind Chauhan, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Co.

PARMOD GOYAL, J. (ORAL)

Claimants-appellants are aggrieved by the impugned award dated 09.08.2016 passed by the learned Motor Accidents Claims Tribunal, Moga (hereinafter referred as 'Tribunal') vide which the claim petition preferred by the claimants was allowed and they were held entitled to total compensation of Rs.3,32,000/- on account of death of Shambu @ Shambu Nath @ Shambu Singh in accident dated 26.07.2015 due to rash and negligent driving of respondent no.1 while driving the offending Trola bearing registration No. GJ-12/Y-9414.

2. It was further held that driver of canter in which the deceased was travelling was also liable for contributory negligence and accordingly, liability of offending vehicle to the extent of 50% was determined and since the appellants have not impleaded the driver of the canter in which



the deceased was travelling, therefore, they were found entitled to receive compensation to the extent of 50% of total awarded amount from the respondents. By way of present appeal, the appellants have raised two grievances:-

- 1) *That 50% liability upon driver of canter, thereby reducing compensation recoverable by respondents, is liable to be set aside.*
- 2) *Regarding quantum of compensation on the ground that learned Tribunal has failed to take into consideration future prospects while determining loss of dependency.*

3. As far as first issue regarding negligence on the part of canter in which deceased was travelling is concerned, I find that learned Tribunal has rightly appreciated the evidence. In the present case, the deceased was travelling in canter bearing registration No.PB-29/K-9661 which was being driven by his son Baljinder Singh. It is the case of claimants-appellants that while canter was overtaking offending trola after receiving signal to overtake, the offending vehicle took sudden turn towards right side resulting in hitting the canter on the back side of offending vehicle. It was asserted that canter was overtaking the offending vehicle after receiving signal allowing him to overtake. It has been asserted that signal to overtake was given by showing of hand by driver of offending trola. However, learned Tribunal has rightly appreciated the evidence led before it and had found that there was no reason for giving any signal by hand as accident took place during early morning hours i.e. at 4.30 A.M and therefore it is false assertion. It is not case of claimants-appellants that canter had overtaken trola on receiving any signal through



indicators. The evidence that offending vehicle had given permission to overtake was not accepted in view of facts and circumstances of case, as noted above.

4. There is no fault with the conclusion drawn by learned Tribunal. It is primary duty of vehicle overtaking another vehicle to be careful. In the present case, it is canter which had hit trolly of respondent no.1-driver from back side while he was in the process of overtaking. These facts clearly goes to show that the driver of the canter had also contributed in causing the accident and, therefore, learned Tribunal had rightly attributed 50% negligence on the part of the driver and since driver of canter was not impleaded along with owner and Insurance Company, therefore, the claim of claimants-appellants was restricted to 50% qua offending vehicle and its Insurance Company.

5. However, I find merit in the contention of learned counsel for the claimants-appellants that compensation awarded by learned Tribunal is on lower side. Claimants have claimed that deceased was earning Rs.14,000/-. However, such assertions were backed only by way of oral testimony without there being any substantive corroboration to prove that income of the deceased was Rs.14,000/- per month. Oral testimonies were not accepted by the learned Tribunal rightly and his income was assessed by taking him to be an unskilled worker on the basis of minimum wages payable to unskilled worker in the year 2015. The income of the deceased was taken as Rs.6,000/- p.m. Nothing has been shown from which it can be held that deceased was earning more than Rs.6,000/- as claimants have failed to prove deceased's vocation and income. The claimants-appellants



have duly proved his date of birth by placing voters card on record wherein date of birth of the deceased was recorded as 10.11.1966. Accordingly, age of the deceased was considered to be 49 years and personal expenses for determining loss of dependency was taken as 1/3rd keeping in view three number of dependants. I do not find any error in the approach of learned Tribunal in deducting 1/3rd amount and taking the age of the deceased to be 49 years for award of multiplier of 13 in the present case. However, learned Tribunal has failed to take into consideration future prospects. Admittedly, deceased was 49 years old and in view of *National Insurance Company Ltd vs. Pranay Sethi and others, Spl Leave Petition (2017) 16 SCC 680*, future prospects to the extent of 25% are required to be taken to determine loss of dependency. Accordingly, after taking future prospects to the extent of 25% following compensation is payable to the claimants-appellants. Apart from loss of dependency, claimants-appellants shall also be entitled to funeral expenses to the extent of Rs.15,000/-, loss of estate Rs.15,000/- and loss of spousal consortium of Rs.40,000/- to claimants no.1 and Rs.40,000/- each to sons of the deceased. Accordingly, appellants are entitled to following enhanced compensation of Rs.4,65,000/- instead of compensation of Rs.3,32,000/- as awarded by the learned Tribunal :-

Income of deceased	Rs.6,000/- per month (minimum wages for unskilled worker)	Rs.6,000/- per month x 12 = Rs.72,000/-
Addition towards future prospects	25%	Rs.6,000/-+Rs.1,500/- = Rs.7,500/-



Deduction on account of personal expenses of deceased	1/3rd	Rs.7,500/- Rs.2,500/- = Rs.5,000/-
Selection of multiplier	13	13
Loss of dependency	Rs.5,000/-x12x13	Rs.7,80,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Loss of consortium Spousal consortium Parental consortium	Rs.40,000/- Rs.40,000/-x2	Rs.40,000/- Rs.80,000/-
Total Compensation awarded to claimants in appeal	Rs. 9,30,000/- -Rs. 4,65,000/- (50% on account of contributory negligence)	Rs.4,65,000/-
Compensation awarded by Tribunal		Rs. 3,32,000/
Enhanced amount of compensation	(Rs.4,65,000/- Awarded in appeal) – Rs.3,32,000/- (Awarded by Tribunal)	Rs.1,33,000/-

6. Let the same be paid by respondent No.3-Insurance Company to the claimants-appellants along with interest @ 7.5% p.a. from the date of filing of the claim petition till its realisation.

7. Appeal is, accordingly, partly allowed in above terms. Pending miscellaneous application(s), if any, shall also stand disposed of.

09.09.2025
Janki

(PARMOD GOYAL)
JUDGE

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