



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

210

FAO-94-2017**Date of decision: 10.01.2025****SUDHIR NARULA & ORS****..Appellants****Versus****PAPPU & ANR****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Rahul Vats, Advocate
for the appellants.

Mr. Sharad Chaudhary, Advocate
for respondent No.1.

Mr. Vishal Aggarwal, Advocate
for respondent No.2.

ANIL KSHETARPAL, J(Oral)

1. The correctness of award of Rs.12,13,556/- passed by the Motor Accident Claims Tribunal (in short 'Tribunal') is assailed by the claimants, who pray for its modification. The findings of fact with regard to rash and negligent driving are not in dispute.
2. Learned counsel for the appellant has submitted that the Tribunal has erred in reducing the compensation by 50% on account of contributory negligence of the deceased although there was no evidence.
3. Per contra, learned counsel for respondent No.2 submits that escalation in the income on account of future prospects has been wrongly awarded at the rate of 50%, whereas, it should be 40%. He further submits that it was a case of head on collision and therefore, the Tribunal has correctly deducted 50% towards contributory negligence.



4. This Court has considered the submissions of learned counsel for the parties and gone through the deposition of PW-4 Mohit Kumar (the eye-witness), who was travelling along with the deceased in the same van.

5. Learned counsel for insurance company has not given any suggestion to the witness that the deceased was also contributory negligent in causing the accident. Merely, because the accident has taken place due to head on collision between two vehicles coming from opposite direction, it is not appropriate for the Tribunal to assume contributory negligence in absence of cogent evidence in support thereof. In this case, the Court has assumed contributory negligence on the ground that the width of road was about 40-50 feet and there was head on collision. In the opinion of this Court, in absence of cogent evidence, the Court erred in recording his finding.

6. There is a substance in the argument of insurance company’s counsel to the effect that as per judgment passed by the Five Judge Bench in National Insurance Company Ltd. Vs. Pranay Sethi and others, 2017 SCC Online SC 1270, the escalation at the rate of 40% in the income on account of future prospects is to be applied and not 50% in case of a self-employed person. In this case, late Sh. Deepesh was self-employed.

7. Keeping in view the aforesaid facts, the revised amount of compensation is calculated as under:-

Sr. No.	Heads	Amount awarded by the Motor Accidents Claims Tribunal (MACT).	Amount awarded by the High Court
1	Monthly Income	Rs.17,985/- p.m.	Rs.17,990/- p.m.
2	Future Prospects	50%	40%
3	Dependancy	1/3	1/3 (Rs.16,791/-)
4	Multiplier	16	16

5	Compensation after multiplier	Rs.23,02,112/-	Rs.32,23,814/-
6	Loss of estate + Funeral expenses	Rs.25,000/-	Rs.36,000/- (Rs.18,000/- + Rs.18,000/-)
7	Loss of love and affection	Rs.1,00,000/-	-
8	Filial consortium	-	Rs.88,000/- (Rs.44,000/- X 2)
9	50% Deduction towards contributory negligence	Rs.12,13,556/-	-
10	Total amount awarded (Award)	Rs.24,27,112 - 50%= Rs.12,13,556/-	Rs.33,47,814/-

8. Disposed of.
9. All the pending miscellaneous applications, if any, are also disposed of.

January 10th, 2025

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No