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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-469-2024 (O&M)
Date of Decision : 28.11.2025

Geeta and Others ... Appellants

Versus

Tekram and Another ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.K. Choudhary, Advocate for the appellants.

Mr. D.K. Prajapati, Advocate for respondent No.2.

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, Palwal (hereinafter referred to as 'Tribunal') vide the impugned award dated 03.10.2023 on account of death of Azad in a motor vehicle accident which occurred on 31.12.2019.

2. Since the factum of the accident is not in dispute, the facts are not being adverted to for the sake of brevity.

3. The Tribunal held the deceased to have contributed in the accident to the extent of 25% and awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹9,025/-
2	Future Prospects - 40%	₹12,635/- [₹9,025 + ₹3,610]
3	Annual income	₹1,51,620/- [₹12,635 x 12]

4	Multiplier - 15	₹22,74,300/-	[₹1,51,620 x 15]
5	Deduction - 1/4th	₹17,05,725/-	[₹22,74,300 - ₹5,68,575]
6	Loss of estate, loss of consortium, funeral expenses	₹70,000/-	
	Total compensation	₹17,75,725/-	
	Contributory negligence @ 25%	₹4,43,931.25	
	Compensation payable	**₹13,31,793.75 (rounded off to ₹13,31,795/-)**	
	Interest	**6%**	

4. Learned counsel for the claimant-appellants would contend that there was no plea raised by the Insurance Company or by driver and owner of the offending vehicle regarding contributory negligence. Without there being any plea and without there being any issue regarding the same having been framed by the Tribunal, a finding was returned by the Tribunal qua contributory negligence. The Tribunal held that the deceased had contributed in causing the accident to the extent of 25% on the ground that he was not wearing a helmet and that it was a head on collision, though it was held in para 18 of the award that there was no evidence on the record whether the deceased was wearing a helmet or not. It is further the contention of learned counsel for the claimant-appellants that though he does not challenge the income, deduction, multiplier and the future prospects as applied by the Tribunal, however, it is contended that the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in consonance with the law laid down by 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. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642].

5. *Per contra* learned counsel for respondent No.2-Insurance Company would contend that it was a case where the deceased was not wearing a helmet and therefore the finding qua contributory negligence cannot be faulted with. It is further the contention that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

6. I have heard learned counsel for the parties.

7. In the present case, in para 18 of the award, the Tribunal has specifically returned a finding that there was no evidence on the record whether the deceased was wearing a helmet or not. On the basis of nature of injuries having been suffered by the deceased it was held that there was direct negligence on the part of the deceased as he had himself violated the traffic rules and it was a head on collision. The Tribunal in para 24 of the award returned a finding that it was a case of contributory negligence on the part of the deceased to the extent of 25%. Hon'ble Supreme Court in the case of **M. Nithya & Ors. Vs. SBI General Insurance Company Limited [SLP(Civil) Nos.833-834 of 2023 decided on 03.01.2025]** held as under :

> *"7. It is pertinent to observe that the Tribunal noted that the Insurance Company in their Counter contend that contributary 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 contributary 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 contributary negligence awarded on part of the deceased by the High Court suffers from an error and cannot be sustained."*

8. In the present case, admittedly, there was no plea raised by the Insurance Company or the driver and owner of the offending vehicle regarding contributory negligence nor any issue was framed in this regard. In the absence of any plea having been raised by the Insurance Company or driver and owner of the offending vehicle and without there being any issue having been framed in this regard, no finding qua contributory negligence could have been returned. Further still, after having held that there was no evidence on the record that the deceased was not wearing a helmet, the finding holding that it was a case of contributory negligence to the extent of 25% is not sustainable in law. The said finding is accordingly set aside.

9. Admittedly, no appeal has been preferred by the Insurance

Company. In the present case, since no challenge has been laid by the learned counsel for the claimant-appellants to the income, deduction, multiplier and the future prospects as applied by the Tribunal, the same are maintained accordingly.

10. The argument of learned counsel for the claimant-appellants that the compensation awarded by the Tribunal under the conventional heads as well as under the head ‘loss of consortium’ is not in consonance with the law laid down by Hon’ble Supreme Court, deserves to be accepted. 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 claimants would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses as also to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹9,025/-
2	Annual Income	₹1,08,300/- [₹9,025 x 12]
3	Deduction - 1/4th	₹81,225/- [₹1,08,300 - ₹27,075]
4	Future Prospects - 40%	₹1,13,715/- [₹81,225 + ₹32,490]
5	Multiplier - 15	₹17,05,725/- [₹1,13,715 x 15]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 2] (ii) Filial [₹48,000/- x 1] (iii) Spousal	 ₹96,000/- ₹48,000/- ₹48,000/- (Total ₹1,92,000/-)
	Total Compensation	**₹19,33,725/-**

11. 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.

12. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567]**, after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimants within six weeks from today and the apportionment thereof shall be as per the percentage directed by the Tribunal and the share of the minor claimants (appellant Nos.2 and 3 herein) shall be kept in fixed deposits by the Bank concerned. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimants to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

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

28.11.2025 **(ALKA SARIN)**
jk **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO