



F.A.O. No. 2068 of 2003(O&M) and
F.A.O. No. 2282 of 2003(O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(223)

Reserved on: 06.03.2026
Pronounced on: 12.03.2026
Uploaded on: 12.03.2026

1. F.A.O. No. 2068 of 2003(O&M)

Chhoti and Another ...Appellants

Versus

Jaswant Singh and Others ...Respondents

AND

2. F.A.O. No. 2282 of 2003(O&M)

Salochna and Others ...Appellants

Versus

Jaswant Singh and Others ...Respondents

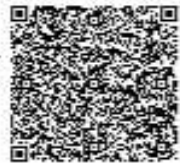
CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Atul Jain, Advocate
for the appellant.

Mr. Ajay Singla, Advocate
for the respondent no.3/Insurance Company.

VIRINDER AGGARWAL, J.

1. These two connected appeals have been preferred by the appellants under Section 173 of the Motor Vehicles Act, 1988, challenging the awards dated 15.02.2003 passed by the learned Motor Accident Claims Tribunal, Patiala. The claimants have filed the present appeals seeking enhancement of the compensation awarded by the learned Tribunal and also challenging the finding of the Tribunal whereby the case was held to be one of contributory negligence to the extent of 50% each. Since both appeals arise out of the same award and



arise out of the same motor vehicular accident, they are being disposed of by this common judgment.

BACKGROUND FACTS

2. Briefly stated, the facts of the case are that on 29.07.1999, Kaka Singh along with Sham Lal was travelling on motorcycle bearing registration No. PCX-130 from Patran towards village Duggal. Sham Lal was driving the motorcycle whereas Kaka Singh was the pillion rider. When they reached on Patran–Sangrur road near Gurudwara Duggal Khurd, a Tata Tempo 407 bearing registration No. PB-13B-1286, driven by respondent No.1 Jaswant Singh in a rash and negligent manner, came from the opposite side and struck against the motorcycle. As a result of the said accident, both Kaka Singh and Sham Lal sustained fatal injuries and died. A criminal case was also registered against the driver of the offending vehicle vide FIR No.187 dated 29.07.1999 under Sections 279, 427, 304-A IPC at Police Station Patran. The legal representatives of the deceased filed separate claim petitions under Section 166 of the Motor Vehicles Act seeking compensation on account of the death of the deceased persons.

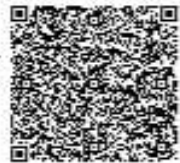
3. The learned Tribunal, after considering the evidence on record, came to the conclusion that the accident involved the motorcycle driven by Sham Lal and the Tata Tempo driven by respondent No.1 Jaswant Singh. However, the learned Tribunal held that the claimants had failed to conclusively establish that the accident occurred solely due to the rash and negligent driving of the driver of the Tata Tempo. The learned Tribunal noticed that the alleged eye-witness had stated that he reached the spot after the accident and that the driver of the offending vehicle had been acquitted in the criminal case. On the said basis, the



learned Tribunal held the case to be one of contributory negligence to the extent of 50% each between the driver of the Tata Tempo and the driver of the motorcycle. Consequently, the learned Tribunal assessed compensation in the claim petition relating to the death of Kaka Singh at ₹84,000, but after applying the deduction of 50% on account of contributory negligence, awarded a sum of ₹42,000 to the claimants. Similarly, in the claim petition relating to the death of Sham Lal, the learned Tribunal assessed the compensation at ₹1,68,000 and after applying the deduction of 50%, awarded a sum of ₹84,000 to the claimants along with interest.

CONTENTIONS

4. Learned counsel for the appellants has argued that the finding of the learned Tribunal regarding contributory negligence is wholly erroneous and contrary to the evidence available on record. It is submitted that the learned Tribunal wrongly relied upon the judgment of acquittal passed by the criminal court against the driver of the offending vehicle, which was neither duly proved nor exhibited in accordance with law. It is further argued that the learned Tribunal ignored the material fact that the driver of the offending vehicle did not even appear before the learned Tribunal and was proceeded against ex parte, and therefore no adverse inference could have been drawn against the claimants. Learned counsel has further contended that the compensation assessed by the learned Tribunal is on the lower side as the income of the deceased was taken inadequately and proper multiplier and conventional heads were not correctly applied. Accordingly, it has been prayed that the finding regarding contributory negligence be set aside and the compensation awarded by the learned Tribunal be suitably enhanced.



5. Per contra, learned counsel appearing on behalf of the respondent-Insurance Company has supported the award passed by the learned Tribunal. It is submitted that the learned Tribunal has appreciated the evidence on record in its proper perspective and rightly held that the accident involved negligence on the part of both the vehicles. It is further contended that the amount awarded by the learned Tribunal is just and reasonable and does not call for any interference by this Court.

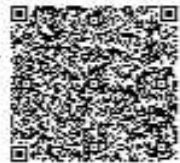
OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and have carefully gone through the record of the case.

NEGLIGENCE

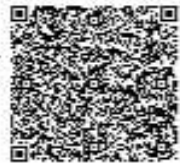
7. The primary question that arises for consideration before this Court is whether the learned Tribunal was justified in holding that the case was one of contributory negligence to the extent of 50% each. The learned Tribunal primarily relied upon the fact that the driver of the offending vehicle had been acquitted in the criminal case and that the eye-witness examined before the Tribunal had reached the place of occurrence after the accident had taken place. On that basis, the Tribunal concluded that the negligence of the driver of the tempo was not proved conclusively and therefore apportioned negligence equally between the two vehicles.

8. In the considered opinion of this Court, the approach adopted by the learned Tribunal cannot be sustained. Firstly, the judgment of acquittal passed in the criminal case cannot be treated as conclusive proof for determining negligence in a motor accident claim case. It is now well settled that the standard of proof in proceedings under the Motor Vehicles Act is entirely



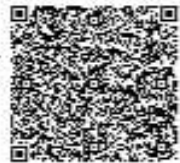
different from that required in criminal proceedings. The claimants are only required to establish their case on the touchstone of preponderance of probabilities and not beyond reasonable doubt. The Hon'ble Supreme Court in ***Bimla Devi and others vs. Himachal Road Transport Corporation and others, 2009 (13) SCC 530***, held that strict proof of negligence is not required in motor accident claim cases and the learned Tribunal can draw reasonable inferences from the facts and circumstances of the case. In Motor vehicle accident claim petitions, the learned Tribunals must adopt a pragmatic approach while dealing with accident cases and should not succumb to technicalities which may defeat the object of the beneficial legislation. It is also well settled that the acquittal of an accused in a criminal case does not automatically absolve him from civil liability in claim proceedings arising out of the same accident.

9. Secondly, it is not disputed that the driver of the offending vehicle did not appear before the learned Tribunal and was proceeded against ex-parte. When a party, who is in the best position to explain the circumstances of the accident, fails to step into the witness box, the learned Tribunal ought to have drawn an adverse inference against the said driver rather than attributing negligence to the deceased persons. The driver of the Tata Tempo was the person who could have given the most material account of the manner in which the accident occurred. His failure to appear and depose before the learned Tribunal deprived the tribunal of the best possible version from the side of the respondents. In such circumstances, the settled principle of law is that an adverse inference can legitimately be drawn against such a party who withholds himself from the witness box.



10. It is also noteworthy that the respondents did not lead any independent evidence to establish that the accident had occurred due to the negligence of the motorcycle driver or that the deceased persons had in any manner contributed to the occurrence. The mere fact that the alleged eye-witness reached the spot after the accident or that the driver of the offending vehicle was acquitted in the criminal proceedings cannot, by itself, be made a basis to attribute contributory negligence to the deceased persons in a claim petition under the Motor Vehicles Act, where the standard of proof is that of preponderance of probabilities and not proof beyond reasonable doubt. The finding of contributory negligence recorded by the learned Tribunal appears to have been based more on conjectures than on any substantive evidence available on record. In the absence of any cogent evidence showing negligence on the part of the motorcycle driver, the learned Tribunal was not justified in equally apportioning negligence between the drivers of both vehicles.

11. Furthermore, the claimants had produced on record the FIR registered against the driver of the offending vehicle in relation to the accident in question. The learned Tribunal erred in ignoring the aforesaid material evidence merely on the ground that the accused was subsequently acquitted in the criminal case. The Hon'ble Supreme Court in ***Mangla Ram vs. Oriental Insurance Company Ltd., 2018 (5) SCC 656***, has held that in claim petitions under the Motor Vehicles Act, once the involvement of the offending vehicle in the accident is established, the learned Tribunal should adopt a liberal approach while determining negligence. In other words, the approach of the learned Tribunal should be holistic analysis of the entire pleadings and evidence by applying the principles of preponderance of probability.

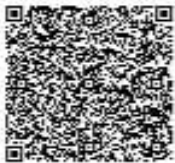


12. In view of the above discussion, the finding recorded by the learned Tribunal holding contributory negligence to the extent of 50% each is not sustainable and the same is hereby **set aside**. It is accordingly held that the accident in question occurred due to the rash and negligent driving of Tata Tempo bearing registration No. PB-13-B-1286 by respondent No.1.

QUANTUM OF COMPENSATION

13. The next question that arises for consideration is whether the compensation awarded by the learned Tribunal requires enhancement. The learned Tribunal's assessment of compensation in the case of both the deceased persons appears somewhat conservative in light of the principles laid down by the Hon'ble Supreme Court for determining just compensation under Section 166 of the Motor Vehicles Act, 1988. The learned Tribunal also deducted 50% of the assessed compensation on account of contributory negligence which, as held above, is not sustainable.

14. Therefore, the compensation awarded by the learned Tribunal deserves to be reassessed and suitably enhanced in accordance with the settled principles laid down by Hon'ble the Supreme Court in *National Insurance Co. Ltd. v. Pranay Sethi*, 2017 (16) SCC 680, *Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram*, 2018 (18) SCC 130 and *Sarla Verma v. DTC*, 2009 (6) SCC 121, wherein the framework for computation of "loss of dependency" by addition towards future prospects as per the nature of employment, deducting personal expenses of deceased, and applying appropriate multiplier on the basis of age of the deceased, and standardized amounts for conventional heads such as loss of estate, funeral expenses and loss of consortium, has been settled. The present matter, therefore, call for



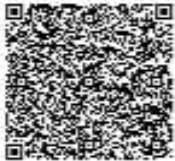
recalculation of the amount under each of these heads by applying the correct deduction on basis of dependency and correct multiplier relatable to the age of the deceased and by granting the admissible sum towards consortium and other conventional heads as mandated in the aforesaid decisions. The reassessment is structured as under:

(i) FAO-2068-2003

15. While considering the question of enhancement of compensation, the first aspect which requires determination is the income of the deceased Kaka Singh. It was alleged by the claimants that the deceased was working as a *Mistri* and was earning about ₹6000-7000 per month. However, no documentary evidence was produced on record to substantiate the said assertion. In the absence of any proof regarding his occupation and earnings, the learned Tribunal assessed his income at ₹1000 per month by treating him as a manual labourer. This Court is of the view that the said assessment is on the lower side. Even if the claim regarding the deceased being a *Mistri* is not accepted for want of proof, the income ought to have been assessed on the basis of minimum wages prevalent at the relevant time. Considering the prevailing wage structure during the relevant period, it would be reasonable and just to assess the monthly income of the deceased Kaka Singh at **₹1500 per month**. Therefore, the reassessment is structured as under:

REASSESSED COMPUTATION

Particulars	Award by Tribunal (₹)	Reassessed Award (₹)
Monthly Income	1,000/-	1,500/-
Income With Future Prospects	x	2,100/-

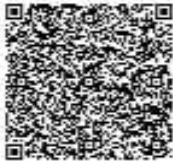


(40%) (Age 21 yrs)		(1,500 + 600)
Income After Deduction (Unmarried)	500 (1500 - 500) (50% for personal expenses)	1,050/- (2100 - 1050) (50% for personal expenses)
Annual Contribution To Family	6,000 (500 x 12)	12,600/- (1,050 x 12)
Multiplier (age 21 yrs)	14	18
Loss Of Dependency	84,000/- (6,000 x 14)	2,26,600/- (12,600 x 18)
Filial Consortium (Mother-Father)	x	80,000/-
Funeral Expenses	x	15,000/-
Loss Of Estate	x	15,000/-
Total	₹84,000/- { After 50% Deduction = ₹42,000/- }	₹3,36,800/-

16. Resultantly, the compensation awarded by the learned Tribunal to the claimants of Kaka Singh in MACT Case no.8/2000 is enhanced from ₹42,000/- to **₹3,36,800/-**. The enhanced amount shall carry the interest at rate of 7% per annum from the date of filing of the claim petition till realization.

(ii) FAO-2282-2003

17. As regards the case relating to the death of Sham Lal, the claimants had alleged that the deceased was working as a milkman and earning about ₹6000 per month. However, similar to the other case, no cogent evidence was produced to substantiate the said claim. The learned Tribunal, therefore, assessed his income at ₹1500 per month by taking the minimum wages of a labourer, which, in the opinion of this Court, is reasonable and does not call for any interference. Therefore, the reassessment is structured as under:

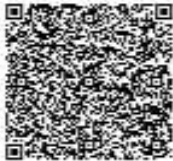


F.A.O. No. 2068 of 2003(O&M) and
F.A.O. No. 2282 of 2003(O&M)

REASSESSED COMPUTATION

Particulars	Award by Tribunal (₹)	Reassessed Award (₹)
Monthly Income	1,500/-	1,500/-
Income With Future Prospects (40%) (Age-34 years)	x	2,100/- (1,500 + 600)
Income After Deduction (5 Dependents)	1,000/- (1500 - 500) (1/3rd for personal expenses)	1,575/- (2,100 - 525) (1/4th for personal expenses)
Annual Contribution To Family	12,000 (1,000 x 12)	18,900/- (1,575 x 12)
Multiplier (age 34 yrs)	14	16
Loss Of Dependency	1,68,000/- (12,000 x 14)	3,02,400/- (18,900 × 16)
Spousal Consortium	x	40,000/-
Parental Consortium (4 Children)	x	1,60,000/- (40,000 x 4)
Funeral Expenses	x	15,000/-
Loss Of Estate	x	15,000/-
Total	₹1,68,000/- { After 50% Deduction = ₹84,000/- }	₹5,32,400/-

18. Resultantly, the compensation awarded by the learned Tribunal to the claimants of Sham Lal in MACT Case no.9/2000 is enhanced from ₹84,000/- to ₹5,32,400/-. The enhanced amount shall carry the interest at rate of 7% per annum from the date of filing of the claim petition till realization. The enhanced compensation shall be apportioned amongst the claimants in the same ratio as determined by the learned Tribunal.



19. Accordingly, the compensation awarded by the learned Tribunal in both claim petitions stands enhanced as under:

Appeal No.	Enhanced compensation
FAO-2068-2003	₹3,36,800/-
FAO-2282-2003	₹5,32,400/-

20. In view of the discussion and findings recorded hereinabove, both the appeals are partly allowed. The finding of the learned Tribunal holding contributory negligence to the extent of 50% each is hereby set aside, and it is held that the accident in question occurred solely due to the rash and negligent driving of the offending vehicle by respondent No.1. Consequently, the claimants shall be entitled to the enhanced compensation as determined by this Court. The liability to pay the said amount shall remain joint and several upon the driver, owner and insurer of the offending vehicle

21. Since the main case has been decided, pending miscellaneous application(s), if any, stands also disposed of.

22. The photocopy of this judgment be placed on the files of connected cases.

12.03.2026
Sourav Pathania

(VIRINDER AGGARWAL)
JUDGE

(i) Whether speaking/reasoned : Yes/No
(ii) Whether reportable : Yes/No