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

1. FAO-647-2023 (O&M)

United India Insurance Co. Ltd. ......Appellants

vs.

Santosh Kaur and ors. ......Respondents

2. FAO-319-2023 (O&M)

Santosh Kaur and ors. ......Appellants

vs.

Aditi Mahajan and anr. ......Respondents

Date of Reserve: 21.01.2026
Date of Pronouncement: 26.02.2026
Uploaded on:- 06.03.2026

Whether only the operative part of the judgment is pronounced? No
Whether full judgment is pronounced? Yes

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. D.P. Gupta, Advocate
for the appellant-Insurance Company in FAO No. 647-2023
and for respondent No. 2 in FAO No. 319-2023.

Mr. Maneet Kaushik, Advocate for
Mr. Sagar Aggarwal, Advocate
for respondent Nos. 1 to 5 in FAO No. 647-2023
and for the appellants in FAO No. 319-2023.

Mr. Mohit Kaushik, Advocate
for respondent No. 6 in FAO No. 647-2023
and for respondent No. 1 in FAO No. 319-2023.

* * *

SUDEEPTI SHARMA J.

1. Both the appeals, as noticed above, are being disposed of by this common judgment, having arisen out of the impugned award dated 03.10.2022 passed by the learned Motor Accidents Claim Tribunal, Kurukshetra, whereby the claimants were awarded compensation to tune of Rs.41,19,004/- along with interest

@7.5% per annum and the Insurance company was held liable to pay the compensation to the claimants.

2. The appeal, i.e. FAO-647-2023, has been preferred by the appellant-Insurance Company against the Award dated 03.10.2022 passed by the learned Tribunal in the claim petition under Section 166 of the Motor Vehicles Act, 1988, whereby the claim petition filed by the respondent No.1 to 5/claimants was allowed and the appellant-Insurance company was held liable to pay the compensation to them to the tune of Rs.41,19,004/- along with interest @ 7.5% per annum.

3. The appeal, i.e. FAO-319-2023, has been preferred by the appellants/claimants against the Award dated 03.10.2022 passed by the learned Tribunal in the claim petition under Section 166 of the Motor Vehicles Act, 1988, for enhancement of compensation, granted to them to the tune of Rs.41,19,004/- along with interest at the rate of 7.5% per annum, on account of death of Husan Pal, occurred on 29.11.2020.

<u>FACTS NOT IN DISPUTE</u>

4. Brief facts of the case as per claim petition are that on 29.11.2020, Husan Pal (since deceased) was going from Ansal City, Kurukshetra towards his village Rattan Dena on motor cycle bearing registration No.HR-41H-1325 as pillion rider, which was being driven by Gurmail Singh (PW-3) at moderate speed, in accordance with road safety and traffic norms. Jaswant Singh (PW-2) was following them on separate motor cycle bearing registration No.HR-07X. 9996. At about 6.00 P.M., they were coming towards sector 2-3 bridge through service lane and reached in front of Dera Sacha Sauda Satsang Ghar, in the meantime, car bearing registration No.PB-02-CG-1767 came from opposite side, which was being driven at high speed, rashly and negligently by respondent no.1. The driver of the

same lost control over the vehicle, came on the wrong side and hit into the motor cycle being driven by Gurmail Singh, as a consequence thereof, they fell down. Husan Pal suffered multiple serious injuries on various parts of his body whereas Gurmail Singh suffered minor injuries. After the accident, motor cycle of Jaswant Singh, who was following them, was also hit side ways by driver of car, consequently, Jaswant Singh also suffered injuries. Immediately after the accident, Husan Pal was rushed to LNJP Hospital, Kurukshetra in an Ambulance but on account of his delicate medical condition, he was referred to PGI, Chandigarh, where he succumbed to his injuries on 10.12.2020.

5. Upon notice of the claim petition, respondents appeared and admitted the factum of compensation.

6. From the pleadings of the parties, the following issues were framed by the learned Tribunal :-

> *"1. Whether Husan Pal died due to injuries suffered in the accident dated 29.11.2020 caused by rash and negligent driving of car bearing registration No.PB-02CG-1767 by respondent no.1 as alleged?OPP.*
>
> *2. Whether the claimants in the present claim petition are entitled to compensation, if so how much and from whom?OPP*
>
> *3. Whether the respondent no.1 has violated the terms and conditions of the insurance policy, if so to what effect? OPR-2.*
>
> *4. Relief."*

7. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants. However, the Insurance Company was held liable to pay the compensation. Hence, the Insurance Company preferred appeal bearing FAO No. 647-2023 challenging the award as

well as quantum of compensation being on higher side. The claimants have also preferred FAO No. 319-2023 seeking enhancement of the compensation amount awarded by the learned Tribunal. Hence, the present appeals.

SUBMISSION OF LEARNED COUNSEL FOR THE PARTIES.

8. Learned counsel appearing on behalf of the appellant–Insurance Company assailed the impugned award primarily on the ground that the learned Tribunal erred, both on facts and in law, in holding that the accident occurred solely due to the rash and negligent driving of respondent No. 6, the driver of the offending vehicle. He further contends that the finding on negligence is unsustainable inasmuch as the learned tribunal failed to properly appreciate the surrounding circumstances and the alleged conduct of the deceased.

9. Learned counsel further argues that the deceased himself was guilty of contributory negligence. Further, the motorcycle on which the deceased was travelling as a pillion rider was being driven on the wrong side of the service lane at the time of the occurrence, thereby materially contributing to the accident. He therefore contends that the learned Tribunal did not adequately consider this aspect and erroneously fastened the entire liability upon the driver of the offending vehicle.

10. Learned counsel further contends that the learned Tribunal has fallen into error while assessing the income of the deceased. He further submits that the learned Tribunal wrongly assessed the monthly income by taking into consideration the Deputy Commissioner (DC) rates, instead of applying the notified minimum wages applicable at the relevant time.

11. On the aforesaid premises, learned counsel for the Insurance Company prays that the present appeal be allowed, the findings recorded by the learned

Tribunal on negligence and quantum be set aside or suitably modified, and the compensation awarded be reduced in accordance with law.

12. Per contra, learned counsel for the claimants-appellants (FAO No. 319-2023) contends that the learned Tribunal has rightly decided the issue of negligence. He further contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, he prays that the appeal (FAO No. 319-2023) be allowed and compensation be enhanced as per latest law. He further prays that the appeal FAO No. 647-2023 filed by the Insurance Company be also dismissed.

13. I have heard learned counsel for the parties and perused the whole records of the case.

14. Before proceeding further, it is relevant to reproduce the relevant portion of the award, which reads as under:-

> ***ISSUE NO.1-***
>
> *10 (a) First question which needs adjudication is as to whether Car bearing registration No. PB-02CG-1767 was involved in the accident.*
>
> *(b) If answer to the above question is in the affirmative, then it (b) leads us to the second question as to whether accident occurred on account of rash and negligent driving on the part of driver (respondent No.1) of offending vehicle i.e. Car bearing No.PB-02CG-1767.*
>
> *11. So as to prove the factum of rash and negligent driving on the part of respondent No. 1, learned counsel for the claimants first of all referred to the statement made on oath by Shri Jaswant Singh (an eye-witness to the accident), who while appearing in the witness box as PW2 narrated on oath the sequence of events that led to the accident on the ill fated day i.e. 29.11.2020. This witness specifically deposed that on the said day, car bearing No.PB-02CG-1767 was being driven by its driver in a reckless manner and at high speed, resultantly she lost control over her vehicle and firstly hit into the motor cycle bearing registration No.HR-41H-1325 being driven by Gurmail Singh and later collided with his (PW-2) motor cycle, resultantly, Husan Pal (since deceased), who was riding pillion on the motor cycle of Gurmail Singh,*

fell down, suffered multiple and grievous injuries on various parts of his body. He was rushed to LNJP Hospital, Kurukshetra, where first aid was provided but on seeing his delicate medical condition he was referred to PGI, Chandigarh, where unfortunately during treatment he breathed his last. Statement of PW-3 Gurmail Singh, on whose motor cycle Husan Pal (since deceased) was pillion rider, was also referred to, who deposed on the same lines. Learned counsel further submitted that though both these witnesses were cross-examined at length but nothing fruitful could be elicited to doubt their veracity.

It was also pointed out by learned counsel that evidence on record led by claimants also goes to show that immediately after the accident police authorities were intimated but when L.O. reached LNJP, Hospital, Kurukshetra, doctor intimated that injured had been referred to PGI, Chandigarh, thereafter, on 30.11.2020 after receiving medical ruqa from PGI, Chandigarh, when I.O. along with other police officials were going to PGI, Chandigarh, Jaswant Singh (PW-2) met them at Pipli Chowk and got recorded his statement who therein elaborated upon the manner in which accident occurred and also specifically pointed out the number of the offending car. On the basis of said statement, formal case vide FIR No. 648 dated 01.12.2020 was lodged for the commission of offences punishable u/s 279, 336, 337, 304-A IPC in Police Station, Sadar Thanesar against respondent no.1. On the basis of reliable clues, respondent no.1 was arrested, who is still facing trial in the aforesaid criminal case. At this stage, certified copy of report under Section 173 Cr.P.C. (Ex.P2) and certified copy of charge sheet (Ex.P5) were also referred to. Learned counsel also referred to copies of MLR Ex.P8 and PMR (Ex.P6) of deceased Husan Pal, which also supports the case of claimants that deceased suffered injuries in the accident and died consequent thereto. Learned counsel next submitted that though there is an endorsement in the MLR Ex.P8 of Husan Pal that there was smell of alcohol but admittedly he was not on the driver seat and no evidence has been led from where an inference can be drawn that accident occurred on account of rash and negligence on his part.

Learned counsel summed up his contention by urging that the statements made on oath by Jaswant Singh (PW-2) and Gurmail Singh (PW-3), documentary evidence adduced by claimants including *medico. legal report etc. clearly lead to an inference that accident occurred on account of rash and negligent driving on the part of driver of Car No.PB-02CG-1767. On the basis of these submissions, it was prayed that this issue be decided in favour of claimants.*

12. In response to the contentions raised by learned counsel for the claimants, learned counsel for the respondents contended that car bearing No.PB-02CG-1767 was falsely implicated in the present case by claimants in collusion with the police officials, only with a view to extract illegal monetary benefit. They also contended that lodging of the FIR and filing of challan against the respondent no.1 in a criminal trial, by itself is not sufficient to prove the factum of rash and negligent driving on the part of respondent No.1. Moreover, in the instant case the FIR was lodged after a delay of approximately two days, thus, giving sufficient time to claimants to concoct facts. Primarily based on these submissions, it was prayed that the present issue be decided against the claimants.

13. Having heard rival submissions advanced by learned counsel for the parties and perusing the entire evidence both oral as well as documentary, I express my inability to agree with the submissions advanced by learned counsel for respondents for the reasons cited herein-below:-

14. In order to prove the involvement of car bearing No.PB-02CG-1767 and negligence of respondent No.1 (driver). Shri Jaswant Singh, who was following the deceased on another motor cycle, in his first version given to the police authorities, highlighted the manner in which the accident occurred and also pointed out the number of the offending vehicle. According to him, respondent no.1 was driving the offending vehicle in a rash and negligent manner, she lost control over the same, hit into the motor cycle being driven by Gurmail Singh, as a consequence thereof, they fell down. Husan Pal suffered multiple serious injuries on various parts of his body whereas Gurmail Singh suffered minor injuries. Showing least respect for 2x human life, she (respondent no.1) sped away from the spot leaving the offending vehicle behind. Ex.P15 and Ex.P16 are the recovery memos of all three vehicles involved in the accident, perusal of the same goes to show that these were taken into possession from the spot by the police. Undoubtedly there has been delay in lodging the FIR but copy *of report u/s 173 Cr.P.C. when perused carefully leaves no doubt that delay has been satisfactorily explaineed. Thus, lodging of the FIR wherein necessary details of the accident i.e manner in which it occurred and number of the offending vehicle appeared dislodges the plea taken by the respondents that car bearing No.PB-02CG-1767 had been falsely implicated by claimants in collusion with the police authorities.*

PW-3 Gurmail Singh, who was driving the motor cycle bearing No.HR-41H-1325, on which Husan Pal (since deceased) was riding pillion, also corroborated the statement of PW-2 Jaswant Singh in the way and manner the accident occurred.

Despite being cross-examined rigorously, testimony of these witnesses remained unshaken regarding rash and negligent driving on the part of driver of car bearing No.PB-02CG-1767.

Furthermore, after the lodging of FIR, investigations were set into motion, during which, postmortem report was conducted vide PMR Ex. P6. After collecting sufficient incriminating material, challan was filed against respondent No.1, who is admittedly facing criminal trial in FIR no. 648 dated 01.12.2020 u/ss 279, 336, 337 and 304-A IPC vide Ex. P5 charge-sheet.

It needs to be pointed out here that first version of Jaswant Singh (PW-2) given to the police authorities was quite consistent with his statement recorded on oath in the Tribunal.

15. Proceeding further, the plea of learned counsel for respondents that deceased was under the influence of liquor, has been noticed to be rejected, for the reason that though in MLR Ex.P8 it is mentioned that there was smell of alcohol, but admittedly he was not on the driver seat and no evidence has been led from where an inference can be drawn that accident occurred on account of rash and negligence on his part.

16. Another plea raised by learned counsel for respondents that there was delay of two days in lodging of FIR Ex.PI has also been noticed to be rejected, for the reason that immediately after the accident, police authorities were intimated, who visited LNJP Hospital, Kurukshetra same day and sought permission of the doctor to record statement of injured but patient Husan Pal was reported to have been referred to PGI, Chandigarh and another injured Jaswant Singh was *not found. Thereafter, on 30.11.2020, another medical ruqa was received from PGI, Chandigarh regarding admission of injured Husan Pal, upon which police officials who were on their way to PGI, Chandigarh, met Jaswant Singh at Pipli Chowk, recorded his statement, on the basis of which criminal law was set into motion. The fact that vehicles were recovered from the spot by the police stands proved by recovery memos Ex.P15 and Ex.P16. The delay having been satisfactorily explained and there being nothing on record to doubt the case of claimants, this plea has not found favour with the Tribunal.*

17. It also needs to be mentioned herein that in motor accident claim cases standard of proof is not as strict as required in criminal trial. In criminal trials, the case has to be proved beyond reasonable doubt but in motor accident claim cases standard of proof is preponderance of probabilities. Hon'ble Supreme Court of India in case law titled as Anita Sharma and others vs. The New India Assurance Co.Ltd and another 2019 (4) Law Herald 2953 observed that "Motor accident- Standard of proof in motor accident matters is one of preponderance of probabilities rather than beyond reasonable doubt."

18. Though, respondents No.1 denied the involvement of car bearing No.PB-02CG-1767 but surprisingly she did not appear in the witness box in support of her assertion. Her plea that a false FIR has been registered against her in collusion with police and she (respondent no had not caused the accident due to her rash and negligent driving, remains unproved. Moreover, nothing has been brought on the case file from where it can be inferred that claimants in collusion with the police officials falsely implicated respondent No.1 in the criminal case. Had respondent no.1 been falsely implicated in the criminal case, she would have approached the higher police authorities but no such evidence has been brought on record by her and thus, an adverse inference can easily be drawn against her.

19. Therefore, the evidence of petitioners has to be tested on the touch stone of preponderance of probabilities while keeping in view the nature of occurrence which is sudden and unpredictable. On going through the evidence on record, this Tribunal is of the opinion that the claimants have been able to prove the involvement of car bearing No.PB-02CG-1767 as also factum of rash and negligent *driving of offending vehicle by respondent No.1 on the ill fated day i.e. 29.11.2020 near Dera Sacha Sauda Satsang Ghar in the area of P.S. Sadar Thanesar. Accordingly, this issue is decided in favour of the claimants.*

15. A perusal of the impugned award demonstrates that the learned Tribunal has undertaken a comprehensive and judicious appreciation of both the oral and documentary evidence available on record, and has returned a well-reasoned finding that the accident in question occurred solely on account of the rash and negligent driving of respondent No. 6 , the driver of the offending vehicle.

16. From the record, it is evident that PW-2, eye-witness to the occurrence, furnished a cogent, consistent and natural account of the sequence of events culminating in the accident. He categorically attributed the cause of the accident to the negligent driving of respondent No. 6-driver. Despite being subjected to searching and protracted cross-examination, no material contradiction, embellishment, or inconsistency could be elicited so as to impeach his credibility. His testimony inspires confidence. The learned Tribunal, therefore, committed no error in placing reliance upon the same.

17. The version of PW-2 stands further corroborated by PW-3 Gurmail Singh, who also deposed in consonance with the case of the claimants regarding the manner of occurrence. His testimony too remained unshaken in cross-examination. The consistent ocular account of these two witnesses, read conjointly, forms a reliable evidentiary foundation establishing the rash and negligent driving of the offending vehicle.

18. It is also borne out from the record that respondent No. 6 is facing criminal prosecution arising out of the same occurrence. The registration of the FIR and filing of the charge-sheet constitute strong *prima facie* circumstances indicative of negligence, particularly when supported by trustworthy ocular

evidence and contemporaneous documentary material. These factors cumulatively reinforce the conclusion drawn by the learned Tribunal.

19. The contention raised by learned counsel for the appellant–Insurance Company that the deceased was himself negligent, inasmuch as the motorcycle on which he was travelling as a pillion rider was allegedly being driven on the wrong side of the service lane, is wholly devoid of merit.

20. A careful examination of the record reveals that no specific issue with regard to contributory negligence was either framed by the learned Tribunal or pressed at the appropriate stage. It is well settled that in the absence of a framed issue and in the absence of cogent evidence led in support thereof, a plea of contributory negligence cannot be entertained at the appellate stage so as to curtail or reduce the compensation awarded.

21. The Hon'ble Supreme Court in ***M. Nithya and Others v. SBI General Insurance Co. Ltd., passed in SLP (Civil) No. 833-834 of 2023*** has authoritatively held that where no issue regarding contributory negligence has been framed and no evidence has been adduced to substantiate such a plea, it would be impermissible to reduce the compensation on that ground. The ratio laid down therein squarely governs the present case. The attempt of the appellant-Insurance Company to introduce a plea of contributory negligence, without foundational pleadings, issue or evidence, is procedurally untenable and substantively unsustainable.

22. The learned Tribunal has also rightly borne in mind the settled principle that proceedings before the Motor Accident Claims Tribunal are summary in nature and that the standard of proof required is one of preponderance of probabilities and not proof beyond reasonable doubt. In the case at hand, the claimants have successfully discharged the burden cast upon them by leading

cogent, reliable and unrebutted evidence establishing the involvement of the offending vehicle and the rash and negligent act of respondent No. 6.

23. In view of the foregoing discussion, this Court finds that the findings recorded by the learned Tribunal on the issue of rash and negligent driving are firmly rooted in the evidence on record, are supported by settled principles of law, and do not suffer from any perversity, illegality, or material irregularity warranting interference in appellate jurisdiction. Consequently, the same are affirmed and upheld.

24. Adverting now to the rival contentions raised by the appellant–insurance company and the respondents–claimants with respect to the quantum of compensation awarded by the learned Tribunal, the same are examined as under.

25. A perusal of the award reveals that the deceased-Husan Pal was stated to be 26 years old at the time of the accident. Since the factum of age is not in dispute, the learned Tribunal has rightly assessed the age of the deceased as 26 years by placing reliance on the post mortem report (Ex P6) and rightly applied the multiplier of 17.

26. A further perusal of the award reveals that the deceased, Husan Pal, was a mason by profession and was stated to be earning ₹40,000/- per month. In order to substantiate the said claim, Identity Card (Ex. P-21) issued by the Haryana Building and Other Construction Workers Welfare Board was placed on record. On the basis of the said document, the deceased was treated as a skilled worker.

27. For the purpose of assessing the income of the deceased, the learned Tribunal relied upon the DC rates notified by the Deputy Commissioner of the concerned district and assessed the monthly income at ₹18,048/-.

28. So far as contention of learned counsel for the appellant-Insurance Company that the minimum wages prevalent in the State of Haryana ought to have

been taken into consideration instead of the DC rates is concerned, the same is bereft of merits.

29. Upon consideration of the said contention, it is evident that the learned Tribunal has not committed any illegality or infirmity in adopting the DC rates for determination of income. This Court has previously dealt with a similar issue in ***FAO No. 6751 of 2017 titled as National Insurance Co. Ltd vs. Vimal Kaur and others, decided on 18.12.2025*** wherein reliance was placed upon the judgment of the Hon'ble Supreme Court in ***Saroj v. IFFCO Tokio General Insurance Co. Ltd., 2024 INSC 816***. In the said decision, the Hon'ble Apex Court approved the adoption of DC rates for the purpose of assessing the income of the deceased/claimant in motor accident claim cases.

30. The relevant portion of the ***Vimal Kaur's case (supra)*** is reproduced as under:-

> *"6. At the outset, it is apposite to reiterate the well-settled principle governing appellate jurisdiction. It is trite law that a Court sitting in appeal does not substitute its own view for that of the Court below merely because an alternative view is possible. Interference is warranted only where the impugned findings are vitiated by perversity, illegality, or material irregularity, or suffer from such infirmities as render them unsustainable in law. In the absence of such vitiating factors, interference in appellate jurisdiction is wholly unwarranted.*
>
> *7. In the present case, a perusal of the record shows that the driving licence of the deceased was produced and exhibited as Ex. R-6. The said licence clearly reflects that the deceased was authorised to drive heavy and medium goods vehicles. Thus, the deceased was duly qualified to be treated as a skilled worker in the category of heavy vehicle driver.*
>
> *8. There is nothing on record to demonstrate that the wage rates notified by the Deputy Commissioner, Kurukshetra, were not applicable to the deceased. In the absence of any cogent evidence to*

the contrary, the learned Tribunal was justified in relying upon the said notification while determining the income of the deceased. The approach adopted by the Tribunal cannot be said to be arbitrary or erroneous.

*9. The aforesaid view also finds support from the judgment of the Hon'ble Supreme Court in **Saroj & Ors. v. IFFCO-Tokio General Insurance Co. & Ors., 2024 INSC 816**. The relevant extract of the same is reproduced as under:-*

> *"5. On appeal to the High Court, vide judgment and order dated 9th March, 2023 passed in FAO Nos.8504 of 2017 (O&M) and 6836 of 2017 (O&M) the amount awarded by the MACT was reduced to Rs.9,22,336/- noting that minimum wage rates issued by the Government are uniformly applicable throughout the State and, therefore, constitute a better measure for calculating the notional income of a deceased person, as opposed to special DC rates notified by the Deputy Commissioner of a District, and, therefore, would only be applicable to that particular district. Further, it was observed that with respect to the age at the time of death, the Aadhar Card of the deceased records his date of birth to be 1st January 1969; thus, the age comes to 47 years. Hence, the multiplier applicable would be 13.*
>
> *6. The claimant-appellants, aggrieved by the reduction, have approached this Court. Before us, it was contended that the multiplier applicable would be 14 since, in the School Leave Certificate the date of birth of the deceased is shown as 7th October, 1970. His age, then at the time of the accident was 45 years. They were further aggrieved by the calculation of monthly income to be Rs.5,886/-.*
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> *7. Notice was issued on 17th October, 2023. The matter was then sent to Lok Adalat by way of an order*

dated 23rd July 2024. A subsequent order dated 2nd August 2024 records that the matter could not be settled.

8. We have heard the learned counsel for the parties and also perused the record. The questions arising for consideration are - (a) in case of conflict of the dates of birth between the two documents, as in this case between the School Leaving Certificate and the Aadhar Card, which of the two is to be taken as authoritative; and (b) whether in the facts of the case, the High Court's reduction of the compensation awarded by the learned MACT, was justified and in accordance with law? 9. This Court is of the view that the High Court erred in undertaking the reduction as it has. The reasons therefore are recorded in the following paragraphs.

9.1 The general rule insofar as appellate proceedings are concerned is that a Court sitting in appeal is not to substitute its view for that of the Court below. It is only to see that the decision arrived at is not afflicted by perversity, illegality or any other such vice which may compromise it beyond redemption.

9.2 It is also well settled that an order is not to be interfered with simply because another view is possible, which, in the impugned order the High Court seems to have done.

9.3 The question before the High Court was not as to which yardstick to use to determine the notional income of the deceased was 'better'. Since there is nothing on record to establish that the rates notified by the District Commissioner, Rohtak, would not apply to the deceased, we find no reason to interfere with the finding of the Tribunal. Further, the testimonies of PWs 2, 5 and 6 show that he is an agriculturist who owned his own tractor and a JCB machine."

10. This Court finds no merit in the contention raised by the appellant–Insurance Company on the ground that the learned Tribunal erred in

₹assessing the monthly income of the deceased at 15,680/- by placing reliance upon the wage notification issued by the Deputy Commissioner, Kurukshetra, applicable to skilled labour/heavy vehicle drivers, instead of adopting the ₹minimum wages for skilled labour in the State of Haryana i.e. 8,245/-."

31. In view of the law laid down by the Hon'ble Supreme Court and followed by this Court, the learned Tribunal has rightly assessed the income of the deceased on the basis of the DC rates. Consequently, no interference is warranted on this aspect of the matter.

32. A further perusal of the award reveals that the learned Tribunal has rightly deducted 1/4th towards personal expenditure of the deceased. Furthermore, the amount awarded under the head of Funeral Expenses, Loss of Estate and Loss of consortium is on the lower side and deserves to be enhanced. Therefore, the award requires indulgence of this Court.

<u>SETTLED LAW ON COMPENSATION</u>

33. Hon'ble Supreme Court in the case of <u>Sarla Verma Vs. Delhi Transport Corporation and Another</u> [(2009) 6 Supreme Court Cases 121], laid down the law on assessment of compensation and the relevant paras of the same are as under:-

"30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.

31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.

32. Thus even if the deceased is survived by parents and siblings, only d the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

* * * * * *

42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas[3], Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.

34. Hon'ble Supreme Court in the case of National Insurance Company Ltd. Vs. Pranay Sethi & Ors. [(2017) 16 SCC 680] has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

(A) Deduction of personal and living expenses to determine multiplicand;

(B) Selection of multiplier depending on age of deceased;

(C) Age of deceased on basis for applying multiplier;

(D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;

(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

"52. As far as the conventional heads are concerned, we find it difficult to agree with the view expressed in Rajesh[2]. It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

* * * * *

59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.

59.4. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.

59.5. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma[4] which we have reproduced hereinbefore.

59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma[1] read with para 42 of that judgment.

59.7. The age of the deceased should be the basis for applying the multiplier.

59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."

35. Hon'ble Supreme Court in the case of ***Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130] after considering Sarla Verma (supra) and Pranay Sethi (Supra)*** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

"21. A Constitution Bench of this Court in Pranay Sethi[2] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.

21.1. Spousal consortium is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".

21.2. Parental consortium is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".

21.3. Filial consortium is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.

22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to

be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.

24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi[2]. In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.

CONCLUSION

36. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the appeal FAO No. 319-2023 filed by claimants/appellants is allowed and appeal FAO No. 647-2023 filed by the Insurance Company is dismissed. The award dated 03.10.2022 is modified accordingly. The appellants-claimants (FAO No. 319-2023) are entitled to enhanced amount of compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.18048/-
2	Future prospects @ 40%	Rs.7219/- (40% of 18048)
3	Deduction towards personal expenditure 1/4	Rs.6317/- (25267 X 1/4)
4.	Total Income	Rs.18950/-(25267-6317)
4	Multiplier	17
5	Annual Dependency	Rs.38,65,800/- (18950X12X17)

6	Loss of Estate	Rs.18,150/-
7	Funeral Expenses	Rs.18,150/-
8	Loss of Consortium Parental : Rs. 48,400/-x1 Spousal : Rs. 48,400/-x1 Filial : Rs. 48,400/-x3	Rs.2,42,000/-
	Total Compensation	Rs.41,44,100/-
	Deduction Amount Awarded by the Tribunal	Rs.41,19,004/-
	Enhanced amount	Rs.25,096/- (4144100-4119004)

37. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma* 2019 ACJ 3176 and *R.Valli and Others VS. Tamil Nandu State Transport Corporation* (2022) 5 Supreme Court Cases 107**, the appellants-claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

38. Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the accounts of the claimants/appellants, as per award dated 03.10.2022. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

39. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

26.02.2026
Gaurav Arora

Whether speaking/non-speaking : Speaking
Whether reportable : Yes