



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No.3458 of 2002 (O&M)
Date of decision: 25.03.2026

JASBIR KAUR AND OTHERS ...APPELLANTS

VERSUS

RAM SINGH AND OTHERS ...RESPONDENTS

1.	Judgment reserved on	10.02.2026
2.	Judgment pronounced on	25.03.2026
3.	Judgment uploaded on	25.03.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	FULL
5.	The delay, if any of the pronouncement is full judgment and reason thereof.	NA

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by: Mr. Vinod K. Kataria, Advocate
for the appellants.

Mr. R.C. Kapoor, Advocate and
Mr. Harsh Aggarwal, Advocate
for respondent No.2-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. The record of the present case was destroyed in a fire incident in the High Court Branch. Learned counsel for the appellants/claimants has placed on record the copies of the claim petition, written statement filed by respondent No.1, statement of one of the eye-witness, namely, PW4 Roop Chand and copy of the award, which are taken on record. Registry is directed to tag the same at an appropriate place on the record.



2. This appeal has been instituted against the Award dated 01.03.2002 for enhancement of compensation awarded in MACT case No.180 of 1997 decided by the Motor Accident Claims Tribunal, Patiala (**for short “Tribunal”**) in a petition under Section 166 of Motor Vehicles Act, 1988, vide which a sum of Rs.1,92,000 has been awarded as compensation to the claimants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Jaswinder Singh in a motor vehicular accident which allegedly took place due to rash and negligent driving by respondent No.1 (owner-cum-driver) while driving the offending vehicle bearing No.MP-09-D-2465 (**hereinafter referred to as ‘offending vehicle’**), which was insured with respondent No.2.

3. Case of the claimants is that on 07.10.1997 Jaswinder Singh (since deceased), while driving Government Jeep bearing No.PB-11-A-5831 was going from Patiala to Samana alongwith Roop Chand (JTO), Harcharan Singh (phone mechanic) and Bal Krishan (R.M.). When the jeep reached near Dhakraba Bridge at about 8:30 PM, truck bearing No.MP-09-D-2465 came from Samana side which was being driven in a rash and negligent manner by respondent No.1 and he struck the truck against the jeep. The accident in question was witnessed by Harwinder Singh and Gulshan Kumar. Jaswinder Singh, who was driving the jeep died at the spot while other occupants of the jeep namely Harcharan Singh, Bal Krishan and Roop Chand suffered multiple injuries who were taken to Rajindra Hospital, Patiala for treatment where Harcharan Singh died after sometime. It is further submitted that accident in question had taken place due to rash and negligent driving on the



part of respondent No.1 (owner-cum-driver) while driving offending vehicle which was insured with respondent No.2 and both of them are liable to pay compensation to the claimants jointly and severally. FIR No.340 dated 08.10.1997, under Section 279, 304-A IPC was also registered at Police Station, Sadar Patiala regarding accident in question.

4. It is further submitted that deceased was 29 years of age and was employed as a driver and was temporarily working as a driver with Telecom Department. He used to earn Rs.2,000/- per month as driver and additionally, Rs.7,500/- per month from the Maruti Van owned by him. A sum of Rs.8,00,000/- has been claimed as compensation.

5. Respondent No.1 in his written statement has opposed the petition on the grounds of maintainability and that claimants are not the legal representatives of the deceased. The material contents of the claim petition regarding rash and negligent driving on his part, age and income of the deceased have also been refuted. It is further submitted that on the ill-fated day at about 9/9:30 PM, respondent No.1 while driving the said truck loaded with raw bananas was going from Samana to Patiala side at a normal speed and on the left side of the road. The jeep in question came from the opposite side which was being driven by the deceased in a zig-zag manner, rashly and negligently and it came towards the wrong side of the road. Respondent No.1 had blown the horn and took his truck towards *katcha* portion of the road on the left side and stopped the same but jeep got out of control and hit the standing truck. The driver and other occupants were consuming alcohol and some bottles of liquor were also found lying in the jeep. One scooterist also



came at the spot who told his name as Dr. Satnam Singh and after some time one police constable also reached there and thereafter, the injured were sent to the hospital for treatment. It is further submitted that false FIR has been lodged against respondent No.1 and claimants are not entitled to any compensation. It is further submitted that he was holding a valid and effective driving licence and offending vehicle is insured with respondent No.2 which was owned by respondent No.1 and dismissal of the claim petition was sought.

6. Respondent No.2 in his written statement also refuted the contents claim petition. It has been admitted that offending vehicle was insured with it during the relevant period which is owned by respondent No.1. It is further submitted that driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident and Insurance Company is not liable to indemnify the owner insured. Other pleas taken by the respondent No.2 was similar to what has been pleaded by respondent No.1 and dismissal of the claim petition was sought.

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

- “1. Whether Ram Singh respondent No.1 caused the death of Jaswinder Singh by driving truck No. MP-09-D-2465 negligently? OPP
2. Whether the petitioners are the legal representatives of Jaswinder Singh deceased? OPP
3. Whether respondent No.1 was not holding a valid driving licence at the time of accident? If so to what effect? OPR-2



4. *Whether there was no valid route permit and fitness certificate of truck No.MP-09-D-2465 at the time of accident? If so to what effect? OPR-2*
5. *How much compensation the petitioner are entitled to recover and from which of the respondents?OPP*
6. *Relief.”*

8. Thereafter, claimants in support of their case examined Malkiat Kaur as PW1, Jasbir Kaur (claimant) as PW2, Jagdish Lal, Sr. Superintendent as PW3, Roop Chand as PW4 and closed the evidence after tendering copy of FIR Ex.P3, copy of post-mortem report Ex.P4, copy of death certificate Ex.P5, ration card Mark-X and copy of post-mortem report Ex.P6.

9. Respondent No.1-Ram Singh appeared as RW1 and respondents examined Satnam Singh as RW2 and Rajinder Kaur (Assistant) as RW3 and closed the evidence.

10. After hearing the parties and on going through the material on the file, learned Tribunal came to the conclusion that accident in question had taken place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle as has been observed in para No.22 of the Award. However, in para No.26, it was observed that it was a head on collision and the Tribunal held the drivers of both the vehicles to be equally responsible for causing the accident and compensation was deducted to the tune of 50%.

11. Under issue No.4, it was held that Insurance Company is liable to indemnify the insured and the liability of respondents No.1 and 2 is joint and several. After assessing the total compensation of Rs.3,84,000/-, 50%



was deducted due to contributory negligence and claimants were held entitled to a sum of Rs.1,92,000/- as compensation.

12. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.

13. At the very outset, it is pertinent to mention that record of the Tribunal has been destroyed in a fire incident. Learned counsel for the appellants/claimants has placed on file the copies of the claim petition, written statement filed by respondent No.1, statement of one of the eye-witness, namely, PW4 Roop Chand and copy of the award and the present appeal thus has to be decided on the basis of material available on the file.

14. Learned counsel for the appellants argued that the impugned award is based on conjectures and surmises. The finding on issue No.1 that it was a case of contributory negligence is self-contradictory. The claimants in support of their case had examined one of the eye-witness, namely, PW4 Roop Chand and respondent No.1-Ram Singh himself had stepped into the witness-box as RW1 and had also got examined RW2 Satnam Singh. In para No.22 of the award, Tribunal has disbelieved the testimony of RW1 and RW2 and after believing the version of PW4, Tribunal came to the conclusion that accident in question had taken place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle resulting in the death of Jaswinder Singh and Harcharan Singh. Learned counsel further contended that contradictory observations have been made in para No.26 of the Award, wherein, it has been observed that PW4 Roop Chand has admitted that it was a head on collision and as such, it was a case



of contributory negligence and half of the compensation was deducted on account of contributory negligence. Learned counsel next contended that PW4 Roop Chand has categorically deposed that the offending truck had hit the jeep after coming to the wrong side and merely because it had hit the jeep head on will not give rise to the inference that driver of the jeep had also contributed to the accident or that he was driving the jeep in a rash and negligent manner. Learned counsel further contended that had the accident taken place head on in the middle of the road, such an inference could have been drawn but once the offending truck came and hit the jeep head on after coming to the wrong side, the driver of the jeep cannot be held to be rash and negligent and finding on issue No.1 is thus liable to be modified and the same should be decided in favour of the claimants.

15. Learned counsel next contended that income of the deceased has been assessed on lower side as deceased was driving the Government vehicle owned by Telecom Department and he used to get Rs.2,000/- per month as salary and he also owned one Maruti Van and in all, he used to earn Rs.9,500/- per month. Learned counsel further contended that merely because claimants were unable to produce documentary evidence to prove the monthly income of the deceased does not justify adoption of minimum wages while assessing the monthly income and some amount of guesswork has to be applied while assessing the monthly income. Learned counsel next contended that no future prospects have also not been added and 40% of the amount should have been added to the monthly income of the deceased towards future prospects as he was 29 years of age. Learned counsel further



contended that deceased has left behind 3 dependents and after deducting 1/3rd of the income towards personal expenses, multiplier of 17 ought to have been applied to the loss of dependency. Likewise, no compensation has been awarded under conventional heads i.e. 'loss of consortium', 'loss of estate' and 'funeral expenses' and he prayed that compensation be duly enhanced and appeal be accepted. In support of his contentions, learned counsel for the appellants has relied upon 2024(2) JCR 551 **Smt. Bibha Sharma and Ors. Vs. Hanuman Ram Bishnoi and Ors.**, 2022(1) SCC(Cri) 204 **Chandra @ Chanda @ Chandraram & Anr. Vs. Mukesh Kumar Yadav & Ors.**, 2009(6) SCC 121 **Sarla Verma and others Vs. Delhi Transport Corporation and Another**, 2017 (16) SCC 680 **National Insurance Co. Ltd Vs. Pranay Sethi and Other**, 2018 (4) R.C.R. (Civil) 333 **Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram & Others**, (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur** and judgment passed by a Co-ordinate Bench of this Court in FAO-488-1989 decided on 22.05.2025, titled, **Manjit Kaur Vs. Ram Kumar and Others**.

16. On the other hand, learned counsel for the respondents argued that the award in question is well-reasoned and justified and the same does not call for any interference. Learned counsel has also placed on file the copy of judgment of a Co-ordinate Bench of this Court in FAO No.4202 of 2002, decided on 13.10.2014, titled, **Malkeet Kaur and Others Vs. Ram Singh and Others**, whereby, the appeal filed against the same award by Malkeet Kaur and Others who were dependents of deceased, namely, Harcharan Singh has been disposed of and 50% cut has been applied on account of



contributory negligence on the part of the driver of the ill-fated vehicle. Learned counsel further contended that this judgment shall operate as res judicata and finding on issue No.1 cannot be reopened. Learned counsel next contended that adequate compensation has been assessed by the Tribunal and no interference in the same is called for and appeal in hand is liable to be dismissed.

17. In order to prove their case, claimants have examined PW4 Roop Chand, who was travelling in the ill-fated jeep at the time of accident. He deposed that on 07.10.1997, he along with Harcharan Singh and Bal Krishan was going from Patiala to Samana in jeep bearing No.PB-11-A-5831, which was being driven by Jaswinder Singh (since deceased). When they reached near village Dhakraba Bridge at about 8:30 P.M., offending truck bearing No.MP-09-D-2465 came from the opposite side. The jeep was being driven on the left side of the road at the speed of 30-35 KM/H, while the truck was being driven at a speed of 50-60 KM/H on the wrong side of the road, in a rash and negligent manner and truck struck against the jeep as a result of which Jaswinder Singh (driver) died at the spot while other occupants suffered injuries and later on, Harcharan Singh also died on account of injuries suffered by him. During cross-examination, PW4 Roop Chand stated that both the vehicles i.e. truck and jeep had struck head on. He further stated that the road was wide enough for two vehicles to pass easily. He denied the suggestion that truck was standing on the *katcha* berm of the road and jeep came in zig-zag manner which was being driven by its driver under the influence of alcohol and it hit the offending truck. He denied the



suggestion that bottles of liquor were found in the jeep. He denied the suggestion that the accident took place due to rash and negligent driving on the part of the deceased while driving the jeep in question.

18. In order to rebut the testimony of PW4 Roop Chand, respondent No.1-Ram Singh himself stepped into the witness-box as RW1 and deposed that on 07.10.1997, he was going from Begampura to Mukerian after loading raw bananas. At about 9:30 P.M., when he reached near village Dhakraba in his truck which was being driven at a normal speed, one jeep came from the opposite side which was being driven at a high speed. The same got out of control and he took his truck towards the left side and stopped it, but the jeep came and struck against the standing truck. There were four occupants in the jeep who were drunk and liquor was lying in the jeep. One constable also reached there and one Dr. Satnam Singh also came on a scooter and thereafter, injured were sent to the hospital. RW2 Satnam Singh has also corroborated his version regarding the manner of accident.

19. However, learned Tribunal after going through the testimony of PW4 Roop Chand, RW1 Ram Singh and RW2 Satnam Singh are observed as under:-

“22. After I considering the rival contentions of the parties, am of the opinion that the claimants have proved that accident was caused by respondent No.1 driving truck No.MP-9-D-2465 rashly and negligently on 7.10.1997 PW4 Roop Chand is an eye witness of the accident and he has clearly deposed that the offending truck was being driven by respondent No.1 on the wrong side, rashly and negligently and stuck against the jeep and as the result of this, Jaswinder Singh died at the spot and



Harcharan singh, who was rushed to Hospital, also died on reaching the hospital. He himself suffered minor injuries on face. FIR Ex.P.3 was registered against respondent No.1 at Police station Sadar, Patiala. Respondent Ram Singh also admitted that a criminal case has been registered against him but he has stated that it was a false case. Statement of respondent Ram Singh, which is supported by RW.2 Satnam Singh, itself is not sufficient to rebut the oral well as documentary evidence led by the claimants. Respondent No.1 or RW.2 Satnam Singh never reported to higher authorities for the false implication, and made no efforts for quashing of the FIR against respondent No.1 Therefore, oral version of respondent Ram Singh is not sufficient to rebut the evidence led by the claimants and it is proved that respondent Ram caused death of Jaswinder Singh and Harcharan Singh while driving truck No.MP-9-D-2465 rashly and negligently on 7.10.1997.”

20. In this manner, the Tribunal has relied upon the testimony of PW4 Roop Chand and came to the conclusion that offending truck was being driven by respondent No.1 on the wrong side and in a rash and negligent manner and it hit the jeep, resulting in the death of Jaswinder Singh at the spot and Harcharn Singh in the hospital. Learned Tribunal also observed that FIR Ex.P3 was registered against respondent No.1 and he has also admitted that he has facing the trial and Tribunal discarded the testimony of RW1-Ram Singh and RW2-Satnam Singh and held that their testimony is not sufficient to rebut the oral as well as documentary evidence led by the claimants. It was held that respondent No.1 or RW2 Satnam Singh never reported to the higher authorities against false implication of respondent No.1 and no efforts were



made for getting the FIR quashed and it was held that oral version of Ram Singh is not sufficient to rebut the evidence led by the claimants and it is proved that respondent No.1-Ram Singh caused death of Jaswinder Singh and Harcharn Singh while driving offending truck in a rash and negligent manner.

21. In para No.26 of the award, it has been observed as under:-

“26. So far the quantum is concerned, PW.4 Roop Chand, who is an eye witness of the accident, in his cross-examination has stated that the accident of both the vehicles i.e. truck and jeep, is a result of head on collision and in such a situation, it becomes a case of contributory negligence and respondents are liable to pay compensation to the tune of 50% to the claimants of both the claim petitions.”

22. However, the findings of the Tribunal that accident took place due to contributory negligence on the part of driver of both the vehicles is erroneous and is not sustainable. Merely, because PW4 Roop Chand admitted that it was a head on collision cannot give rise to an inference that driver of the jeep had also contributed to the accident. PW4 Roop Chand has categorically deposed that truck hit the jeep after coming to the wrong side of the road and in case, the truck had hit the jeep head on after coming to the wrong side, it cannot be inferred that the driver of the jeep had also contributed to the accident. Had this collision taken place in the middle of the road, an inference could have been drawn that drivers of both the vehicles contributed to the accident and drove their vehicles rashly and negligently.

Learned Tribunal has thus gravely erred while giving such a contradictory



finding especially after arriving at a conclusion that accident had taken place due to rash and negligent driving on the part of respondent No.1.

23. The contention raised by the learned counsel for the respondents that the finding on issue No.1 stands affirmed in FAO-4202-2002 filed by the claimants Malkeet Kaur etc. in respect of death of Harcharn Singh has attained finality is without any force. A perusal of the judgment dated 13.10.2014 in FAO-4202-2002, titled, **Malkeet Kaur and Others Vs. Ram Singh and Others**, shows that the finding on issue No.1 with regard to rash and negligent driving was not assailed before the Appellate Court by claimants in the said appeal. In case, they had not assailed the said finding, it cannot bind the present appellants. Moreover, the said judgment is not between the same parties as claimants in both the appeals are different and the judgment in question thus shall not operate as res judicata.

24. Resultantly, the finding on issue No.1 regarding contributory negligence is thus not sustainable and is accordingly reversed and this issue is decided in favour of the claimants. It is held that accident in question had taken place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle resulting in the death of Jaswinder Singh and Harcharan Singh.

25. To prove the income of deceased Jaswinder Singh, claimant Jasbir Kaur stated that her husband was earning Rs.2,000/- from Telecom Department and Rs.7,500/- by plying a van. However, her version has not been supported by any other witness. No official from Telecom Department has been examined and no evidence regarding his income has been brought



on record. No accounts have also been furnished about income from the van which he was plying. Even PW4 has admitted that deceased was not an employee of the Telecom Department. As such, learned Tribunal rightly discarded the oral and self-serving statement of claimant Jasbir Kaur and rightly assessed the monthly income of deceased to be **Rs.3,000/- per month**.

26. However no future prospects have been added to the monthly income of the deceased. Deceased was 29 years of age as per post-mortem report Ex.P6 and as such, 40% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid down in **Pranay Sethi's case (supra)**, which takes his income to **Rs.4,200/- per month (Rs.3,000/- + Rs.1,200/-)**.

27. The petition in hand has been instituted by wife, minor daughter, and mother of the deceased. Accordingly, it is held that deceased has left behind three dependents and $\frac{1}{3}^{\text{rd}}$ of the income thus has to be deducted towards personal and living expenses. After deducting a sum of Rs.1,400/- towards personal expenses, the monthly loss of dependency comes out to **Rs.2,800/- (Rs.4,200/- - Rs.1,400/-)** and the annual loss of dependency comes out to **Rs.33,600/- per annum (Rs.2,800/- X 12)**.

28. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 17 has to be applied as deceased was 29 years of age and after applying the same, the compensation comes to **Rs.5,71,200/- (Rs.33,600/- X 17)**.

29. In addition to this, claimant No.1 (wife of the deceased) is held entitled to a sum of **Rs.70,000/-** under conventional heads i.e. **Rs.40,000/-**



towards ‘**loss of consortium**’, **Rs.15,000/-** towards ‘**loss of estate**’ and **Rs.15,000/-** on account of ‘**funeral expenses**’, as per law laid down in **Pranay Sethi’s case (supra)**. Likewise, remaining claimants No.2 and 3 who are minor daughter and mother of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of ‘**loss of parental and filial consortium**’, in view of law laid down in **Nanu Ram’s case (supra)** and **Satinder Kaur’s case (supra)**, which takes the compensation to **Rs.7,21,200/- (rounded off to Rs.7,21,000/-)**.

30. Accordingly, the compensation to be awarded to the appellants/claimants is assessed as under:-

S.No.	Under Head	Compensation awarded by the High Court
1.	Monthly income of deceased	Rs.3,000/- per month
2.	Age of deceased	29 years
3.	Future prospects @ 40%	Rs.1,200/-
4.	Total income	Rs.4,200/- per month
5.	Number of dependents	3
6.	Deduction towards personal expenses of the deceased (1/3rd)	Rs.1,400/-
7.	Annual loss of dependency	Rs.33,600/- (Rs.2,800/- X 12)
8.	Multiplier	17
9.	Compensation on account of Loss of dependency	Rs.5,71,200/-
10.	Compensation under conventional heads	Rs.70,000/-
11.	Consortium to minor daughter and mother of deceased	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation	Rs.7,21,200/- (rounded off to Rs.7,21,000/-)
	Interest	9%



31. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.7,21,000/-** as compensation. The enhanced compensation thus comes out to **Rs.5,29,000/- (Rs.7,21,000/- - Rs.1,92,000)** over and above the compensation awarded by the Tribunal payable alongwith interest at the rate of 9% per annum from the date of filing of claim petition i.e. 12.11.1997, till realization payable by respondents No. 1 & 2, jointly and severally. Out of the enhanced compensation, a sum of Rs.1,00,000/- each be paid to daughter (now major) and mother of the deceased and remaining amount be paid to claimant No.1/wife along with proportionate interest.

32. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of directions issued by the Hon'ble Supreme Court in Writ Petition (Civil) No.534 of 2020 titled ***Bajaj Allianz General Insurance Company Versus Union of India and others***, decided on 16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said judgment.

33. Pending misc. application(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

25.03.2026

Vishal Vardhan

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