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

(106)

**CM-8901-CII-2026 and
FAO-4300-2002(O&M)
Date of Decision:04.05.2026**

SHARMILA AND OTHERS … APPELLANTS

VERSUS

BABU LAL AND OTHERS … RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Ms. Diksha Sharma, Advocate
for appellants.

Mr. Rahul Pathania, Advocate
for respondent No.3/Insurance Company.

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VIRINDER AGGARWAL, J.(ORAL)

CM-8901-CII-2026

1. Before adverting to the merits of the controversy, it is appropriate to note that an application has been filed for bringing on record the legal representatives of appellant Nos. 4 and 5. Having considered the averments made therein, and keeping in view the settled principle that the right to sue survives in such matters, this Court is satisfied that sufficient cause has been shown for allowing the application. Accordingly, the application is allowed and the legal representatives of appellant Nos. 4 and 5 are taken on record. Main case is taken on board today itself.

MAIN CASE

2. The present appeal has been preferred by the claimants seeking enhancement of the compensation awarded vide award dated 09.05.2002 passed by the learned Motor Accident Claims Tribunal, Chandigarh, on account of the death of Kailash in a motor vehicular accident.

BACKGROUND FACTS

3. The brief facts of the case are that on 12.09.2000, the deceased Kailash, who was employed as a driver on truck bearing registration No. MP-23-DA-5451, had halted the vehicle at a roadside dhaba in the State of Madhya Pradesh during the course of a journey. After parking the truck, the deceased laid a cot behind the vehicle and went to sleep, while respondent No.1 (co-driver) was resting inside the cabin. At about 3:00 a.m., respondent No.1, without ensuring that the rear side of the vehicle was clear, started the truck and reversed it in a rash and negligent manner, as a result of which the deceased was crushed under the rear wheels of the vehicle and sustained fatal injuries. The matter was reported to the police by an eye-witness, on the basis of which an FIR (Ex. PB) was registered. Thereafter, the legal representatives of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of his death. Upon appreciation of the evidence on record, the learned Tribunal awarded a total compensation of ₹3,36,400/- along with interest at the rate of 9% per annum from the date of filing of the claim petition till realization, holding the driver and owner liable. However, the liability of the insurer was restricted to the extent payable under the Workmen's Compensation Act, and the remaining amount of compensation was directed to be paid by respondent No.2, the owner of the offending vehicle.

CONTENTIONS

4. Learned counsel for the appellants contended that the compensation awarded by the learned Tribunal is inadequate and contrary to the settled principles governing determination of just compensation under the Motor Vehicles Act. It was submitted that the learned Tribunal erred in assessing the income of the deceased and in applying multiplier, which resulted in reduction

of the compensation. It was further argued that no addition towards future prospects was made and the amounts awarded under the conventional heads are also inadequate. On these grounds, enhancement of the compensation has been sought.

5. Learned counsel for the respondent No.3 supported the award of the learned Tribunal, contended that the award had been passed after a proper and thorough appreciation of the evidence on record and therefore, did not warrant any interference by this Court and further contended that liability of Insurance Company is limited as per policy as that to a compensation payable to a workman.

OBSERVATIONS AND FINDINGS

6. I have heard learned counsel for the parties and perused the complete records. On due consideration of the findings recorded by the learned Tribunal, particularly on the issue of negligence, I find no reason to take a different view. The findings on those aspects are accordingly affirmed. However, the core issue arising in the appeal pertains to the reassessment of the quantum of compensation and issue of liability.

7. Compensation requires reassessment strictly in terms of the 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:

REASSESSED COMPUTATION

Particulars	**Award by Tribunal (₹)**	**Reassessed Award (₹)**
Monthly Income (Skilled Worker)	2,400/-	**2,400/-**
Income With Future Prospects (40%)	x	**3,360/- (2,400 + 960)**
After Deduction (5 Dependents)	1,600/- (1/3rd for personal expense)	**2,520/- (1/4th for personal expense)**
Annual Contribution To Family	19,200/- (1,600 x 12)	**30,240/- (2,520 x 12)**
Multiplier **(age 32 yrs) (As per Police records)**	17	**16**
Loss Of Dependency	3,26,400/- (19,200 x 17)	**4,83,840/- (30,240 × 16)**
Spousal Consortium	5,000/-	**40,000/-**
Parental Consortium	x	**80,000/-**
Filial Consortium	x	**80,000/-**
Funeral Expenses	5,000/-	**15,000/-**
Loss Of Estate	x	**15,000/-**
Total	3,36,400/-	**₹7,13,840/-**

LIABILITY

8. With regard to the finding on issue of liability, the learned Tribunal held that since the deceased was an employee of the insured and was engaged as a driver at the time of the accident, the insurer's liability stood restricted under the proviso to Section 147 of the Motor Vehicles Act. It was observed that, in

such cases, the insurance policy is not required to cover liability beyond that arising under the Workmen's Compensation Act, 1923, unless specifically extended by contract. On examining the policy (Ex. R1), the Tribunal found no such extension and accordingly limited the insurer's liability to the amount payable under the Workmen's Compensation Act. The remaining compensation was held recoverable from the owner (employer) of the vehicle.

9. However, this Court is unable to concur with the aforesaid findings of the learned Tribunal on the aspect of liability. It is not in dispute that the deceased was employed as a driver under the owner of the offending vehicle. Nonetheless, the material on record clearly establishes that at the time of the accident, he was not engaged in the discharge of his duties as a driver. Rather, he was resting on a cot placed behind the stationary truck when the co-driver, while reversing the vehicle in a negligent manner, ran over him, resulting in his death. In such circumstances, the nature of risk to which the deceased was exposed cannot be construed as one arising out of or in the course of his employment so as to attract the limited statutory liability contemplated under the proviso to Section 147 of the Motor Vehicles Act read with the Workmen's Compensation Act, 1923. The deceased, at the relevant time, stood on the same footing as any other member of the public present at the site, and thus partook the character of a third party.

10. The restriction of liability of the insurer to the extent of compensation payable under the Workmen's Compensation Act is attracted only when the death or injury is integrally connected with and arises out of the employment of the deceased. That essential nexus being absent in the present case, the insurer cannot evade its contractual and statutory liability under the policy. Accordingly, the finding of the Tribunal limiting the liability of the Insurance

Company is set aside. The insurer is held liable to satisfy the entire award amount in favour of the claimants, in accordance with law.

11. In view of the above, the appeal is partly allowed. The impugned award dated 09.05.2002 is modified to the extent that the compensation payable to the appellant is enhanced from ₹3,36,400/- to **₹7,13,840/-**. The enhanced amount shall carry interest at the rate of 7% per annum from the date of filing of the claim petition till realization. Except for the modification of the quantum of compensation and liability, all other findings recorded by the learned Tribunal, including those with regard to negligence, and mode of disbursement, shall stand affirmed.

12. The appeal is accordingly partly **allowed** with modification of the award to the above extent. All other conditions of the award, not inconsistent with this judgment, shall remain unaltered.

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

(VIRINDER AGGARWAL)
JUDGE

04.05.2026
POONAM

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