

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****125****FAO-949-2025(O&M)****Date of decision: 18.02.2026****Sima Kumari & Others****...Appellant(s)****Vs.****Ravi Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Sanjeev Patiyal, Advocate
for the appellants.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.16,89,800/- awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter 'the learned Tribunal') vide Award dated 05.10.2024 passed in MACP Case No.274 dated 08.05.2018 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 3 claimants are the 18-year-old widow, 46-year-old mother and 55-year-old father of deceased Anil Kumar, who was 23 years old at the time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Anil Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 27.03.2018 due to



the rash and negligent driving of Car bearing registration No.PB-01-A-8345 (hereinafter “the offending vehicle”) being driven by respondent No.4, owned by respondent No.5 and not insured. The said compensation has been awarded along with interest @ 9% per annum. Respondents No.4 and 5 were held jointly and severally liable for payment of compensation.

3. Learned counsel for the appellants submits that the compensation awarded to the appellants deserves to be enhanced as age and income of the deceased have not been considered. Wrong multiplier has been applied. Interest should have been awarded @ 12% per annum.

4. Learned counsel for the appellants further submits that it was the clear pleaded case of the appellants before the learned Tribunal that:-

“2. The brief facts of the claim petition as pleaded by the claimants are that on 27.03.2018 at about 12:10 a.m., deceased was sitting as a pillion rider on motorcycle bearing registration No. PB20-C-0499 which was being driven by respondent No. 1 Ravi. They were coming back from Ropar to their village Rail Majra on said motorcycle. On the way when they reached near Rayat College, Rail Majra, GT Road, one car bearing registration No. PB01-A-8345 came from opposite side i.e. from the side of Balachaur being driven by respondent No. 1 Manjit Kumar in a rash and negligent manner and on the wrong side of the road. Respondent No. 4 Manjit Kumar struck his said car against motorcycle of the deceased. On account of that, all the occupants of the motorcycle fell down and suffered multiple injuries. All of them were first taken to Civil Hospital, Ropar from where Anil Kumar and Ravi Kumar were referred to PGI, where they were declared brought dead. The accident had taken place due to rash and negligent driving of drivers of motorcycle bearing registration No. PB20-C-0499 and car bearing registration No. PB01-A-8345. A criminal case with



regard to the accident was registered against respondent No. 4, driver of the car with Police Station Kathgarh, District Shahid Bhagat Singh Nagar on the statement of Baljit Singh. It has been further pleaded by claimants that deceased Anil Kumar was 23 years of age at the time of his death. He was a skilled worker of welding and was working in the factory being run in the name and style of DCM Engineering Products Limited, Village and PO Asro, Tehsil Balachaur, District Shahid Bhagat Singh Nagar, Punjab. Thereby, he used to earn Rs.20,000/- per month. Deceased Anil Kumar had died on account of injuries received by him in the accident and he was declared brought dead by the doctors of PGI, Chandigarh. However, they had spent an amount of Rs. 1,50,000/- on transportation of dead body of deceased and on his last rites. Prior to his death, Anil Kumar was hail and hearty and was not suffering from any ailment. He was laborious person and was aged about 23 years at the time of his death. They have suffered irreparable loss and injury on account of untimely death of deceased and now there is no one in the family to look after them. Thereby, they have claimed compensation to the tune of Rs.80,00,000/- along with interest at the rate of 12% per annum from the date of filing of claim petition till realization”.

5. It is submitted that the appellants had duly proven before the learned Tribunal that both the vehicles were negligent during the accident but the Tribunal has fastened the liability only on respondents No.4 and 5, which is required to be modified; and liability is required to be fastened on respondents No.2 and 3 also as they are equally responsible for the accident and the said fact has also come in the evidence of the eyewitness. In this regard, learned counsel refers to the evidence of claimant No.1 as PW1 and eyewitness PW2 Baljeet Singh.



6. It is submitted that the Ld. Tribunal has failed to appreciate the legal pronouncement by the Hon'ble Apex Court as well as various other Courts, from which it is very clear that liability can be fastened on the insurance company of the joint tortfeasor for recovering the amount from any of the negligent party. The same view has been taken in the latest judgment titled as **Khenyai Vs New India Assurance Co. SLP No. 140115/2015 law finder DOC ID # 669171** wherein it is held that:-

"(iii) In case all the joint tortfeasors have been impleaded and evidence is sufficient, it is open to the court/tribunal to determine inter se extent of composite negligence of the drivers. However, determination of the extent of negligence between the joint tortfeasors is only for the purpose of their inter se liability so that one may recover the sum from the other after making whole of payment to the plaintiff/ claimant to the extent it has satisfied the liability of the other. In case both of them have been impleaded and the apportionment/ extent of their negligence has been determined by the court/ tribunal, in main case one joint tortfeasor can recover the amount from the other in the execution proceedings."

7. It is submitted that it is apparent that in view of the judgment one of the joint tortfeasor who's insurance company of the vehicle involved in accident is respondent no. 3 is also required to be directed to pay to the claimants and further it has all the right to recover the same from other tortfeasor who is held liable on the same accident.

8. Ld. Counsel also admits that compensation is sought from the respondent No.3/insurer of motorcycle bearing registration No.PB-20-C-0499, as the offending car is not insured. It is accordingly prayed that the



present appeal be *“accepted and the Judgment / award dated 04.10.2024 passed by Sh. Rajnish Garg Ld. MACT Chandigarh be set-aside / modified to the extent that the liability which is fastened on respondents no. 4 and 5 only be equally required to be fastened on respondents no. 2 and 3 who are also equally responsible and contributed in the said accident with further prayer with the direction to respondent no. 3 i.e. insurance company to be directed to pay the claim to the claimants being the joint tort feasure and further recovered the same from other negligent parties with further prayer of enhancement to the appellants which may be awarded Rs. 80 Lacs along-with interest @ 12% p.a, and costs, in the interest of justice.”*

9. No other argument is made on behalf of the appellants. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

10. As regards quantum of compensation, it was the pleaded case of the appellants that prior to the accident, the deceased Anil Kumar was working as Welder in factory of DCM Engineering at Tehsil Balachaur and earning more than Rs.20,000/- per month. However, except for the bald statement made by claimant No.1 Sima Kumari PW1, no evidence whatsoever was adduced by the appellants to substantiate their said claim. No employer of the deceased, or salary record of the deceased was produced to prove that deceased was indeed employed with DCM Engineering and earning Rs.20,000/-. In this situation, in the absence of evidence, the learned



Tribunal has correctly taken income of the deceased as that of an unskilled labourer as Rs.8,000/- per month.

11. Further, age of deceased was determined to be 23 years at the time of accident on the basis of his Aadhaar Card (Ex.P4), wherein his date of birth is mentioned as 21.09.1995; as also on the basis of Post-Mortem Report of the deceased (Ex.P7) wherein his age is mentioned as 23 years. Accordingly, learned Tribunal had made an addition of 40% towards future prospects; and correctly applied multiplier of 18. As the claimants were 3 in number, learned Tribunal had made a deduction of $\frac{1}{3}^{\text{rd}}$. Learned Tribunal had further awarded Rs.16,500/- towards loss of dependency; Rs.16,500/- towards funeral expenses; and Rs.44,000/- to claimant No.1 towards loss of consortium. I find no error in the same. No ground is made out for enhancement of compensation.

12. As regards liability, contention of the appellants that liability ought to have been fixed upon the respondents No.1 and 2/driver and owner of the motorcycle bearing registration No.PB-20-C-0499, the same is liable to be rejected. No doubt, the appellants in the Claim Petition as also eyewitness PW2 Baljeet Singh have stated in their Affidavits (Ex.PW1/A and Ex.PW2/A respectively) that accident had been caused due to negligent driving on part of both vehicles. However, firstly, the appellants had nowhere stated as to how and in what manner was respondent No.1 negligent in driving the motorcycle. Further, eyewitness PW2 Baljeet Singh admitted in his cross-



examination that respondent no.1 was driving the motorcycle No.PB-20-C-0499 *“properly and on the correct side of the road while obeying the traffic rules.”* Even further, FIR was registered in respect of the accident in question by PW2 only against respondent no.4/Driver of the offending Car. Challan Ex.R-4 has also been presented only against respondent no.4. Nowhere has it been stated that respondent no.1 was also negligent in causing the accident. Accordingly, learned Tribunal has observed that:-

“18. In view of my observations made above, there is no evidence on the record that respondent No. 1 Ravi Kumar had contributed to the accident in question while driving motor cycle bearing registration No. PB2O-C-0499 in a rash and negligent manner and rather, from the facts and circumstances of the case, it seems that the claim petition had been filed by claimants in collusion with respondents No. 1 and 2 as offending car bearing registration No. PB01-A-8345 was not insured at the time of accident and with an intention that the claim amount can be recovered from insurance Company of the motor cycle on which deceased was riding.”

13. In view of the above, present appeal stands **dismissed**.

14. Pending application(s) if any also stand(s) disposed of.

18.02.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No