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

FAO-3615-2025 (O&M)

Smt. Sunita and others ....Appellants

Vs.

Tinku and others ....Respondents

Reserved on : 22.01.2026
Date of Pronouncement: 25.02.2026
Uploaded on : 05.03.2026

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. Surinder Kumar Daaria, Advocate,
for the appellants.

Mr. Punit Jain, Advocate,
for respondent No.3-Insurance Company.

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SUDEEPTI SHARMA, J.

1. The present appeal has been preferred against the award dated 05.08.2024 passed in the claim petition filed under Sections 166 and 140 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Jind (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.8,53,500/- (i.e half of Rs.17,06,000/- on account of contributory negligence of the deceased) along with interest @ 9% per annum, on account of death of Ram Niwas in a Motor Vehicular Accident, occurred on 14.10.2022 as well as making appellant liable for contributory negligence.

FACTS NOT IN DISPUTE

2. Brief facts of the case are that Ram Niwas (since deceased) was employed as a Mechanic Operator with Laxmi Enterprises, situated near Police Post, Hansi Road, Jind. On 14.10.2022 at about 09:00 PM, he was proceeding to his workplace to perform night shift duty on his motorcycle bearing registration No. HR-08V-8740. His nephew, Sunil Kumar, was also travelling with him and alighted from the motorcycle at Hansi Flyover, Patiala Chowk, Jind. Thereafter, when Ram Niwas was ascending the flyover, a truck bearing registration No. HR-45C-4160 (hereinafter referred to as "the offending vehicle") was moving ahead of his motorcycle. It is alleged that respondent No.1, the driver of the offending vehicle, while driving in a rash and negligent manner in the middle of the road, suddenly applied brakes without any signal or indication. As a result thereof, the motorcycle of the deceased struck against the rear of the offending vehicle, causing grievous injuries to him. On receiving information, Sunil Kumar rushed to the spot. However, the driver of the offending vehicle fled away from the scene after the accident. Sunil Kumar noted down the registration number of the truck and shifted Ram Niwas to Civil Hospital, Jind, where he was declared dead. Post-mortem examination was conducted on the dead body of the deceased. In respect of the accident in question, FIR No. 0539 dated 15.10.2022 under Sections 279 and 304-A IPC was registered at Police Station City, Jind on the statement of Sunil Kumar.

3. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the Tribunal framed the following issues:-

> *"1. Whether the accident in question was caused on 14.10.2022 at about 09:30 PM in the area of near Patiala Chowk, Jind due to rash and negligent driving of respondent No.1 while driving vehicle bearing registration No.HR-45C-4160 resulting into death of Ram Niwas son of Amar Singh, as alleged? OPP.*
>
> *2. If issue No.1 is proved, whether the petitioners are entitled to any compensation and if so to, what extent and from whom? OPP.*
>
> *3. Whether there is violation of any terms and conditions of the insurance policy? OPR (Insurance Company).*
>
> *4. Relief."*

5. After taking into consideration the pleadings and the evidence on record, learned Tribunal has awarded compensation to the appellants/claimants. However, 50% of the compensation was awarded to the appellants/claimants on account of contributory negligence of the deceased. Hence the present appeal.

<u>SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES</u>

6. Learned counsel for the appellants/claimants contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Further that learned Tribunal has erred in law in holding that accident occurred as a result of contributory negligence of the deceased (50% of the driver of the offending vehicle and 50% of the deceased-Ram Niwas). Therefore, he prays that the present appeal be allowed and

contributory negligence be set aside. The compensation be enhanced as per latest law and the Insurance Company be held liable to pay full compensation to the appellants/claimants.

7. Per contra, learned counsel for respondent-Insurance Company, however, vehemently argues that the award has rightly been passed and the amount of compensation, as assessed by the learned Tribunal has rightly been granted. He further submits that learned Tribunal has rightly held that the accident occurred due to contributory negligence on the part of the deceased–Ram Niwas, as he failed to maintain a sufficient distance while coming from behind the offending vehicle. Therefore, he prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. It would be apposite to reproduce relevant portion of the award. The same is reproduced as under:-

> *"**ISSUE NO.1:***
>
> *10. Onus to prove this issue lies upon petitioners. To prove the same, petitioners have examined Sunil Kumar, who had witnessed the accident, as PW2. He tendered in evidence his affidavit Ex.PW2/A in terms of Order 18 Rule 4 CPC and deposed that on 14.10.2022, his uncle Ram Niwas (since deceased) was going to his company for doing night shift duty on motorcycle bearing registration No.HR-08V-8740 and he was also travelling on his motor-cycle with him. At about 09:30 PM, when they reached Flyover, Hansi Road, Jind, he alighted from the motorcycle. When his uncle Ram Niwas was going on*

the flyover while driving his motorcycle, a Truck bearing registration No.HR-45C-4160 was going ahead of him and respondent No.1 while driving the same in the middle of the road and in a rash and negligent manner suddenly applied brakes, as a result of which, motorcycle of his uncle struck against it and he died. He lodged FIR No.0539 dated 15.10.2022 at Police Station City, Jind, regarding the accident in question. He further deposed that the accident in question had taken place solely due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle. During cross-examination, he admitted that the offending Truck was going at a moderate speed ahead of motorcycle being driven by his uncle. Police had recorded his statement in Civil Hospital, Jind on 14.10.2022. Nothing to shatter his veracity could be elicited during his cross examination and his stand has remained consistent throughout.

11. Besides this, petitioners have tendered in evidence FIR bearing No.0539 dated 15.10.2012, under Sections 279 and 304-A IPC, Police Station City, Jind Ex.P12 which was lodged on the statement of PW2 Sunil Kumar Ex.P11 and similar facts have been mentioned in the FIR as reiterated by him. The registration number of the offending vehicle has been mentioned in the FIR. As such, contents of the FIR corroborate the testimony of PW2 Sunil Kumar. After registration of FIR, the matter was thoroughly investigated and the police came to the conclusion that the accident in question took place with truck bearing registration No.HR45C-4160 which was being driven by respondent No.1. Thereafter, the Investigating Officer had arrested respondent No.1 on 18.11.2022 itself and before arresting him, he had served *notice under Section 133 of Motor Vehicles Act Ex.P21 upon respondent No.2, who is the registered owner of the offending vehicle and he replied that his cousin Tinku was driving the offending Truck on the day of accident. The Investigating Officer had also taken into possession the offending Truck alongwith its RC, Driving Licence and insurance policy vide recovery memo Ex.P22. The motorcycle alongwith its documents was also taken into possession vide recovery memo Ex.P19. Thereafter, both the vehicles were got mechanically examined vide mechanical examination reports Ex.P25 which shows that the visor, headlight and front mudguards of motorcycle were found damaged and its handle and front number plate were found bent whereas the right rear bumper of the offending truck was also found bent. Respondents No.1 and 2 stepped into witness-box as RW1 and RW2 respectively and they have tendered their affidavits Ex.RW1/A and Ex.RW2/A and deposed that no accident took place with vehicle bearing registration No.HR-45C-44160 and respondent No.1 had not caused the accident but during cross-examination, respondent No.1 admitted that he is facing criminal trial and charge has been framed against him. He further admitted that he never raised any objection against his arrest in the criminal case and he has not made any complaint to any higher authority regarding registration of criminal case against him. RW2 Deepak also admitted during his cross-examination that he had received notice under Section 133 of the Act. He explained that the offending vehicle and its driver were present with him at his home. However, he did not state anything in his examination-in-chief that he has ever filed any complaint regarding false* *implication of his vehicle and its driver i.e.respondent No.1 in the criminal case. In these circumstances, their version can not be believed particularly because they have put-forth two contradictory versions.*

12. Learned counsel for respondent-Insurance Company argued that even if the version of petitioners and the testimony of PW2 Sunil Kumar is believed to be true, it is not established that the accident in question took place on account of rash and negligent driving on the part of respondent No.1. Rather, the deceased struck against the truck going ahead of his motorcycle from behind resulting into the accident and consequently, his death whereas the deceased was supposed to maintain a proper distance from the truck going ahead of the motorcycle so that he could have avoided the accident in the event of truck driver applying the brakes. As such, it appears that the motorcycle was being driven very close to the truck and when the truck driver applied brakes, respondent No.1 could not control his motorcycle and struck against the truck from behind resulting in his death and in these circumstances, accident in question has taken place solely on account of rash and negligent driving on the part of deceased himself.

13. On the other hand, learned counsel for petitioners argued that the driver of the offending vehicle was going ahead of the ill-fated motorcycle, who without giving any signal applied sudden brakes without any reason, as a result of which the ill-fated motorcycle rammed into the offending vehicle from behind resulting in the death of Ram Niwas. There are no speed brakers or any cut on the flyover and as such application of sudden brakes without *any reason proves rash and negligent driving on the part of respondent no.1.*

14. After hearing learned counsel for the parties and going through the material on record, I am of the considered opinion that accident in question has taken place due to contributory negligence of truck driver as well as deceased himself.

15. While appearing as PW2, Sunil Kumar deposed that his uncle Ram Niwas while driving his motor-cycle was going on Flyover, Hansi Road, Jind and the offending truck was also going ahead of his motorcycle. However, respondent No.1 suddenly applied brakes in the middle of the road, as a result of which, the motorcycle of his uncle struck against it and the accident took place. During during cross-examination, he admitted that truck bearing registration No.HR-45C-4160 was going on its correct side ahead of the motorcycle of his uncle and the speed of the offending truck was moderate. Copy of site plan of the place of occurrence has been tendered in evidence as Ex.P18 which shows that accident in question had taken place at point-A and the non-offending vehicle rammed in the truck while the vehicles were going towards Hansi side. It is a matter of common knowledge that vehicles move at a higher speed on Jind-Hansi road and sudden application of brakes in the middle of the road by the driver of offending vehicle going ahead without any reason appears to be the main cause of the accident. No doubt, deceased too should have maintained proper distance from the vehicle going ahead of him but this fact alone is not sufficient to come to the conclusion that he *was solely responsible for the accident and rather, driver of the offending vehicle too has contributed to the accident by applying sudden brakes and they both have equally contributed to the accident.*

16. Copy of postmortem report of Ram Niwas has been led in evidence as Ex.P16 which shows that postmortem examination was conducted on 15.10.2022 at Civil Hospital, Jind and he had suffered lacerated wound over forehead and underlying Y shape fracture was seen involving parietal and frontal bone. Besides this, he had also suffered fracture nasal septum, fracture mandible, fracture right patella, fracture left distal femur and fracture right and left ribs and sternal angle. Accordingly, it is established that deceased died on account of injuries to vital organs like brain, lungs and heart, which were antemortem in nature and sufficient to cause death in ordinary course.

17. In view of the aforesaid discussion and from the evidence on file, it is conclusively proved that the accident in question resulting in death of Ram Niwas took place on account of rash and negligent driving on the part of respondent no.1 as well as deceased Ram Niwas himself and as such, respondent No.1 as well as deceased are equally responsible for the accident to the extent of 50%-50% and compensation to be awarded to the petitioners shall thus be deducted by 50%. This issue is accordingly decided partly in favour of petitioners and partly in favour of respondents"

10. A perusal of the impugned award reveals that learned Tribunal has fallen into manifest error in concluding that the accident in question occurred due to contributory negligence on the part of both the drivers.

11. The finding of contributory negligence is not borne out from the evidence available on record. PW-2 Sunil Kumar, eye-witness to the occurrence, categorically deposed that the offending truck was being driven in a rash and negligent manner and that, while proceeding ahead of the motorcycle driven by the deceased, the driver of the truck suddenly applied brakes in the middle of the flyover without any warning or justifiable cause. As a result thereof, the motorcycle rammed into the rear of the truck, leading to the fatal injuries sustained by Ram Niwas. The testimony of PW-2 is clear, cogent and consistent. Nothing material could be elicited in his cross-examination so as to discredit his presence at the spot or to impeach his credibility. His deposition inspires confidence and is duly corroborated by the prompt lodging of the FIR and the attendant circumstances on record.

12. It has also come in evidence that there were no speed breakers, intersections or obstructions on the flyover which could have necessitated sudden application of breaks. In such circumstances, abrupt application of brakes by a heavy vehicle in the middle of a flyover, without signal or reason, constitutes a negligent act, particularly when another vehicle is following in the same direction. The mere fact that the motorcycle struck the truck from behind cannot, *ipso facto*, lead to a presumption of negligence on the part of the deceased. Each case must be decided on its own facts and on the basis of positive evidence rather than conjecture.

13. Significantly, FIR was registered promptly against the driver of the offending truck, and after due investigation, the police filed a report under Section 173 Cr.P.C. indicting him for offences arising out of rash and negligent driving. The charge-sheet reflects that the investigating agency, upon evaluation of the material collected, found sufficient grounds to prosecute the driver of the truck.

14. On the other hand, the driver of the offending truck, apart from entering the witness box and making a bald denial, did not lead any independent oral or documentary evidence to substantiate the plea that the accident occurred due to negligence of the deceased. The Insurance Company also failed to adduce any cogent material in support of its plea of contributory negligence. A mere assertion, unsupported by substantive evidence, cannot form the basis for recording a finding that results in reduction of just compensation payable to the dependents of the deceased.

15. It is trite that the burden to establish contributory negligence lies squarely upon the party alleging it. In **Jiju Kuruvila v. Kunjujamma Mohan**, **2013 (9) SCC 166** the Hon'ble Supreme Court held that in the absence of direct or reliable evidence, it would be impermissible to apportion negligence merely on surmises. The said principle was reiterated in **Kumari Kiran v. Sajjan Singh, 2015 (1) SCC 339,** wherein it was observed that negligence cannot be inferred on conjectures or solely on the basis of the nature of impact, without substantive proof establishing fault on both sides.

16. In the present case, the Tribunal appears to have presumed contributory negligence primarily on the reasoning that the deceased ought to have maintained a proper distance from the vehicle moving ahead. While maintaining safe distance is undoubtedly a rule of prudence, its breach cannot be presumed in the absence of evidence demonstrating rashness or want of due care on the part of the deceased. The material on record does not disclose any act or omission attributable to the deceased which could be said to have contributed to the occurrence. The finding of equal apportionment of negligence is thus founded on speculation rather than proof.

17. It is further noteworthy that no specific issue with regard to contributory negligence was framed by the learned Tribunal. In **M. Nithya v. SBI General Insurance Co. Ltd.** arising out of **SLP(C)-833-834 of 2023** decided on 03.01.2025, the Hon'ble Supreme Court has categorically held that where no issue on contributory negligence is framed and no evidence is led in support thereof, it would be impermissible to reduce compensation on such a plea. The ratio of the said judgment squarely applies to the facts of the present case, rendering the finding of contributory negligence procedurally unsustainable as well.

18. In view of the foregoing discussion and the settled principles governing adjudication of motor accident claims, the finding recorded by the learned Tribunal attributing contributory negligence to the deceased is perverse and contrary to the evidence on record. The same cannot be sustained in the eyes of law. It is accordingly held that the accident in question occurred solely due to the rash and negligent driving of the

offending truck by respondent No.1, and the claimants are entitled to compensation without any deduction on account of alleged contributory negligence.

19. Adverting now to the contention of learned counsel for the appellants/claimants qua compensation awarded by learned Tribunal is concerned, the same is decided as under after taking into consideration settled law.

SETTLED LAW ON COMPENSATION

20. Hon'ble Supreme Court in the case of ***Sarla Verma Vs. Delhi Transport Corporation and Another*** **[(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.*

21. 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."*

22. 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."*

23. A perusal of the impugned award reveals that the deceased was 45 years of age at the time of the accident, which fact stands duly proved from the Post Mortem Report (PMR) of the deceased, Exhibit P-16, therefore, multiplier of 14 would be applicable in the present case.

24. A perusal of the impugned award reveals that the deceased was stated to be working as a Machine Operator in Laxmi Enterprises and his monthly income was asserted to be Rs.30,000/-. It further transpires that no documentary evidence whatsoever was produced by the appellants/claimants to substantiate the said assertion regarding income.

25. It is also evident that the learned Tribunal, despite the absence of proof of income, proceeded to assess the monthly income of the deceased at Rs.10,243/- by placing reliance upon the minimum wages. The said approach, however, suffers from material infirmity.

26. It is a settled position of law, as laid down by the Hon'ble Supreme Court in **Chandra @ Chanda @ Chandraram v. Mukesh Kumar Yadav & Ors., reported as (2022) 1 SCC 198**, that in cases where there is no documentary evidence of income, the minimum wages notification may be adopted as a guiding factor, but the same cannot be treated as an inflexible or absolute standard. The Apex Court has further held that a reasonable amount of guesswork, based on the facts and circumstances of each case, is permissible and indeed necessary while assessing the income of the deceased.

27. In view of the aforesaid settled legal position, and keeping in mind the nature of employment, age of the deceased, and the overall facts and circumstances of the present case, it would be just, fair, and reasonable to assess the monthly income of the deceased at **Rs.12,000/-** for the purpose of determining compensation.

28. A perusal of the award further reveals that the amounts awarded under the conventional heads of loss of estate, funeral expenses, and loss of consortium are not in consonance with the settled legal position and require appropriate enhancement.

<u>CONCLUSION</u>

29. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is **allowed**. The award dated 05.08.2024 is modified accordingly. The appellants/claimants are entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	Rs.12,000/-
2	Future prospects @ 25%	Rs.3,000/- (25% of 12,000)
3	Deduction towards personal expenditure 1/4th	Rs.3,750/- (15,000 X 1/4th)
4	Total Income	Rs.11,250/-(15,000-3,750)
5	Multiplier	14
6	Annual Dependency	Rs.18,90,000/- (11,250 X 12 X 14)
7	Loss of Estate	Rs.18,150/-
8	Funeral Expenses	Rs.18,150 /-
9	Loss of Consortium Filail : Rs. 48,400/-x2 Spousal : Rs. 48,400/-x1 Parental : Rs. 48,400/-x1	Rs.1,93,600/-
10	**Total Compensation**	**Rs.21,19,900/-**
11	**Deduction** Amount Awarded by the Tribunal on account of 50% contributory negligence of the deceased	**Rs.8,53,500/-**
12	**Enhanced Amount bereft of contributory negligence**	**Rs.12,66,400/- (Rs.21,19,900 - Rs.8,53,500)**

30. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***<u>Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma</u>*** **2019 ACJ 3176** and ***<u>R.Valli and Others VS. Tamil Nandu State</u>***

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.

31. Respondent No.3-Insurance Company is directed to deposit the enhanced amount of compensation along with interest with the Tribunal **(excluding the period of delay of 95 days in filing the appeal)** 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 appellants/claimants, as per award dated 05.08.2024. The appellants/claimants are directed to furnish their bank account details to the Tribunal.

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

25.02.2026 **(SUDEEPTI SHARMA)**
Virender **JUDGE**

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No