

2025.PHF-C:040252



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

JOGINDER KAUR AND OTHERS
Vs.
VARINDER SINGH AND OTHERS

...Appellants
..Respondents

1	The date when the judgment was reserved	19.02.2026
2	The date when the judgment is pronounced	16.03.2026
3	The date when the judgment is uploaded on the website	16.03.2026
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 of full judgment and reasons thereof.	Not applicable

CORAM: HON’BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Dheeraj Narula, Advocate for the appellants.

Mr. Vinod Gupta, Advocate for respondent No.3/Insurance Co.

HARKESH MANUJA, J.

1. By way of present appeal, challenge has been laid to an award dated 17.11.2023 passed by the learned Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as “the Tribunal”), whereby a sum of Rs. 9,96,600/- was awarded as compensation to the appellants/claimants along with interest @ 7.5% per annum from the date of institution of claim petition till its actual realization on account of death of Gurnaib Singh, after holding that the deceased was contributory negligent to the extent of 50%.

FACTS

2. A claim petition came to be filed before the learned Tribunal, praying for grant of compensation to the tune of Rs. 70,00,000/- (Rupees seventy lakhs only), on account of death of Gurnaib Singh in a vehicular accident which took place on 05.01.2020 while alleging rash and negligent driving of respondent No.1-driver.

3. After going through the pleadings and evaluating the evidence led by the parties, learned Tribunal arrived at a conclusion that accident in question occurred due to rash and negligent driving of truck bearing registration No. PB-03-AC-5482 by respondent No.1; however, held that deceased Gurnaib Singh was entering the main road from a link road and failed to exercise due caution as mandated under the Rules of the Road Regulation, 1989, he was also held guilty of contributory negligence to the extent of 50%.

4. Being aggrieved of the award dated 17.11.2023 passed by the learned Tribunal, the present appeal was preferred by the appellants/claimants for enhancement of compensation as well as for assailing the finding whereby the deceased was held guilty of contributory negligence to the extent of 50%. Facts are not being repeated here for the sake of brevity.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS/CLAIMANTS.

5. Learned counsel for the appellants contended that the finding recorded by the learned Tribunal holding the deceased guilty of contributory negligence to the extent of 50% was wholly perverse, contrary to the pleadings on record and beyond the scope of the issues framed. It was argued that respondent Nos.1 and 2, namely the driver and owner of the offending vehicle, out rightly denied the occurrence of the accident and did not raise any specific plea of contributory negligence; therefore, the Tribunal could not have returned such a finding in the absence of pleadings and evidence. Learned counsel further submitted that the learned Tribunal gravely erred in assessing the income of the deceased on the basis of minimum wages applicable to an

unskilled labourer, despite there being sufficient material on record to establish that the deceased was an agriculturist owning substantial agricultural land and also engaged in dairy business. Lastly, it was argued that the amount awarded under the conventional heads as well as the rate of interest granted by the Tribunal were on the lower side and deserve suitable enhancement.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No.3/INSURANCE COMPANY.

6. Per contra, learned counsel for the Insurance Company supported the Award and submitted that the deceased was entering the main road from a link road and had statutory duty to give way; thus, the finding of contributory negligence was justified. It was also submitted that no further enhancement of compensation was called for in the given facts.

DISCUSSION AND REASONING

7. I have heard learned counsels for the parties and perused the paper-book.

QUESTION OF CONTRIBUTORY NEGLIGENCE

8. The learned Tribunal, while adjudicating upon the issue of negligence, observed that since the deceased was entering the main road from a link road, he was under an obligation to comply with Regulations 8 and 9 of the Rules of the Road Regulations, 1989 and to give way to the traffic already plying on the main road. On that premise, the Tribunal apportioned the negligence equally between the deceased and respondent No.1 and held the deceased contributory negligent to the extent of 50%.

However, it is an undisputed position on record that respondent No.1–driver did not step into the witness box to substantiate the plea taken in the written statement. The Insurance Company also failed to lead any independent evidence to establish contributory negligence on the part of the deceased. On the contrary, the eye-witness Resham Singh (CW-2) categorically deposed that the offending truck was being driven at a high speed and without blowing horn; his testimony remained unrebutted in material particulars. The mere fact that the deceased was entering the main road from a link road does not *ipso facto* establish contributory negligence in the absence of cogent and reliable evidence demonstrating breach of any statutory duty on his part.

8.1 In the present case, no specific issue regarding contributory negligence was framed by the Tribunal; no evidence was adduced by the respondents to substantiate such a plea; the FIR was registered only against respondent No.1; and the driver himself abstained from entering the witness box. The conclusion drawn by the Tribunal appears to be founded merely on the location of the accident rather than on affirmative evidence establishing negligence on the part of the deceased.

In view of the unrebutted ocular testimony and the complete absence of defence evidence, this Court is of the considered opinion that the finding attributing 50% contributory negligence to the deceased is unsustainable in law. Consequently, the said finding is hereby set aside, and the deceased cannot be held liable for contributory negligence in the facts and circumstances of the present case.

QUESTION OF INCOME ASSESSED

9. It has come on record that the deceased was the owner of agricultural land, as duly proved by the Jamabandi (Ex.C2). The learned Tribunal, however, assessed his income on the basis of minimum wages and added a sum of ₹3,226/- towards managerial skills, thereby determining the total monthly income at ₹12,000/-. Although the claim of earning ₹70,000/- per month was not substantiated by way of any cogent documentary evidence, it cannot be ignored that the deceased was cultivating approximately 10.5 acres of land and was also managing additional land taken on lease.

9.1 In **Sarla Verma v. Delhi Transport Corporation & Anr.**, reported as **(2009)6 SCC 121** the Hon'ble Supreme Court held that determination of income must be based on established earnings and a reasonable assessment of the material available on record. Further, in **State of Haryana v. Jasbir Kaur, 2003 (7) SCC 484**, it was observed that in cases involving agricultural income, the loss to the family is not absolute since the land continues to remain with the legal heirs; however, the loss of managerial skills and supervision rendered by the deceased must necessarily be taken into consideration. Keeping in view the nature of the deceased's occupation, the extent of agricultural land owned and managed by him, and the prevailing agricultural income standards in the year 2020, this Court deems it just and appropriate to reassess the monthly income of the deceased at ₹15,000/-.

QUESTION REGARDING FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES.

10. In the present case, the deceased- Gurnaib Singh was 49 years of age at the time of their death, which stood duly proved from the

statements of claimants/appellants as well as the post-mortem report and also been accepted by the learned Tribunal. The Tribunal correctly awarded future prospects in consonance with the law laid down by the Hon'ble Supreme Court in **National Insurance Company Ltd. v. Pranay Sethi (2017) 16 SCC 680**, wherein it has been held that for a deceased falling in the relevant age bracket, an addition of 30% towards future prospects is to be made to the established income. Accordingly, an enhancement of 30% towards future prospects is liable to be applied to the income of the deceased Gurnaib Singh.

10.1 As regards deduction towards personal and living expenses, there were five dependents upon the deceased at the time of his death. In view of the settled principles governing assessment of compensation, deduction of one-fourth (1/4th) of the income towards personal expenses of the deceased is just and proper in the facts and circumstances of the case.

Considering that the deceased was 49 years of age at the time of the accident, the appropriate multiplier applicable, in terms of the settled law, would be 13.

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

11. Furthermore, in view of the judgment of the Hon'ble Apex Court in **Smt. Sarla Verma's case (supra)**, **Pranay Sethi's case (supra)** and **"United India Insurance Co.Ltd. vs. Satinder Kaur"**, reported as **(2021) 11 SCC 780**, compensation awarded under conventional heads are also required to be assessed accordingly. Appellants/claimants are

thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of consortium is assessed to the tune of Rs. 2,40,000/- (Rs. 48,000 x 5) as the appellants being spouse, children and mother of deceased are also entitled for spousal, parental and filial consortium.

CONCLUSION

12. In view of the discussion made hereinabove, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

S.No.	Nature	Amount (in Rs.)
1.	Annual Income of Deceased	1,80,000/-
2.	Deduction (1/4 th)	45,000/-
3.	Net Income (Rs. 1,80,000 – Rs. 45,000)	1,35,000/-
4.	Future Prospects (30%)	40,500/-
5.	Total Income (Rs. 1,35,000 + Rs. 40,500)	1,75,500/-
6.	Loss of Income after applying multiplier of 13 as per the age of 49 years (1,75,500 x 13)	22,81,500/-
7.	Loss of estate	18,000/-
8.	Funeral Expenses	18,000/-
9.	Loss of Consortium (48,000 x 5)	2,40,000/-
10.	Total compensation	25,57,500/-
11.	Amount Awarded by the Tribunal	9,96,600/-
12.	Enhanced Compensation	15,60,900/-

Accordingly, appellants/claimants shall be entitled to receive compensation in the proportion already determined by the learned Tribunal.

13. The grant of interest @ 7.5% per annum is not equitable and just in view of the observations made by the Hon’ble Supreme Court in **“Smt.**

Supre Deo and others vs. National Insurance Company Limited and other, reported as **(2009) (4) SCC 513** approved in a subsequent judgment titled as **“Puttamma and others vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443,** thus, the interest is enhanced to 9% per annum on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

14. In view of the aforesaid modification, the present appeal stands disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

March 16, 2026
Tejwinder

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	Yes
<i>Whether reportable</i>	Yes