



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

FAO-1990-2003

Date of Decision: 09.04.2026

SURINDER KAUR AND ANR.

....Appellants

Versus

AJMER SINGH AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Paramveer Singh, Advocate
for the appellants.

PARMOD GOYAL, J. (ORAL)

Present appeal has been preferred by the appellants/claimants being the parents of the deceased-Ashok Kumar (hereinafter referred to as the 'deceased'), who died in motor vehicular accident dated 08.03.2001, on account of rash and negligent driving by respondent No.1 while driving bus bearing registration No. CH-01G-5752.

2. Being aggrieved by the impugned award dated 01.04.2023, passed by the Motor Accident Claims Tribunal, Karnal (hereinafter referred to as 'Tribunal'), vide which the appellants/claimants were found entitled to total compensation of Rs.80,000/-, the appellants/claimants are seeking enhancement of compensation awarded by the Tribunal as the same is not accordance with their entitlement.

3. Learned counsel for appellants/claimants has challenged finding of contributory negligence whereby deceased was found to have contributed in causing the accident and his contribution was determined by learned Tribunal to the extent of 30%. In the present case, accident was duly

admitted by respondents. On 08.03.2001 deceased had gone from Ambala to Village Arjaheri in bus bearing No.CH-01-G-5752. The driver of the bus had stopped the bus opposite Sher-e-Punjab Dhaba near Village Arjaheri, when deceased was in process of getting down from the bus, in the meanwhile, driver of bus rashly and negligently at high speed without giving signal moved the bus resulting into multiple injuries to deceased. It is the case of appellants/claimants that deceased had died during treatment after 7/8 days of the accident. Respondent No.2 on the other hand had asserted that deceased who was under the influence of liquor, left his seat and without informing the conductor and asking driver/conductor to stop the bus had jumped from the bus. It was claimed that accident was not on account of rash and negligent driving on the part of respondent No.1. Appellants/claimants have placed reliance upon evidence of Rajesh Kumar-PW2 who claimed to have seen the occurrence. He asserted that he along with deceased was going from Ambala to Nilokheri and they were travelling in the offending bus which was being driven at very high speed and the driver had stopped the bus at a hotel before Nilokheri. Two-three passengers had alighted from the bus when deceased was in process of alighting down from the bus, the driver of the bus all of a sudden moved the bus, due to which deceased had fallen down and suffered injuries. He further stated that on his statement FIR was lodged.

4. On the other hand, respondents had examined respondent No.1 Ajmer Singh as RW3. He asserted that on 08.03.2001 he was going from Chandigarh to Delhi and when he reached near Police Station Butana, a passenger stood up from his seat and suddenly jumped from the bus without

asking the conductor to stop the bus. The said person was under influence of liquor. It was asserted that injured had suffered injuries on account of his own fault.

5. Respondents have further examined Dr. Deepak Parkash as RW2 who had medico legally examined the deceased immediately after the accident vide MLR Ex.P5. He had duly disclosed that at the time of examination deceased was smelling of alcohol as he was under the influence of alcohol. He further stated that behaviour of deceased was not normal, his gait was staggering and his talk was irrelevant.

6. On consideration of above noted respective evidence led by both the sides, learned Tribunal had concluded that both respondent No.1 and deceased were at fault. On consideration, I find that learned Tribunal has rightly concluded contributory negligence on the part of deceased. Evidence of RW2-Dr. Deepak Parkash who had medico legally examined the deceased duly proves that deceased was under influence of alcohol at the time of accident. Deceased was heavily drunk when he tried to alight from the offending bus. However, since the primary duty was of driver to be careful when a passenger alights from the bus, therefore, learned Tribunal has rightly concluded contributory negligence on the part of respondent No.1 as well as deceased and quantum of contributory negligence has also been rightly concluded as primary duty to avoid accident was that of respondent No.1. Therefore, finding of learned Tribunal on issue No.1 is upheld.

7. The Tribunal in the present case had awarded the following compensation :-

Income of deceased	Rs.700/- per month
Multiplier	13
Total loss of dependency	Rs.1,09,200/-
Funeral expenses	Rs.5,000/-
Total compensation	Rs.1,14,200/-
Deduction of 30% on from total compensation awarded on account of contributory negligence	Rs.80,000/- (30% of Rs.1,14,200/-)

8. Learned counsel for appellants/claimants has argued that the learned Tribunal has wrongly assessed income of deceased as Rs.700/- per month instead of Rs. 4,000/- per month as was stated by PW1-Harbans Lal. It is asserted that deceased was earning Rs.4,000/- per month working as a scooter/motor mechanic. Learned counsel for appellants/claimants has also pointed out that while determining loss of dependency, multiplier of ‘10’ was taken instead of ‘18’ despite fact that deceased was 24 years old was wrongly granted by learned Tribunal. It is also asserted that no future prospects were added to the income of the deceased to determine loss of dependency. Learned counsel for appellants/claimants further asserted that appropriate compensation under the head filial consortium, funeral expenses and loss of estate ought to be awarded.

9. Learned counsel for appellants/claimants have placed reliance upon the following judgments :-

- A. **Kanishk Sinha & Anr. Vs. The State of West Bengal & Etc.,**
2025 SCC Online SC 443;
- B. **Santa Mitra & Ors. Vs. The New India Assurance Co. Ltd.**
& Anr., FMAT (MV) 28 of 2024, dated 12.03.2025;

C. **United India Insurance Co. Ltd. Vs. Satinder Kaur @ Satwinder Kaur & Ors.**, 2020 (3) RCR (Civil) 75.

10. As far as income of deceased is concerned, appellants/claimants have failed to prove pleaded income as well as vocation of the deceased. As per the case of appellants/claimants, deceased was a scooter mechanic and was earning Rs.4,000/- per month. However, except for self-serving oral assertions made by father of deceased while appearing as PW1, no material has been placed on record to conclude that deceased was earning Rs.4,000/- per month as a mechanic. Self-serving statement of PW1 is not sufficient to establish pleaded income and vocation of deceased. No documentary or other corroborative evidence has been placed on record to justify the same. Therefore, in absence of any corroborative evidence to prove income and vocation of the deceased the conclusion drawn by learned Tribunal that deceased at the most can be taken as an unskilled worker cannot be faulted with.

11. On consideration, I find merit in the contentions raised on behalf of the appellants/claimants that income of deceased was not correctly assessed. Admittedly, deceased was aged 24 years at the time of accident and able bodied person. Therefore, the income of deceased in the present case has to be taken equivalent to minimum wages payable to an unskilled worker prevalent at the time of accident i.e Rs.1,964/- per month. As per mandate of Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**, 2017 (16) SCC 680, 40% towards future prospects needs to be taken into consideration while determining loss of dependency. Keeping in view the age of deceased to be 24 years at the time

of accident, learned Tribunal ought to have applied multiplier of '18' as mandated in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009 (6) SCC 121 and deduction of 50% is required to be made towards personal expenses of deceased as he was unmarried and survived by parents. Further appellants/claimants are entitled to compensation under the head funeral expenses, loss of estate and loss of filial consortium.

12. Learned counsel for appellants/claimants by referring to judgment noted in para No.6 has argued that appellants/claimants are entitled to consortium, compensation for loss of estate and funeral expenses @ Rs.48,000/-, Rs.18,000/- and Rs.18,000/- respectively as held in Pranay Sethi's case (supra). Learned counsel for appellants/claimants by relying upon above noted judgments has argued that since Hon'ble Supreme Court has held that directions of Supreme Court are prospective in nature and appeal being a continuation of claim, therefore, compensation under these heads needs to be given at the rate prescribed in Pranay Sethi's case (supra). The principles of law stated in judgment referred by learned counsel for appellants/claimants are not in doubt. The judgments passed by Courts are generally prospective in nature unless their operation is made retrospective. However, judgments are not to be applied without considering the scope and legal proposition so made out from referred judgments. The right to receive compensation arises in favour of appellants/claimants on the date of accident in motor accident claim cases. As per Motor Vehicles Act compensation is to be determined for loss suffered by appellants/claimants and it has to be just and sufficient. No specific heads have been mentioned under Motor Vehicles Act, 1988. The manner of determination and heads under which a claimant

can get compensation is determined by the Courts and in case such determination is by Hon'ble Supreme Court then it has to be applied by all the Courts in the territory of India. Therefore, whenever it is held by Hon'ble Supreme Court or High Court that a claimant is entitled compensation under a particular head or where formula of determination is prescribed in all such cases, the judgments would be applicable to pending appeals also as the right to seek compensation and formula so approved by the Court only goes to strengthen the manner in which compensation is to be determined. However, calculation of compensation and amount payable as compensation on the basis of principle of loss are two different things. As far as loss is concerned, the loss would be referable to the date of accident. Loss suffered by a person has to be determined as on date of accident and not on the date of final decision of claim petition or appeal. It is for this reason that while determining loss of dependency income of deceased is taken as income which deceased was earning at the time of his death. Similarly, loss of medical expenses and all other expenses are payable which are incurred at the time of treatment. With passage of time and inflation the amount does not change. It remains referable to accident/date of loss suffered by appellants/claimants and for this reason delayed payment on account of delay in disposal of claim petition or time taken before Appellate Court, claimants are granted interest over the amount payable to them. Therefore, in case of funeral expenses, consortium, loss of estate, compensation has to be referable to date of accident. It is worth noticing that in case present scales for grant of consortium, loss of estate and funeral expenses is implemented and awarded to appellants/claimants, it would result in a situation where loss

of dependency would be lesser than the amount of consortium. Therefore, the argument raised on behalf of learned counsel for appellants/claimants that appellants/claimants are entitled to consortium, compensation for loss of estate and funeral expenses @ Rs.48,000/-, Rs.18,000/- and Rs.18,000/- respectively being paid to appellants/claimants of cases which had taken place after 2023 cannot be accepted. The loss has to relate back to the date of accident and such award under various heads would carry interest. Therefore, none of the judgments referred by learned counsel for appellants/claimants has got any applicability. The loss has to relate back to the date of accident on the date of judgment when compensation is finally determined. Therefore, appellant-claimant would be entitled to Rs.7,500/- each towards loss of estate and funeral expenses. Appellants/claimants would also be entitled to Rs.15,000/- each towards filial consortium.

13. Reworked compensation payable to appellants/claimants is as under :-

Income	Rs.1,964/- per month (as per minimum wages payable to unskilled worker)	Rs.1,964/- per month
Deduction	50% of Rs.1,964/-	Rs.982/-
Future prospects	40% (982 + 393)	Rs.1,375/-
Multiplier	18	18
Total loss of dependency	Rs.1,375/- x 12 x 18	Rs.2,97,000/-
Funeral expenses		Rs.7,500/-
Loss of estate		Rs.7,500/-

Filial consortium to claimants No. 1 & 2	Rs.15,000 x 2	Rs.30,000/-
Compensation awarded by Tribunal	Rs.1,14,200/-	
Compensation awarded in appeal		Rs.3,42,000/-
Enhancement of compensation	Rs.3,42,000/- (awarded in appeal) – Rs.1,14,200/- (awarded by Tribunal)	Rs.2,28,000/-
Deduction of 30% on from total compensation awarded on account of contributory negligence	30% of Rs.2,28,000/-	Rs.1,59,600/-

14. Appellants/claimants shall be entitled to enhanced compensation along with 7.5% interest from the date of filing of claim petition till realization of entire amount. Apportionment and liability to pay compensation shall be as per award.

15. Appeal is accordingly partly allowed in above terms.

16. Pending application(s), if any, is/are disposed of accordingly.

09.04.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No