



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

(208)

FAO No. 2105 of 2000(O&M)**Reserved on: 11.03.2026****Pronounced on: 18.03.2026****Uploaded on: 19.03.2026**

Sudesh Rani and Others

...Appellants

Versus

Kamal Nain and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. B.S.Mamli, Advocate,
for the Appellants.

Mr. Ved Parkash, Senior DAG, Haryana(Through V.C.).

VIRINDER AGGARWAL, J.

1. The present appeal has been filed by the appellants-claimants assailing the award dated 11.02.2000 passed by the learned Motor Accident Claims Tribunal, Jagadhri, whereby compensation was awarded to the claimants on account of the death of Baldev Raj in a motor vehicular accident for setting aside the finding of 33% contributory negligence and for enhancement of the compensation.

BACKGROUND FACTS

2. The case set up by the claimants in the claim petition is that the deceased Baldev met with a fatal accident involving a bus bearing no. HR-02-PA-0143 driven by respondent No.1. On the day of the occurrence(Dated 26.10.1998), the deceased was present at the spot (Haryana Roadways Workshop, Yamunagar) when the offending bus was suddenly reversed by the driver in a rash and negligent manner without giving any horn or warning signal. Due to the negligent act of the driver in reversing the vehicle, the bus



struck the deceased from rear portion of it, and ran over him. In result of it, he sustained grievous injuries including on brain and died at spot. It was specifically pleaded that the accident occurred solely due to the rash and negligent driving of the respondent-driver and that the deceased had no role whatsoever in the occurrence of the accident. The deceased was stated to be employed in Haryana Roadways and earning approximately ₹9,000/- per month, including salary and other allowances. It was further pleaded that the deceased was the sole breadwinner of the family and was maintaining the claimants, who were dependent upon his income for their livelihood. In these circumstances, the appellants (widow and 3 minor children) filed a claim petition under the provisions of the Motor Vehicles Act seeking compensation under various heads.

3. Upon consideration of the pleadings of the parties and the evidence led on record, the learned Motor Accident Claims Tribunal partly allowed the claim petition. While adjudicating upon the issue of negligence, the learned Tribunal minutely examined the statements of the witnesses produced by the claimants as well as the defence put forth by the respondents. The learned Tribunal took into account the testimony of the eye-witness (PW1-Mohinder Kumar) produced by the claimants along with the documentary evidence(Ex.P1-FIR) forming part of the record. However, the learned Tribunal was of the view that though the driver of the offending bus had reversed the vehicle, the circumstances of the case indicated that the deceased had also not exercised due caution at the time of the occurrence. The learned Tribunal observed that the deceased was present behind the vehicle at the time when the bus was being reversed and that he had sufficient opportunity to move away from the path of the vehicle. On that basis, the learned Tribunal concluded that the deceased had



also contributed to the occurrence of the accident by failing to keep a proper lookout and by remaining in close proximity to the reversing vehicle. Consequently, the learned Tribunal held that the accident had occurred due to contributory negligence, attributing 33% negligence to the deceased and 67% negligence to the driver of the offending bus. Having recorded the aforesaid finding, the learned Tribunal proceeded to determine the quantum of compensation payable to the claimants. The learned Tribunal assessed the monthly income of the deceased at ₹7,383/- and upon making the calculations, the learned Tribunal determined the total compensation payable to the claimants at ₹7,67,832/-. However, since the learned Tribunal had already recorded a finding that the deceased had contributed to the accident to the extent of 33%, the learned Tribunal deducted the said proportion from the total compensation so determined and resultantly the compensation payable to the claimants was reduced to ₹5,20,000/- along with interest at rate of 12% per annum. Being dissatisfied with the aforesaid findings of the learned Tribunal, particularly with regard to the finding of contributory negligence and the assessment of compensation on the lower side, the appellants-claimants have preferred the present appeal before this Court.

CONTENTIONS

4. Learned counsel appearing for the appellants submits that the impugned award is liable to be modified as the learned Tribunal has erred both on facts and in law. It is argued that the learned Tribunal has wrongly attributed negligence to the deceased despite the fact that the evidence on record clearly establishes negligence on the part of the respondent-driver. Learned counsel submits that the eye-witness categorically deposed that the driver of the bus reversed the vehicle without giving any horn or signal, thereby leaving no



opportunity for the deceased to save himself. It is further contended that the finding of contributory negligence recorded by the learned Tribunal is based on conjectures and is not supported by any reliable evidence. Learned counsel further submits that the learned Tribunal has wrongly assessed the income of the deceased by ignoring certain allowances which formed part of his regular earnings. It is therefore prayed that the finding of contributory negligence be set aside and the compensation be enhanced as per the settled principles of law.

5. Per contra, learned counsel for the respondents supports the award passed by the learned Tribunal. It is submitted that the learned Tribunal has appreciated the evidence on record and has rightly concluded that the deceased had also contributed to the accident. Learned counsel further submits that the compensation awarded by the learned Tribunal is just and reasonable and does not call for interference.

OBSERVATIONS AND FINDINGS

6. I have heard the learned counsel for the parties and have carefully perused the record of the case. After giving thoughtful consideration to the submissions advanced and the material available on record, the following aspects require determination.

Negligence

7. The primary issue which arises for consideration is whether the learned Tribunal was justified in holding the deceased guilty of 33% contributory negligence. In order to determine the said issue, it is necessary to examine the evidence available on record. The testimony of the eye-witness Mohinder Kumar (PW-1) assumes significance in this regard. The said witness has categorically deposed that the driver of the offending bus suddenly reversed the vehicle without giving any horn or warning signal. The same version finds



mention in the First Information Report (Ex.P1) which was registered soon after the occurrence. The consistent version of the eye-witness as well as the FIR clearly indicates that the accident occurred due to the negligent act of the driver in reversing the bus without exercising due caution.

8. It is a settled principle of law that when a heavy vehicle such as a bus is reversed, the driver is under a strict duty to exercise a higher degree of care and caution. The act of reversing a heavy vehicle without giving any warning signal or without ensuring that the path behind the vehicle is clear amounts to rash and negligent driving. Furthermore, it is well recognised that while reversing a heavy vehicle, the assistance of another person such as a conductor or helper is normally required so as to guide the driver and prevent accidents. Similarly, in motor accident claims the standard of proof is that of preponderance of probabilities and once the evidence indicates negligence on the part of the driver, the learned Tribunal ought not to attribute negligence to the victim without any cogent material.

9. In the present case, there is no evidence to show that the deceased had acted negligently or that he had contributed in any manner to the occurrence of the accident. The learned Tribunal appears to have attributed negligence to the deceased merely on assumptions rather than on the basis of cogent evidence. It is also apposite to notice that the accident in the present case occurred within the premises of the Haryana Roadways workshop and not on a public road. In such circumstances, a higher degree of caution was expected from the driver of the bus. Within the limited and enclosed area of a workshop where several employees are present and discharging their duties, the driver of a heavy vehicle is expected to drive at a slow speed and with utmost vigilance. There is nothing on record to show that the driver was being assisted by the conductor or any



other person while reversing the bus. Such assistance is normally considered essential while reversing heavy vehicles so as to ensure that no person comes within the path of the vehicle. The absence of such precaution further strengthens the inference that the driver acted in a negligent manner. It is a matter of common experience that within the premises of a workshop or workplace, an employee does not anticipate that a heavy vehicle would be reversed in a rash or careless manner. A person may be expected to exercise greater vigilance on a public road where vehicular movement is continuous, but the same standard cannot be applied to a situation where the accident occurs within the enclosed premises of a workplace. In the present case, the material on record clearly shows that the deceased had not come in the path of the bus; rather, it was the bus which was suddenly reversed and struck the deceased. In the absence of any reliable evidence indicating negligence on the part of the deceased, the finding of contributory negligence recorded by the learned Tribunal cannot be sustained. Consequently, the finding of the learned Tribunal holding the deceased guilty of 33% contributory negligence is hereby set aside and therefore, the driver of the offending bus is held solely responsible for the occurrence of the accident which resulted in the death of the deceased.

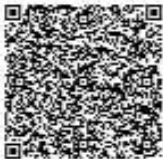
Quantum of Compensation

10. At the outset, with regard to the determination of the income of the deceased, learned counsel for the appellants has contended that the evidence on record, particularly the salary certificate (Ex.P-1), indicates that the deceased Baldev Raj was employed in the Haryana Roadways Workshop, Yamunanagar and was earning more than ₹9,000/- per month, including salary and allowances. It is argued that the learned Tribunal assessed the income on the lower side at ₹7,383/- per month by ignoring certain allowances forming part



of the earnings of the deceased. However, upon perusal of the record, this Court finds that apart from the findings recorded by the learned Tribunal regarding the salary certificate, there is no additional material available on the record of the case which may conclusively establish the gross monthly salary of the deceased as claimed by the appellants. The learned Tribunal, while appreciating the salary certificate produced before it, recorded a specific finding that the amount of ₹7,383/- represented the monthly salary of the deceased as the same was drawn by him for the full month of September 1998. Thus, in the absence of any further documentary evidence on record before this Court demonstrating that the gross salary of the deceased was higher than what has been assessed by the learned Tribunal, there is no sufficient ground for this Court to interfere with the finding recorded by the learned Tribunal regarding the determination of income. Consequently, this Court finds no reason to interfere with the assessment of income made by the learned Tribunal. Accordingly, the income of the deceased is taken to be ₹7,383/- per month, as determined by the learned Tribunal.

11. Further, 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 (As Per Ex.P1)	7,383/-	7,383/-
Income With Future Prospects (30%) (Permanent employees and age 48 years)	x	9,598/- (7,383 + 2,215)
After Deduction (4 Dependents)	4,922/- (1/3rd for personal expense)	7,198/- (1/4th for personal expense)
Annual Contribution To Family	59,064/- (4,922 x 12)	86,376/- (7,198 x 12)
Multiplier (age 48 yrs)	13	13
Loss Of Dependency	₹7,67,832/- (₹59,064 x 13) Reduced to ₹5,11,888/- (33% of ₹7,67,832/-)	₹11,22,888/- (86,376 x 13)
Spousal Consortium	x	40,000/-
Parental Consortium (3 Children)	x	1,20,000/- (40,000 x 3)
Funeral Expenses	8,000	15,000/-
Loss Of Estate	x	15,000/-
Total	₹5,20,000/- (₹5,11,888/- + ₹ 8,000)	₹13,12,888/- (Round of ₹13,13,000/-)

12. In view of the foregoing discussion, the present appeal is **allowed**. The finding of the learned Tribunal holding the deceased guilty of 33% contributory negligence is set aside. The compensation payable to the appellants is enhanced to **₹13,13,000/-**. The claimants shall also be entitled to interest at rate of 7% per annum from the date of filing of the claim petition till realization. The



liability and apportionment of compensation shall remain the same as determined by the learned Tribunal.

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

18.03.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

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