IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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I. **FAO-2450-1998**

Smt. Sangita Walia and another **…..Appellants**
Vs.

Jaswant Singh and others …..Respondents

II. **FAO-296-1999**

National Insurance Co. Ltd. **…..Appellant**
Vs.

Smt. Sangita Walia and others …..Respondents

Date of Decision.:24.03.2026

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Pardeep Rajput, Advocate for the appellant in FAO-2450-1998.

Mr. Deepak Suri, Advocate for the appellant in FAO-296-1999.

Mr. Digvijay Prihar, Advocate for Mr. Hakikat Singh Grewal, Advocate for respondent No.2 in FAO-2450-1998 and for respondent No.4 in FAO-296-1999.

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DEEPAK GUPTA, J. (ORAL)

The present judgment shall dispose of two connected appeals arising out of the same award dated 06.08.1998 passed by the learned Motor Accident Claims Tribunal, Chandigarh—one filed by the claimants seeking enhancement of compensation and the other by the insurance company questioning the liability fastened upon it.

2. The factual matrix, as borne out from the record, is that on

13.01.1996, Sanjeev Kumar lost his life in a motor vehicular accident. As per the case set up by the claimants, the deceased was crossing the road on foot from Sector-9 towards Sector-17, Chandigarh, when he was hit by the offending vehicle bearing registration No. DL-1LA-2210, which was allegedly being driven in a rash and negligent manner. The widow and minor son of the deceased instituted a claim petition seeking compensation from the driver, owner and insurer of the said vehicle.

3. Upon appreciation of the evidence, the learned Tribunal came to the conclusion that the accident had occurred due to negligence on the part of both the driver of the offending vehicle as well as the deceased. However, while recording a finding of contributory negligence, the Tribunal did not apportion the extent of negligence between the parties and proceeded to award compensation of ₹4,15,000/- in favour of the claimants, fastening joint and several liability upon the respondents.

4. Aggrieved thereby, the insurance company has assailed the award to the extent that despite a clear finding of contributory negligence, the Tribunal failed to apportion liability. On the other hand, the claimants have sought enhancement of compensation on the ground that the income of the deceased has been assessed on the lower side.

5. This Court has heard learned counsel for the parties and carefully perused the record.

6. At the outset, it is evident that the learned Tribunal has returned a categorical finding that both the driver of the offending vehicle and the deceased contributed to the occurrence of the accident. However, once such a finding of contributory negligence is recorded, it is incumbent upon the Tribunal to determine the proportion in which the negligence is attributable to each party. Failure to do so results in an erroneous determination of liability.

7. Having regard to the manner of the accident and the evidence available on record, this Court is of the considered view that the driver of the offending vehicle was primarily responsible for the accident, but the deceased also contributed to the same by attempting to cross the road without exercising due caution. Accordingly, the negligence is apportioned in the ratio of 60% on the driver of the offending vehicle, and 40% on the deceased. The finding of the Tribunal is modified to this extent.

8. Coming to the question of quantum of compensation, it is an admitted position that the deceased was a Diploma holder in Electrical Engineering and was also pursuing AMIE through correspondence. There is also evidence on record that he was engaged in the business of repair of motors and electrical equipment. Although the claimants asserted his income to be ₹5,000/- to ₹6,000/- per month, no cogent documentary evidence has been produced to substantiate the same. The Tribunal, therefore, assessed the income at ₹3,000/- per month on a notional basis.

9. In such circumstances, it is appropriate to take guidance from the minimum wages applicable at the relevant time. It is not disputed that in the year 1996, the minimum wages for a skilled worker in Chandigarh were ₹3,560/- per month, i.e., ₹42,720/- per annum. Given the technical qualifications and vocational engagement of the deceased, adoption of minimum wages for a skilled worker constitutes a more realistic and just basis for determination of income. Accordingly, the annual income of the deceased is assessed at ₹42,720/-.

10. The deceased being below 30 years of age at the time of the accident, addition towards future prospects is warranted. In view of the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others (2017) 16 SCC 680,*** an addition of 40% towards future prospects is to be made. Consequently, the annual income comes to ₹59,808/-.

11. There being two dependents, deduction of one-third towards personal and living expenses of the deceased is justified. After such deduction, the annual loss of dependency works out to ₹39,872/-.

12. For the purpose of multiplier, the age of the deceased being less than 30 years, the appropriate multiplier is ‘17’, in terms of the principles laid down in ***Sarla Verma and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121***. Thus, the total loss of dependency is calculated at ₹6,77,824/-.

13. In addition to the pecuniary loss, the claimants are also entitled to compensation under conventional heads. Having regard to the fact that the accident occurred in the year 1996, a sum of ₹15,000/- each is awarded towards loss of spousal and filial consortium. Further, ₹5,000/- each is awarded towards funeral expenses and loss of estate. The total compensation thus works out to ₹7,17,824/-, which is rounded off to ₹7,18,000/-.

14. However, since the deceased has been held contributorily negligent to the extent of 40%, the liability of the respondents would be restricted to 60% of the total compensation. Accordingly, the amount payable comes to ₹4,30,800/-.

15. The Tribunal has already awarded a sum of ₹4,15,000/-. Therefore, the enhanced amount payable to the claimants works out to ₹15,800/-.

16. Consequently, the appeal filed by the claimants is partly allowed to the extent of enhancement of compensation by ₹15,800/-, which shall be payable by the respondents jointly and severally along with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

17. The appeal filed by the insurance company stands disposed of in terms of the apportionment of negligence as indicated above.

18. A copy of this judgment be placed on the connected file.

19. Both the appeals stand disposed of accordingly.

(DEEPAK GUPTA)
JUDGE

March 24, 2026
Neetika Tuteja

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No