



FAO-2656-2001(O&amp;M)

1

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

(223)

FAO-2656-2001(O&amp;M)

Date of Decision-19.01.2026

Balbir Kaur and Another

...Appellants

Versus

Balbir Singh alias Dalbir Singh and Others

... Respondents

**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Sandeep Kotla, Advocate  
for appellants

Mr. Ved Parkash, Senior DAG, Haryana

Mr. Mohit Punia, Advocate  
Mr. Jainainder Saini, Advocate  
for respondent No.1.

\*\*\*\*\*

**VIRINDER AGGARWAL, J.(ORAL)**

1. This appeal is directed against the award dated 17.12.1999 passed by the learned Motor Accident Claims Tribunal, Hisar, whereby the claim petition filed by the appellants-parents of the deceased Sukhvinder Singh under Section 166 of the Motor Vehicles Act, 1988 was partly allowed and compensation of ₹60,000/- along with interest at the rate of 12% per annum was awarded on account of his death in a motor vehicular accident dated 04.11.1998

**BACKGROUND FACTS**

2. The brief facts of the case are that on 04.01.1998 at about 1:15 PM, the deceased Sukhvinder Singh was travelling on a Hero Honda motorcycle along with Harjinder Singh from Fatehabad to Hisar. When they reached near the Government School, village Badopal, a Haryana Roadways bus bearing registration No. (HR-39-0422), driven by respondent No.1, came from behind

at a high speed in a rash and negligent manner and struck the motorcycle. The



deceased fell on the road and the front tyre of the bus ran over him, resulting in grievous injuries. He was taken to the General Hospital, Hisar, where he succumbed to his injuries on the same day. FIR No. 426 dated 04.01.1998 under Sections 279 and 304-A IPC was registered against respondent No.1. Thereafter, the claimants filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of ₹5,00,000 on account of the death of Sukhvinder Singh .

3. Upon appreciation of the oral and documentary evidence on record, the learned Tribunal noted that the claim petition was founded on the allegation that the motor vehicular accident dated 04.01.1998 occurred due to rash and negligent driving of Haryana Roadways bus bearing registration No. HR-39-0422 by respondent No.1. In order to substantiate the said allegation, the petitioners examined Harjinder Singh (PW-2), who was travelling with the deceased on the motorcycle and claimed to be an eye-witness to the occurrence. The petitioners also relied upon documentary evidence, including the FIR (Ex. P1), report under Section 173 Cr.P.C., site plan (Ex. P4) and the post-mortem report (Ex. P3) of the deceased. The learned Tribunal took note of the fact that FIR No. 426 dated 04.01.1998 under Sections 279 and 304-A IPC had been registered against respondent No.1 and that he was facing criminal prosecution in respect of the accident in question. However, upon a comprehensive appreciation of the oral as well as documentary evidence, the learned Tribunal came to the conclusion that the accident did not occur solely on account of rash and negligent driving of the bus driver. As while analysing the site plan (Ex. P4), the learned Tribunal observed that the motorcycle was found lying in the middle of the road, whereas the front portion of the bus had moved towards the extreme left side of the road and had partially gone into the ditch. From these



circumstances, the learned Tribunal inferred that respondent No.1 had attempted to avoid the accident by swerving the bus towards the left side of the road, though unsuccessfully.

4. Simultaneously, it was held that the deceased was not driving his motorcycle on the extreme left side of the road and had, therefore, contributed to the occurrence of the accident. The learned Tribunal further observed that the deceased was a young boy riding a new motorcycle and that no evidence had been produced on record to establish that he was holding a valid driving licence at the time of the accident. Taking these circumstances cumulatively into consideration, the learned Tribunal recorded a finding that both the deceased and respondent No.1 were guilty of contributory negligence and apportioned the negligence equally between them in the ratio of 50:50. On the issue of quantum of compensation, the learned Tribunal found that the petitioners had failed to lead any cogent documentary evidence to substantiate their claim that the deceased was earning income from dairy farming. It was held that the deceased was a student of 11th class and was not proved to be gainfully employed at the time of the accident. Adopting a lump-sum approach, the learned Tribunal assessed the total lump-sum compensation payable to the claimants at ₹1,20,000/-. In view of the finding of contributory negligence to the extent of 50% on the part of the deceased, the learned Tribunal awarded a sum of ₹60,000/- to the claimants, along with interest at the rate of 12% per annum, holding the respondents jointly and severally liable.

### **CONTENTIONS**

5. Learned counsel for the appellants contended that the impugned award is erroneous and unsustainable in law. It was argued that the learned Tribunal



wrongly held the deceased guilty of contributory negligence without any cogent evidence, ignoring the clear and consistent testimony of Harjinder Singh (PW-2), an eye-witness to the occurrence, which was duly corroborated by the FIR, site plan and post-mortem report. Learned counsel submitted that the finding of contributory negligence is based on conjectures, particularly on the alleged absence of a driving licence and the assumption that the deceased was riding a new motorcycle, which by themselves do not establish negligence. On the question of quantum, learned counsel contended that the compensation awarded is grossly inadequate and falls far short of just compensation. It was argued that the learned Tribunal failed to assess a reasonable income of the deceased and did not award any amount towards future prospects, apply an appropriate multiplier, or grant compensation under conventional heads. Instead, an unduly conservative lump-sum approach was adopted, resulting in an unjust award. It was, therefore, prayed that the finding of contributory negligence be set aside and the compensation be suitably enhanced.

6. Learned counsel for respondent No.1 and State Counsel supported the award of the learned Tribunal, contended that the award had been passed after a proper and thorough appreciation of the evidence on record and therefore, did not warrant any interference by this Court.

### **OBSERVATIONS AND FINDINGS**

7. I have heard learned counsel for the parties and perused the record in its entirety. Upon due consideration of the findings recorded by the learned Tribunal, particularly on the issue of contributory negligence and fastening of liability, this Court finds no reason to take a view different from that adopted by the learned Tribunal.



8. At the outset, it is not in dispute that the accident in question occurred on 04.01.1998 involving the motorcycle ridden by the deceased Sukhvinder Singh and the Haryana Roadways bus bearing registration No. HR-39-0422, driven by respondent No.1, which resulted in the unfortunate death of the deceased. The principal question for determination was whether the accident occurred solely due to the rash and negligent driving of the bus driver or whether the deceased had also contributed to the occurrence of the accident. From the evidence on record, it is apparent that Harjinder Singh (PW-2), who was travelling with the deceased and claimed to be an eye-witness, supported the case of the claimants that the bus struck the motorcycle from behind. His testimony finds corroboration from the registration of the FIR and the post-mortem report (Ex. P3). At the same time, the site plan (Ex. P4), prepared during the course of investigation, assumes considerable significance. A perusal of the site plan, read in conjunction with the testimony of Santa Singh (RW-2), reveals that the motorcycle was found lying in the middle of the road, whereas the front portion of the bus had moved towards the extreme left side of the road and had partially gone into the ditch. This circumstance lends support to the inference that the bus driver made an attempt to avoid the accident by swerving the bus towards the left side of the road, though unsuccessfully.

9. Conversely, the position of the motorcycle in the middle of the road clearly indicates that the deceased was not riding his vehicle on the extreme left side, as required by the rules of road discipline. It also emerges from the record that the deceased was a young boy riding a new motorcycle and that no evidence was produced to establish that he was holding a valid driving licence at the time of the accident. Though the absence of a driving licence, by itself, may not be determinative of negligence, it remains a relevant circumstance



which, when considered cumulatively with the manner in which the motorcycle was being driven, assumes significance in assessing contributory fault.

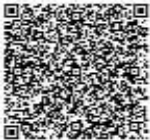
10. Further, the accident occurred on a wide road where sufficient space was available for vehicles to pass. Had either of the drivers exercised due care and caution, the accident could have been avoided. While the bus driver, being in control of a heavy vehicle, was under a greater duty to maintain a safe distance and regulate his speed, the deceased was equally obliged to adhere to his correct side of the road and observe basic traffic discipline. In view of the aforesaid circumstances, this Court is of the considered opinion that the accident did not occur solely due to the negligence of respondent No.1, nor can the deceased be absolved of responsibility. The material on record clearly establishes that both the deceased and the bus driver failed to exercise due care and caution, thereby contributing to the occurrence of the accident. Accordingly, this Court finds no infirmity in the conclusion drawn by the learned Tribunal that the case is one of contributory negligence, and the findings recorded on that aspect are affirmed. Further, in view of the admitted fact that the bus struck the motorcycle from behind, the attribution of contributory negligence in equal proportion to the deceased motorcyclist is wholly untenable. Once the bus driver had clearly observed the motorcycle proceeding ahead in the middle of the roadway, it was incumbent upon him consistent with the standard of professional competence expected of a commercial driver to exercise heightened caution, reduce speed, apply brakes in a timely manner, and, if necessary, warn the motorcyclist by blowing the horn so as to avoid collision. The record reveals that the bus driver failed to discharge these essential duties of care and, without taking requisite precautions, negligently rammed into the motorcycle from the rear. In such



circumstances, the contributory negligence attributable to the deceased cannot exceed a marginal proportion, and the respondent No.1 (bus driver) must bear the predominant share of liability. Accordingly, the finding of the learned Tribunal apportioning contributory negligence equally between the deceased and respondent No.1 is erroneous and unsustainable. The said finding is, therefore, modified, and respondent No.1 is held liable to the extent of 80%, while the contributory negligence of the deceased is restricted to 20%. However, the core issue that still arises for consideration in the present appeal pertains to the assessment of compensation.

11. Compensation requires assessment 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 calculation 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 computation is structured as under:

### **COMPUTATION**



| Particulars                                  | Reassessed Award<br>(₹)                            |
|----------------------------------------------|----------------------------------------------------|
| Monthly Income                               | 1800/-                                             |
| Income With Future Prospects<br>(40%)        | 2520/-<br>(1,800 + 720)                            |
| Income after Deduction<br>(50% as unmarried) | 1,260/-<br>(50% Deduction for personal<br>expense) |
| Annual Contribution To Family                | 15,120/-<br>(1,260x12)                             |
| Multiplier (age 18 yrs)                      | 18                                                 |
| Loss Of Dependency                           | 2,72,160/-<br>(15,120 × 18)                        |
| Filial Consortium                            | 80,000/-<br>(40,000 × 2)                           |
| Funeral Expenses                             | 15,000/-                                           |
| Loss Of Estate                               | 15,000/-                                           |
| Total                                        | ₹3,82,160/-                                        |

12. Resultantly, the compensation awarded by the learned Tribunal is enhanced to ₹3,82,160/-. In view of the finding of contributory negligence, only 80% of the said amount, i.e. ₹3,05,700/-, shall be payable in accordance with the liability and apportionment as already determined by the learned Tribunal, which shall remain unaltered. The enhanced amount shall carry interest at the rate of 7% per annum from the date of filing of the claim petition till its realization.

13. The appeal is accordingly partly **allowed** with modification of the award to the above extent. All other conditions of the award, not inconsistent with this judgment, shall remain unaltered.

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

(VIRINDER AGGARWAL)  
JUDGE

19.01.2026  
Saurav Pathania