



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

(101)

FAO No. 2779 of 2001(O&M)

Date of Decision: 23.01.2026

Mohinder Kaur and others

... Appellants

Versus

Vishal Bansal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Hardeep Singh, Advocate
for the Appellant.

Mr. Ayushi Jain, Advocate for
Mr. Pardeep Goyal, Advocate
for the Respondent No. 3/Insurance Company

VIRINDER AGGARWAL, J. (ORAL)

1. The present appeal has been preferred by the claimants seeking enhancement of compensation and setting aside the finding of 50% contributory negligence recorded by the learned Motor Accident Claims Tribunal, Rupnagar, vide award dated 08.01.2001.

BACKGROUND FACTS

2. Briefly stated, on 27.07.1998, Parveen Kumar along with Balbir Singh was travelling on a scooter. When they reached near the bus stand of village Ralla Majra, a Tata mini truck bearing registration No. HR-01A-7755,, being driven by respondent No.2 in a rash and negligent manner, at a high speed and without observing traffic norms, came from behind and violently struck the scooter bearing registration No. HYH-1384. Due to the impact, both riders fell on the road and sustained serious injuries. The injured were first taken to Civil Hospital, Rupnagar for first aid and thereafter referred to PGI, Chandigarh.

Unfortunately, Parveen Kumar succumbed to the injuries while on the way to



the hospital. FIR was registered at the concerned police station against the driver of the offending vehicle. The accident was stated to have occurred solely due to rash and negligent driving of the offending truck. It was pleaded that the deceased was about 24 years of age, unmarried, and was working on contract basis as a painter with a private company, earning approximately ₹5,000/- per month. He was the sole earning member of the family and was maintaining his widowed mother, minor brother and sister. Therefore, the claimants prayed for compensation of ₹10,00,000/-.

3. Upon appreciation of the evidence, the learned Motor Accident Claims Tribunal held that the accident had occurred due to rash and negligent driving of the offending Tata mini truck. However, the learned Tribunal also held that the deceased contributed to the accident as three persons were riding on the scooter, which amounted to violation of traffic rules and imbalance of the vehicle. The learned Tribunal, on such assumption, held that the accident occurred due to composite negligence of both the deceased and the driver of the offending vehicle and assessed contributory negligence at 50% each. The learned Tribunal assessed the total loss of dependency at ₹2,11,200/-. After applying 50% deduction on account of contributory negligence, the Tribunal reduced the loss of dependency to ₹1,05,600/-. In addition thereto, the learned Tribunal awarded ₹20,000/- towards funeral expenses; and ₹25,000/- towards loss of love and affection. Thus, the total compensation awarded by the Tribunal came to ₹1,50,600/-.

CONTENTIONS

4. Learned counsel for the appellants contends that the finding of contributory negligence is based on conjectures and not supported by any cogent evidence. It is further argued that the compensation determined by the



learned Tribunal is manifestly inadequate and contrary to the settled principles governing the assessment of just compensation. It was contended that the learned Tribunal erred in assessing the income of the deceased at an unduly low figure, ignoring the evidence on record. Further, learned counsel argued that the multiplier applied by the learned Tribunal is erroneous and not in consonance with the age of the deceased. Learned counsel for appellants also submitted that the amounts awarded towards loss of consortium and last rites are unrealistically low and that the learned Tribunal failed to award compensation under other mandatory conventional heads. Additionally, no addition towards future prospects was made. On these grounds, it was urged that the impugned award calls for enhancement so as to grant just, fair and reasonable compensation to the claimants.

5. Per contra, learned counsel appearing for the Insurance Company has opposed the appeal. It is contended that the award passed by the learned Tribunal is just, fair and based upon proper appreciation of evidence and does not call for any interference in appellate jurisdiction. It is argued that the finding on negligence and compensation is reasonable and in consonance with material on record and the settled principles and no further enhancement is warranted. It is therefore prayed that the appeal be dismissed.

OBSERVATIONS AND FINDINGS

6. I have considered the rival submissions and carefully examined the award passed by the learned Tribunal. The core issues arising for determination in the present appeal pertain to negligence and the quantum of compensation.

(i) Negligence

7. The learned Tribunal has fastened 50% contributory negligence upon the deceased solely on the premise that there was triple riding on the scooter at the



time of accident. Such a conclusion is not legally sustainable and cannot be upheld. Reliance in this regard is appropriately placed on the judgment of the Hon'ble Supreme Court in ***Mohammed Siddique v. National Insurance Company Ltd., 2020 (3) SCC 57***, wherein it has been held that mere violation of traffic rules or carrying of extra passengers, in the absence of proof of proximate causation, does not constitute contributory negligence and cannot justify reduction of compensation. The Court emphasized that unless the conduct of the victim is shown to have materially contributed to the accident, negligence cannot be apportioned merely on technical infractions.

8. In the present case, the consistent version emerging from the record establishes that the offending truck was being driven at a high speed and in a rash and negligent manner and struck the scooter with considerable force, leading to fatal injuries. There is no material whatsoever to demonstrate any negligent act attributable to the deceased which could be said to have contributed to the accident. The finding of the learned Tribunal attributing 50% negligence to the deceased, therefore, suffers from perversity and is unsustainable both on facts and in law. Even assuming for the sake of argument that more than two persons were riding on the scooter, such circumstance by itself cannot automatically lead to an inference of negligence unless it is further established that the said act either caused or materially contributed to the accident or aggravated its consequences. The controlling test is one of *proximate cause* and not mere technical breach of traffic rules. In ***Anjana Narayan Kamble v. Branch Manager, Reliance General Insurance Company Limited, 2023 ACJ 346 (SC)***, the Hon'ble Supreme Court has categorically held that unless there is clear evidence to demonstrate that the conduct of the



victim had a direct nexus with the occurrence of the accident, the principle of contributory negligence cannot be invoked to curtail just compensation.

9. Applying the aforesaid principle to the present case, the record is completely silent on any circumstance indicating that the alleged extra riding impaired the control of the scooter or resulted in imbalance leading to the accident. On the contrary, the manner of accident unmistakably demonstrates that the collision occurred due to rash and negligent driving of the offending truck. In absence of proof of causal connection between the alleged triple riding and the accident, fastening any portion of liability upon the deceased would amount to penalizing the victim on speculative grounds, which is impermissible in law. Accordingly, this Court holds that the finding of contributory negligence recorded by the learned Tribunal is legally erroneous, unsupported by evidence and liable to be reversed. The said finding is hereby set aside and the respondents are held jointly and severally liable for the accident in its entirety.

(ii) Quantum of Compensation

10. Before proceeding further, it is necessary to determine the income of the deceased, as assessment of compensation is fundamentally dependent upon a correct determination of earnings. As per the record, the deceased was aged about 24 years and his mother (PW1) deposed that he was working on contract basis as a painter. However, no documentary evidence such as salary certificate, appointment letter, employer's testimony, wage register or income tax record was produced to substantiate the claimed income of ₹5,000/- per month. In the absence of any reliable proof of actual earnings, the learned Tribunal adopted a reasonable and conservative approach and assessed the monthly income of the deceased at ₹2,100/-, keeping in view the nature of employment, the period of



accident and prevailing minimum wages of skilled worker at the relevant time. This assessment cannot be said to be arbitrary or perverse. On the contrary, it reflects a balanced evaluation of the material on record and accords with the settled principle that where income is not proved by cogent evidence, the Court must determine a just and reasonable income on the basis of probabilities and surrounding circumstances. This Court, therefore, finds no infirmity in the determination of monthly income at ₹2,100/- and affirms the same for the purpose of further computation of compensation.

11. In the present case, the 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	Tribunal Award (₹)	Reassessed Award (₹)
Monthly Income	2,100/-	2,100/-
Income With Future Prospects (40%)	x	2,940/- (2,100 + 840)
Income after Deduction (Unmarried)	1,100/- (1/3rd Deduction for personal expenses)	1,470/- (50% Deduction for personal expense)
Annual Contribution To Family	13,200/- (1,100 x 12)	17,640/- (1,470 x 12)
Multiplier (age 24 yrs)	16	18
Loss Of Dependency	2,11,200/- (13,200 x 16)	3,17,520/- (17,640 x 18)
Filial Consortium (Mother)	25,000/- (Love and affection)	40,000/-
Funeral Expenses	20,000/-	15,000/-
Loss Of Estate	x	15,000/-
Total	1,50,600/- { 1,05,600 (50%Deduction) + 45,000 (Conventional heads)}	₹3,87,520/-

12. Resultantly, the compensation awarded by the learned Tribunal is enhanced from ₹1,50,600/- to ₹3,87,520/-. The enhanced amount shall carry the interest at rate of 7% per annum from the date of filing of the claim petition till realization. The liability to pay the compensation shall remain joint and several upon the driver, owner and insurer of the offending vehicle. The insurer shall indemnify the insured in accordance with law. The apportionmnet of compesnation to the claimants shall remain same as held by the learned Tribunal.
13. Accordingly, the present appeal is **allowed**. The impugned award dated 08.01.2001 passed by the Motor Accident Claims Tribunal, Rupnagar is modified to the extent indicated above.



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

23.01.2026
Saurav Pathania

(VIRINDER AGGARWAL)
JUDGE

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