



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-4017-2001 (O&M)

Smt. Santosh and others

. . . . Appellants

Vs.

Joginder Singh and another

. . . . Respondents

Reserved on: 24.03.2026

Pronounced on: 27.03.2026

Pronounced Fully/Operative Part: Fully

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Sunil Kumar Pandey, Advocate, for
Mr. S.P. Chahar, Advocate, for the appellants.

Mr. Vinod Chaudhari, Advocate,
for respondent No.2-Insurance Company.

DEEPAK GUPTA, J.

The present appeal has been preferred by the claimants assailing the award dated 15.06.2001 passed by the learned Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as "the Tribunal"), both on the aspect of apportionment of negligence as well as the quantum of compensation.

2. The facts, as borne out from the record, are that on the intervening night of 28/29.08.2000, Samundar Singh (since deceased) along with Baljeet Singh was sleeping on National Highway No.10 in front of truck bearing No. HR-58-0803, which was parked on the unmetalled portion of the road. At about 3.30 a.m., respondent No.1—Joginder Singh, driver-cum-owner of Tata 407 bearing No. HR-55-2450, came from the Delhi side and, while driving in a rash and negligent manner, hit the parked truck from behind. Due to the impact, the truck struck the cot on which the deceased

was sleeping, resulting in multiple injuries to him. Though he was shifted to the hospital, he succumbed to his injuries. Prior to his death, his statement was recorded, leading to registration of FIR against respondent No.1.

3. The widow and three minor children of the deceased filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, alleging that the accident had occurred solely due to rash and negligent driving of the offending Tata 407 and seeking compensation accordingly.

4. The respondents contested the claim petition.

5. Upon appreciation of the evidence, the learned Tribunal held that both the drivers were negligent in causing the accident. It was observed that the driver of the parked truck had failed to put on the blinker or parking lights, thereby contributing to the accident. The Tribunal apportioned negligence to the extent of 75% upon the driver of the parked truck and 25% upon the driver of the offending Tata 407. The total compensation was assessed at ₹2,30,400/-, but since respondent No.1 was held liable only to the extent of 25%, the claimants were awarded ₹57,600/-.

6. Aggrieved against the aforesaid findings, the present appeal has been filed.

7. Learned counsel for the appellants contends that the Tribunal has erred in attributing a higher degree of negligence to the driver of the parked truck, particularly when it stood proved from the testimony of PW3- Baljeet Singh that the truck was parked on the unmetalled portion of the road. It is further contended that the income of the deceased has been wrongly assessed at a meagre amount and no addition towards future prospects has been made. The multiplier applied is also stated to be incorrect.

8. *Per contra*, learned counsel for the insurance company submits that while the compensation may be reworked in light of the principles laid down in ***National Insurance Company Limited v. Pranay Sethi and others***,

2017 AIR SC 5157, Smt. Sarla Verma and others v. Delhi Transport Corporation and another, 2009 (6) SCC 121 and Magma General Insurance Co. Ltd. v. Nanu Ram @ Chuhru Ram and others, AIR ONLINE 2018 SC 1249, there is no justification for interference with the finding of the Tribunal regarding apportionment of negligence.

9. This Court has considered the rival submissions and carefully examined the record.

10. As regards the issue of negligence, the evidence on record establishes that the truck was indeed parked on the unmetalled portion of the road. However, it has also come in evidence, including from PW5-ASI Bhagwant Singh, that no blinker or parking lights were put on by the driver of the parked truck. Thus, while the driver of the Tata 407 was clearly negligent in not noticing and avoiding the parked vehicle, the driver of the truck also contributed to the accident by failing to take reasonable precautions. In such circumstances, the principle of contributory negligence is attracted. However, the apportionment of 75% negligence upon the driver of the parked truck by the Tribunal appears to be excessive and not in consonance with the evidence on record. A more balanced and just apportionment would be to hold both drivers equally responsible. Accordingly, the liability is re-apportioned in the ratio of 50:50.

11. Coming to the quantum of compensation, there is no reliable evidence regarding the exact income of the deceased. The accident pertains to the year 2000. In such circumstances, it would be appropriate to take the notional income of the deceased in consonance with the minimum wages prevailing at the relevant time. The monthly income is thus assessed at ₹2,000/-, i.e., ₹24,000/- annually.

12. The deceased was about 40 years of age. In view of the law laid down in **Pranay Sethi (supra)**, an addition of 40% towards future prospects is warranted. Accordingly, the annual income after such addition comes to ₹33,600/-.

13. There being four dependents, deduction towards personal and living expenses is to be made to the extent of 1/4th, as per the principles laid down in *Sarla Verma (supra)*. After such deduction, the annual loss of dependency works out to ₹25,200/-.

14. For a person aged 40 years, the appropriate multiplier is 15. Applying the same, the loss of dependency is calculated to be ₹25,200/- × 15 = ₹3,78,000/-.

15. In addition to the loss of dependency, the claimants are entitled to compensation under conventional heads. Considering that the accident occurred in the year 2000, a sum of ₹20,000/- each is awarded to the four claimants towards loss of consortium (spousal and parental), totalling ₹80,000/-. Further, a sum of ₹10,000/- each is awarded towards funeral expenses and loss of estate.

16. Thus, the total compensation is recalculated as under:

- Loss of dependency : ₹3,78,000/-
- Loss of consortium : ₹80,000/-
- Funeral expenses : ₹10,000/-
- Loss of estate : ₹10,000/-
- **Total** : **₹4,78,000/-**

17. Since the liability has been apportioned equally between the two vehicles, the claimants would be entitled to 50% of the aforesaid amount, which comes to ₹2,39,000/-.

18. After deducting the amount of ₹57,600/- already awarded by the Tribunal, the enhanced compensation comes to ₹1,81,400/-.

19. Consequently, the present appeal is partly allowed. The appellants are held entitled to an enhanced compensation of ₹1,81,400/-.

20. The enhanced amount shall be payable jointly and severally by the respondents, along with interest @ 7.5% per annum from the date of

filing of the claim petition till realization. The amount shall be equally apportioned amongst the four appellants, i.e., the widow and three minor children of the deceased.

21. The award of the Tribunal stands modified to the aforesaid extent. Pending applications, if any, shall also stand disposed of.

(DEEPAK GUPTA)
JUDGE

27.03.2026

Vivek

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>

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