



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

FAO-3700-2002

Date of Decision: 16.02.2026

NIRMAL SINGH AND OTHERS

....Appellants

Versus

RANJIT SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Ms. Kawaljit Kaur Dhillon, Advocate
 for the appellants.

 Mr. Neeraj Khanna, Advocate for
 Mr. Ravinder Arora, Advocate
 for respondent No.3.

Parmod Goyal, J. (Oral)

The Appellants-claimants being the parents and minor brothers of deceased-Anil Kumar are aggrieved by dismissal of their claim petition preferred by them on account of death of deceased-Anil Kumar in motor vehicular accident dated 10.02.1999 on account of rash and negligent driving of respondent No.1 while driving private Van bearing registration No.HR-01-F-0915 (hereinafter referred to as 'offending vehicle') vide impugned award dated 14.03.2002 passed by learned Motor Accident Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as '**Tribunal**').

2. It is the case of appellants-claimants that on 10.02.1999, deceased-Anil Kumar along with Om Parkash, Desho and Khasa Ram was returning from Chandigarh to Mandi Gobindgarh after attending a ring

ceremony in private van bearing registration No.HR-01-F-0915 being driven by respondent No.1-Ranjit Singh. Deceased was sitting on front seat besides the driver seat. At about 11:30 PM when they reached near Attawali Octori Post, the driver of the offending vehicle, who was driving the van in a rash and negligent manner, rammed the van in the truck which was moving ahead of offending vehicle. On account of accident, all the four occupants including driver sustained multiple injuries. They were taken to hospital where deceased-Anil Kumar succumbed to his injuries.

3. In order to prove that accident had taken place on account of rash and negligent driving of respondent No.1, appellants-claimants have placed reliance upon AW-2-Harwinder Singh and AW-3-Hazur Singh stating themselves to be eye-witnesses of the accident. It is also not in dispute that FIR No.19 dated 10.02.1999 was registered with Police Station Sirhind District Fatehagarh Sahib, under Sections 279, 337, 338, 304/A against respondent No.1-Ranjit Singh, driver of the offending vehicle on the statement of Om Parkash who happened to be one of the injured occupants of the offending vehicle.

4. The learned Tribunal after appreciating the evidence of AW-2-Harwinder Singh and AW-3-Hazur Singh who happened to be passer-byes had concluded that their evidences are full of contradictions and not reliable. Appellants-claimants were also non-suited on the ground that they have failed to examine any of the injured witnesses who were travelling with deceased in the offending vehicle at the time of accident.

5. Learned Tribunal has also referred to criminal trial against respondent No.1 wherein all the three occupants i.e. Om Parkash, Desho and Khasa Ram had stated that accident was not on account of rash and negligent

driving of respondent No.1 and concluded that the evidence led by appellants-claimants is not sufficient to establish rash and negligent driving of respondent No.1, accordingly had dismissed the claim petition.

6. Learned counsel for the appellants-claimants submits that the evidence of AW-2 & AW-3 is in line with the contents of FIR which was duly lodged on the statement of Om Parkash who has been won over by other side. Learned counsel has further asserted that discrepancies in the evidence of AW-2 and AW-3 are minor. FIR was lodged immediately after the occurrence showing the first version as to how accident took place, on 10.02.1999 itself.

7. On the other hand, learned counsel for respondent No.3 has relied upon conclusions drawn by learned Tribunal and has argued that learned Tribunal has rightly appreciated the evidence of AW-2 and AW-3 while dismissing the claim petition preferred by appellants-claimants.

8. On consideration, I find that learned Tribunal has erred in appreciating evidence of AW-2 and AW-3. Admittedly, the first version of accident had come on record in the shape of FIR No.19 dated 10.02.1999 lodged on the statement of Om Parkash who happens to be one of the injured -eye-witnesses. In FIR, the manner of occurrence of accident is clearly stated by its author Om Parkash by asserting that accident had occurred on account of rash and negligent driving of respondent No.1 who was driving the offending vehicle at high speed. The assertions stated by AW-2 and AW-3 in fact are in line with first version recorded in FIR on 10.02.1999 itself. Both AW-2 and AW-3 have stated that it was respondent No.1 who was driving the van rashly and negligently which caused the accident. No doubt at one place in his cross-examination AW-2 has stated that the van was ahead of

truck and this statement of AW-2 has been taken by learned Tribunal as major contradiction.

9. It is worth noticing that AW-3 as well as version given in FIR, both have consistently stated that offending van rammed in the truck from behind on account of rash and negligent driving of respondent No.1. In chief, AW-2 has also stated that accident had occurred on account of rash and negligent driving of respondent No.1. However, in cross-examination, he stated that van was ahead of truck which seems to be an answer given out of lack of understanding. Moreover, even if the evidence of AW-2 is taken out of consideration even then evidence of AW-3 is sufficient to conclude that it was respondent No.1 who was driving rashly and negligently.

10. The learned Tribunal has erred in disbelieving the presence of AW-2 & AW-3 at the place of accident. Merely because AW-2 and AW-3 were not cited by police as witnesses cannot be a ground to disbelieve their presence. Neither respondent No.1 dared to appear in witness box to deny the manner of occurrence as stated in FIR or as stated by AW-2 and AW-3 nor any of the injured eye-witness was examined by respondents to counter assertions of AW-2 & AW-3 on oath. The evidence of AW-3 is consistent. It is very common that accident is not only by witnessed by people occupying the offending vehicle but also witnessed by people from outside, who may not be traveling in the ill-fated vehicle. Police also joined investigation only of few witnesses which as per its case were best witnesses.

11. Merely because other injured witnesses were not examined and they had not supported the case of appellants-claimants before the criminal Court, cannot be held to be sufficient doubt the testimony of AW-2 and AW-3. It seems that other injured witnesses were won over by respondent No.1

and had not dared to step in to explain the contents of statement made by Om Parkash while lodging FIR. This in fact goes to show that appellants-claimants had no other option but not to rely upon evidence of AW-2 & AW-3 as Om Parkash & others were not available and were won over by respondent No.1. Evidence of AW-3 is consistent and reliable.

12. There is no material to conclude that AW-2 or AW-3 were not present at the time of accident. Standard of proof in motor accident claim cases is preponderance of probabilities. The appellants-claimants are not required to prove their case beyond reasonable doubt. In the present case also if the standard of proof i.e. preponderance of probability is applied in the facts and circumstances of present case, only conclusion which can be arrived is that it was respondent No.1 who was driving the offending vehicle in rash and negligent manner and had caused the accident.

13. Accordingly, finding of learned Tribunal on issue No.1 is set aside. It is held that offending vehicle was being driven rashly and negligently by respondent No.1 and had caused the accident.

14. Appellants-claimants have claimed that deceased was 20 years old and was earning Rs.5,000/- per month by doing tailoring work. However, except for self-serving oral assertions made by AW-1, father of deceased, no cogent evidence to prove pleaded income and vocation of the deceased has been placed on record. In absence of any material, the learned Tribunal has rightly taken notional income of deceased to be Rs.2,200/- per month on the basis of minimum wages payable in 1999 to a skilled worker prevalent at the time of accident.

15. Thereafter, loss of dependency was taken to be Rs.1,80,000/- (Rs.1,500/- x 12 x 10) per annum. However, the awarded amount was not

ordered to be paid in view of findings on issue No.1. As far as income of deceased, age, number of dependents of deceased is concerned, there is no dispute about it.

16. Learned counsel for the appellants-claimants has also fairly accepted that except for oral assertions, there is no other material on record to prove justifying income of deceased to be Rs.5,000/- per month. In view of this fact, income of deceased is taken as Rs.2,200/- per month, who is survived by his parents and minor brothers. However, for the purposes of computing compensation only parents can be considered to be dependents of deceased and accordingly the personal expenses have to be deducted to the extent of 50%.

17. Since, deceased was 20 years old at the time of accident, therefore, appellants-claimants are entitled to future prospects to the extent of 40% and multiplier of ‘18’ in view of judgment of **Sarla Verma Vs. Delhi Transport Corporation**, 2009 Vol.III RCR (Civil) 77 and **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.**, 2017 (16) SCC 680. Appellants-claimants shall be also entitled to compensation of Rs.7,500/- each under the head funeral expenses and loss of estate and Rs.15,000/- each towards filial consortium as deceased is survived by his parents and was unmarried.

18. Accordingly, the compensation granted is as under:-

Income of deceased	Rs.2,200/- per month (as per minimum wages)	Rs.2,200/- per month
Deduction	50% (2200-1100)	Rs.1,100/-
Future Prospects	40% (1100+440)	Rs.1,540/- pm

Multiplier	18	18
Total loss of dependency	Rs.1,540 x 18 x 12	Rs.3,32,640/-
Funeral expenses		Rs.7,500/-
Loss of estate		Rs.7,500/-
Filial consortium to claimant no. 1 & 2	Rs.15,000 x 2	Rs30,000/-
Total Compensation awarded in appeal		Rs.3,77,640/-

19. The appellants-claimants shall also be entitled to interest at the rate of 7.5% per annum on the enhanced amount from the date of filing of the claim petition till realization. Compensation if any awarded under no fault liability, shall be adjusted out of awarded compensation. The apportionment of compensation shall remain the same as determined by the learned Tribunal. All the respondents are liable to pay compensation jointly and severally.
20. Appeal is accordingly allowed.
21. Pending application(s), if any, is/are disposed of accordingly.

16.02.2026
Ravinder

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

:

Yes/No
Yes/No