



FAO-660-2002(O&M)

1

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

(222)

FAO-660-2002(O&M)
Reserved On-14.05.2026
Pronounced On:19.05.2026
Uploaded on: 19.05.2026

Jyoti and Others

... Appellants

Versus

Saroj Devi and Others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Vijay Kumar Goyal, Advocate,
Ms. Arti, Advocate for the appellants No.1 and 2.

Mr. Goyal Mittal, Advocate
for respondent No.5/ Insurance Co.

VIRINDER AGGARWAL, J.

1. The present appeal has been preferred by the claimants challenging award dated 11.10.2001 passed by the learned Motor Accident Claims Tribunal, Sonipat, on account of the death of Aman in a motor vehicular accident.

BACKGROUND FACTS

2. The brief facts of the case are that on 27.02.2000, Aman Panwar along with Raj Singh, Suneet, Sandeep was returning to Sonipat after attending the marriage ceremony of their friend Sunil Sharma in a Maruti car bearing registration No. DL-4CB-4216, driven by Sandeep. When the said car reached near Mahendra Model School on Sonipat Road, Rohtak, at about 8:00 p.m., a TATA-407 bearing registration No. HR-12-GA-0396, driven by respondent No.1 in a rash and negligent manner and at a very high speed, came from the opposite direction and struck against the Maruti car. As a result thereof, the occupants of the car sustained multiple grievous injuries and Aman Panwar



succumbed to the injuries suffered in the accident. FIR No.113 dated 28.02.2000 under Sections 279, 337, 338 and 304-A IPC was registered at Police Station Civil Lines, Rohtak. Thereafter, the legal representatives of deceased Aman Panwar filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation on account of his death. Upon appreciation of the oral as well as documentary evidence available on record, the learned Tribunal held that the accident was the result of contributory negligence of both the drivers, namely the driver of the TATA-407 and the driver of the Maruti car. The learned Tribunal assessed the compensation at Rs.10,44,000/- including funeral expenses and held the respondents liable to the extent of 50%, thereby awarding a sum of Rs.5,22,000/- along with interest in favour of the claimants.

CONTENTIONS

3. Learned counsel for the appellants contends that the learned Tribunal erred in holding the accident to be a case of contributory negligence despite the fact that the FIR was registered against the driver of the offending TATA-407 and the evidence on record clearly established that the accident had occurred due to his rash and negligent driving. It is further submitted that the finding regarding contributory negligence is based merely on conjectures and is liable to be set aside. Counsel further argues that the learned Tribunal has applied a lower multiplier and made excessive deduction towards personal expenses of the deceased, resulting in inadequate compensation. Accordingly, prayer has been made for enhancement of the compensation awarded by the learned Tribunal.

4. Learned counsel for the respondent No.3 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

5. I have heard learned counsel for the parties and perused the entire record with their able assistance.

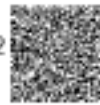
6. Upon appreciation of the evidence available on record, this Court finds no infirmity in the finding recorded by the learned Tribunal that negligence was attributable to the drivers of both the vehicles involved in the occurrence. Significantly, the observations made by the learned Motor Accident Claims Tribunal in paragraph No.19 of the award are as follows:-

19. In para no.24 of the written statement filed on behalf of the respondent no.1, it was averred that the driver of the car bearing no.DL-4CB-4216 was driving the car at a very high speed and in a zig-zag manner because the driver alongwith his friends were in drunken condition and due to intoxication, the driver of the car could not control the car and caused the accident while coming on the wrong side of the road. The driver, namely, Ajit Singh unfortunately had died and therefore, he could not appear in the witness-box. So much so, the criminal proceedings, registered against him for causing the said accident were also cancelled due to his death. In the absence of Sandeep who was driving the car in question, it is very difficult to hold the manner of the accident. The endeavour of this court is, thus, to come to a just conclusion. The claimant, in the case entitled Sobha vs. Ajit Singh and others tried her best to secure the presence of the driver of the car. Diet-money to summon him was also deposited, but he refused to appear. He was also not party in the case in hand. This shows that the claimants aware of the fact that either the car involved in the accident



was not insured or Sandeep who was driving the Maruti was responsible for causing the accident. The accident in question was undoubtedly is a head-on-collision. The accident with the file, though, have not been proved, yet the condition of the car clearly shows that it was a head-on collision. The claimants probably, for this reason, intentionally withheld this material piece of evidence. Even otherwise also, the accident took place on the main road. The condition of the road was also stated to be good as is clear from the site-plan Ex.P.5. Had the driver of the Maruti Car observed little caution and had driven his vehicle at the normal speed, at least a head-on collision could have been avoided. It cannot be expected that the vehicles coming from the opposite direction on a straight road, would collide with each other head on, if the driver of either of the vehicle had been little cautious. It is not the case of the claimants that the driver of the TATA-407 was either drunk or the accident was caused by him in order to avoid any object obstruction. It is also not the case of the claimants that the driver of the TATA-407, in order to avoid a pathole, struck against their vehicle. Merely an averment that the driver of the TATA-407 was responsible in causing the accident, would not come to the rescue of the claimants when the circumstances and the documentary evidence available on the record, speaks otherwise.

7. The learned Tribunal, while deciding Issue No.1, took into consideration the FIR, site plan and the attending facts and circumstances of the case. Though the FIR was registered against the driver of the TATA-407 bearing registration No. HR-12-GA-0396, the learned Tribunal rightly noticed that neither the material eyewitness cited in the FIR, nor Sandeep, driver of the Maruti car bearing registration No. DL-4CB-4216, stepped into the witness box. The



learned Tribunal has rightly drawn an adverse inference against the claimants on account of non-examination of Sandeep, driver of the Maruti car. Had the driver of the Maruti car not been negligent in any manner, he would have entered the witness box and rebutted the allegations regarding his rash and negligent driving. However, neither was he impleaded as a party by the claimants nor did he come forward to depose before the learned Tribunal. The omission on the part of the claimants to implead the driver, owner and insurer of the Maruti car in which deceased was travelling, cannot prejudice the rights of the respondents. Rather, the same fortifies the conclusion drawn by the learned Tribunal regarding negligence attributable to both the drivers. Even in the connected claim petition titled *Shobha Devi vs. Ajit Singh and others*, sincere efforts were made by the claimants to secure the presence of Sandeep, driver of the Maruti car, by depositing diet money and summoning him through process of the Court. However, despite service, he refused to appear before the learned Tribunal and abstained from entering the witness box. The learned Tribunal has specifically noticed this circumstance observed that Sandeep was a material witness to the occurrence, yet deliberately withheld himself from the proceedings. Significantly, he was not even impleaded as a party in the present claim petition. These circumstances, taken cumulatively, clearly justify drawing an adverse inference against the claimants and further strengthen the finding that negligence was attributable not only to the driver of TATA-407 but also to Sandeep, driver of the Maruti car.

8. Further, the site plan Ex.P-5, relied upon by the learned Tribunal, clearly revealed that the accident in question had taken place at point 'A'. Mark 'B' represented the place where the Maruti car was found stationed after the accident, whereas mark 'C' denoted the place where the TATA-407 ultimately



came to rest in a damaged condition. The site plan further reflected that the distance between points 'A' and 'B' was approximately 10 paces and the distance between points 'B' and 'C' was approximately 20 paces, thereby showing that the distance between points 'A' and 'C' was approximately 30 paces. Thus, after the impact at point 'A', the TATA-407 had travelled nearly 30 paces and had dragged the Maruti car for about 10 paces before the vehicles finally came to a halt. The learned Tribunal rightly observed that had the driver of the Maruti car driven the vehicle at a slow and normal speed while exercising ordinary caution, the impact and its consequences could have been avoided or substantially minimized. At the same time, the fact that the TATA-407 continued to travel a considerable distance even after the collision clearly indicated that it too was being driven at a very high speed. Further, the learned Tribunal noticed that the accident had occurred on a straight road and the condition of the road was normal, yet both the vehicles collided head-on, which unmistakably pointed towards rashness, negligence and lack of due care on the part of both the drivers. The collision was admittedly head-on in nature and both the vehicles had sustained substantial damage. These physical features reflected in the site plan Ex.P-5 clearly established negligent driving on the part of both the drivers involved in the occurrence.

9. Moreover, this court finds that the findings recorded by the learned Tribunal show that the claimants deliberately withheld the best possible evidence by not examining Sandeep, driver of the Maruti car, though he was a material witness and best witness, as driver of TATA 407 died in the accident to the occurrence. It also observed that the claimants failed to implead the driver and owner of the Maruti car despite allegations regarding negligent driving against him having been specifically raised in the written statement filed by



respondent No.1. Thus, the learned Tribunal rightly concluded that negligence was attributable to both the drivers, namely Ajit Singh, driver of TATA-407 bearing registration No. HR-12-GA-0396, and Sandeep, driver of Maruti car bearing registration No. DL-4CB-4216. The said finding is based upon proper appreciation of oral as well as documentary evidence and does not call for interference. Consequently, the learned Tribunal also rightly apportioned negligence and liability of the driver of the TATA-407 to the extent of 50%.

10. However, despite correctly holding that both the drivers were negligent, the learned Tribunal fell into an error in treating the present case as one of contributory negligence. The distinction between contributory negligence and composite negligence has been clearly explained by the Hon'ble Supreme Court in *T.O. Anthony v. Karvarnan*, 2008 (3) SCC 748. The Hon'ble Supreme Court has held that in a case of **composite negligence**, where the injury or death is caused due to negligence of two or more wrongdoers, each wrongdoer becomes jointly and severally liable for the entire compensation and the claimant is entitled to recover the whole compensation from any of them. It has further been clarified that **contributory negligence** arises only where the injured or deceased **himself contributes** towards the occurrence by his own negligence. The Apex Court specifically observed that in an accident involving two or more vehicles, where a third party or passenger claims compensation, the case is one of the **composite negligence**, whereas **contributory negligence** would arise where the claim is by one of the drivers himself or his legal representatives.

11. In the present case, deceased Aman Panwar was merely travelling as an occupant/passenger in the Maruti car and was neither driving the vehicle nor exercising any control over either of the vehicles involved in the occurrence.



There is no evidence whatsoever on record to indicate that the deceased had contributed in any manner towards the accident. Consequently, though the learned Tribunal has rightly held both the drivers negligent, the present case would squarely fall within the ambit of **composite negligence** and **not contributory negligence**. The apportionment of negligence to the extent of 50% each, as recorded by the learned Tribunal, would therefore operate only for determining the inter se liability between the joint tortfeasors.

12. The evidence available on record, particularly the site plan Ex.P-5, the nature of the head-on collision, the extent of damage suffered by both the vehicles and the attending circumstances noticed by the learned Tribunal, clearly establish that Sandeep, driver of the Maruti car, was also rash and negligent in driving the vehicle and was equally responsible for the occurrence along with the driver of TATA-407. Since the driver, owner and insurer of Maruti Car were not impleaded in claim petition by claimants. It would not be possible for respondents to recover compensation from them. So, the learned Tribunal has rightly fixed the liability of respondents only upto 50% of compensation payable. Accordingly, the finding recorded by the learned Tribunal apportioning negligence between both the vehicles in equal proportion calls for no interference and is hereby **affirmed**.

(b) COMPENSATION

13. Having affirmed the findings recorded by the learned Tribunal with regard to negligence and apportionment of liability, the core issue which now arises for consideration in the present appeal pertains to the reassessment of the quantum of compensation awarded to the claimants.

14. Compensation requires reassessment strictly in terms of the principles



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, calls 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	Award by Tribunal (₹)	Reassessed Award (₹)
Monthly Income (Ex. P1)	8,000/-	8,000/-
Income With Future Prospects (50%)	x	12,000/- (8,000 + 4,000)
After Deduction (5 Dependents)	5,333/- \\(1/3rd for personal expense)	9,000/- (1/4th for personal expense)
Annual Contribution To Family	64,000 (5,333 x 12)	1,08,000/- (9,000 x 12)
Multiplier (age 27 yrs)	16	17
Loss Of Dependency	10,24,000 (64,000 x 12)	18,36,000/- (1,08,000 × 17)
Spousal Consortium	x	40,000/-
Parental Consortium	x	80,000/-
Filial Consortium	x	80,000/-
Funeral Expenses	20,000/-	15,000/-
Loss Of Estate	x	15,000/-
Total	10,44,000/-	₹20,66,000/-



15. Resultantly, the compensation awarded by the learned Tribunal is enhanced from ₹10,44,000/- to ₹20,66,000/-. The enhanced amount shall carry interest at the rate of 7% per annum from the date of filing of the claim petition till realization. Respondent No.1 (driver-cum-owner Ajit Singh) along with the Insurance Company of the TATA-407 are held jointly and severally liable to pay 50% of the enhanced compensation to the claimants.

16. Accordingly, the appeal is 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.

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

19.05.2026
Poonam

(VIRINDER AGGARWAL)
JUDGE

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