272

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3005-2019 (O&M)
Date of Decision : 24.02.2026

Manpreet ... Appellant

Versus

Sonu Panchal and Others ... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Maneet Kaushik, Advocate for
Mr. Ashit Malik, Advocate for the appellant.

Mr. Rahul Pathania, Advocate for respondent No.3.

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as 'Tribunal') vide the impugned award dated 07.12.2018 on account of death of Monika (minor child) (hereinafter referred to as the 'deceased') in a motor vehicle accident which occurred on 23.04.2017.

2. The brief facts relevant to the present *lis* are that on 23.04.2017 the deceased was going from Cheeka towards village Tatiana on motorcycle bearing registration No.HR-09C-9817, which was being driven by Satpal and one Laxmi Devi was also a pillion rider. Satpal was riding the motorcycle at a moderate speed and on the correct side of the road. When they reached near Kamboj Filling Station, a car bearing registration No.HR-12Y-9547, which

was being driven by respondent No.1 herein in a rash and negligent manner and at a high speed, hit the motorcycle by coming on the right side of the road. As a result of the accident, all the occupants of the motorcycle fell on the road and received multiple serious injuries. They were taken to CHC Guhla where the deceased was declared 'dead' whereas Satpal and Laxmi were referred to Rajindra Hospital, Patiala. FIR No.69 dated 23.04.2017 under Sections 279, 337 and 304-A of the Indian Penal Code, 1860 was registered against the respondent No.1 at Police Station Cheeka, Kaithal.

3. The Tribunal held it to be a case of contributory negligence and awarded a lump sum amount of ₹2,75,000/- and by deducting 40% towards contributory negligence awarded an amount of ₹1,65,000/- alongwith interest @ 9%.

4. Learned counsel for the claimant-appellant would contend that the Tribunal wrongly held it to be a case of contributory negligence in the absence of any issue having been framed. It is further the contention that no evidence was led by the Insurance Company and even the driver of the offending vehicle did not step into the witness-box. Only on the basis of site plan (Ex.R5) of the place of accident, it has been held to be a case of contributory negligence. Learned counsel for the claimant-appellant has further contended that the site plan (Ex.R5) was not proved in accordance with law and was only tendered by the Insurance Company. It is further the contention that the Tribunal has only awarded a lump sum amount of ₹2,75,000/- towards compensation. The deceased in the present case was a minor child of 04 years, hence, her income ought to have been assessed as per the minimum wage of a skilled worker. It is further the contention of the learned counsel for the claimant-appellant that the Tribunal has also not

applied any deduction, multiplier or made any addition towards loss of future prospects. Learned counsel for the claimant-appellant further states that the Tribunal has also not awarded any compensation under the conventional heads as well as under the head 'loss of consortium'. In support of his contentions, the learned counsel for the claimant-appellant has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121], National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**.

5. *Per contra* learned counsel for respondent No.3 would contend that it is a clear case of contributory negligence as the accident happened when the deceased, who was a rider of the motorcycle, was trying to overtake a truck. It is further the contention that sufficient amount has already been awarded as compensation in the present case and that there is no scope of any enhancement.

6. Heard.

7. In the present case the Tribunal held it to be a case contributory negligence on the basis of a site plan (Ex.R5) which was merely tendered in evidence. None appeared into the witness-box to prove the said site plan. There was neither any issue framed nor any evidence led by the Insurance Company to prove that it was a case of contributory negligence. The driver of the offending vehicle also did not step into the witness-box. Hon'ble Supreme Court in the case of **M. Nithya & Ors. Vs. SBI General Insurance**

Company Limited [SLP(Civil) Nos.833-834 of 2023 decided on 03.01.2025] held as under :

> *"7. It is pertinent to observe that the Tribunal noted that the Insurance Company in their Counter contend that contributary negligence of the part of the deceased has to be fixed. However, the Tribunal did not frame any specific issue in that regard for determination. The Tribunal clearly finds negligence only on part of the driver of the lorry and therefore, the owner of the lorry and the Insurance Company which insured the said lorry are jointly and severally found liable to pay compensation. Therefore, when the Tribunal did not even frame an issue on contributary negligence, the High Court ought not to have considered that argument in order to reduce the compensation awarded. Even otherwise the Insurance Company did not lead any evidence on this aspect nor insisted for framing an issue. Merely making a bald assertion in their Counter Affidavit cannot derive any advantage. Hence, we are in agreement with the findings of the Tribunal that the accident took place only due to the negligence of the driver of the lorry and therefore, the contributary negligence awarded on part of the deceased by the High Court suffers from an error and cannot be sustained."*

8. In the present case, admittedly, neither any evidence was led by the Insurance Company regarding contributory negligence nor any issue was

framed in this regard. In the absence of any evidence having been produced by the Insurance Company or without any issue having been framed in this regard, no finding qua contributory negligence could have been returned.

9. In view of the facts as noticed above and the law laid down by the Hon'ble Supreme Court in the case of **M. Nithya** (supra), the finding qua contributory negligence cannot be sustained and the same is accordingly set aside.

10. Admittedly, no appeal has been preferred by the Insurance Company. In the present case the deceased was a minor child of 04 years of age. The Tribunal has awarded a lump sum compensation of ₹2,75,000/- which in the opinion of this Court is erroneous inasmuch as admittedly the deceased was a minor child of 04 years of age, hence, her income ought to have been assessed as per the minimum wage as applicable to a skilled worker. Hon'ble Supreme Court in the case of **Karuna Parmar vs. Prakash Sinha & Ors. [2025 (1) TAC 730 = 2025 INSC 1244]**, while relying on **Baby Sakshi Greola vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]**, awarded the compensation in the case of a 6 years' old child who had died in an accident which occurred on 07.03.2014 as per the minimum wages applicable for a skilled worker in the year 2014.

11. In a recent judgment the Hon'ble Supreme Court in the case of **Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari & Anr. [2025 (4) ACJ (SC) 36 = 2025 INSC 1070]** has held as under :

> *"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into*

> *account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in Kajal Vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27], and of Baby Sakshi Greola Vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]."*

12. Their Lordships in the above referred cases applied a multiplier of '18' besides granting future prospects and compensation under the other heads. Taking a cue from the afore-referred judgments, this Court deems it appropriate to assess the income as per the minimum wage for a skilled worker as applicable in April 2017 as the accident took place on 23.04.2017. The minimum wage prevailing in Haryana in April 2017 was ₹10,064/- per month. Hence, the income of the deceased is assessed as ₹10,100/- per month rounded off.

13. Since no addition has been made towards future prospects, an

addition of 40% ought to have been applied. Further, keeping in view the age of the child, 50% deduction would be applicable as held by the Hon'ble Supreme Court in the cases of **Bishnupriya Panda vs. Basanti Manjari Mohanty & Anr. [2023(4) TAC 44]** and **Kandasami & Ors. vs. Lindabriyal & Anr. [2023(3) TAC 30]**. Further, no amount has been awarded under the conventional heads as well as under the head 'loss of consortium'. Hence, as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), hence, the claimant would be entitled to ₹18,000/- (₹15,000+20% increase) towards loss of estate and ₹18,000/- (₹15,000+20% increase) towards funeral expenses as also to ₹48,000/- each (₹40,000+20% increase) towards loss of consortium. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1	Monthly Income	₹10,100/-
2	Annual Income	₹1,21,200/- [₹10,100 x 12]
3	Deduction - 50%	₹60,600/- [₹1,21,200 - ₹60,600]
4	Future Prospects - 40%	₹84,840/- [₹60,600 + ₹24,240]
5	Multiplier - 18	₹15,27,120/- [₹84,840 x 18]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Filial [₹48,000/- x 1]	₹48,000/- (Total ₹48,000/-)
	Total Compensation	**₹16,11,120/-**

14. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

15. In view of the decision by the Hon'ble Supreme Court in

Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 SC 1713 = 2025 SCC OnLine SC 567], after calculation of the enhanced amount, the same be transferred by the Insurance Company in the bank account(s) of the claimant within six weeks from today. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimant-appellant to the Insurance company within a period of two weeks from the date of this order and needful shall be done by the Insurance Company after verification thereof within four weeks thereafter alongwith up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

16. In view of the above discussion, the award passed by the Tribunal is modified and the present appeal stands allowed accordingly. Pending applications, if any, also stand disposed off.

24.02.2026 **(ALKA SARIN)**
jk **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO