



272-2

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**FAO-4224-2019 (O&M)****Date of Decision : 24.02.2026**

Surinder @ Sunil and Another

... Appellants

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 appellants.

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

ALKA SARIN, J. (Oral)

1. Present appeal has been preferred by the claimant-appellants 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 Laxmi Devi (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 a motorcycle bearing registration No.HR-09C-9817. Satpal was riding the motorcycle at a moderate speed and on correct side of the road and Monika was also a pillion rider. 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 Monika (minor child) was declared ‘dead’ whereas the deceased and Satpal were referred to Rajindra Hospital, Patiala. However, Satpal succumbed to his injuries on the way while the deceased in the present case died on 25.04.2017. 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 in the present case had awarded the following compensation holding it to be a case of contributory negligence to the extent of 40% :

Sr.No.	Heads	Compensation Awarded
1	Monthly Income	₹9,000/-
2	Annual Income	₹1,08,000/- [₹9,000 x 12]
3	Multiplier - 18	₹19,44,000/- [₹1,08,000 x 18]
4	Loss of estate	₹15,000/-
5	Funeral expenses	₹15,000/-
6	Loss of consortium	₹40,000/-
	Total Compensation	₹20,14,000/-
	Actual compensation after deducting 40% towards contributory negligence	₹12,08,400/-
	Interest	9% per annum

4. Learned counsel for the claimant-appellants 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 in the witness-box. Only on the basis of the site

plan (Ex.R5) it has been held to be a case of contributory negligence. Learned counsel for the claimant-appellants has further contended that the site plan (Ex.R5) was not proved in accordance with law and was only tendered by the Insurance Company. Even otherwise, the deceased in the present case was a pillion rider. It is further the contention that the deceased in the present case was a homemaker and the Tribunal has assessed her notional income as ₹9,000/- per month which is on the lower side inasmuch as at the relevant point of time the minimum wages for an unskilled worker were also more than the income assessed by the Tribunal. It is further contended that the income of the deceased ought to have been assessed as per the minimum wages applicable to a skilled worker at the relevant point of time. Learned counsel for the claimant-appellants would contend that the Tribunal has not applied a multiplier which, as per age of the deceased who was 23 years of age, ought to have been '18'. It is further the contention that the Tribunal has not made any addition towards loss of future prospects. Further, the compensation awarded by the Tribunal under the conventional heads as well as under the head 'loss of consortium' is also not in consonance with the law laid down by Hon'ble Supreme Court. In support of his contention, learned counsel for the claimant-appellants has relied upon judgments of the Hon'ble Supreme Court in the cases of **Kirti & Anr. vs. Oriental Insurance Company Ltd. [2021 (1) RCR (Civil) 478]**, **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 Satpal, who was the 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 in 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 contributory 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 contributory 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 contributory 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. Moreover, the deceased in the present case was a pillion rider on the motorcycle and cannot be held to be have contributed to the accident in any manner. In the absence of any evidence having been produced by the Insurance Company or without there being 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. The argument of the learned counsel for the claimant-appellants that the income of the deceased, who was a homemaker, ought to have been assessed as per the minimum wages applicable to a skilled worker at the

relevant point of time, deserves to be accepted. In the case of **Kirti** (supra), the Hon'ble Supreme Court, while emphasizing upon the contribution made by a homemaker and the services rendered by a woman in a household, observed that there can be no exact calculation or formula that can ascertain the actual value provided by a homemaker gratuitously. In order to streamline the calculation of notional income for homemakers and the grant of future prospects with respect to them for the purposes of assessing the compensation, the following principles were laid by the Hon'ble Supreme Court :

“42. Therefore, on the basis of the above, certain general observations can be made regarding the issue of calculation of notional income for homemakers and the grant of future prospects with respect to them, for the purposes of grant of compensation which can be summarized as follows:

- a. Grant of compensation, on a pecuniary basis, with respect to a homemaker, is a settled proposition of law.*
- b. Taking into account the gendered nature of housework, with an overwhelming percentage of women being engaged in the same as compared to men, the fixing of notional income of a homemaker attains special significance. It becomes a recognition of the work, labour and sacrifices of homemakers and a reflection of changing attitudes. It is also in furtherance of our nation's international law obligations and our constitutional vision of social equality and ensuring dignity to all.*

c. *Various methods can be employed by the Court to fix the notional income of a homemaker, depending on the facts and circumstances of the case.*

d. *The Court should ensure while choosing the method, and fixing the notional income, that the same is just in the facts and circumstances of the particular case, neither assessing the compensation too conservatively, nor too liberally.*

e. *The granting of future prospects, on the notional income calculated in such cases, is a component of just compensation.”*

11. In the present case, considering the extensive contribution of the deceased in the household and in the absence of any evidence regarding her exact income, this Court deems it appropriate to assess the income of the deceased as per the minimum wages applicable to a skilled worker at the relevant point of time, which were ₹10,064/- per month. Accordingly, the income of the deceased is assessed as ₹10,100/- per month rounded off.

12. In the present case the Tribunal has not applied any deduction towards personal expenses of the deceased. There are two claimants in the present case hence, as per law laid down by Hon’ble Supreme Court in case of **Sarla Verma** (*supra*), a deduction of 1/3rd would be applicable.

13. The Tribunal has also not applied any multiplier. The deceased in the present case was 23 years of age hence, as per the law laid down by Hon’ble Supreme Court in case of **Sarla Verma** (*supra*), a multiplier of ‘18’ would be applicable.

14. Further, the Tribunal has not made any addition towards loss of future prospects, which ought to have been made in view of the law laid down by Hon’ble Supreme Court in the case of **Kirti** (*supra*). Since the deceased was 23 years of age at the time of accident, an addition of 40% would be applicable towards loss of future prospects as per the law laid down by Hon’ble Supreme Court in the case of **Pranay Sethi** (*supra*).

15. Further, the amounts awarded under the conventional heads as well as under the head ‘loss of consortium’ are not 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-appellants 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 spousal and parental 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 - 1/3rd	₹80,800/- [₹1,21,200 - ₹40,400]
4	Future Prospects - 40%	₹1,13,120/- [₹80,800 + ₹32,320]
5	Multiplier - 18	₹20,36,160/- [₹1,13,120 x 18]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 1] (ii) Spousal	₹48,000/- ₹48,000/- (Total ₹96,000/-)
	Total Compensation	₹21,68,160/-

16. 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.

17. 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 claimants within six weeks from today and the apportionment thereof shall be as per the percentage directed by the Tribunal and the share of the minor claimants (appellant No.2 herein) shall be kept in fixed deposits by the Bank concerned. The particulars of the bank account(s) alongwith the requisite documents(s) in support thereof shall be furnished by the claimant-appellants 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.

18. 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
jk

(ALKA SARIN)
JUDGE

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