



272-1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**FAO-3006-2019 (O&M)****Date of Decision : 24.02.2026**

Manpreet and Others

... 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 Satpal (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 on which Laxmi Devi and a minor child, namely, Monika were pillion riders. The deceased was riding the motorcycle at a moderate speed and on correct side of the road. When the deceased 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 of the deceased by coming on the right side of the road. As a result of the accident, the deceased alongwith Laxmi and Monika 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 Laxmi were referred to Rajindra Hospital, Patiala. However, the deceased succumbed to his injuries. 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	Future Prospects - 40%	₹1,51,200/- [₹1,08,000 + ₹43,200]
4	Deduction - 1/3rd	₹1,00,800/- [₹1,51,200 - ₹50,400]
5	Multiplier - 18	₹18,14,400/- [₹1,00,800 x 18]
6	Loss of estate	₹15,000/-
7	Funeral expenses	₹15,000/-
8	Loss of consortium	₹40,000/-
	Total Compensation	₹18,84,400/-
	Actual compensation after deducting 40% towards contributory negligence	₹11,30,640/-
	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 into 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 the law and was only tendered by the Insurance Company. It is further the contention that he does not challenge the income, deduction, multiplier and the future prospects as assessed by the Tribunal however the compensation awarded under the conventional heads as well as under the head 'loss of consortium' is not in accordance with the law laid down by the Hon'ble Supreme Court in cases of **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. Chola mandalam 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. 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 Hon’ble Supreme Court in 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, since no challenge has been laid by the learned counsel for the claimant-appellants to the income, deduction, multiplier and the future prospects as applied by the Tribunal, the same are maintained accordingly.

11. The argument of learned counsel for the claimant-appellants that the compensation awarded by the Tribunal under the conventional heads as well as under the head ‘loss of consortium’ is not in consonance with the law laid down by Hon’ble Supreme Court, deserves to be accepted. 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), the claimants 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	₹9,000/-
2	Annual Income	₹1,08,000/- [₹9,000 x 12]
3	Deduction - 1/3rd	₹72,000/- [₹1,08,000 - ₹36,000]
4	Future Prospects - 40%	₹1,00,800/- [₹72,000 + ₹28,800]
5	Multiplier - 18	₹18,14,400/- [₹1,00,800 x 18]
6	Loss of estate	₹18,000/-
7	Funeral expenses	₹18,000/-
8	Loss of consortium (i) Parental [₹48,000/- x 1] (ii) Filial [₹48,000/- x 2] (iii) Spousal	₹48,000/- ₹96,000/- ₹48,000/- (Total ₹1,92,000/-)
	Total Compensation	₹20,42,400/-

12. 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.

13. 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.

14. 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