



FAO-1675-2005

-1-

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

229

FAO-1675-2005

Date of decision :10.03.2026

PIRTHI SINGH AND ANR.

... APPELLANTS

VERSUS

MANJEET SINGH & ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Devinder Kaliraman, Advocate for
Mr. Jitender Nara, Advocate
for the appellants.

Mr. Rajneesh Malhotra, Advocate and
Ms. Manvi Verma, Advocate
for the respondent-Insurance Company.

PARMOD GOYAL, J. (ORAL)

1. Claimants-appellants have preferred the present appeal being wife, parents and minor sons of the deceased Mahabir Singh (hereinafter referred to as the “Deceased”), who died in a road accident which took place on 15.03.2000, on account of rash and negligent driving by respondent No. 1 while driving jeep bearing registration No. HR-19-8814.

2. Being aggrieved by the impugned award dated 18.12.2004 passed by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as “Tribunal”), vide which the claimants-appellants were found entitled to total



compensation of Rs.2,71,000/-. The claimants-appellants are seeking enhancement of compensation awarded by the Tribunal as the same is not according to their entitlement.

3. The Tribunal in the present case had awarded the following compensation:

Monthly Income	Rs.2,000/-
Deduction	1/3 rd
Multiplier	16
Loss of consortium to claimant No. 3	Rs. 5,000/-
Funeral expenses	Rs. 10,000/-
Total compensation	Rs. 2,71,000/-

4. Appellants-claimants have challenged not only the quantum of compensation awarded by the learned Tribunal but have also assailed the finding of contributory negligence recorded by the Tribunal on the part of the deceased. Admittedly, the deceased was not the driver of the jeep in which he was travelling. The driver of the jeep was not impleaded as a party in the present case. The finding of contributory negligence has been recorded by the learned Tribunal only on account of the fact that the deceased was travelling on the roof of the jeep.

5. However, upon consideration, I do not find any reason to justify the finding of the learned Tribunal that the deceased had contributed to causing the accident.



6. Contributory negligence and composite negligence are two distinct concepts. A finding of contributory negligence can only be recorded when the person whose negligence is alleged has himself contributed to the accident by some act of commission or omission. In the present case, the deceased was neither driving the offending vehicle nor the jeep. He was merely sitting on the roof of the jeep.

7. The argument raised on behalf of the Insurance Company that the deceased was himself at fault as he was travelling in violation of the provisions of the Motor Vehicles Act and, therefore, is not entitled to compensation as by sitting on the roof he had contributed to the accident, is without merit. The negligence, if any, was on the part of the driver of the jeep who allowed the deceased to sit on the roof.

8. At the most, the present case could be considered as one of composite negligence, i.e., negligence on the part of the driver of the offending vehicle as well as the driver of the jeep in which the deceased was travelling. However, in the facts and circumstances of the present case, this Court cannot record such a finding in the absence of the owner and driver of the jeep as parties to the proceedings.

9. Accordingly, since the deceased has not contributed to causing the accident, he cannot be held liable on account of contributory negligence. The claimants shall, therefore, be entitled to full compensation. It is held that the accident had taken place due to rash and negligent driving on the part of the driver of the offending vehicle. However, it is made clear that the Insurance Company shall be at liberty to initiate appropriate proceedings against the driver of the jeep and establish that the present case was one of composite negligence



and recover the share, if any, attributable to the jeep driver.

10. Appellants have also sought enhancement of compensation on the ground that income of deceased was not correctly taken by learned Tribunal and future prospects were not added. That deduction was wrongly applied in view of number of dependents. Award of multiplier of ‘16’ by learned Tribunal is also under challenge. Appellants have also sought appropriate compensation for loss of estate, funeral expenses and loss of consortium.

11. In absence of any evidence the income taken by the learned Tribunal, on the basis of minimum wages is maintained. Accordingly, the income of the deceased is taken as Rs. 2,000/- per month. The appellants-claimants shall be entitled to future prospects to the extent of 40%. Keeping in view the age of the deceased as 22 years, multiplier of ‘18’ would be appropriate for the purposes of determining loss of dependency as per the judgment of Hon’ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009 (2) SCC (Civil) 770. Since deceased is survived by five dependents i.e. wife, parents and two minor children, deduction of 1/4th ought to be taken towards loss of dependency. Appellants-claimants shall also be entitled to Rs.7,500/- each under the head loss of estate, funeral expenses and Rs. 15,000/- each under the head spousal, parental and filial consortium.

12. Accordingly, the reworked compensation to which the claimants—appellants are entitled to is as under:

Income	Rs.2,000/- per month	Rs 2,000/- per month
Future Prospects	40% (2000+800)	Rs.2,800 /-



Deduction	1/4 th (2800-700)	Rs.2,100/-
Multiplier	18	18
Total loss of dependency	Rs.2,100x12x18	Rs.4,53,600/-
Loss of Estate		Rs. 7,500/-
Funeral Expenses		Rs. 7,500/-
Loss of filial Consortium to claimant No. 1 and 2	Rs. 15,000 x 2	Rs. 30,000/-
Loss of spousal consortium to claimant no. 3.		Rs. 15,000/-
Loss of parental consortium to claimant No. 4 and 5	Rs 15,000/- x 2	Rs. 30,000/-
Total Compensation awarded in appeal		Rs.5,43,600/-
Total Compensation awarded by the Tribunal	Rs. 2,71,000/-	
Enhanced amount of compensation	Rs.5,43,600/- (as awarded in appeal) – Rs.2,71,000/- (as awarded by the Tribunal)	Rs.2,72,600/-

13. The appellants 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 its realization. The apportionment and liability to pay the compensation shall be determined by the learned Tribunal.



FAO-1675-2005 -6-

- 14. The appeal is accordingly allowed.
- 15. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

10.03.2026
manoj

(PARMOD GOYAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No