



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

(i) FAO-33-2008 (O&M)

Sarla and others

...Appellant

VERSUS

Ram Niwas and another

...Respondents

(ii) FAO-845-2008 (O&M)

Rajasthan Road Transport Corporation

...Appellant

VERSUS

Sarla and others

...Respondents

Date of Decision: February 13, 2026

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.D.R.Bansal, Advocate
 for the appellants (in FAO-33-2008) and
 for respondents No.1 to 3 in (in FAO-845-2008).

Mr.Anil Kumar Gehlawat, Advocate
for respondent No.2 (in FAO-33-2008) and
for the appellant (in FAO-845-2008).

ARCHANA PURI, J.

These are cross appeals filed by both the parties to assail the
Award dated 18.10.2007 passed by learned Motor Accident Claims
Tribunal, whereby, compensation was awarded, on account of death of Ajit
Kumar, in a motor vehicular accident.

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FAO-33-2008 has been filed by the appellants-claimants, thereby, seeking enhancement of the compensation and to assail the apportionment of blameworthiness, as worked upon by learned Tribunal and reduction of the compensation, on this account, whereas, **FAO-845-2008** has been filed by the Rajasthan Road Transport Corporation, to assail the factum of taking place of the accident and the manner of apportionment of blameworthiness.

Before proceeding further, it is pertinent to mention that the present case relates to the fire incident, which took place in the High Court premises in the year 2011 and the record, as such, has been destroyed. Before making submissions, some part of the record of the Tribunal has been re-constructed, as the same has been provided by counsel for the claimants. Anyhow, counsel for the parties have made statement that they have no objection, if the appeal is decided, on the basis of the pleadings and evidence, available on record.

For the convenience of discussion, the parties are referred to as making appearance before learned Tribunal.

The facts germane, to be noticed, are as follows:-

That, on 07.09.2006, Ajit Kumar was coming from Nimrana to New Delhi, after performing his duties assigned by his employer, while travelling in car bearing registration No.RJ-14-7C-6591. When the car reached near Foladpur turning, on National Highway No.8, a bus bearing registration No.RJ-14PA-3425, belonging to Rajasthan Road Transport Corporation, which was driven in a rash and negligent manner and also at a high speed, came from the Delhi side. Respondent No.1-Ram Niwas was driving the aforesaid bus. He took the bus towards wrong side of the road and hit the

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same into the car bearing registration No.RJ-14-7C-6591, which was crushed under the bus. All the four occupants of the car had died. The accident was witnessed by Satbir s/o Hoshiar Singh Yadav. Ajit Kumar, being occupant of the said car, had also died, on account of injuries sustained in the accident in question.

In reply, though respondents admitted about taking place of the accident, but however, denied about the manner of taking place of the same. In fact, they had asserted that the accident had taken place, due to rash and negligent driving of the driver of the aforesaid car, who had lost control over his car, due to sudden appearance of a dog.

Issues were framed and evidence was adduced by the parties.

On appraisal of the evidence, brought on record, learned Tribunal had concluded about the accident, having taken place and involvement of both car as well as the bus, in the same. However, the blameworthiness was apportioned, to the extent of 30%, on the driver of the car and to the extent of 70%, on the driver of the bus in question.

Further, on appraisal of the evidence, brought on record, learned Tribunal had concluded about deceased Ajit Kumar to be 28 years old, at the time of accident. Even though, as per the version of the claimants about the deceased to be working as Draftsman with M/s Rollcon Engineers, PW-3 R.P.Mehta, has been examined, who deposed about the deceased to be employee of M/s Rollcon Engineers and he was working as Draftsman and asserted about his salary to be Rs.84,000/- per annum, but however, learned Tribunal, while considering the service of the deceased to be a contractual job, had taken the earnings of the deceased as Rs.6000/- per month.

Taking it to be so, the compensation worked on by learned Tribunal,



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is now reproduced in tabular form:-

Earnings	Rs.6000/- per month
Deduction of 1/3rd	Rs.6000-2000=Rs.4000/- annual whereof is Rs.48,000/-
Multiplier of '16'	Rs.48000x16=Rs.7,68,000/-
Loss of consortium to claimant No.1	Rs.20,000/-
Funeral and last rites expenses to claimant No.1	Rs.20,000/-

The compensation was wrongly worked upon as Rs.7,98,000/-, though, the total of the amount, so awarded on various counts, comes to be Rs.8,08,000/-. Even, learned Tribunal had held that it was a case of contributory negligence of both the vehicles, involved in the accident. 30% blameworthiness was apportioned upon the driver of the car and 70% blameworthiness was apportioned upon the driver of the bus. Thus, considering the extent of contributory negligence of the driver of the car also, respondents No.1 and 2, who are owner and driver of the bus, were held liable to pay, only to the extent of 70% of the adjudicated amount of compensation.

On the basis of the evidence, brought on record, the factum of the accident, though stands established, but however, the blameworthiness as worked upon by learned Tribunal and denial of compensation to the appellants-claimants, on this count, is palpably erroneous. Not only this, the 'work on' of the compensation, also calls for re-computation, as per prevalent law.

So far as, the factum of accident is concerned, suffice to make mention that it stands amply established from the evidence, brought on record, while considering the statement of Satbir Yadav PW-2, who is an eye witness to the accident and who is also author of the FIR. His

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testimony, as such, has been reproduced in detail in paragraph No.10 of the impugned Award. Not only this, even testimony of RW-1, who was the driver of the bus in question has also been reproduced in paragraph No.11 of the impugned Award.

However, it is pertinent to mention that learned Tribunal, out of the blue, had solely considered about the site plan Ex.PD, though, there is no mention made about the manner of proof of said site plan, but probably it relates to the criminal case, qua the accident in question. Taking it to be so, learned Tribunal had made presumptuous observations, with regard to manner, in which the accident had taken place, in view of the marginal notes of the site plan. However, the site plan Ex.PD is not available now. Considering it to be so, it is difficult to conclude about the extent of blameworthiness of the bus as well as the car. In the given circumstances, the apportionment of blameworthiness, as done by learned Tribunal, is required to be maintained as it is.

Even, if it be so, then also, the manner, in which the compensation worked upon, has been denied to the claimants, is palpably erroneous.

Suffice to consider that there are two vehicles involved in the accident, i.e. a car and a bus. Undisputedly, at the time of taking place of the accident, deceased Ajit Kumar was one of the occupants of the car. He was neither the driver, nor the owner of the car in question. Such being the factual position, suffice to consider that so far as the deceased is concerned, he being occupant of the car, had no role to play in taking place of the accident. At the maximum, it is a case of composite negligence and not of the contributory negligence, vis-a-vis, death of Ajit Kumar and therefore, no blameworthiness, as such, could be fastened upon Ajit Kumar, being co-

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passenger of the car in question.

That being so, the claimants, who are the widow and children of the deceased, as such, cannot be denied of the compensation to be awarded qua death of Ajit Kumar.

Very true, owner, driver of the car bearing registration No.RJ-14-7C-6591 as well as insurer, if any, have not been impleaded as party, in the present case. Since, there are two vehicles involved, therefore, it is a case of composite negligence. In such cases, the claimants are entitled to sue, both or any one of the joint tortfeasors and to recover the entire compensation, as liability of the joint tortfeasors, is joint and several. However, the apportionment of the compensation between the tortfeasors, vis-a-vis, the claim is not permissible. The claimants can recover at their option, whole damages, from either of the tortfeasors.

Considering the same, so far as, death of Ajit Kumar is concerned, it cannot be said to be contributory negligence. His case is covered as composite negligence. Thus, the claimants, as such, are entitled to recover whole of the amount from one of the tortfeasors, herein the case, being respondents No.1 and 2.

In the light of the aforesaid observations, now coming to the 'work on' of the compensation. So far as, age of the deceased is concerned, it is not disputed that he was 28 years old, at the time of accident. Suffice to consider the testimony of Smt.Sarla, widow of the deceased. In her affidavit Ex.PW1/A, she has categorically stated about the deceased to be working as Draftsman with M/s Rollcon Engineers and that he was getting salary of Rs.7000/- per month and that they were dependent upon the salary of the deceased. Furthermore, the claimants have also examined R.P.Mehta, who

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is Project Coordinator in M/s Rollcon Engineers. He has categorically stated in his affidavit Ex.PE, about Ajit Kumar to be working as Draftsman, in their company and that he was under his administrative control. He also categorically stated therein, that deceased was drawing salary of Rs.84,000/- per annum. The salary certificate is Ex.PF, which was prepared under his supervision.

Very true, as pointed out by learned counsel for respondent No.2 that no appointment letter, as such, has come on record and there is only salary certificate proved, which is Ex.PF. There is nothing on record, with regard to the documents, on the basis whereof, this salary certificate was prepared. Even the extent of earnings of Rs.84,000/- per annum, comes to be Rs.7000/- per month. Though, much emphasis has been laid upon, no documentary proof, in the form of an appointment letter, attendance register or any other document prepared during the course of duty discharged by the deceased, coming on record, but however, the extent of earnings, as depicted in salary certificate, more particularly, considering the dearth of skilled workers, in the society, all the time, the extent of earnings, as such, cannot be held to be taken on higher side. It is the just and appropriate amount, considered by learned Tribunal.

Anyhow, as per the prevalent settled law, addition on the count of 'future prospects' to the extent of 40%, ought to be made. The deduction to the extent of 1/3rd has been correctly made. However, as per ***Smt.Sarla Verma vs. Delhi Transport Corporation and anr., 2009(3) RCR (Civil) 77***, the appropriate multiplier to be applied is '17', instead of '16', as applied by the Tribunal.

Apart from it, the compensation awarded under the conventional



heads, also needs to be re-determined. As per *National Insurance Company Limited vs. Pranay Sethi and others, 2017(4) RCR (Civil) 1009*, the amount awarded at the time of passing the judgment was Rs.40,000/-. However, there is clause of enhancement of 10%, after every three years of passing of the judgment. Thus, the compensation now payable is to the extent of Rs.48,400/-. As per *Magma General Insurance Company Limited vs. Nanu Ram @ Chuhru Ram and others, 2018 (18) SCC 130*, all the dependents are entitled to compensation, on the count of ‘loss of consortium’, be it ‘filial’, ‘spousal’ or ‘parental’. The appeal in hand has been filed by the widow as well as two minor children, who were dependent upon the deceased. As such, all of them are entitled to compensation, on the count of ‘loss of consortium’. Thus, each of them are entitled to **Rs.48,400/-**. On similar parameters, as per *Pranay Sethi’s case (supra)*, even, on the count of ‘loss of estate’ and ‘funeral expenses’, the amount now payable is **Rs.18,150/-** on each count.

In view of the aforesaid, the compensation payable to appellants-claimants, on account of death of Ajit Kumar, is now re-computed, as herein given:-

Income	Rs.7000/-
Addition of 40%	Rs.7000+2800=Rs.9800/-
Deduction of 1/3rd	Rs.9800-3266=Rs.6534/-, annual whereof is Rs.78,408/-
Multiplier of ‘17’	Rs.78,408x17= Rs.13,32,936/-
Loss of consortium	Rs.48,400x3= Rs.1,45,200/-
Loss of estate	Rs.18,150/-
Funeral expenses	Rs.18,150/-
Total	Rs.15,14,436/-

As such, the claimants are entitled to compensation of



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Rs.15,14,436/-. On the amount of the compensation, as now worked upon, the appellants-claimants, shall be entitled to the interest, at the rate of 6% per annum, from the date of filing of the claim petition, till realization of the amount of compensation. Out of the compensation, as now worked upon aforesaid, appellant-claimant No.1 is held entitled to **Rs.10,14,436/-**, whereas, appellants-claimants No.2 and 3 are held entitled to **Rs.2,50,000/-** each.

The impugned Award dated 18.10.2007 stands modified, to the extent, as indicated aforesaid.

With the above observations, the appeal filed by the appellants-claimants i.e. **FAO-33-2008** stands allowed, whereas, appeal filed by the Rajasthan Road Transport Corporation i.e. **FAO-845-2008** stands dismissed.

February 13, 2026
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No