



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**IOIN-1-FAO-6530-2012 in
FAO-6530-2012 (O&M)
Date of decision: 21.04.2026**

Kuldeep Kaur and others

...Appellant(s)

Vs.

Bhupinder Singh and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

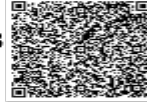
Present:- Mr. Ashok Bector, Advocate
for the appellants.

NIDHI GUPTA, J.

IOIN-1-FAO-6530-2012

The Registry has listed this case under IOIN category. As per last order dated 26.05.2025, notice was to be issued to both the respondents upon filing of correct/fresh address of respondent No.1 by learned counsel for the appellants. However, the notice was not issued for want of correct address of respondent No.1.

2. Order sheets show that since 17.05.2013 learned counsel for the appellants has been seeking time to furnish correct address of respondent no.1. Despite grant of opportunities, including on last date of hearing on 26.05.2025 learned counsel has failed to do the needful. Today, learned counsel for the appellants has stated that despite best efforts, he is not able to establish contact with the appellants; and is therefore unable to



furnish the correct address of respondent No.1. It is accordingly prayed that the main case is taken up for hearing today itself and be disposed of.

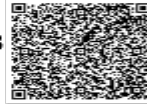
3. The order sheets show that matter has been adjourned either at request of, or due to non-appearance of the appellants on 24.05.2019; 03.07.2019; and 26.05.2025. In any event, the matter being of the year 2012, this Court was not inclined to adjourn it. As such, at request of learned counsel for the appellants, the main case is taken up for hearing today itself.

4. Keeping in view the above, IOIN stands disposed of.

FAO-6530-2012 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.10,60,000/- awarded by the learned Motor Accidents Claims Tribunal, Rupnagar (hereinafter referred to as “the learned Tribunal”) vide Award dated 04.10.2012 passed in MACP Remand Case No. 97 dated 03.05.2002 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The 3 claimants are the 28-year-old widow; 2-year-old daughter; and 2 months old son of the deceased Harpreet Singh, who was 30 years old at the time of accident.

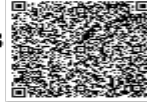
2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Harpreet Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 05.02.2002 at 5 a.m. due to stationary Truck bearing registration No. PB-12-C-1348 (hereinafter “the offending vehicle”). The above said compensation was awarded along with interest @



6% per annum. All the respondents were held jointly and severally liable to pay the amount of compensation.

3. It may be pointed out that the present claimants had previously filed a Claim Petition which had originally been dismissed by the learned Tribunal vide Award dated 07.10.2004. The said Award dated 07.10.2004 had been challenged by the claimants/appellants before this Court by way of FAO-5414-2004; in which vide order dated 18.05.2012, this Court had remanded the case back to the learned Tribunal with direction *“To decide the same afresh regarding the negligence of the driver of the Truck and also the extent of contribution made by driver of the Truck and the deceased”*. Consequentially, in the present MACT remanded case No. 97, matter was re-considered by the Tribunal; and vide the present impugned Award, learned Tribunal has awarded compensation of Rs. 10,60,000/-; however, has held the deceased liable for contributory negligence to the extent of 50%; and has consequentially awarded compensation of Rs.5,30,000/- to the present appellants.

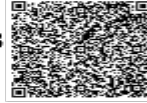
4. Learned counsel for the appellants seeks enhancement of compensation by submitting that learned Tribunal has wrongly made deduction of 50% towards contributory negligence. It is submitted that it was the clear pleaded case of the appellants before the learned Tribunal that offending Truck had been standing in the middle of the road at the time of accident without following the traffic rules i.e. parking lights, indicators on, bricks et cetera. As such, deceased was unable to see the said Truck due to



the thick fog and darkness and his motorcycle had struck against the said Truck as a result of which he had died on the spot.

5. It is submitted that above said facts are also proved to be correct from the evidence of eyewitness Amrit Pal Singh, who had appeared before the learned Tribunal as PW1 and had specifically deposed that the accident in question had occurred due to wrong parking of the offending Truck by respondent No.1. It is submitted that eye-witness Amrit Pal Singh had seen the accident and had, therefore, specifically testified to the effect that *“Harpreet Singh (deceased) was going on his motor cycle at a very low speed with care and caution but struck against the truck which was negligently parked/stranded without observing the traffic rules.”* It is contended that the Tribunal did not appreciate the evidence led by the claimant which is unrebutted. Moreover, there is no defence taken by the respondent regarding contributory negligence. Hence the finding regarding the contributory negligence be set aside and the driver of the offending vehicle be held responsible for the accident which caused death of Harpreet Singh.

6. It is further submitted that even the quantum of compensation has not been correctly calculated by the learned Tribunal. It is contended that appellants had duly proved on record that the deceased was a Government Servant working as Senior Lab Attendant and drawing salary of Rs.10,000/- p.m. Yet, learned Tribunal has taken an income of the deceased as only ₹6874/- per month. Furthermore, the Tribunal has failed to make



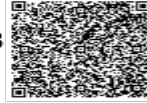
any addition towards future prospects. It is submitted that the appellants are entitled to interest @ 10% per annum. It is accordingly prayed that the present Appeal be allowed; and the compensation be enhanced.

7. No other argument is raised on behalf of learned counsel for the appellants. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

8. As regards contributory negligence, it is to be noted that the sole eyewitness produced by the appellants to prove the liability of the offending Truck in causing the accident in question is PW1 Amrit Pal Singh. It is worthy to note that Amrit Pal Singh is the real brother of the deceased Harpreet Singh. Therefore, Amrit Pal Singh is an interested witness and any testimony of Amrit Pal Singh will be taken with a pinch of salt.

9. Furthermore, version of Amrit Pal Singh has been recorded in para 10 of the impugned Award. The relevant extract of which is as follows: -

“10. It is argued by Shri N.K Soni, Adv. counsel for the claimants that the testimony of PW-1 Amrit Pal Singh, who is the eye witness of the accident in the present case clearly shows that respondent No.1 Bhupinder Singh, the driver of the offending Truck No.PB-12-C-1348 parked his Truck in the middle of the road without any indicator or parking light or reflector. Harpreet Singh, now deceased was going to his house on his Motor Cycle on 05.02.2002 at 5.00 AM and he could not see the said Truck due to fog and then his Motor Cycle struck against the said Truck, as a result of which he died on the spot.”

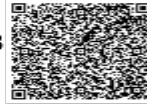


10. Therefore, as per the own case of the claimants' side, the deceased has struck into the stationary vehicle which was allegedly parked in the middle of the road without indicator or parking light or reflector. However, to prove the aforesaid facts, appellants have produced no other witness or evidence except Amrit Pal Singh; who, as already discussed above, is an interested witness. Thus, evidence of Amritpal Singh is not reliable.

11. Besides that, it is also to be seen that it was also the duty of the deceased to drive carefully. Needless to say, the very fact that deceased had died due to the impact of the collision, would show that deceased was driving at such a high speed that when he rammed into the back of the Truck, he died on the spot. Except for bald statement of alleged eyewitness Amrit Pal Singh, there is no evidence whatsoever on record to prove that offending vehicle was wrongly parked by respondent No.1. Appellants have led no credible evidence to prove their case. Even the statement of PW1 was not believed by learned Tribunal as he is interested witness being real brother of the deceased Harpreet Singh.

12. Relevant observations of the learned Tribunal in this regard are in para 11 of the impugned Award dated 04.10.2012 which read as follows: -

"11. I have considered the arguments addressed by counsel for both the parties. The testimony of PW-1 Amrit Pal Singh clearly shows that the present accident has taken place with truck bearing no. PB-12-C-1348, which was parked by respondent No.1 Bhupinder Singh, on the road without any indicator or parking lights in violation of the traffic rules. Harpreet Singh, since deceased, was also duty bound to keep watch in front of



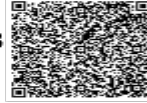
the road while driving his Motor Cycle on the road, but he was also negligent in driving the Motor Cycle at the time of accident. So, keeping in view the law laid down by Hon'ble Apex Court of the Country in "Raj Rani and others vs. Oriental Insurance Co. Ltd. and others" 2009 ACJ 2003, I feel that in the present case both respondent no. 1 Bhupinder Singh, the driver of the Motor Cycle involved in the accident, were equally negligent to the extent of 50% each in causing the accident.

So, it is held that the present accident has taken place because of the contributory negligence of both respondent no.1 Bhupinder Singh, the driver of the offending truck and Harpreet Singh, the driver of the Motor Cycle, who has died in the said accident.

So, issue no.1 decided accordingly with the observations that the present accident has taken place because of the contributory negligence of both respondent no.1 Bhupinder Singh, the driver of the offending Truck and Harpreet Singh, the driver of the Motor Cycle, who died in the said accident."

13. I am in complete agreement with the above said observations of the learned Tribunal. Thus, I find no error in the finding of contributory negligence given by the learned Tribunal.

14. As regards quantum of compensation, it was the pleaded case of the appellants that deceased was working as Senior Lab Attendant in Government Senior Second School, Dyalpur Sodhian, District Patiala and was earning Rs.10,000/-p.m. To prove their case, appellants had examined PW3 Varinder Singh Junior Assistant of the School where the deceased was working. However, Varinder Kumar has admitted in his cross-examination



that deductions are to be made from the said salary of the deceased which are not reflected in the salary certificate. Accordingly, learned Tribunal had assessed salary of the deceased as Rs.6,874/- p.m. after making the said necessary deductions; and with addition of future prospects, Tribunal had assessed salary of the deceased as Rs.7,500/- p.m. Thus, learned counsel for the appellants is incorrect in stating that no addition has been made by learned Tribunal towards future prospects.

15. Further, it was the pleaded case of the appellants that deceased was 30 years old at the time of accident. Learned Tribunal had therefore, correctly applied multiplier of 17. As there were 3 claimants, deduction of 1/3rd has been correctly made towards personal expenses. Under the conventional heads, learned Tribunal has warded an amount of Rs.20,000/- towards funeral expenses; and Rs.20,000/- towards loss of consortium; thereby awarding an amount of Rs.10,60,000/- by way of compensation.

16. As discussed above, of the said compensation, 50% has been deducted towards contributory negligence. In the facts and circumstances of the case I find no error in the compensation awarded by learned Tribunal.

17. From the above facts, it is clear that just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellants. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit.

Hon’ble Supreme Court in “**State of Haryana Vs. Jasbir Kaur**” **Law Finder Doc ID # 64043** and “**Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty and another**” **(2003) 7 SCC 197**, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. In “**General Manager, KSRTC Vs. Susamma Thomas & Others**” **1994 Volume-II SCC 176**, the Hon’ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

18. The Apex Court in **Reshma Kumari v. Madan Mohan (SC)** **Law Finder Doc ID # 421379** has further gone on to hold that:

“Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case.”

19. In view of the above, I find no ground is made out to interfere in the impugned Award. The present Appeal stands **dismissed**.

20. Pending application(s) if any also stand(s) disposed of.

21.04.2026

Divyanshi

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No

(NIDHI GUPTA)

JUDGE