IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-4845-2014 (O&M)
Reserved on : 30.11.2025
Date of Pronouncement : 31.01.2026
Uploaded on : 05.02.2026

Smt. Jyoti and others ......Appellants

Vs.

Ram Bhajan and others ......Respondents

Whether only the operative part of the judgment is pronounced? *NO*
Whether full judgment is pronounced? *YES*

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Namit Sharma, Advocate,
for the appellants.

Mr. Vijay Kumar Garg, Advocate,
for respondent No.4-Insurance Company.

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SUDEEPTI SHARMA J.

1. The present appeal has been preferred against the award dated 06.11.2013 passed in the claim petition filed under Sections 166 & 140 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Panipat (for short, 'the Tribunal') for enhancement of compensation, granted to the appellants/claimants to the tune of Rs.9,63,000/- along with interest at the rate of 9% per annum, on account of death of Rajeev in a Motor Vehicular Accident, occurred on 24.02.2012. However, the claimants-appellant were held liable to only 50% of the awarded amount on account of contributory negligence.

BRIEF FACTS OF THE CASE

2. It is submitted that on 24.2.2012, at about 8.30 pm, deceased Rajeev was going to meet his sister at Village Kurar, District Panipat in a pick up bearing registration No. HR39B-7210. Rajeev was sitting at conductor side, while driver of said pick up namely Kuldeep was driving the same at moderate speed and on his left side. When they reached near Ugra Kheri Turn, Sanoli Road, Panipat, a canter bearing registration No. MH04CG-8451, driven by respondent no.1 rashly and negligently, struck the driver side of the canter with the aforesaid pick up, due to which Rajeev died at the spot. The name and address of the driver, who ran away from the spot leaving the canter there, came to know as Ram Bhajan son of Chunni Lal resident of Village Toswa, Police Station Padri District Mirzapur (UP). The deceased was taken to BSS General Hospital, Panipat, with the help of Jai Bhagwan son of Ram Kishan and Rajesh, where the doctors declared him dead and his postmortem examination was conducted on next day. Jai Bhagwan got registered a criminal case against respondent no.1, vide FIR No.209 dated 25.2.2012 under Sections 279 and 304-A IPC, at Police Station Chandni Bagh, Panipat.

3. Upon notice of the claim petition, respondents appeared and contested the claim petition by filing their separate written replies and denied the factum of the accident/compensation.

4. From the pleadings of the parties, learned Tribunal framed the following issues:-

> *"1. Whether the deceased Rajeev died in the motor vehicle accident due to the rash and negligent driving of respondent no.1 of the vehicle bearing registration no.MH-4CG-8451? OPP*
>
> *2. Whether the claimants are entitled to be compensated by the respondents on account of death of deceased in the motor vehicle accident, if yes, how much and from whom? OPP*
>
> *3. Whether the respondents no.1 and 2 have infringed the conditions of Insurance policy, if so what its effect? OPR.*
>
> *4. Relief*

5. In support of their pleadings, both the parties led their respective evidence.

6. After taking into consideration the pleadings and the evidence on record, the learned Tribunal awarded compensation to the claimants/appellants to the tune of Rs.9,63,000/-. However, the claimants-appellants were held liable to compensation to the tune of Rs.04,85,100/- (50% of the awarded amount) along with interest @ 7.5% per annum on account of death of Rajeev and appellant-Insurance Company was held liable to pay compensation to the extent of 50% of the awarded amount on account of contributory negligence. Hence, the present appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

7. Learned counsel for the appellants-claimants contends that the learned Tribunal has erred in holding that the accident took place due to contributory negligence. He further contends that the compensation

awarded by learned Tribunal is on lower side and deserve to be enhanced as per settled law. Therefore, he prays that the present appeal be allowed.

8. Per contra, learned counsel for the Insurance Company contends that the learned Tribunal has rightly held that the accident occurred due to contributory negligence. He further contends that the learned Tribunal has rightly awarded the compensation to the claimants/appellants. He, therefore prays that the present appeal be dismissed.

9. I have heard learned counsel for the parties and carefully perused the whole record of this Court with his able assistance.

10. Before proceeding further, it is relevant to reproduce the relevant portion of the award dated 06.11.2013 passed by the learned Tribunal:-

> ***Issues No.1 :***
>
> *10. In support of this issue, claimants examined Nar Singh, Ahlmad as PWI, who brought the file of case FIR No.209 dated 25.2.2012 under Sections 279, 337 and 304-A IPC, Police Station Chandni Bagh, Panipat titled State Vs Ram Bhajan and proved certified copies of site plan, charge sheet, report under Section 173 Cr.P.C. and mechanical examination reports Ex.P1 to Ex.P5 respectively.*
>
> *PW3 Jai Bhagwan is the eye witness to the accident and he had got registered the FIR in this case. This witness tendered his duly sworn affidavit Ex.PW3/A, thereby deposing that on 24.2.2012 in the evening, he and his co-villager Rajesh were going from Truck Union*

to Kurar on his motorcycle. When they reached ahead Ugra Kheri turn at Sanoli Road, a pick up bearing registration no.HR39B-7210 was preceding them. In the meantime, a canter driver, while driving his canter bearing registration no.MH04CG-8451, came at very high speed, rashly and negligently and directly hit the said pick up. PW3 and Rajesh stopped the motorcycle and saw that two persons were injured, one of whom was Rajeev, who was brother-in-law of his brother, while the driver disclosed his name as Ishwar resident of Jakholi. Both of them had received serious injuries. He called for Government ambulance, while the driver of the offending loaded canter bearing registration no.MH04CG-8451, red coloured, ran away from the spot. Rajeev succumbed to the injuries at the hospital and police had registered FIR No.209 dated 25.2.2012 under Sections 279, 337 and 304-A IPC, on his statement.

11. Referring to the testimony of the eye witness, learned counsel for the claimants argued that from the statement of PW3 Jai Bhagwan, it is proved that the offending canter was being driven by respondent no.1 in a rash and negligent manner, due to which, it hit the pick up, resulting into the present accident.

It is pointed out that FIR was accordingly registered against respondent no.1 without any delay, in which the registration number of the canter has been mentioned. Certified copy of report under Section 173 Cr.P.C. Ex.P3 has also been placed on record, which has been filed under Sections 279, 337 and 304-A IPC, against respondent no.1 Ram Bhajan.

It is further pointed out that from the site plan Ex.P1 and the charge sheet Ex.P2, it is proved that the *respondent no.1 was driving the offending canter, causing the death of Rajeev and is facing trial before criminal court.*

It is argued that the respondent no.1 never tried to appear in the witness box to deny the allegations against him. Otherwise also, filing of FIR itself shows, prima facie, that the accident had been caused due to rash and negligent driving of respondent no.1.

It is, therefore, prayed for deciding this issue in favour of the claimants and against respondents.

12. Controverting the arguments, learned counsel for respondents have jointly argued that from the bare statement of PW3 Jai Bhagwan, the allegations against respondent no.1 are not proved. PW3 Jai Bhagwan is, admittedly, related to the victim. The canter has been falsely involved in the case, only to extract compensation from the insurance company.

It is specifically argued on behalf of the insurance company that the manner, in which the accident is stated to have taken place, showsthat the driver of the pick up bearing registration no HK398-7210 himself was negligent, due to which the accident had been carned. Had the driver of said pick up been a little careful in driving his pick up, the accident could have been avoided. Therefore, contributory negligence of the deceased should also be held.

13. After having heard all concerned and perusing the entire record carefully, it is evident that the factum of accident is not in dispute.The circumstances of the case and the manner in which FIR was registered, leave no doubt that the accident did take place between the pick up van, occupied by the deceased, and the canter, being *driven by respondent no.1. It has been held in Girdhari Lal Vs Radhey Sham and others VOL.CIV (1993-2) PLR 109, that where driver was being tried on account of rash and negligent driving, prima facie, it is safe to conclude that the accident occurred on account of rash and negligent driving of the driver. Moreover, in Bikram Singh Vs Sarwan Singh 2010(2) LJR 802, it has been held by Hon'ble Punjab & Haryana High Court that even if criminal court acquits driver of the charges it will be no ground to set aside order passed by MACT, meaning thereby that the registration of the FIR itself is sufficient to probablize the case of the petitioner that the driver of the offending vehicle had been rightly involved in the FIR. Reference may further be made to United India Insurance Company Ltd. Vs Meena and others II (2010) ACC 935 (DB), wherein it is observed that the proceedings before the Tribunal are of summary and only for the purpose of determination of compensation, therefore, the documents prepared by the police may be taken on its face value.*

14. However, as rightly pointed out by learned counsel for respondent no.4, eye witness PW3 Jai Bhagwan has admitted, during his cross-examination, that the pick up van as well as the canter had struck against each other as head on collision on the mettled road and the front portion of the pick up van was totally damaged, while the canter's driver side was damaged. Had it been the case of the claimants that the pick up van had got down on berm of the road, matter would be otherwise, but in view of the categoric deposition of the eye witness, as mentioned above, it comes out that the driver of the pick up van was also at fault in the present accident. In these

> *circumstances, I am of the considered opinion that the driver of the canter can not be burdened with the entire responsibility of the accident. Therefore, I hold that the pick up van driver as well as canter driver were negligent equally to the extent of 50% each. This issue stands decided accordingly.*

11. A bare perusal of the impugned award reveals that the learned Tribunal has fallen into a grave error in holding that the accident occurred due to contributory negligence on the part of the driver of the pick-up van as well as the driver of the canter (the offending vehicle).

12. It is evident from the record that there is not an iota of cogent evidence to establish any negligence on the part of the driver of the pick-up van, namely Kuldeep Singh. Mere admission that the collision was head-on does not, by itself, lead to an inference of contributory negligence unless it is shown that the pick-up van was being driven rashly, negligently, or in violation of traffic rules.

13. The learned Tribunal has failed to appreciate that contributory negligence must be specifically pleaded and proved, and cannot be presumed merely on the basis of the nature of impact or damage to the vehicles. In the absence of any reliable evidence demonstrating fault on the part of the pick-up van driver, the finding of equal negligence is based on conjectures and surmises and is liable to be ***set aside***.

SETTLED LAW ON COMPENSATION

14. Hon'ble Supreme Court in the case of ***Sarla Verma Vs. Delhi Transport Corporation and Another*** **[(2009) 6 Supreme Court Cases**

121], laid down the law on assessment of compensation and the relevant paras of the same are as under:-

> "***30***. *Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.*
>
> ***31***. *Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.*
>
> ***32***. *Thus even if the deceased is survived by parents and siblings, only d the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to*

the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.

* * * * * *

42. *We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas[3], Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.*

15. Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** **[(2017) 16 SCC 680]** has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

(A) Deduction of personal and living expenses to determine multiplicand;

(B) Selection of multiplier depending on age of deceased;

(C) Age of deceased on basis for applying multiplier;

(D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;

(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

> "***52.*** *As far as the* ***conventional heads*** *are concerned, we find it difficult to agree with the view expressed in Rajesh[2]. It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000,*

Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.

* * * * *

***59.3**. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*

***59.4**. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.*

***59.5**. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma[4] which we have reproduced hereinbefore.*

> ***59.6.*** *The selection of multiplier shall be as indicated in the Table in Sarla Verma[1] read with para 42 of that judgment.*
>
> ***59.7****. The age of the deceased should be the basis for applying the multiplier.*
>
> ***59.8****. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."*

16. Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

> *"**21**. A Constitution Bench of this Court in Pranay Sethi[2] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.*
>
> *21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of*

"company, society, cooperation, affection, and aid of the other in every conjugal relation".

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

__22__. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.

__23__. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have

> *awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*
>
> ***24**. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi[2]. In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium."*

17. A perusal of the impugned award reveals that the deceased was 26 years of age at the time of the accident and was stated to be engaged in driving as well as in running a milk dairy, with an asserted monthly income of ₹10,000. However, no documentary or cogent evidence was produced on record to substantiate the said claim of income. In the absence of any reliable proof, the learned Tribunal rightly relied upon the minimum wages notification applicable in the State of Haryana for the year 2012 and correctly assessed the monthly income of the deceased at ₹6,000. Therefore, no interference is warranted in this regard.

18. A further perusal of the award reveals that no amount is added towards future prospects. Therefore, considering the age of the deceased and settled law on compensation, 40% is to be added as future prospects.

19. A further perusal of the award shows that the compensation awarded for loss of consortium, loss of estate and funeral expenses is on lower side. Therefore, the award requires indulgence of this Court.

CONCLUSION

20. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is **allowed**. The award dated 06.11.2013 is modified accordingly. The appellants/claimants are entitled to enhanced compensation as per the calculations made here-under:-

Sr. No.	***Heads***	***Compensation Awarded***
1	Monthly Income	Rs.6,000/-
2	Future Prospects @ 40%	Rs.2400/- (6000X 40%)
3	Deduction towards personal expenditure 1/4	Rs.2100/- (8400 X 1/4)
4	Total Income	Rs.6300/- (8400 – 2100)
5	Annual Income	Rs.75600/- (6300 X 12)
6	Multiplier	17
7	Annual Dependency	Rs.1285200/- (75600 X 17)
8	Loss of Estate	Rs.15,000/-
9	Funeral Expenses & Transportation expenses	Rs.25,000/-
10	Loss of Consortium Parental : Rs.40,000/- x 1 Spousal : Rs.40,000/- x 1 Filial : Rs.40,000/- x 2	Rs.1,60,000/-
	Total Compensation	**Rs.14,85,200/-**
	Amount Awarded by the Tribunal on account of 50% contributory negligence	**Rs.4,81,500/- (963000-481500)**
	Enhanced amount	**Rs.10,03,700/- (Rs. 1485,200 - Rs.481500)**

21. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma***

2019 ACJ 3176 and ***R.Valli and Others VS. Tamil Nadu State Transport Corporation*** **(2022) 5 Supreme Court Cases 107,** the appellants-claimants are granted the interest @ 9% per annum on the enhanced amount from the date of filing of claim petition till the date of its realization.

22. The respondent No.4-Insurance Company is directed to deposit the enhanced amount of compensation I.e Rs.10,03,700/- along with interest with the Tribunal within a period of two months from today. The Tribunal is further directed to disburse the enhanced amount of compensation along with interest in the accounts of the appellants/claimants, in the ratio settled by the learned Tribunal in the award. The appellants/claimants are directed to furnish their bank account details to the Tribunal.

23. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

31.01.2026
Virender

Whether speaking/non-speaking : Yes
Whether reportable : Yes