



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

214

Date of decision: 09.04.2026

FAO-7691-2015 (O&M)

Smt. Reena & Another

...Appellant(s)

Vs.

Ramesh Singh & Others

...Respondent(s)

FAO-6045-2013 (O&M)

Shri Ram General Insurance Company Limited

...Appellant(s)

Vs.

Smt. Reena & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Navneet Singh, Advocate
for the claimants/appellants in FAO-7691-2015
and respondents No.1 & 2 in FAO-6045-2013.

Mr. Gaurav, Advocate for
Mr. Sanjeev Goyal, Advocate
for respondent No.3/Insurance Company in FAO-7691-2015
and appellant in FAO-6045-2013.

Mr. V.D. Sharma, Advocate
Mr. Vishesh Sharma, Advocate
Mr. Jaspreet Singh, Advocate
for owner/respondent No.2 in FAO-7691-2015
and respondents No.7 to 9 in FAO-6045-2013.

NIDHI GUPTA, J.



CM-24199-CII-2015

This is an application under Section 151 CPC for condonation of delay of 542 days in re-filing the appeal.

After going through the contents of the application, which is supported by affidavit of learned counsel for the appellants, the same is allowed subject to all just exceptions and delay of 542 days in re-filing the present appeal is condoned.

CM-24200-CII-2015

This is an application under Section 5 of Limitation Act for condonation of delay of 101 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.1, the same is allowed subject to all just exceptions and delay of 101 days in filing the present appeal is condoned.

FAO-7691-2015

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.5,93,400/- awarded by the Motor Accident Claims Tribunal, Rewari vide Award dated 22.07.2013 passed in MACT Case No.57 dated 26.04.2011 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 5 claimants are the 24-year-old widow, one-and-a-half-year-old daughter, 55-year-old father, 50-year-old mother and 18-year-old brother of deceased Tinkesh, who was 32 years old at the time of accident.



FAO-6045-2013

The present appeal has been filed by the Insurance Company against Award dated 22.07.2013 passed by the learned Tribunal in MACT Case No.57 dated 26.04.2011 filed under Section 166 of the Act, whereby compensation of Rs.5,93,400/- has been awarded to the claimants.

2. Both the present cross-appeals are being disposed of by this common order as they arise out of the common Award dated 22.07.2013; and both appeals are between same parties; and in respect of the same accident dated 11.04.2011; and facts and issues involved in both the appeals are identical. For the sake of brevity, the facts are being taken from, and the parties are being referred to as per their status in FAO-7691-2015 filed by the claimants.

3. Brief facts of the case are that the learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties concluded that deceased Tinkesh had died due to the injuries suffered by him in a motor vehicular accident that took place on 11.04.2011 due to the rash and negligent driving of the Dumper bearing registration No.HR-56-6464 (hereinafter the “offending vehicle”) being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3.

4. Learned counsel for the appellants/claimants seeks enhancement of compensation by submitting that income of the deceased has been wrongly assessed on the lower side. Interest should have been awarded @ 18%.



5. It is further submitted that the learned Tribunal has gone beyond the pleadings in holding that there was contributory negligence on part of the deceased. It is contended that no such plea was made by the respondents and therefore, such a finding could not have been returned. It is accordingly prayed that FAO-7691-2015 filed by the claimants be allowed; and FAO-6045-2013 filed by the Insurance Company be dismissed.

6. Per contra, learned counsel for the respondent No.3/Insurance Company vehemently opposes the submissions advanced on behalf of the appellants and submits that compensation has already been awarded to the appellants on the higher side inasmuch as learned Tribunal has made an addition of 50% towards future prospects; whereas keeping in view the fact that deceased was 32 years old, addition of 40% ought to have been made.

7. Learned counsel further submits that the claimant No.5 is the 18-year-old brother of the deceased. Therefore, he could not have been taken as dependent upon the deceased and deduction of 1/4th ought to have been made; whereas the learned Tribunal has made a deduction of 1/5th.

8. It is lastly submitted that deceased had been rightly held to be negligent in causing the accident to the extent of 50% in view of the fact that it is not disputed or denied that at the time of accident, the deceased was triple riding on the motorcycle. It is accordingly prayed that FAO-6045-2013 filed by the Insurance Company be allowed and FAO-7691-2015 filed by the claimants be dismissed.



9. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find some merit in the submissions advanced on behalf of both the parties.

10. In regard to quantum of compensation, it was the pleaded case of the claimants before the learned Tribunal that deceased was working as a Mason under a Government Contractor and earning Rs.10,000/- per month. However, no evidence whatsoever in this regard was led by the claimants. Learned Tribunal has correctly observed that in case deceased had been working under a Government Contractor, there would be some record of his income. However, no proof of income was adduced by the claimants before the learned Tribunal. As such, the learned Tribunal has correctly assessed income of the deceased as Rs.4500/- per month, on the basis of Minimum Wages payable to an unskilled worker in the year 2011.

11. Further, age of the deceased was determined to be 32 years at the time of accident on the basis of his Matriculation Certificate (Ex.PM), in which his date of birth is mentioned as 02.04.1979. Accordingly, an addition of 40% was liable to be made towards future prospects. However, the Tribunal has made an addition of 50%. The same is on the higher side.

12. Keeping in view the age of the deceased, multiplier of 16 has been correctly applied. As there were 5 claimants, deduction of 1/5th has also been correctly made. However, under the conventional heads, the Tribunal has awarded an amount of Rs.1 lakh towards consortium; Rs.25,000/- towards loss of care and guidance; and Rs.25,000/- towards



funeral expenses. The amounts under the conventional heads are liable to be granted as per the structured formula laid down by the Hon’ble Supreme Court. Therefore, compensation payable to the claimants is re-assessed in the following manner:-

Head	Awarded by learned Tribunal	Re-assessed compensation
Salary/income	Rs.4,500/- per month	Rs.4,500/- per month
Future prospects	(50%) Rs.4500/- + Rs.2250/- = Rs.6750/-	(40%) Rs.4500/- + Rs.1800/- = Rs.6300/-
Deduction	(1/5 th) Rs.6750/- - Rs.1350/- = Rs.5400/-	(1/5 th) Rs.6300/- - Rs.1260/- = Rs.5040/-
Multiplier	(16) Rs.5400/- x 12 x 16 = Rs.10,36,800/-	(16) Rs.5040/- x 12 x 16 = Rs.9,67,680/-
Loss of consortium	Rs.1 lakh	Rs.40,000/- x 5 = Rs.2 lacs
Loss of care and guidance for minor children	Rs.25,000/-	Nil as included in consortium
Funeral expenses	Rs.25,000/-	Rs.15,000/-
Loss of Estate	Nil	Rs.15,000/-
Total	Rs.11,86,800/-	Rs.11,97,680/-
Interest	7.5%	6%

13. As regards contributory negligence, it is an undisputed and admitted fact on record that at the time of accident, the deceased was riding on a motorcycle bearing registration No.HR-36-M-5789 along with two other persons being Parmod and Sunil Kumar. Needless to say, that constitutes grave and gross violation of the Traffic Rules and Regulations, thereby endangering the lives of not just the triple riders, but also other travellers on the road.

14. At this stage, reference is made to a judgment passed by this



Court in **Angrejo Devi v. Jai Parkash (P&H): Law Finder Doc Id # 401182;**

wherein it is held as under:-

“Motor Vehicles Act, 1988, Section 128 - Motor Vehicles Act, 1988, Section 166 - Contributory negligence - Fatal motor accident - Deceased was driving with two passengers on pillion seat in violation of Section 128 of M.V. Act – Accident caused by rash and negligent driving of motor cycle by respondent - The deceased was aged 50 years and there was every possibility of losing control - Held, it was case of contributory negligence of deceased in the ratio of 50% each.”

15. Reference is also made to another judgment passed by Madras

High Court in **Managing Director, Tamil Nadu State Trans. Corpn. Ltd. v.**

Abdul Salam (Madras)(DB): Law Finder Doc Id # 380518; holding that:-

“A. Rash and Negligence - Contributory negligence - Pillion rider - Triple riding - Collision between a bus and motor cycle resulting in death of one of the pillion riders – Deceased was travelling in motor cycle as one pillion riders – Tribunal held that accident occurred due to rash and negligent driving of the bus - Defence that three persons were riding the motor cycle and it was unbalanced and accident occurred due to rash and negligent driving of the motor cycle – Motorcyclist was at fault for carrying two pillion riders not permitted by law - Hence, Held that deceased was liable for 5% of contribute or negligence and consequently 50% of the compensation is deducted to words contributory negligent - Appellate court reversed the finding and held the deceased guilty of contributory negligence to the extent of 50 per cent - Therefore, appeal partly allowed.”



16.

Consequentially, both the present appeals are **partly allowed** in the above terms, inasmuch as findings of contributory negligence against the claimants/deceased are upheld; and quantum of compensation has been re-assessed as per the law laid down by the Hon’ble Supreme Court, and enhanced to an amount of Rs.11,97,680/-.
17.

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

09.04.2026
Sunena

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No