2026:PHHC:012307

227-1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-7599-2017 (O&M)
Date of Decision : 28.01.2026

RAJ RANI .... Appellant

VERSUS

SUKHBIR AND ANR .... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Shivam Chaudhary, Advocate for the appellant.

Mr. Sukhdev Singh, Advocate for
Mr. Vikram Singh, Advocate for respondent No.1.

Mr. Vipul Sharma, Advocate for
Mr. Paul S. Saini, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the claimant-appellant aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Kaithal (hereinafter referred to as the 'Tribunal') vide award dated 23.02.2015. The claim petition was filed by the mother of the deceased minor, who was 14 years of age at the time of the accident. Both the mother and the minor child were pillion riders on the motorcycle bearing registration No.HR-05J-0990.

2. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal, are not being adverted to herein for the sake of brevity.

3. Delay in filing the appeal stood already condoned vide order dated 19.10.2022.

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

Sr. No.	Heads	Compensation Awarded
1.	Annual income	₹30,000
2.	Multiplier of 15	[₹30,000 x 15] = ₹4,50,000
3.	Funeral expenses	₹25,000
4.	Loss of love and affection	₹50,000
	Total Compensation	**₹5,25,000**
	Less 10% on account of contributory negligence	[₹5,25,000 – ₹52,500] = ₹4,72,500 (rounded off to ₹4,73,000)
	Interest	**@9% per annum**

5. Learned counsel for the claimant-appellant would contend that the Tribunal has erred in awarding notional income on account of death of Mohan who was 14 years old at the time of the accident. Learned counsel for the claimant-appellant while relying upon the judgment of the Hon'ble Supreme Court in the cases of **Baby Sakshi Greola Vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]** and **Kajal Vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27]** contends that though cases of injury, however, in both the cases a minor was involved and the income was assessed as that of a skilled worker and a multiplier of 18 was also applied. Learned counsel would further contend that in the present case also since the deceased was 14 years of age, his income ought to have been assessed as that of a skilled person rather than assessing the same notionally, which was around ₹5,600 per month at the time of the accident. It is further the contention that no addition has been made towards future prospects. Learned counsel would still

further contend that the amounts awarded under the conventional heads are not in accordance with the law laid down by the Hon'ble Supreme Court. In support of his contentions, learned counsel for the claimant-appellant has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Sarla Verma & Ors. vs. Delhi Transport Corporation & Anr. [(2009) 6 SCC 121], National Insurance Company Ltd. vs. Pranay Sethi & Ors. [(2017) 16 SCC 680]**, **Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram & Ors. [(2018) 18 SCC 130]** and **N. Jayasree & Ors. vs. Cholamandalam M.S General Insurance Company Ltd. [2021(4) RCR (Civil) 642]**. Learned counsel contends that it has been held to be a case of contributory negligence to the extent of 10% on the ground that the deceased was triple riding on the motorcycle. Learned counsel would contend that at best it can be treated as a case of a traffic violation. It is further the contention of the learned counsel that the offending vehicle had hit the motorcycle from behind and there was no contribution on the part of any of the riders in the accident. It is further contended that no issue was framed by the Tribunal regarding contributory negligence, yet negligence has been attributed to the deceased to the extent of 10%. In support of his contentions the learned counsel for the claimant-appellant has relied upon the judgments of the Hon'ble Supreme Court in the case **Anjana Narayan Kamble & Ors. vs. Branch Manager, Reliance General Insurance Company Limited & Anr.** [**2023 (2) CivilLJ 727**] and **M. Nithya & Ors. vs. SBI General Insurance Company Limited [SLP (Civil) Nos.833-834 of 2023 decided on 03.01.2025]**.

6. *Per contra*, the learned counsel for respondent No.2-Insurance Company has vehemently argued that sufficient amount had already been awarded as compensation in the present case and that there is no scope of any enhancement. It is further the contention of the learned counsel that in case future prospects are being granted then deduction would have to be made.

7. Heard.

8. In the present case the Tribunal has held it to be a case of contributory negligence to the extent of 10% on the ground that it was a case of triple riding. The Hon'ble Supreme Court in the case of **Anjana Narayan Kamble** (supra) has held as under :

> *"6. The Learned Counsel for the Appellant relied upon the judgement of this Court in Mohammed Siddique & Anr. v. National Insurance Company Limited & Others reported in (2020) 3 SCC 57, wherein this Court held that the deceased was negligent as 3 persons on a motorcycle could have added to the imbalance. It was held that motorcyclist may be violating the Motor Vehicle Act, 1988 for which the deceased may be liable to penalty but such violation by itself, cannot lead to a finding of contributory negligence. This court held :-*
>
> > *"13. But the above reason, in our view, is flawed. The fact that the deceased was riding on a motor cycle along with the driver and another, may not, by itself, without anything more, make him guilty of*

contributory negligence. At the most it would make him guilty of being a party to the violation of the law. Section 128 of the Motor Vehicles Act, 1988, imposes a restriction on the driver of a two wheeled motor cycle, not to carry more than one person on the motorcycle. Section 194C inserted by the Amendment Act 32 of 2019, prescribes a penalty for violation of safety measures for motor cycle drivers and pillion riders. Therefore, the fact that a person was a pillion rider on a motor cycle along with the driver and one more person on the pillion, may be a violation of the law. But such violation by itself, without anything more, cannot lead to a finding of contributory negligence, unless it is established that his very act of riding along with two others, contributed either to the accident or to the impact of the accident upon the victim. There must either be a causal connection between the violation and the accident or a causal connection between the violation and the impact of the accident upon the victim. It may so happen at times, that the accident could have been averted or the injuries sustained could have been of a lesser degree, if there had been no violation of the law by the victim. What could *otherwise have resulted in a simple injury, might have resulted in a grievous injury or even death due to the violation of the law by the victim. It is in such cases, where, but for the violation of the law, either the accident could have been averted or the impact could have been minimized, that the principle of contributory negligence could be invoked. It is not the case of the insurer that the accident itself occurred as a result of three persons riding on a motorcycle. It is not even the case of the insurer that the accident would have been averted, if three persons were not riding on the motorcycle.......*

(Emphasis Supplied)

In the present case, there is no such evidence of contributory negligence except fact of three riders on the motor cycle and of not wearing helmet by the deceased. Therefore, in view of the enunciation of law, we find that the High Court was not justified in deducting 30% of the amount of compensation assessed by the Tribunal for the reason that the deceased was triple riding the motor cycle or was not wearing a helmet. The violation of rules for driving a motor vehicle is not a ground to deduct the amount of compensation awarded unless there is proof of

> *either the accident could have averted or the impact could have been minimized".*

Further, the Hon'ble Supreme Court in the case of **M. Nithya** (supra) has reiterated that in the absence of any specific issue having been framed regarding the contributory negligence, any finding qua the same could not have been returned. It was held as under :

> *"7. It is pertinent to observe that the Tribunal noted that the Insurance Company in their Counter contend that contributary negligence of the part of the deceased has to be fixed. However, the Tribunal did not frame any specific issue in that regard for determination. The Tribunal clearly finds negligence only on part of the driver of the lorry and therefore, the owner of the lorry and the Insurance Company which insured the said lorry are jointly and severally found liable to pay compensation. Therefore, when the Tribunal did not even frame an issue on contributary negligence, the High Court ought not to have considered that argument in order to reduce the compensation awarded. Even otherwise the Insurance Company did not lead any evidence on this aspect nor insisted for framing an issue. Merely making a bald assertion in their Counter Affidavit cannot derive any advantage. Hence, we are in agreement with the findings of the Tribunal that the accident took place only due to the*

> *negligence of the driver of the lorry and therefore, the contributary negligence awarded on part of the deceased by the High Court suffers from an error and cannot be sustained."*

Merely because it was a case of triple riding, it cannot be said that the same was a case of contributory negligence. Admittedly, the offending vehicle hit the motorcycle from behind and there is no evidence to the contrary which was led by the respondents. Once the vehicle was hit from behind the finding of the accident having been caused because of triple riding cannot be upheld.

9. In the present case there is absolutely no evidence led by the respondents to show that it was a case of contributory negligence and there was also no issue framed qua the same. In view of the settled law noticed above and the fact that the learned counsel for the respondents have been unable to point out to any evidence on the record that the act of the rider of the motorcycle had contributed in any manner to the accident, the finding of the Tribunal qua contributory negligence cannot be sustained and the same is accordingly set aside.

10. In the present case the deceased was 14 years of age, and the Tribunal had assessed the income notionally. The argument of the learned counsel for the claimant-appellant that the income of the deceased ought to have been assessed as that of a skilled worker deserves to be accepted. The Hon'ble Supreme Court in the case of **Baby Sakshi Greola** (supra), while relying upon the case of **Kajal** (supra), assessed the notional income of a 7-year-old child, who had received injuries, on the basis of minimum wages

payable to a skilled worker. Still further, the Hon'ble Supreme Court recently in the case of **Karuna Parmar vs. Prakash Sinha & Ors. [2025 (1) TAC 730]**, yet again relying on **Baby Sakshi Greola** (supra), awarded the compensation in the case of a 6-year-old child, who had died in an accident which occurred on 07.03.2014, as per the minimum wages applicable for a skilled worker in the year 2014 by applying a multiplier of '18'. Further still, the Hon'ble Supreme Court in the cases of **Master Ayush vs. The Branch Manager, Reliance General Insurance Company Limited & Anr. [2022 (2) RCR (Civil) 760]** and **Minor Roopa vs. The Divisional Manager, New India Assurance Company Limited [2024 (12) SCC 490]**, wherein for the death of a minor child aged 5 and 6 years, respectively, income of the deceased was calculated on the basis of minimum wages for a skilled workman and by adding 40% towards future prospects and applying a multiplier of 18.

11. In a recent judgment the Hon'ble Supreme Court in the case of **Hitesh Nagjibhai Patel vs. Bababhai Nagjibhai Rabari & Anr. [2025 INSC 1070]** has held as under :

> *"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. <u>It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in</u>*

> *<u>the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful employment at the time of the accident</u>. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in Kajal Vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27], and of Baby Sakshi Greola Vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]."*

In para 15 of the aforesaid judgment, their Lordships further held as under:

> *"15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law."*

The minimum wages of a skilled worker at the time of the accident i.e. 16.03.2014 were around ₹5,600 per month. Hence, the income of the deceased is assessed as ₹5,600. As per the law laid down by the Hon'ble Supreme Court in the case of **Karuna Parmar** (supra) and **Hitesh Nagjibhai Patel** (supra), multiplier of 18 would be applicable in the present case. No addition has been made towards future prospects. Accordingly, 40% addition is made towards future prospects. No deduction was made by the Tribunal, which ought to have been 1/2.

12. Further, the amounts awarded under the conventional heads are not in consonance with the law laid down by the Hon'ble Supreme Court. Hence, as per the law laid down by the Hon'ble Supreme Court in the cases of **Pranay Sethi** (supra), **Magma General Insurance Company Limited** (supra) and **N. Jayasree** (supra), the claimant-appellant would be entitled to ₹18,000 (₹15,000 + 20% increase) towards loss of estate and ₹18,000 (₹15,000 + 20% increase) towards funeral expenses.

13. Accordingly, the reworked compensation to which the claimant-appellant are entitled is as under :

Sr. No.	**Heads**	**Compensation Awarded**
1.	Monthly income	₹5,600
2.	Annual income	[₹5,600 x 12] = ₹67,200
3.	Deduction 1/2	[₹67,200 - ₹33,600] = ₹33,600
4.	Future prospects @40%	[₹33,600 + ₹13,440] = ₹47,040
5.	Multiplier of 18	[₹47,040 x 18] = ₹8,46,720
6.	Funeral expenses	₹18,000
7.	Loss of estate	₹18,000
8.	Loss of love and affection	₹50,000
	Total Compensation	**₹9,32,720**

14. The amount in excess of and over and above the amount awarded by the Tribunal shall also attract interest @ 7.5% per annum from the date of filing of the claim petition till the realization of the entire amount.

15. In view of the decision by the Hon'ble Supreme Court in **Parminder Singh vs. Honey Goyal & Ors. [AIR 2025 (SC) 1713]**, after calculation of the enhanced amount, the same be transferred by respondent No.2-Insurance Company in the bank account of the claimant-appellant within a period of six weeks from today. The particulars of the bank account along with the requisite documents in support thereof shall be furnished by the claimant-appellant to respondent No.2-Insurance company within a period of two weeks from today and needful shall be done by respondent No.2-Insurance Company after verification thereof within a period of four weeks thereafter along with up-to-date interest. The compliance shall be reported by the Bank to the Tribunal concerned.

16. In view of the above discussion, the present appeal is allowed and the award passed by the Tribunal is modified accordingly. Pending applications, if any, also stand disposed off.

28.01.2026 **(ALKA SARIN)**
Aman Jain **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No