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

CM-10559-CII-2025

IN/AND FAO-1022-2019 (O&M)

Date of decision : 15.07.2025

Nirmala Devi & ors.

....Appellants

Versus

Amit Kumar & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Vinod Gupta, Advocate
Mr. Mayank Gupta, Advocate and
Mr. Didar Singh, Advocate
for the appellants.

Mr. Sachin Gupta, Advocate and
Mr. Sachin Ohri, Advocate
for respondent-3 Ins. Co.

PANKAJ JAIN, J.(ORAL)

CM-10559-CII-2025

This is an application for revival of the present appeal by recalling the order dated 06.05.2025.

For the reasons recorded in the application, the same is allowed.

The main appeal is taken up on board for hearing today itself.

FAO-1022-2019

1 Claimants are in appeal aggrieved of award dated 06.09.2018 passed by Motor Accident Claims Tribunal, Karnal.

2 Primary grievance of the claimants is *qua* issues No.1 & 2.



3 Learned counsel for the appellants submits that the MACT erred in holding deceased to be equally responsible for the accident merely for the reason that the vehicles collided head-on. He refers to the site plan which is part of the police report filed under Section 173 Cr.P.C. and was tendered in evidence along with the police report before MACT as Ex.P-3. He submits that the deceased was travelling from Village Dacher to Nissing i.e. from left to right when the offending vehicle coming from opposite direction hit him at point 'A'. He submits that evidently the accident took place on the extreme left hand side of the road meaning thereby that the offending vehicle hit the deceased after crossing to wrong side. He further submits that the compensation also needs to be re-worked as only Rs.40,000/- consolidated sum has been paid for loss of consortium and Rs.15,000/- has been paid for loss of estate and funeral expenses.

4 *Per contra*, learned counsel for respondent No.3-Insurance company, submits that, keeping in view that the accident was head-on collision it cannot be ascertained as to who was at fault and therefore, Tribunal has rightly held both the vehicles contributed to the accident. He thus supports the award passed by the MACT.

5 I have heard learned counsel for the parties and have gone through the records of the case.

6 In order to appreciate the contention raised by counsel for the appellants, it will be apt to peruse the site plan (Ex.P-3) depicting the place of accident.



7 Surprisingly, MACT, while returning finding on issue No.1 has somehow overlooked the vital piece of evidence in form of site plan and did not bother to consider the same. There is no thumb rule that merely for the reason that the vehicles had a head-on collision; both drivers should be held to be equally negligent. Each case needs to be decided on the basis of the evidence on record. Keeping in view the place of accident as depicted in the site plan, prepared by police authorities during investigation, this Court finds that the deceased travelling on the correct side, cannot be held to be responsible. It is respondent No.1 who drove his vehicle to the wrong side of road to hit the deceased. It is due to his negligence that deceased lost his life. Resultantly, findings on issue No.1 recorded by the Tribunal cannot be sustained and are ordered to be reversed. It is held that the accident in question was caused by rash and negligent driving of offending vehicle bearing registration No.HR-05R-6262, i.e. respondent No.1 solely.

8 Coming on to the issue with respect to re-working of compensation, in view of ratio of law laid down in ***National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009***, loss of consortium has to be paid to the claimants. Resultantly, each of the claimants is awarded an amount of Rs.48,000/- for loss of consortium. Rs.15,000/- under the head of loss of estate and funeral expenses is also enhanced to Rs.18,000/-.

9 The claimants shall also be entitled for interest @6% per annum from the date of filing of the claim petition till the date of actual realization.



10 With the aforesaid modification, the appeal is disposed off.

11 Pending miscellaneous application, if any, shall also stand disposed off.

15.07.2025

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No