



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

**257**

**FAO-5830-2019 (O&M)**

**XOBJC-244-2019**

**Date of Decision : 11.07.2025**

PEPSU ROAD TRANSPORT CORPORATION

.... Appellant

VERSUS

SAROJ BALA AND ORS

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Aman Sharma, Advocate for the appellant.

Mr. Abhinav Singla, Advocate  
for respondents No.1 and 2 and the cross-objectors.

Service of respondent No.3 was dispensed with  
vide order dated 20.09.2019.

**ALKA SARIN, J. (ORAL)**

1. The present appeal has been preferred by the owner of the bus bearing registration No.PB-13-R-4631 – Pepsu Road Transport Corporation – aggrieved by the award dated 02.08.2019 passed by the Motor Accident Claims Tribunal, Sangrur (hereinafter referred to as the ‘Tribunal’). During the pendency of the appeal, cross-objections being XOBJC-244-2019 were also filed by the claimants (respondents No.1 and 2 herein). The parties are hereinafter referred to as the owner and the claimants for the sake of clarity.

2. Brief facts relevant to the present *lis* are that the on 02.06.2018 Arnav Jindal (deceased) was riding an Activa bearing registration No.PB-13-AJ-1571 along with pillion riders, namely, Jai Suraj and Saurav. They were coming from Sunam side to Bhagat Singh Chowk. At about 8:15 am

the deceased was crossing bus bearing registration No.PB-13-R-4631 (hereinafter referred to as the 'offending vehicle'), the driver of the bus turned the bus towards footpath due to which the Activa got entangled with the bus. Rajesh Kumar son of Amarnath, who was near Bhagat Singh Chowk at that time, raised an alarm. On hearing Rajesh Kumar, the other people standing at the spot also raised alarm and the driver of the bus stopped the bus. The deceased suffered injuries on his head and other parts of the body and his friends also suffered injuries. Arnav Jindal succumbed to his injuries at the spot. FIR was registered on the statement of Rajesh Kumar. The present claim petition was filed by the parents of Arnav Jindal.

3. The respondents in the claim petition i.e. the driver and the owner of the offending vehicle filed their written statement denying the factum of the accident and stated that a false FIR had been lodged by the claimants in connivance with the local Police. It was further the stand taken that the deceased fell on the road and his head struck the footpath due to which he died.

4. Replication was filed. On the basis of the pleadings of the parties the following issues were framed :

1. Whether Arnav Jindal died in the road accident as pleaded ? OPC
2. Whether the claimants are entitled to amount claimed ? OPR
3. Relief.

5. The Tribunal vide the impugned award dated 02.08.2019

awarded the following compensation :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹8,000
2.	Annual income	[₹8,000 x 12] = ₹96,000
3.	Deduction 1/3 <sup>rd</sup>	[₹96,000 - ₹32,000] = ₹64,000
4.	Future prospects 50%	[₹64,000 + ₹ 32,000] = ₹96,000
5.	Multiplier of '18'	[₹96,000 x 18] = ₹17,28,000
6.	Funeral expenses	₹25,000
7.	Love and affection	₹25,000
	<b>Total Compensation</b>	<b>₹17,78,000</b>
	<b>Interest</b>	<b>@ 9% per annum</b>

6. Learned counsel for the owner would contend that it was a case of contributory negligence inasmuch as the deceased was triple riding the Activa with two of his friends. It is further the contention of the learned counsel that the income of the deceased, who was 15 years old and a student of 10<sup>th</sup> Class, had been assessed by the Tribunal on the higher side. Learned counsel would further contend that the deduction of 1/3<sup>rd</sup> has wrongly been applied by the Tribunal, whereas it ought to have been 1/2. Still further it is the contention of the learned counsel that an addition of 50% had been made towards future prospects whereas it ought to have been 40%.

7. *Per contra*, learned counsel for the claimants and the cross-objectors would contend that there was no plea regarding contributory negligence which was raised by the owner in the written statement and neither any issue was framed nor any evidence was led in this regard. Learned counsel for the claimants and the cross-objectors has relied upon the judgment of the Hon'ble Supreme Court in the case of **M. Nithya & Ors.**

vs. SBI General Insurance Company Limited [SLP (Civil) Nos.833-834 of 2023 decided on 03.01.2025] to contend that in the absence of any specific issue or any evidence led regarding contributory negligence, no finding qua the same can be returned by the Tribunal. Learned counsel has further relied upon the judgment in the case of **Kajal vs. Jagdish Chand & Ors. [2020 (2) RCR (Civil) 27]** which was later on followed in the case of **Baby Sakshi Greola vs. Manzoor Ahmad Simon & Anr. [2025 (1) RCR (Civil) 238]** to contend that the income of the deceased as ₹8,000 per month has wrongly been assessed, which ought to have been ₹9,754 treating the deceased to be a skilled worker. It is still further the contention of the learned counsel that the amounts awarded under the conventional heads and under the head 'loss of consortium' are not in consonance with the judgments of the Hon'ble Supreme Court in the cases of **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]**.

8. Heard.

9. In the present case the argument of the learned counsel for the owner that it was a case of contributory negligence inasmuch as the deceased was triple riding the Activa with two of his friends deserves to be rejected at the outset. A perusal of the written statement filed by the owner and the driver reveals that no such plea was even raised in the written statement nor

any issue was framed in this regard by the Tribunal concerned. In the absence of any pleadings or any issue having been framed, the argument of the learned counsel for the owner is sans any merits. Even otherwise there is not an iota of evidence which had been led by the owner to remotely suggest that it was a case of contributory negligence. The Hon'ble Supreme Court in the case of **M. Nithya** (supra) has held as under :

*“7. It is pertinent to observe that the Tribunal noted that the Insurance Company in their Counter contend that contributory 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 contributory 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 contributory negligence awarded on part of the deceased by the High Court suffers from an error and cannot be sustained.”*

In the present case even the plea regarding contributory negligence was not raised in the written statement. In view of the above settled law, the argument of the learned counsel for the owner qua the contributory negligence is rejected.

10. The argument of the learned counsel for the owner that the income of the deceased, as assessed by the Tribunal, is on the higher side also deserves to be rejected. 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. [Civil Appeal No.2317 of 2025 arising out of SLP (C) No.6428 of 2023 decided 11.02.2025]**, 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. The minimum wage of a skilled worker at the time of the accident i.e. in June 2018 was ₹9,754, hence the income of the deceased is assessed as ₹9,754 per month. Accordingly, the argument of the learned counsel for the owner

qua the income stands rejected and the argument of the learned counsel for the claimants and the cross-objectors qua the same is accepted.

11. The arguments of the learned counsel for the owner that deduction of 1/3<sup>rd</sup> has wrongly been applied which ought to have been 1/2 and that an addition of 50% had been made towards future prospects whereas it ought to have been 40% deserve to be accepted. Accordingly, keeping in view the fact that the deceased was 15 years of age and a student of 10<sup>th</sup> Class, deduction of 50% and an addition of 40% towards future prospects is made. Since there is no challenge to the multiplier of '18' as applied by the Tribunal, the same is maintained.

12. The arguments of the learned counsel for the claimants and the cross-objectors that the amounts awarded under the conventional heads and under the head 'loss of consortium' are not in accordance with the law laid down by the Hon'ble Supreme Court deserve to be accepted. 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 claimants and the cross-objectors would be entitled to ₹18,000 (₹15,000 + 20% increase) towards loss of estate and ₹18,000 (₹15,000 + 20% increase) towards funeral expenses. The claimants and the cross-objectors, being the parents of the deceased, would also be entitled to ₹48,000 each (₹40,000 + 20% increase) towards loss of consortium.

13. Accordingly, the reworked compensation is as under :

Sr. No.	Heads	Compensation Awarded
1.	Monthly income	₹9,754
2.	Annual income	[₹9,754 x 12] = ₹1,17,048
3.	Deduction ½	[₹1,17,048 - ₹58,524] = ₹58,524
4.	Future prospects 40%	[₹58,524 + ₹23,410] = ₹81,934
5.	Multiplier of '18'	[₹81,934 x 18] = ₹14,74,812
6.	Funeral expenses	₹18,000
7.	Loss of estate	₹18,000
8.	Loss of Consortium : (i) Filial	₹96,000 [₹48,000 x 2]
	<b>Total Compensation</b>	<b>₹16,06,812</b>

14. In view of the above discussion, the impugned award passed by the Tribunal is modified accordingly and the present appeal being FAO-5830-2019 and the cross-objections being XOBJC-244-2019 are disposed off. It is, however, made clear that in case the amount already stands paid to the claimants, the appellant would have no right to recover the same. Pending applications, if any, also stand disposed off.

**11.07.2025**

*Aman Jain*

**(ALKA SARIN)**

**JUDGE**

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