



FAO No.3135 of 2001 (O&M)

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

FAO No.3135 of 2001 (O&M)

Date of Reserve: 18.07.2025

Date of Decision: 08.08.2025

SMT. LABH KAUR AND OTHERS

.....Appellant(s)

Vs

**HARYANA ROADWAYS THROUGH ITS GENERAL MANAGER AND
ORS AND ORS.**

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. A.K. Spehia, Advocate
Mr. Rajesh Duhan, Advocate
for the appellants.

Sh. Arun Beniwal, Sr. D.A.G., Haryana.

Ms. Nirmala Jangra, Advocate for
Mr. Sachin Gupta Ladwa, Advocate
for respondent No.2.

HARKESH MANUJA, J.

[1]. By way of present appeal, challenge has been laid to an award 04.09.2000 passed by the learned Motor Accident Claims Tribunal, Patiala (hereinafter to be referred as "the Tribunal"), whereby claim petition filed at the instance of appellants/claimants was dismissed with costs though having assessed compensation to the tune of Rs. 1,59,000/-.

Brief facts

[2]. The appellants/claimants being dependents upon the deceased Jit Singh, filed claim petition before the Tribunal praying for grant of compensation to the tune of Rs.15,00,000/- (Rupees Fifteen lakhs Only) on account of death of Jit Singh in a motor vehicular accident which took place on 17.10.1997, alleging rash and negligent driving of Bus bearing Registration No.HR-37-1463 by Mohinder Singh, Respondent No.2-driver.



FAO No.3135 of 2001 (O&M)

[3]. Learned Tribunal, after appraisal of evidence on record, held that the accident did not occur due to rash and negligent driving of respondent No.2-driver and after assessing income of deceased @ Rs.5,500/- per month while working as a driver of tractor trolley besides doing dairy work, assessed compensation in the following manner:-

S.No	Heads of Claim	Amount (in Rs)
1.	Loss of dependency	Rs.1,44,000/-
2.	Loss of consortium	Rs.10,000/-
3.	Funeral Expenses	Rs.5,000/-
	Total	Rs.1,59,000/-

[4]. Being aggrieved against the award dated 04.09.2000 passed by the learned Tribunal, the present appeal was preferred by the appellants/claimants for setting aside the same as well as for enhancement of compensation. Facts as specified in the claim petition about the manner of accident are not being repeated here for the sake of brevity.

Arguments

[5]. Learned counsel for the appellants assailed the award while submitting that learned Tribunal failed to appreciate the evidence on record in right perspective. Learned counsel pointed out that even in the written statement, respondent No.2 did not deny the accident been caused with the offending bus, though it was stated that accident occurred due to own negligence of the deceased. It was submitted that even from the deposition of respondent No.2-driver, who went on to state that the accident occurred while overtaking of the tractor, it was

**FAO No.3135 of 2001 (O&M)**

sufficiently established that the accident took place due to the negligence of the driver of offending bus.

[5.1]. Learned counsel also submitted that earning of the deceased was to the tune of Rs.5,500/- per month i.e., Rs. 2,500/- per month as salary while working as a tractor-trolley driver and Rs.3,000/- per month by doing dairy work. It was further submitted that the above fact was duly proved from the deposition of the widow, who appeared as PW-1; which was not rebutted by the respondents by leading any evidence and, therefore, learned Tribunal went wrong while assessing the compensation to be paid to the appellants/claimants. Furthermore, it was submitted that the compensation under conventional heads i.e., funeral expenses, loss of estate and loss of consortium was also on the lower side.

[6]. On the other hand, learned counsel representing respondent No.2-driver submitted that the driver was driving bus at a moderate speed and was not responsible for the accident. It was contended that the accident occurred due to the rash and negligent driving of the tractor driver who was at a high speed. The income of the deceased and the dependency of the appellants/claimants was specifically denied. Learned counsel further submitted that in view of facts and circumstances of the case, the claim petition was rightly dismissed and, thus, the present appeal was liable to be rejected.

[6.1]. In addition, learned State counsel submitted that respondent No.2-driver was driving the bus at an average speed and was not responsible for causing the accident. Learned State counsel further submitted that the accident occurred solely due to the rash and negligent driving of the tractor driver and, therefore, no interference was called for in this present appeal.

**FAO No.3135 of 2001 (O&M)**

[7]. I have heard learned counsel for the parties and perused the paper book of the case. I find force in the arguments advanced by the learned counsel for the appellants/claimants.

Discussion**Question of rash and negligent driving by respondent No.2/Driver**

[8]. On the basis of the pleadings of the parties, the learned Tribunal framed as many as four issues. For the purposes of present appeal issue No.1 is relevant which is reproduced here as under:-

"1. Whether on 17.10.1997 Jit Ram @ Jit Singh died due to rash and negligent driving of Bus No. HR-37-1463 by Mohinder Singh, respondent No. 2? If so to what effect? OPP"

[9]. In order to prove this issue, the claimants examined Labh Kaur as PW-1 and Karnail Singh as PW-2. On the other hand, Mohinder Singh, respondent No.2-driver has himself appeared as RW-1. The claimants narrated the circumstances leading to the accident as alleged in the claim petition. Whereas learned Tribunal, while relying upon the deposition of Respondent No.2/driver who appeared as RW-1 concluded that the claimants failed to prove the rash and negligent act of the driver of the offending vehicle. Issue No.1 was accordingly decided against the claimants/ appellants. Consequently, the claim petition was dismissed.

[9.1]. It appears that the learned Tribunal evaluated the evidence on record as if the rash and negligent driving of the offending vehicle was required to be established beyond reasonable doubt, similar to the standards applicable in the criminal proceedings. However, in motor accident claim cases, the standard of proof is that of preponderance of probabilities. In the present case, the evidence, on

**FAO No.3135 of 2001 (O&M)**

the standard of preponderance of probabilities, supports the claimants' version of events.

[10]. The rash and negligent driving of the offending vehicle by respondent No.2-driver was established on record even as per his own deposition, while appearing as RW-1, wherein he deposed that the tractor was going ahead of the bus and as soon as the bus tried to overtake the same, a scootrist suddenly came in front of the tractor and when half portion of the bus had already crossed, the tractor struck the rear portion of the bus on the conductor side as a result of which the driver of the tractor fell down.

[10.1]. From the statement of RW-1, it is clearly established that the accident occurred while the offending bus was overtaking the tractor and the same struck in the rear portion of the bus. If at all, any scootrist would have come in front of the tractor and the deceased had to apply his brakes, there would not have been any occasion of the tractor hitting the rear portion of the bus and in all probabilities the offending bus in the process of overtaking the tractor an obvious mistake in swerving to the left thereby resulting into the accident in question and falling of the deceased from the tractor. Moreover, respondent No.2 also faced trial on account of being rash and negligent in driving the offending vehicle.

[11]. In view of the above facts and circumstances, the findings recorded by the learned Tribunal on Issue No.1 are hereby set aside, and it is held that the accident held on 17.10.1997 which resulted into death of Jit Ram @ Jit Singh, occurred due to the rash and negligent driving of the offending bus by respondent No. 2/driver.



FAO No.3135 of 2001 (O&M)

Question of Income assessed

[12]. In the present case, Labh Kaur (wife of deceased) while appearing as PW-1 deposed that the deceased was working as driver of tractor trolley and earning Rs.2,500/- per month but was also doing dairy farming and earning Rs.3,000/- per month. In rebuttal, the respondents led no evidence on this issue. Thus, the learned Tribunal rightly assessed the income of the deceased as Rs.5,500/- per month, thereby calling for no interference in this regard.

[13]. The learned Tribunal failed to assess the deduction of deceased's income towards personal expenses. In the present case the deceased was survived by his widow and four children. As such in view of law laid down by the Hon'ble Supreme Court in **"Smt. Sarla Verma and others vs. Delhi Transport Corporation and another."** reported as **2009 (3) RCR (Civil) 77**, wherein it was held that in case the number of dependent family members were 4 to 6, 1/4th of the total income was to be deducted as personal expenses towards personal expenses. Relevant para of the judgment is culled out 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 [(1996) 4 SCC 362], the general practice is to apply standardized deductions. Having 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 member exceeds six."

Question of Compensation under Conventional Heads



FAO No.3135 of 2001 (O&M)

[14]. Furthermore, in view of Sarla Verma's case (supra), "National Insurance Co. Ltd vs Pranay Sethi & others", reported as (2017) 16 SCC 680 and "United India Insurance Co. Ltd. v. Satinder Kaur @ Satwinder Kaur", reported as (2021) 11 SCC 780, compensation awarded under conventional heads is also required to be re-assessed. Appellants/Claimants are held entitled for Rs.18,000/- as compensation under the head of funeral expenses and Rs.18,000/- towards loss of estate. Loss of consortium is to be awarded to the tune of Rs.2,40,000/- (Rs.48,000/- x 5) as appellants/claimants being spouse and children of the deceased are also entitled for spousal and parental consortium.

Conclusion

[15]. In view of what has been discussed hereinabove, the appellants/claimants shall be entitled for the grant of compensation in the following manner:-

Sr.No.	Nature	Amount in Rupees
1.	Annual Income of deceased	Rs.66,000/-
2.	Add 40% of Future prospects	Rs.26,400/-
3	Total Income (Rs.66,000/- + Rs.26,400)	Rs.92,400/-
4.	Deduction (1/4th)	Rs.23,100/-
5.	Net Income after 1/4 th Deduction	Rs.69,300/-
6.	Loss of Income after applying multiplier of 15 as per age of 38 years(Rs.69,300/- x 15)	Rs.10,39,500/-
7.	Funeral Expenses	Rs.18,000/-
8.	Loss of Consortium (Rs.48000x5)	Rs.2,40,000/-
9.	Loss of Estate	Rs.18,000/-
	Total Compensation	Rs.13,15,500/-
	Amount Awarded by the Tribunal	Rs.1,59,000/-
	Enhanced Amount	Rs.11,56,500/-



FAO No.3135 of 2001 (O&M)

[16]. Learned Tribunal while awarding the compensation has not granted interest, however, in view of the facts and circumstances of the present case; rather as per the observations made by the Hon'ble Supreme Court in *Smt. Supe Dei and others Vs. National Insurance Company Limited and other, (2009) (4) SCC 513* approved in a subsequent judgment titled as *Puttamma and others Vs. K.L. Narayana Reddy and another, 2014 (1) RCR (Civil) 443*, interest @ 9% per annum is granted on the amount of compensation awarded to the claimants from the date of institution of claim petition till its realization. Needless to mention here that the amount of compensation already paid to the claimants shall be deducted from the enhanced compensation.

[17]. In view of aforesaid modification of the award, the present appeal stands allowed. Pending miscellaneous application(s) if any, shall also stand disposed of.

August 08, 2025

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**(HARKESH MANUJA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No