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

**FAO- 3970-2010**
**Reserved on: 15.09.2025**
**Date of decision: 15.10.2025**

Indra Devi and others .....Appellants

Vs.

Rakesh Singh Panwar and others .....Respondents

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Ramesh Sindhar, Advocate
for the appellants.

Mr. Sandeep Suri, Advocate and
for the respondents.

**SUDEEPTI SHARMA J.**

1. The present appeal has been preferred for setting aside the award dated 08.05.2010 passed in the claim petition filed under Section 166 & 144 of the Motor Vehicles Act, 1988, by the learned Motor Accident Claims Tribunal, Karnal (for short, 'the Tribunal'), whereby, claim petition filed by the appellants/claimants, was dismissed.

**FACTS NOT IN DISPUTE**

2. The brief facts of the case as per award dated 08.05.2010 are that on 25.09.2008 claimant - Indra Wati alongwith her husband Puran Chand (since deceased), Smt. Devi wife of Parkash, Rajni and Suman daughters of Parkash went to meet Hans Raj son of Hari Singh of village Kalsi; that on three 26.09.2008 aforesaid Hans Raj boarded them in a three wheeler bearing registration No.HR-45-2967 from village Kalsi for Bus Stand Nilokheri and said Hans Raj was coming behind them; that at about

9.30 AM, when they reached near Bus Stand chowk, Nilokheri and when the three wheeler was in the process of crossing the road to go to Bus Stand, Nilokheri, a white colour car bearing registration No.RJ-14-CF-0054, being driven by respondent No.1 in rash, negligent, careless and in zig-zag manner, without observing traffic rules came from Karnal side and hit the three wheeler. As a result of which, result occupants of the three wheeler received serious, multiple and grievous injuries on various parts of their bodies. The car driver fled away from the spot alongwith his vehicle towards Pipli. The accident took place due to sole rash and negligence of the car driver that regarding this accident, FIR No.257 (Ex.PW3/C) was got registered against Rakesh Singh Panwar, respondent No.1, in police station Butana by eye witness Hans Raj (PW1); that Azad Coach Pvt Ltd, respondent No.2, is the owner of the car and the car was duly insured with ICICI Lombard General Insurance Company Limited, respondent No.3, therefore, all the three respondents are jointly and severally liable to compensate the claimants.

3. Upon notice of the claim petition, the respondents appeared and filed their separate replies denying the factum of accident/compensation.

4. From the pleadings of the parties, the learned Tribunal framed the following issues:-

> *"(1) Whether the accident in question took place on 26.9.2008 due to rash and negligent driving of car bearing No.RJ-14-CF-0054, driven by respondent No.1, Rakesh Singh in which Puran Chand had died, as alleged? OPP*

*(2) If issues No.1 is proved, whether the claimants are entitled to any compensation, if so how much and from whom?*

*(3) Whether the vehicle in question was being driven in violation of the terms and conditions of the insurance policy, if so its effect? OPR*

*(4) Relief."*

5. After taking into consideration the pleadings and the evidence on record, the learned Tribunal dismissed the claim petition. Hence, the present appeal.

**SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES**

6. The learned counsel for the appellants/claimants contends that the learned Tribunal erred in dismissing the claim petition only on the ground that the appellants/claimants have failed to prove that accident in question occurred due to rash and negligent driving of offending vehicle. Therefore, he prays that the present appeal be allowed.

7. *Per contra*, learned counsel for respondent-Insurance Company, however, vehemently argues on the lines of the award dated 08.05.2010 and submits that the claim petition has rightly been dismissed by the learned Tribunal. Therefore, he prays for dismissal of the appeal.

8. I have heard learned counsel for the parties and perused the whole record of this case.

9. The relevant portion of the award reads as under:-

*"9. Under this issue, there is no dispute before me that FIR Ex.PW3/C was registered against Rakesh Singh, respondent No.1 for this accident by eye witnees Hans*

*Raj PW-1. The police after due investigations had submitted the challan against him and he is now facing trial for this accident before the criminal court. It is so proved by the evidence of Suresh Kumar, Additional Ahlmad (PW3), as well as from documents Ex.PW3/A, certified copy of challan under section 173 of Cr.P.C. and Ex.PW3/C, certified copy of FIR. It is ofcourse prima facie proof of rash and negligent driving of Suresh Kumar, respondent No.1; but the same has to be proved independently before this Tribunal.*

*10. . In order to positively prove rash and negligent driving of car driver Rakesh Singh, respondent no.1 the claimants have examined eye witness and author of the FIR viz Hans Raj as PW1. He has fully testified for the pleaded case of the claimant as above noted by way of his affidavit Ex. PW1/A that on 26.09.2008, he as well as Puran Chand (since deceased), his wife Indra Devi, claimant, Smt. Devi wife of Shri Parkash, Rajni and Suman two children of Shri Parkash boarded a three wheeler, from village kalsi for bus stand Nilokheri and he was also coming behind them; that when they reached near Bus Stand Chowk, Nilokheri, at about 9.30 PM(sic) and when the said three wheeler was in the process of crossing the G.T.Road, to go to Bus Stand, Nilokheri, a white colour car bearing registration No.RJ-14-CF-0054, being driven by respondent No.1 in a rash and negligent manner came from Karnal side and his against the three wheeler. In cross examination, he has also stated that the accident had taken place in between the highway and that the car driver hit the three wheeler all of a sudden. He has also admitted that the deceased was his close relative. Even claimant Raj Kumar PW2 has specifically*

*admitted that the accident took place when this three wheeler had tried to cross the G.T.Road. It is also so specifically pleaded case of the claimants.*

*11. It was the duty of the driver of the three wheeler, to see the vehicles moving on the road and then to cross the road after fully satisfying that the road was clear for passing. In the circumstances, learned counsel for the respondents has rightly cited Ravinder Kaur Vs. Haryana State 2000 (2) RCR (Civil) 746 wherein it is held that it was the duty of the driver of vehicle entering on the Highway from approach link road/path, to take all precautions and will enter Highway only when there is no likelihood on any obstructions due to his entry to any vehicle running on the Highway. It was further held in this authority that a driver taking sudden entry on a scooter loaded with a gas cylinder and a pillion rider, having not full control on the vehicle and without any regard to the heavy vehicles crossing the entry point on the Highway, will not be entitled to any compensation. He has also cited Rita Sharma Vs. Pan Chand, 1997 (4) RCR (Civil) 98 wherein it is held that person entering the main road has to give pass first to a vehicle running on the main road.*

*12. Therefore, it is fully established that the accident took place due to sole rash and negligent driving of the driver of the three wheeler. In view of this evidence of the claimant, there was no need for the respondents to lead any evidence in their defence.*

*13. Resultantly, it is proved to the hilt that the accident took place due to sole negligence on the part of the driver of the three wheeler resulting into death of Puran Chand and not because of any fault on the part of*

*car driver Rakesh Singh Panwar, respondent No.1. Therefore, this issue is hereby accordingly answered against the claimants and in favour of the respondents."*

10. A perusal of the impugned award would reveal that the learned Tribunal has fallen in error in dismissing the claim petition filed by the claimants/appellants on the ground that rash and negligent driving of the offending vehicle was not proved. The record unmistakably demonstrates otherwise.

11. The testimony of PW-1 Hans Raj, who is not only an eyewitness but also the author of the FIR, assumes paramount importance. He categorically narrated the sequence of events leading to the accident in his affidavit (Ex. PW-1/A) and his deposition before the learned Tribunal. His version remained wholly consistent with the statement recorded in the FIR (Ex. PW-3/C). He clearly deposed that the accident occurred solely due to the rash and negligent driving of the offending car (bearing registration No. RJ-14-CF-0054) by respondent No. 1. Despite extensive cross-examination, his testimony remained firm, cogent and unimpeached. Significantly, in his cross-examination he categorically denied the suggestion that the accident was caused due to the negligence of the three-wheeler driver. Such unimpeachable ocular evidence could not have been brushed aside without cogent reasoning, yet the learned Tribunal disbelieved it on tenuous grounds.

12. Further corroboration emanates from the testimony of PW-3 Suresh Kumar, Criminal Ahlmad, who proved that a challan (Ex. PW-3/A) had been filed against respondent No. 1 pursuant to the FIR. It is a settled

proposition that registration of FIR followed by submission of challan against a driver is a strong prima facie indication of his culpability in causing the accident. These documents, taken together with the testimony of PW-1, sufficiently establish rash and negligent driving on the part of respondent No. 1. The contrary finding of the learned Tribunal is thus unsustainable in the eyes of law.

13. The contention advanced by learned counsel for the respondent-insurance company, that it was the duty of the three-wheeler driver to exercise due care while entering the highway and that the accident occurred due to his negligence, is wholly devoid of merit. The record contains no iota of evidence to suggest contributory negligence on the part of the three-wheeler driver. On the contrary, PW-1 explicitly deposed that the three-wheeler driver had taken due care before entering the road. The site plan (Ex. PW-3/B) also supports this version. The learned Tribunal, instead of appreciating this evidence, sought to pick holes in the case of appellants/claimants without any substantive material, thereby rendering its finding perverse.

14. Equally untenable is the submission that the driver of the offending car having been acquitted in the connected criminal case, negligence cannot be attributed to him in these proceedings. It is trite law, reiterated in a catena of precedents, that findings of the criminal court do not bind the Motor Accident Claims Tribunal on the issue of negligence. The rationale is evident while criminal proceedings demand proof beyond reasonable doubt, in claim proceedings under Motors Vehicle Act negligence

is determined on the touchstone of preponderance of probabilities. An acquittal in a criminal case therefore does not *ipso facto* absolve the driver of liability. Reference may usefully be made to the decision of this Court in FAO-84-2007 titled as decided on ***"National Ins. Co. Ltd. V/S Gurnam Kaur And Ors."***, wherein it was categorically held that acquittal in a criminal case is not conclusive in motor accident claims, and the tribunal is duty-bound to independently assess negligence on the basis of material before it.

15. Applying the above principles, this Court is of the considered view that the claimants/appellants have successfully discharged their burden of proving, on the preponderance of probabilities, that the accident occurred due to rash and negligent driving of the offending vehicle by respondent No. 1. The findings recorded by the learned Tribunal are therefore erroneous, unsustainable in law, and liable to be set aside.

16. With respect to determination of compensation, the record contains evidence of hospital admission, the deceased-Puran Chand earning and expenses incurred for medical treatment. Consequently, this Court shall adjudicate the compensation in accordance with the documented evidence on the record.

17. A perusal of the award reveals that the deceased-Puran Chand was stated to be working as Mason and his monthly income was asserted to be Rs.9,000/- per month, however, no document has been produced in this regard. Consequently, his income is to be assessed as Rs.4,200/- per month

in accordance with minimum wages prescribed for skilled labour in the State of Haryana.

18. A perusal of the award reveals that the age of deceased as per post-mortem report Ex.P-1 at the time of accident was 60 years, therefore, learned Tribunal has rightly assessed aged of deceased-Puran Chand at the time of accident as 60 years.

19. A perusal of the award further reveals that compensation awarded by the learned Tribunal under the heads- Loss of Estate, Funeral Expenses and loss of consortium is on lower side and no amount is awarded for future prospects as per settled law. Therefore, the claimants are held entitled to compensation as calculated below:-

**SETTLED LAW ON COMPENSATION**

20. Hon'ble Supreme Court in the case of ***Sarla Verma Vs. Delhi Transport Corporation and Another*** **[(2009) 6 Supreme Court Cases 121]**, laid down the law on assessment of compensation and the relevant paras of the same are 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, the general practice is to apply standardised deductions. Having a 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 members exceeds six.*
>
> ***31***. *Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the*

> *possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.*
>
> ***32**. Thus even if the deceased is survived by parents and siblings, only d the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.*
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> ***** ***** ***** ***** *****
>
> ***42.** We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas[3], Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.*

21. Hon'ble Supreme Court in the case of ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.*** **[(2017) 16 SCC 680]** has clarified the law under Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

(A) Deduction of personal and living expenses to determine multiplicand;

(B) Selection of multiplier depending on age of deceased;

(C) Age of deceased on basis for applying multiplier;

(D) Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses, with escalation;

(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

> "***52.*** *As far as the* ***conventional heads*** *are concerned, we find it difficult to agree with the view expressed in Rajesh². It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.*
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> * * * *
>
> ***59.3****. While determining the income, an addition of 50% of actual salary to the income of the deceased towards*

> *future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less tax.*
>
> ***59.4**. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.*
>
> ***59.5**. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma[4] which we have reproduced hereinbefore.*
>
> ***59.6.** The selection of multiplier shall be as indicated in the Table in Sarla Verma[1] read with para 42 of that judgment.*
>
> ***59.7**. The age of the deceased should be the basis for applying the multiplier.*
>
> ***59.8**. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years."*

22. Hon'ble Supreme Court in the case of **Magma General Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

> *"**21**. A Constitution Bench of this Court in Pranay Sethi[2] dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a*

*compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.*

*21.1.* ***Spousal consortium*** *is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2.* ***Parental consortium*** *is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3.* ***Filial consortium*** *is the right of the parents to compensation in the case of an accidental death of a child. An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

***22****. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of*

*consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*

***23**. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*

***24**. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi². In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.*

**RELIEF**

23. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is **allowed** and the award dated 05.09.2006 is set aside. The appellants/claimants are held entitled to the compensation as per the calculations made here-under:-

| ***Sr. No.*** | ***Heads*** | ***Compensation Awarded*** |
|---|---|---|
| 1 | Monthly Income | Rs.4,200/- |
| 2 | Future prospects @ 10% | Rs.420/- (10% of 4,200) |

| | | |
|---|---|---|
| 3 | Deduction towards personal expenditure 1/3 | Rs.1,540/- {(4,200+420) X 1/3} |
| 4 | Total Income | Rs.3,080/- (4,620 – 1,540) |
| 5 | Multiplier | 9 |
| 6 | Annual Dependency | Rs.3,32,640/- (3,080X 9 X 12) |
| 7 | Loss of Estate | Rs.18,150/- |
| 8 | Funeral Expenses | Rs.18,150/- |
| 9 | Loss of Consortium<br>Spousal : Rs. 48,000 x 1<br>Parental : Rs. 48,000 x 2 | Rs. 1,45,200/- (48,400 X 3) |
| | **Total Compensation** | **Rs.5,14,140/-** |

24. So far as Issue No.3 i.e. whether the vehicle in question was being driven in violation of the terms and conditions of the insurance policy, if so its effect, is concerned, the learned Tribunal has decided the issue in favour of the driver and owner of the offending vehicle i.e. respondent Nos.1 and 2 & against the Insurance Company. Meaning thereby, respondent-Insurance Company is held liable to pay the compensation.

25. So far as the interest part is concerned, as held by Hon'ble Supreme Court in ***Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma*** **2019 ACJ 3176** and ***R.Valli and Others VS. Tamil Nadu State Transport Corporation*** **(2022) 5 Supreme Court Cases 107,** the appellants-claimants are granted the interest @ 9% per annum on the amount of compensation from the date of filing of claim petition till the date of its realization.

26. Respondent No.3-Insurance Company is directed to deposit the amount of compensation along with interest with the Tribunal within a period of two months from the date of receipt of copy of this judgment. The

Tribunal is further directed to disburse the amount of compensation along with interest equally in the accounts of the claimants/appellants. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

27. Pending application(s), if any, stand disposed of.

**15.10.2025** **(SUDEEPTI SHARMA)**
*Sahil* **JUDGE**

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