



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 13.10.2025

FAO-5430-2016(O&M)

Angrejo & Another

...Appellant(s)

Vs.

Kamal Raj & Others

...Respondent(s)

FAO-1320-2017(O&M)

Bharti AXA General Insurance Company Limited

...Appellant(s)

Vs.

Angrejo & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Munish Kumar Garg, Advocate
for the appellants in FAO-372-2017 and
for respondents in FAO-5430-2016.

Mr. Suvir Dewan, Advocate
for respondent No.5 in FAO-5430-2016 and
for respondent No.6 in FAO-1320-2017.

NIDHI GUPTA, J.

FAO-5430-2016

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.11,60,000/- awarded by Motor Accident Claims Tribunal, Hisar (hereinafter referred to as 'the learned Tribunal') vide Award dated 10.05.2016 passed in MACT Petition No.104



dated 07.10.2014 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as 'the Act'). The 2 claimants are the parents of deceased Mandeep Sharma.

CM-4183-CII-2017 in FAO-1320-2017

This is an application under Section 5 of Limitation Act for condonation of delay of 175 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 175 days in filing the present appeal is condoned.

FAO-1320-2017

Present appeal has been filed by the Insurance Company seeking setting aside of the Award dated 10.05.2016 passed by the learned Tribunal whereby MACT Petition No.104 dated 07.10.2014 filed by the claimants/respondents No.1 and 2 under Section 166 of the Act, has been allowed and claimants have been awarded compensation of Rs.11,60,000/-.

Both the above said appeals are being disposed of by this common order as both appeals arise out of the same Award dated 10.05.2016; accident dated 15.08.2014; and parties, facts and offending vehicle in both cases, are same. For the sake of brevity, the parties are being referred to and the facts are being drawn from FAO-5430-2016 titled as "Angrejo & Another Vs. Kamal Raj & Others", filed by the claimants.



2. Learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the deceased Mandeep Sharma had died due to the injuries suffered by him in a motor vehicular accident that took place on 15.08.2014 at about 12:35 am due to the rash and negligent driving of motorcycle bearing registration No.TN-01-Y-4203 (hereinafter 'the offending vehicle'), being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3/appellant in FAO-1320-2017. Respondents No.1 to 3 were held jointly and severally liable for payment of aforesaid compensation.

3. Learned counsel for the appellants/claimants seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side as only Rs.12,000/- per month. It is contended that the appellants had duly proven on record that the deceased was earning Rs.20,873/- per month. Therefore, income of the deceased ought to have been taken as Rs.20,873/- per month. It is further submitted that nothing has been added by way of future prospects, and loss of estate. It is accordingly prayed that the present appeal be allowed, and compensation awarded to the claimants be enhanced in above terms.

4. Per contra, learned counsel for respondent No.5 Insurance Company opposes the submissions made on behalf of the claimants and submits that in actual fact, it is the own pleaded case of the appellants before the learned Tribunal as evident from the Claim Petition that the



deceased was drawing salary of only Rs.17,767/- per month. This fact has also been noted by the learned Tribunal in Para 21 of the impugned Award. As such, there is no error in the income as assessed by the Tribunal. It is however, admitted that as per the structured formula enunciated by the Hon'ble Supreme Court, future prospects of 40% are liable to be added; as also Rs.15,000/- has to be added towards loss of estate. It is also pointed out that the deceased was a bachelor and therefore deduction of 50% is liable to be made towards personal expenses; whereas the Tribunal has made a deduction of 1/3rd.

5. Ld. counsel for the Insurance Company further points out that the present was a case of head-on collision between the motorcycle bearing registration No.HP-12-T-1835 being driven by the deceased and the offending vehicle being driven by respondent no.1. It is contended that thus, the deceased was equally responsible for causing the accident in question. Therefore, a deduction of 50% ought to have been made towards contributory negligence. Learned counsel accordingly prays for the impugned Award to be modified in the above manner, by deducting 50% of the compensation towards contributory negligence.

6. Ld. Counsel for the claimants strongly disputes the above said submissions of the learned counsel for the Insurance Company; and prays for enhancement of compensation.



7. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find some merit in the submissions made on behalf of learned counsel for both the parties.

8. The pleaded case of the claimants before the learned Tribunal as recorded in Para 2 of the Award is as follows:-

“2. As per petition on 15.8.2014 at about 12.35 a.m. Lokesh Kumar and Mandeep Sharma were going on motorcycle no.HP-12(T) 1835 from Baddi to Vardhman. Mandeep Sharma was driving the motorcycle. As such they reached Labour Chowk, Sai Road, Baddi. In the meantime motorcycle no. TN-01Y-4203 being driven by Kamal Raj respondent no.1 by coming on wrong side struck against motorcycle driven by Mandeep Sharma. Resultantly all four occupants of two motorcycle fell down. All injured were shifted to Malhotra Hospital Bhatoli Kalan. Lukesh Kumar and Mandeep Singh received serious, multiple, grievous injuries on various parts of body. Mandeep Sharma died just after reaching the hospital. Postmortem was conducted on 15.8.2014. Regarding accident FIR no.193 dated 15.8.2014 under sections 279,337,304A IPC PS Baddi was registered against respondent no.1. Mandeep Sharma aged about 19 years was working as Assistant Shift Officer in Arisht Spinning Mills Sai Road, Baddi, District Solan (Himachal Pradesh) and was getting salary of Rs.17, 767/- per month. Hence the claim petition by his parents.”

9. To the contrary, respondent No.1/Driver in his written statement has specifically stated that the deceased was driving his motorcycle No.HP-12-T-1835 in a rash and negligent manner and that the



deceased was in the process of overtaking the canter when he struck his motorcycle into the offending motorcycle by coming on the extreme wrong side of the road. Even the Insurance Company in Para 3 of its written statement dated 21.04.2015 (at page 27 of the LCR), has averred that: -

“03. That as per allegations in the claim application, the alleged accident took place due to the rash and negligent driving of the Motorcycle No.HP-12(T)-1835 by the petitioner himself, therefore, the petitioners are not entitled to any compensation as the deceased himself caused the accident by striking his motorcycle with another motorcycle No. TN-01Y-4203 while overtaking a canter, which was going ahead of him, came on the wrong side of the road i.e. on his right side and caused the accident by his rash & negligent driving of the Motorcycle No. HP-12(T)-1835 by himself.”

10. However, the learned Tribunal has ignored the above pleadings/facts and has held respondent No.1 Kamal Raj/Driver of the offending motorcycle bearing registration No.TN-01-Y-4203 as solely responsible for driving in a rash and negligent manner and causing the accident in question. In holding thus, the Tribunal has only considered that FIR No.193 dated 15.08.2014 (Ex.P22) was registered against respondent No.1 under Sections 279, 337 and 304-A IPC. The relevant Paras 14 and 15 of the impugned Award are as under:-

“14. Learned counsel for respondent no.3 submitted that petitioners have filed false case. He referred to Section 3 to 8 of the Act. Petitioners have not produced driving licence of Mandeep Sharma. Mandeep Sharma deceased was driving



motorcycle on wrong side as is clear from rough site plan Ex.R1. Respondent no. 1 in para no.8 to 10 pleaded that "It is specifically mentioned that deceased Mandeep was coming from Baddi to Vardhman chowk while driving the motorcycle no. HP-12T-1835 in rash and negligent manner and aforesaid Mandeep tried to overtake one canter which was a head to his motorcycle in rash and negligent manner and got struck his aforesaid motorcycle with the motorcycle of the respondent no.1 by going to extreme wrong side as respondent no.1 was coming from Vardhman to Bus stand Baddi while driving his motorcycle no.TN-01Y-4203 in left side of the road in slow speed." PW-2 Lukesh Kumar in cross-examination stated "---I do not have any driving licence to drive the motorcycle. My friend had a driving licence. I had seen his driving licence but I do not know the place of where his driving licence was issued. I do not know when he received driving licence. I do not know whether he had a learner licence or permanent licence. I do not know whether the deceased was having a licence at the time of driving motorcycle. ---I do not know whether the driving licence of deceased was taken into possession by the police. --".

15. From appraisal of record in light of abovesaid rival contention especially statements of PW2 Lukesh Kumar eye witness, PW3 Parmod Thakur Criminal Ahlmad, FIR ExP22 it is amply clear that the accident took place due to rash or negligent driving of Kamal Rai respondent no.1 Respondent no.1 is facing trial in a criminal case for rash or negligent driving of the motorcycle. Respondent no.1 did not appear in witness box. So, pleading regarding denial of accident remained unsustainable. As such, arguments of learned



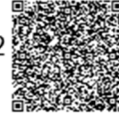
counsel for respondent no.3 in absence of dimensions of road at the place of accident are untenable. In view of above material facts, as per ratio of judgment of Hon'ble High Court of Punjab and Haryana in Girdhari Lal Versus Radhey Sham 1993(2) PLR 109, it is prima facie safe to conclude that the accident occurred due to rash or negligent driving of the motorcycle by Kamal Raj respondent no.1. Accordingly, issue no.1 is decided against respondent no. 1."

11. However, in holding as above, the learned Tribunal has lost sight of the fact that from the evidence on record, it is established that the deceased had come on the extreme wrong side of the road, thereby causing the accident. This fact is evident from the Site Plan (Ex.R1) produced by the Insurance Company which clearly shows that collision between the offending motorcycle, and motorcycle No.HP-12-T-1835 being driven by the deceased had taken place at point XY, which is on the extreme right side of the road. This clearly indicates that the deceased had come to the extreme wrong side of the road; while the offending motorcycle was driving on the correct/left side of the road. Therefore, it is incorrectly averred in the claim petition that respondent no.1 had come on the wrong side of the road. The Site Map clearly shows that the deceased on his motorcycle had come to the extreme right/incorrect side of the road in order to overtake the canter; whereupon he struck his motorcycle into the offending motorcycle. Thus, 50% of the compensation amount is liable to be deducted towards contributory negligence.



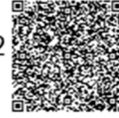
12. Moreover, it is the admitted case of the claimants that both the motorcycles collided with each other in a head-on collision. It is admitted fact on record that the accident was a head on collision between the motorcycle being driven by the deceased, and the offending motorcycle being driven by respondent No.1. Site Plan shows that Point A is where the deceased was originally travelling; and at Point XY/ where the deceased was in the process of overtaking the second truck, the head-on collision had occurred. The Site Plan clearly shows that Point XY where the head on collision had occurred is on the extreme right/incorrect side of the road. Thus, the offending motorcycle was being driven on the correct/left side of the road; whereas deceased had taken his motorcycle to the extreme right/incorrect side of the road. For this reason as well, 50% of compensation was liable to be deducted, towards contributory negligence. In this regard, reliance may be placed upon judgment of the Hon'ble Supreme Court in **Bijoy Kumar Dugar v. Bidyadhar Dutta, (SC) : Law Finder Doc ID # 119539**, wherein it is held that:-

“A. Motor Vehicles Act, 1988, Section 168 - Fatal motor accident - Contributory negligence - Head on collision between car and bus - Death of driver of car - Drivers of both the vehicles should be held responsible to have contributed equally to accident when there is head on collision - Insurance company of bus to pay half of the compensation awarded by Tribunal - Car was not insured.”



13. As regards the quantum of compensation, it has been contended by learned counsel for the claimants that the cost of the deceased to his company came to Rs.20,873/- per month; and therefore, monthly income of the deceased or to have been taken as ₹20,873/-. It is proven fact on record that prior to his death, the deceased had passed 3 years' Diploma Course in Textile Technology. It was also proven that the deceased was working as Assistant Shift Officer in Arisht Spinning Mills, Sai Road, Baddi, Himachal Pradesh. This is proven from his Call Letter dated 22.02.2013 (Ex.P1) and Appointment Letter (Ex.P3). Further, a perusal of the Certificate (Ex.P7 at page 91 of the LCR) shows that as on 01.07.2014, the 'Cost to Company' (CTC) of the deceased was Rs.20,873/-. Reference is made to recent judgment of Hon'ble Supreme Court in **Civil Appeal Nos.6550-6551 of 2025 titled as "Gyan Chand & Another Vs. Anand Sathe & Another"** decided on 08.05.2025, wherein it is held that total income of the deceased is to be taken into consideration while computing the compensation. Reference may also be made to judgment of the Hon'ble Supreme Court in **Triveni Kodkany v. Air India Limited (SC) : Law Finder Doc ID # 1717032**, wherein it is held that:-

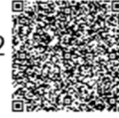
"A. Consumer Protection Act, 1986 Section 23 Death in plane crash - Compensation - Deductions - Total CTC per annum, on account of employment of deceased was AED 4,82,395 - CTC comprises of basic pay, house rent allowance, transport allowance, telephone allowance, LTA, medical aid and gratuity - In view of ion made by employer in salary of deceased there



is no reason to make any deductions from total CTC - Consolidated amount is amount annually borne by employer on account of employment of deceased - Computation to be computed on basis of annual income of AED 4,82,395.

xxx

9. Both the sides have prefaced their submissions by relying on the principles which have been evolved by the Court in determining compensation under the Motor Vehicles Act, where an accident has resulted in death. The table which we have reproduced in the earlier part of the judgment would indicate that the total CTC per annum, on account of the employment of the deceased, to his employer was AED 4,82,395. This comprises of the basic pay, house rent allowance, transport allowance, telephone allowance, LTA, medical aid and gratuity. The ion which has been made by the employer in the salary of the deceased is, in our view, no reason to make any deductions from the total CTC of AED 4,82,395. The consolidated amount is the amount annually borne by the employer on account of the employment of the deceased. Hence, we are unable to accept the reasons which weighed with the NCDRC in making a deduction of AED 30,000 from the total CTC. Similarly and for the same reason, we are unable to accept the submission of Air India that the transport allowance should be excluded. The bifurcation of the salary into diverse heads may be made by the employer for a variety of reasons. However, in a claim for compensation arising out of the death of the employee, the income has to be assessed on the basis of the entitlement of the employee. We, therefore, proceed for the purpose of computation on the basis of the annual income of AED 4,82,395."



14. In this view of the matter, income of the deceased is taken as Rs.20,873/- per month. It is further proved on record that as per Post-Mortem Report (Ex.P23), age of the deceased was 19 years at the time of accident. As such, Id. Tribunal has erred in not making addition of 40% towards future prospects; and ₹15,000/- towards loss of estate. I also find merit in the submission of learned counsel for the Insurance Company to the effect that as deceased was a bachelor, deduction of 50% ought to have been made towards personal expenses.

15. In view of the above, both the appeals are **partly allowed**; and the compensation payable to the claimants is re-assessed as follows: -

Head	Awarded by learned Tribunal	Re-assessed compensation
Monthly income	Rs.12,000/-	Rs.20,873/-
Annual income	-	Rs.2,50,000/- (rounded off)
Deduction	1/3 rd = Rs.8,000/-	50% = Rs.1,25,000/-
In 5 years/Post-Marriage reduction of dependency	Rs.4,000/- per month	-
Future prospects	Nil	40% =Rs. 50,000/-
Annual Income	Rs.96,000/-	Rs.1,75,000/-
Multiplier	-	18
Total income	(Rs.8,000/- x 12 x 5) Rs.4,80,000/- + (Rs.4,000/- x 12 x 13) Rs.6,24,000/- = Rs.11,04,000/-	Rs.31,50,000/-
Loss of estate	Nil	Rs.15,000/-
Funeral expenses	Rs.25,000/-	Rs.15,000/-
Loss of consortium	Nil	Rs.40,000/- each
Love and affection	Rs.25,000/-	-
Transportation and miscellaneous expenses	Rs.6,000/-	Rs.6,000/-



Compensation	Rs.11,60,000/-	Rs.32,66,000/- (without contributory negligence)
Contributory negligence	Not considered	Rs.32,66,000/- divided by 2 = Rs.16,33,000/-
Total compensation	Rs.11,60,000/- + 7% interest	Rs.16,33,000/- + 6% interest

16. Pending application(s) if any also stand(s) disposed of.

13.10.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No