2026:PHHC:126712

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I. **XOBJC-80-CII-2014 in/and FAO-1845-2013 (O&M)**

The New India Assurance Co. Ltd. **. . . . Appellant**

Vs.

Smt. Gurmit Kaur and Others . . . . Respondents

II. **XOBJC-79-CII-2014 in/and FAO-1846-2013 (O&M)**

The New India Assurance Co. Ltd. **. . . . Appellant**

Vs.

Subba Singh and Another . . . . Respondents

III. **XOBJC-81-CII-2014 in/and FAO-1847-2013 (O&M)**

The New India Assurance Co. Ltd. **. . . . Appellant**

Vs.

Smt. Baljinder Kaur @ Binder Kaur and Others . . . . Respondents

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Reserved on: 07.09.2026
Pronounced on: 09.09.2026
Pronounced fully/operative part: Fully

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CORAM: **HON'BLE MR JUSTICE DEEPAK GUPTA**

Argued by:- Mr. Deepak Suri, Advocate for the appellant- Insurance Company.

Mr. Maneet Kaushik, Advocate for
Mr. Sagar Aggarwal, Advocate for the respondents.

DEEPAK GUPTA, J.

These three appeals filed by the insurer and the connected three cross-objections arise out of the same motor vehicular accident. Since the accident, the evidence and the findings recorded by the learned Motor Accident Claims Tribunal, Kaithal, are common, all the matters are being decided by this common order.

2026:PHHC:126712

2. The accident in question took place on 29.03.2009. In the said accident, Sukhvinder Singh and Premchand lost their lives, whereas Subba Singh sustained injuries. Three separate claim petitions were filed by the respective claimants, which were consolidated and decided by the learned Tribunal vide common award dated 29.01.2013.

3. The insurer has filed the three appeals primarily questioning the finding on negligence. Its contention is that since the Maruti car, in which the deceased and injured were travelling had struck the offending truck from behind, there was contributory negligence on the part of Sukhvinder Singh, who was driving the car, and the Tribunal failed to appreciate this aspect of the matter.

4. The respective claimants, on the other hand, have filed cross-objections seeking enhancement of compensation in accordance with the principles subsequently settled by the Hon'ble Supreme Court ***in Sarla Verma (Smt.) and others v. Delhi Transport Corporation and another, (2009) 6 SCC 121, National Insurance Company Limited v. Pranay Sethi and others, (2017) 16 SCC 680*** and ***Magma General Insurance Company Ltd. v. Nanu Ram @ Chuhru Ram and others, (2018) 18 SCC 130.***

5. This court has considered submissions of both the sides and perused the record.

Negligence and contributory negligence:

6. The case of the claimants is that on 29.03.2009, Sukhvinder Singh, Premchand and Subba Singh were travelling in Maruti car No.HR-01B-5732 from their village Theh Butana towards Ludhiana. Sukhvinder Singh was driving the car on the left side of the road. At about 10.35 p.m., when they reached near Samarala Chowk, Ludhiana, truck No.PB-7H-9495, which was proceeding ahead of the car and was being driven by Baljinder Singh, suddenly applied brakes in the middle of the road without giving any indication or signal. Consequently, the car struck the truck from behind. The occupants of the car sustained serious injuries, as a result of which Sukhvinder Singh and

2026:PHHC:126712

Premchand subsequently died, whereas Subba Singh survived with multiple injuries.

7. The occurrence was reported to the police and FIR No.50 dated 03.03.2009 under Sections 279, 337, 338, 427 and 304-A IPC was registered against Baljinder Singh. The claimants attributed the accident entirely to the rash and negligent manner in which the offending truck was being driven.

8. The learned Tribunal, upon consideration of the evidence led by the parties, recorded a categorical finding that the accident had occurred on account of rash and negligent driving of Baljinder Singh, driver of the offending truck. It was further found that the driver possessed a valid and effective driving licence, the offending vehicle had a valid permit and no breach of the terms and conditions of the insurance policy had been established. Consequently, the insurer and the driver-cum-owner were held jointly and severally liable.

9. This Court finds no ground to interfere with the aforesaid finding.

10. The plea of contributory negligence cannot be accepted merely from the fact that the car had struck the truck from behind. The mere occurrence of a rear-end collision does not, by itself, establish negligence on the part of the vehicle following the vehicle ahead. Contributory negligence is a question of fact and has to be established by the party asserting it by placing material on record showing want of reasonable care on the part of the claimant.

11. In the present case, the insurer had denied its liability and had taken the general stand that the vehicle had been falsely implicated in the accident. However, as fairly conceded by learned counsel for the insurer, no specific plea of contributory negligence on the part of Sukhvinder Singh was taken before the learned Tribunal and no issue on that aspect was sought to be framed.

2026:PHHC:126712

12. More importantly, Baljinder Singh, the driver of the offending truck, did not enter the witness-box. He, therefore, did not explain the circumstances in which he had applied the brakes, much less establish that the braking was necessitated by some unforeseen circumstance, or that any warning or signal had been given to the traffic following the truck.

13. Once the claimants had placed before the Tribunal the circumstances showing that the truck proceeding ahead had suddenly been brought to a halt in the middle of the road without signal, the burden of establishing the alleged contributory negligence could not be discharged by the insurer merely by pointing to the fact of collision from behind.

14. The Tribunal had the advantage of assessing the evidence and has recorded a reasoned finding attributing negligence to the truck driver. No perversity, misreading of evidence or material irregularity has been pointed out in the said finding. The appellate Court, therefore, finds no justification to substitute the said finding with a conclusion based merely on conjecture.

15. Accordingly, the three appeals filed by the insurer are found to be devoid of merit and are dismissed.

Cross-objections relating to death of Sukhvinder Singh:

16. Coming to the cross-objections, the income of deceased Sukhvinder Singh has not been disputed by learned counsel for the claimants. The learned Tribunal had assessed his monthly income at ₹4,200/- per month on the basis of the minimum wages applicable to an unskilled worker. The said assessment is, therefore, maintained.

17. Sukhvinder Singh was 24 years of age. In terms of the law laid down by the Hon'ble Supreme Court in ***Pranay Sethi (supra),*** a person below 40 years of age having a fixed/notional income is entitled to addition towards future prospects. Accordingly, 40% is required to be added towards future prospects.

18. His annual income, therefore, comes to ₹50,400/- and after addition of 40% towards future prospects, the annual income comes to ₹70,560/-.

2026:PHHC:126712

Since there were three dependants, namely, the widow and two minor children, one-third is liable to be deducted towards personal and living expenses of the deceased. The annual contribution to the family thus comes to ₹47,040/-.

19. The deceased was 24 years of age. Applying the multiplier of 18 prescribed in ***Sarla Verma (supra),*** the loss of dependency works out to ₹8,46,720/-.

20. In addition thereto, the claimants are entitled to compensation under the conventional heads in accordance with the principles laid down in ***Pranay Sethi (supra),*** read with ***Magma General Insurance Company Ltd. v. Nanu Ram (supra).*** The widow is entitled to spousal consortium and the two minor children to parental consortium compensation under this head works out to be ₹1,20,000/-. The claimants are also entitled to compensation towards loss of estate and funeral expenses to the tune of ₹15,000/- each.

21. On the basis of the amounts adopted by the learned Tribunal and the enhancement permissible under the aforesaid judgments, the total compensation payable to the claimants on account of death of Sukhvinder Singh is assessed at ₹9,96,720/-.

22. The Tribunal had awarded ₹5,81,200/-. After adjustment thereof, the claimants are entitled to an enhanced amount of ₹4,15,520/-, which is rounded off to ₹4,16,000/-.

Cross-objections relating to death of Premchand:

23. In the connected claim arising out of the death of Premchand, the learned Tribunal had assessed his monthly income at ₹4,200/-. The said assessment has also not been disputed before this Court. His annual income, therefore, comes to ₹50,400/-.

24. The deceased was 27 years of age and, therefore, an addition of 40% towards future prospects is required to be made in terms of ***Pranay Sethi (supra).*** His annual income after such addition comes to ₹70,560/-.

25. There were six claimants, namely, the widow, three minor children and the parents of the deceased. Accordingly, one-fourth is liable to be deducted towards personal and living expenses of the deceased. The annual loss of dependency thus comes to ₹52,920/-.

26. Considering the age of the deceased, the appropriate multiplier is 17. The loss of dependency accordingly comes to ₹8,99,640/-.

27. The widow, minor children and parents of the deceased constitute the immediate family members entitled to consortium in accordance with the law declared in ***Magma General Insurance Company Ltd. (supra).*** Thus, the widow is entitled to spousal consortium, the children to parental consortium and the parents to filial consortium. Compensation under this head works out to be ₹2,40,000/-.

28. The claimants are also entitled to compensation under the conventional heads of loss of estate and funeral expenses to the tune of ₹15,000/- each. The amount of ₹28,000/- proved to have been incurred towards the treatment of the deceased prior to his death is also liable to be included.

29. Accordingly, the total compensation payable on account of the death of Premchand is assessed at ₹11,97,640/-. After deducting the amount of ₹6,09,200/- awarded by the learned Tribunal, the claimants become entitled to an enhanced compensation of ₹5,88,440/-, rounded off to ₹5,89,000/-.

Cross-objections relating to injuries sustained by Subba Singh

30. Insofar as Subba Singh is concerned, the learned Tribunal awarded ₹40,000/- towards medical expenses, ₹10,000/- towards pain and suffering and ₹10,000/- towards special diet, making a total award of ₹60,000/-.

31. Although it was pleaded that Subba Singh had suffered permanent disability, learned counsel for the cross-objector has not been able to point out any medical evidence or disability certificate establishing permanent

disability attributable to the accident. In the absence of such evidence, no amount can be awarded towards permanent disability or loss of future earning capacity.

32. Nevertheless, keeping in view the nature of injuries suffered by the claimant, including fractures and injuries to the vital parts of the body, the compensation awarded by the Tribunal appears to be on the lower side. The total compensation is, therefore, enhanced from ₹60,000/- to ₹75,000/-. The claimant is consequently entitled to an additional amount of ₹15,000/-.

Result

33. For the foregoing reasons, all the three appeals filed by the insurer are dismissed, whereas the three cross-objections filed by the respective claimants are allowed to the extent indicated hereinabove.

34. Consequently, the claimants arising out of the death of Sukhvinder Singh shall be entitled to enhanced compensation of ₹4,16,000/-.

35. The claimants arising out of the death of Premchand shall be entitled to enhanced compensation of ₹5,89,000/-.

36. Injured claimant Subba Singh shall be entitled to enhanced compensation of ₹15,000/-.

37. The enhanced compensation shall be payable jointly and severally by the insurer and the driver-cum-owner of the offending vehicle, together with interest at the rate of 7.5% per annum from the date of filing of the respective claim petitions till realization.

38. In the case of Sukhvinder Singh, the enhanced compensation shall be shared equally amongst his widow and two minor children, along with proportionate interest.

39. In the case of Premchand, an amount of ₹1,20,000/- each shall be payable to the widow and the three minor children, making a total of ₹4,80,000/- along with proportionate interest. The remaining amount of

₹1,09,000/- shall be shared by the parents of the deceased in equal proportion, along with proportionate interest.

40. The amounts falling to the share of the minor claimants shall be dealt with in accordance with the directions of the learned Tribunal and the applicable rules governing disbursement and protection of compensation payable to minors.

41. All the six matters, namely, the three appeals and the three cross-objections, stand disposed of in the above terms.

42. Pending application(s), if any, also stand disposed of. A photocopy of this order be placed on the files of the connected matters.

(DEEPAK GUPTA)
JUDGE

09.09.2026
Neetika Tuteja/Yogesh

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No

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