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

FAO-4382-2014 (O&M)

1	The date when the judgment was reserved	21.04.2026
2	The date when the judgment is pronounced	02.06.2026
3	The date when the judgment is uploaded on the website	02.06.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment and reasons thereof.	Not applicable

LAXMI AND OTHERS **...Appellants**

Vs.

SHIV KUMAR AND ANOTHER **...Respondents**

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sandeep Berwal, Advocate
for the appellants.

Respondent No.1 proceeded against
ex-parte vide order dated 25.08.2015.

Mr. Punit Jain, Advocate
for respondent No.2/Insurance Company.

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HARKESH MANUJA, J.

1. The present appeal has been preferred by the appellants/claimants under Section 173 of the Motor Vehicles Act, 1988, challenging the award dated 22.11.2013 passed by the learned Motor Accident Claims Tribunal, Kaithal (for short, "the Tribunal"), whereby compensation to the tune of Rs. 7,44,520/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization was awarded on account of death of Ravinder Rai, after holding that the deceased himself was contributory negligent to the extent of 30%.

FACTS

2. Briefly stating, as per the case set up by the claimants, on 18.04.2011 at about 6:00 p.m., deceased Ravinder Rai was proceeding on his motorcycle when respondent No.1, while driving motorcycle bearing registration No. HR-08H-1084 in a rash and negligent manner and on the wrong side of the road, struck against the motorcycle of the deceased. Resultantly, Ravinder Rai suffered multiple grievous injuries and succumbed thereto while being taken to PGI, Chandigarh.

3. The learned Tribunal, held that the accident occurred due to rash and negligent driving of respondent No.1, simultaneously attributed 30% contributory negligence to the deceased. Being aggrieved against the aforesaid award dated 22.11.2013; the present appeal has been preferred by the appellants/claimants for enhancement of compensation as well as for setting aside the award of the Tribunal to the extent of Contributory Negligence.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS/CLAIMANTS.

4. Learned counsel for the appellants contended that the Tribunal erred in attributing 30% contributory negligence to the deceased merely because he was not possessing a valid driving licence. It was argued that absence of a driving licence, by itself, cannot be treated as a contributing factor towards the occurrence of the accident. He further submitted that the evidence of eye-witness PW-2 clearly established that respondent No.1 came on the wrong side of the road and caused the accident. Learned counsel further contended that the income of the deceased was assessed on the lower side and that inadequate amounts were awarded under the conventional heads. He also argued that compensation ought to have been granted towards loss of care and guidance to minor children and that the rate of interest deserved enhancement.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR RESPONDENT No. 2/INSURANCE COMPANY.

4. Per contra, learned counsel representing respondent No. 2/Insurance Company, neither refuted the factum of accident nor even the negligence of the offending vehicle, however submitted that in the facts and circumstances of the present case, the compensation assessed by the learned Tribunal called for no interference.

DISCUSSION AND REASONING

5. I have heard learned counsel for the parties and perused the paper-book of the case. I find substance in the arguments advanced by the learned counsel for the appellants/claimants.

QUESTION OF CONTRIBUTORY NEGLIGENCE

6. The primary challenge raised by the appellants/claimants pertained to the finding of contributory negligence recorded by the Tribunal. PW-2 Davinder Rai, the eye-witness to the occurrence, categorically deposed that respondent No.1 came from the opposite direction on the wrong side of the road and struck against the motorcycle being driven by the deceased. His testimony finds corroboration from the FIR as well as the report under Section 173 Cr.P.C. placed on record. Significantly, respondent No.1 did not enter the witness box to rebut the said version nor was any independent evidence led by the respondents to establish negligence on the part of the deceased. The learned Tribunal, however, attributed 30% negligence to the deceased solely on the premise that he was not holding a valid driving licence. The issue is no longer res integra.

6.1 In ***National Insurance Co. Ltd. v. Swaran Singh, 2004 (3) SCC 297***, the Hon'ble Supreme Court held that mere absence, fake or invalid driving licence by itself does not establish negligence. Similarly, in ***Sudhir Kumar Rana v. Surinder Singh, 2008 (12) SCC 436,*** it was held that although driving without a licence may amount to violation of statutory provisions, the same cannot *ipso facto* lead to a finding of contributory negligence unless a nexus between the absence of licence and the occurrence of the accident is established.

6.2 In the present case, except for the fact that the deceased was not possessing a driving licence, there is no material on record to establish that his manner of driving contributed to the occurrence. The finding of the Tribunal that non-possession of a driving licence by itself constitutes 30% contributory negligence is, therefore, legally unsustainable. Accordingly, the finding of contributory negligence recorded by the Tribunal is set aside. The accident is held to have occurred solely on account of rash and negligent driving of motorcycle No. HR-08H-1084 by respondent No.1.

QUESTION OF INCOME ASSESSED

7. The appellants/claimants asserted that the deceased was earning Rs.10,000/- per month while employed in a rice mill. However, no documentary evidence regarding salary, appointment, attendance or payment of wages was produced. In the absence of cogent evidence regarding income, the Tribunal assessed the income of the deceased on the basis of minimum wages applicable to an unskilled worker. Such assessment cannot be said to be arbitrary or perverse. Consequently, the monthly income assessed by the Tribunal at Rs.4,600/- is affirmed.

QUESTION OF FUTURE PROSPECTS, MULTIPLIER AND DEDUCTION TOWARDS PERSONAL EXPENSES.

8. The deceased was aged 35 years and thus addition towards future prospects to the extent of 50% is liable to be granted in view of judgment of Hon'ble Supreme Court in ***"National Insurance Co. Ltd. v. Pranay Sethi,"*** reported as ***2017 (16) SCC 680.*** Since the deceased left behind six dependents, deduction towards personal expenses is rightly liable to be assessed at 1/4th in terms of judgment of Hon'ble Supreme Court in ***"Sarla Verma v. Delhi Transport Corporation,"*** reported as ***2009 (3) RCR (Civil) 77***. The multiplier of '16' applied by the Tribunal is in consonance with law laid down in ***Sarla Verma's case (supra)*** and does not call for interference.

QUESTION OF COMPENSATION UNDER CONVENTIONAL HEADS

9. Furthermore, in view of the judgment of the Hon'ble Apex Court in ***Sarla Verma's case (supra)***, ***Pranay Sethi's case (supra)*** and ***"United India Insurance Co.Ltd. vs. Satinder Kaur",*** reported as ***(2021) 11 SCC 780,*** compensation awarded under conventional heads is also required to be assessed accordingly. Appellants/claimants are thus, held entitled for Rs. 18,000/- as compensation under funeral head and Rs. 18,000/- towards loss of estate. Loss of Consortium is assessed to the tune of Rs. 2,88,000/- (48,000 x 6) as appellants/claimants being the widow and minor children are entitled to spousal and parental consortium.

CONCLUSION

10. In view of the discussion made herein above, the appellants/claimants are held entitled for the grant of compensation in the following manner:-

S.No.	**Nature**	**Amount (in Rs.)**
1.	Annual Income of deceased	55,200/-
2.	Add 50% future prospects	27,600/-
3.	Total Income (Rs. 55,200+ Rs. 27,600)	82,800/-
4.	Deduction (1/4th)	20,700/-
5.	Net Income (Rs. 82,800 – Rs. 20,700)	62,100/-
6.	**Loss of Income after applying multiplier of 16 as per the age of 35 years (Rs. 62,100 x 16)**	**9,93,600/-**
7.	**Loss of Consortium**	**2,88,000/-**
8.	**Funeral expenses**	**18,000/-**
9.	**Loss of estate**	**18,000/-**
	Total compensation	**13,17,600/-**
	Amount Awarded by the Tribunal	**7,44,520/-**
	Enhanced Amount	**5,73,080/-**

Accordingly, appellants/claimants shall be entitled to receive above enhanced compensation in the proportion already determined by the learned Tribunal.

11. The grant of interest @ 7.5% per annum is not equitable and just in view of the observations made by the Hon'ble Supreme Court in ***"Smt. Supe Dei and others vs. National Insurance Company Limited and other,*** reported as ***(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,*** thus, the interest is enhanced to 9% per annum on the amount of compensation re-assessed from the date of institution of claim petition till its realization. In case the said amount is not paid within three months, the same shall be payable

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thereafter along with 12% interest from the expiry of period of three months from today. Needless to mention here that the amount of compensation already paid to the claimant shall be deducted from the enhanced compensation.

12. In view of the foregoing discussion, the present appeal preferred at the instance of appellants/claimants stand allowed. Pending miscellaneous application(s), if any, shall also stand disposed of.

June 02, 2026 **(HARKESH MANUJA)**
Tejwinder **JUDGE**

Whether speaking/reasoned	*Yes/No*
Whether reportable	*Yes/No*