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

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Date of decision: 02.09.2026

Asha and another

....Appellants

Vs.

Malkit Singh @ Meeta and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

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

Mr. Munish Goel, Advocate
for respondent No.3 (Insurance Company).

HARSH BUNGER J.

The present appeal has been filed by claimants, seeking enhancement of compensation of Rs.3,70,000/- awarded by the learned Motor Accident Claims Tribunal, Ambala (hereinafter referred to as the "learned Tribunal") vide award dated 19.07.2023, on account of death of their minor son Krishna, who died due to injuries sustained by him in a road accident occurred on 19.04.2019.

2. Briefly, the present appellants/claimants filed petition under Section 166 of the Motor Vehicles Act, 1988 (for short the '1988 Act') seeking compensation on account of death of their minor son Krishna in a

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roadside accident, on the plea that on 19.04.2019, at about 04.30 p.m., appellant No.2 – Ram Jivan (father of Krishna) took Krishna to a shop at Purani Ghas mandi Road for getting him candies. After giving him candies, Ram Jivan asked the minor to go home. Appellant No.1 – Asha (mother of Krishna) was standing on one side of the road and the minor child (Krishna) crossed the road and reached the other side. When the child was standing on the other side of the road, a canter bearing registration No. HR-38J-3147 (offending vehicle), driven by Malkit Singh @ Meeta in a rash and negligent manner at high speed suddenly came from highway side and turned the canter towards the Govind Vihar Colony. The canter hit the child as a result of which, the child sustained grievous injuries. He was taken to Civil Hospital, Ambala City, where he was declared dead. A case FIR No.160 dated 19.04.2019, was lodged under Section 279, 304-A, IPC at Police Station, Ambala City.

2.1 The deceased child (Krishna) was three years of age at the time of his death. It was stated that Krishna was the only child of the claimants and after his birth, the claimants had undergone sterilization operation and there is no chance to have a child in the future. Gian Chand (respondent No.2) is stated to be the owner of the offending vehicle, which was insured with the United India Insurance Company Limited (respondent No.3).

3. Upon issuance of notice by the learned Tribunal, the driver and owner of the offending vehicle filed their joint written statement taking various preliminary objections. They denied that the accident took place

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with the offending vehicle, which was driven by Malkit Singh @ Meeta and they further pleaded false implication and prayed for dismissal of the suit.

3.1 On the other hand, Insurance Company filed its separate written statement taking various preliminary objections. They also denied that any accident took place due to rash and negligent driving of the offending vehicle. It was further stated that Malkit Singh @ Meeta was not having a valid and effective driving license, registration certificate as well as permit at the time of accident, therefore, the Insurance Company is not liable to pay the compensation.

4. From the pleading of the parties, following issues were framed by the learned Tribunal:-

- “1. Whether the accident in question took place due to rash and negligent driving of canter bearing registration No. HR-38J-3147 by respondent No.1 resulting into death of Krishna, as alleged?OPP*
- 2. If Issue no.1 is proved, to what amount of compensation and from whom the claimant is entitled?OPP*
- 3. Whether the present petition is not maintainable?OPR*
- 4. Relief.”*

5 Thereafter, the claimants led their evidence on the aforesaid issues.

6. It is worth noticing here that no oral evidence was produced by the respondents in the claim petition, however, only certain documents were filed.

7. The learned Tribunal, after considering the matter, returned a finding under issue No.1 that the child (Krishna) had died due to injuries



suffered by him in a roadside accident, which occurred on 19.04.2019, due to rash and negligent driving of the offending vehicle by Malkit Singh @ Meeta.

7.1 As regards compensation, the learned Tribunal placed reliance upon a judgment of this Court in case of **“Shanti Devi and another vs. Rakesh Kumar and others” 2017(2) PLR 562**, and held that the claimants are entitled to the compensation of Rs.3,00,000/-, on account of death of their minor son (Krishna). The learned Tribunal further placed reliance upon judgment rendered by the Hon’ble Supreme Court in case of **“National Insurance Company Limited vs. Pranay Sethi and others”, AIR 2017 SC 5157**, so as to grant compensation of Rs.15,000/- towards funeral expenses and another Rs.15,000/- on account of loss of estate. That apart, the claimants have been further held entitled to receive filial consortium at the rate of Rs.40,000/-. The learned Tribunal has granted following compensation to the claimants:-

Sr. No.	Heads	Compensation awarded
(i)	Loss of death of minor child, last rites and loss of estate	Rs.3,30,000/-
(ii)	Loss of Consortium	Rs.40,000/-
Total Compensation awarded		Rs.3,70,000/- alongwith interest @ 7.5% per annum from the date of filing of the claim petition till payment

7.2 The learned Tribunal held the driver, owner as well as Insurance Company as jointly and severally liable to make the payment of the compensation amount to the claimants. The learned Tribunal further awarded

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interest @ 7.5% per annum from the date of filing of claim petition till its realization.

8. In the aforesaid circumstances, the appellants-claimants have filed the present appeal.

9. Learned counsel appearing for the appellants has submitted that the learned Tribunal below has erred in granting a meager compensation. It is submitted that the award passed by the learned Tribunal below, is contrary to the settled principles of law that a minor child, who suffered death or permanent disability in a motor vehicular accident cannot be placed in a same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in the gainful employment at the time of the accident. It is submitted that the computation of the compensation under the head of loss of income, ought to be made by adopting, at least the minimum wages payable to a skilled workman, as notified for the relevant period, in the respective State, where the cause of action has arisen. Reference is made to the judgment passed by the Hon'ble Supreme Court of India in case of ***"Kajal Vs. Jagdish Chand and others"***, (2020) 4 SCC 413. A further reference is made to the judgment rendered by the Hon'ble Supreme Court in case of ***"Hitesh Nagjibhai Patel Vs. Bababhai Nagjibhai Rabari and another"***, 2025 (4) Apex Court Judgments (SC) 36.

9.1 On the other hand, learned counsel appearing for the respondent No.3 (Insurance Company) has opposed the aforesaid submission made on behalf of the appellants/claimants and prayed for dismissal of the appeal.

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10. I have heard the learned counsel for the respective parties and perused the paperbook with their able assistance.

11. At the outset, it is required to be noticed that the judgment relied upon by the learned counsel for the appellant in the case of **Kajal (supra)** has been considered by the Hon'ble Supreme Court in case of **Hitesh Nagjibhai Patel (supra)**, wherein the following observations have been made:-

“15. For the purpose of emphasis, it is again clarified here that when a Tribunal or the High Court in appeal, is concerned with the case involving a child having suffered injury or having passed away, the calculation of loss of income necessarily has to be made on the matric of minimum wages payable to a skilled worker in the respective State at the relevant point of time. It is our hope that this restatement helps avoiding such errors and thereby obviates the necessity of this Court's interference, applying well-established principles of law.”

12. Therefore, keeping in view the settled position of law that, in a case involving death of a minor child, the compensation is required to be assessed by taking the minimum wages payable to a skilled worker in the concerned State at the relevant time, the compensation awarded by the learned Tribunal vide award dated 19.07.2023 cannot be sustained. Concededly, the minor child (Krishna) expired in a roadside accident on 19.04.2019 at Ambala (Haryana). The deceased-Krishna was three years of age at the time of the accident and, therefore, the income is liable to be assessed on the basis of the minimum wages applicable to a skilled worker in the State of Haryana on the date of the accident.



12.1 Accordingly, in order to assess the fair compensation, this Court adverts to the prevailing minimum wages for a skilled worker in the State of Haryana, as on the date of accident i.e. 19.04.2019, which would be Rs.10,382.4/- per month. Further, future prospects of 40% are to be added and 50% amount is to be deducted for personal expenses. Now, keeping in view the age of the deceased – Krishna as 3 years, multiplier of 18 is liable to be applied. Since, accident occurred on 19.04.2019, accordingly, keeping in view judgment of Hon’ble Supreme Court of India in case of **“National Insurance Company Limited Vs. Pranay Sethi and others”, 2017 (4) R.C.R. (Civil) 1009**; loss of consortium is to be provided to each of the appellants-claimants @ Rs.40,000/- (each). Still further, Rs.15,000/- is to be awarded on account of loss of estate and another Rs.15,000/- towards funeral expenses.

13. The revised computation, therefore, is provided as under:

Sr No.	Heads of Compensation	Details of relief granted
1	Annual income of deceased-(A)	Rs. 10382.4 × 12 = Rs. 1,24,588.8/-
2.	Future prospects 40%-(B)	40% of Rs.1,24,588.8 = Rs.49,835.52/-
3.	Less personal expenses (1/2)- (C)	1/2 of Rs. 1,74,424.32 = Rs. 87,212.16/-
4.	Annual loss of dependency A+B-C	Rs. 87,212.16/-
5.	Multiplier	18
6.	Total loss of dependency	Rs. 15,69,818.88/-
7.	Loss of consortium	Rs. 40,000 × 2 = Rs. 80,000/-
8.	Loss of estate	Rs. 15,000/-
9.	Funeral expenses	Rs. 15,000/-
10	Total compensation	Rs. 16,79,818.88/-
11	Interest	7.5%



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14. Accordingly, on re-computation, the claimants are held entitled to a total compensation of Rs.16,79,818.88/- (rounded of to **Rs.16,79,819/-**), as detailed in para No.13 hereinabove, as against Rs.3,70,000/- awarded by the learned Tribunal. The enhanced amount of compensation i.e. (Rs.16,79,819 - Rs.3,70,000/- = **Rs.13,09,819/-**) shall carry interest at the rate of **7.5% per annum from the date of filing of the claim petition till its realization.**

15. Consequently, award dated 19.07.2023 passed by the learned Motor Accident Claims Tribunal, Ambala, is **modified** to the aforesaid extent. The respondents shall be jointly and severally liable to pay the compensation, however, since the offending vehicle was insured by respondent No.3 – Insurance Company; the enhanced compensation shall be paid by respondent No.3 (Insurance Company) to the claimants. The enhanced amount shall be paid within a period of **eight weeks** from the date of receipt of a certified copy of this order.

16. The present appeal is **disposed of** in aforestated terms.

17. All pending application(s), if any, shall also stand closed.

02.09.2026

Ankit

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No