



FAO-553-2003 (O&M)

- 1-

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

283

FAO-553-2003 (O&M)
Date of decision: 15.07.2026

BHATERI**....Appellant**

Versus

BIMLA**...Respondent****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present : Mr. Mukul Malik, Advocate for the appellant.

Respondents No.1 and 2 already ex parte before the Tribunal.

Mr. Gopal Mittal, Advocate for respondent No.3.

YASHVIR SINGH RATHOR. J.(Oral)

1. In the present case, driver and owner of the offending vehicle had died at the time of pendency of claim petition and their LRs were not brought on record, who have already been proceeded ex parte, therefore, issuance of notice to respondents No.1 and 2 is dispensed with.

2. This appeal has been instituted by claimants against the Award dated 09.11.2002 passed in MACT case No.11 of 2001 by MACT, Rohtak (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.3,00,000/- has been awarded as compensation to the claimants along with interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Rishi Parkash in a motor vehicle accident.



3. From the pleadings of parties, the issues were framed and thereafter, the parties led evidence in support of their case.
4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.3,00,000/- as compensation to the claimants alongwith interest @ 9% per annum from the date of filing of claim petition till realization.
5. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.
6. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Registry and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned Award.
7. The only issue required to be determined in the present appeal relates to the assessment of compensation. Therefore, the entire facts regarding the manner of the accident are not required to be reproduced in detail, as the Tribunal has already held under Issue No.1 that the accident had occurred due to the rash and negligent driving on the part of respondent No.2-driver, while driving the offending truck bearing No.HR-46-2585, owned by respondent No.3 and insured with respondent No.4. Under issue No.3, insurance company failed to lead any evidence to establish that the driver-respondent No.2 was not holding a valid and effective driving licence at the time of accident and this issue has been decided against respondent No.4-Insurance Company and as such, liability of respondents is joint and several. No appeal or cross-objections have been filed by respondents, challenging the said finding and accordingly finding on issue No.1 is not required



to be interfered with.

8. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.3,00,000/- has been awarded is based on conjectures and surmises and is liable to be modified and enhanced amount of compensation should be awarded. Learned counsel contended that income of the deceased has been assessed on lower side. Learned counsel further contended that future prospects have also not been added to the monthly income of the deceased contrary to settled provisions of law. Learned counsel next contended that no compensation has been awarded towards loss of consortium, loss of estate and funeral expenses and he prayed that same be suitably enhanced. In support of his contentions, learned counsel for the appellants has relied upon 2009(6) SCC 121 **Sarla Verma and others Vs. Delhi Transport Corporation and Another**, 2017 (16) SCC 680 **National Insurance Co. Ltd Vs. Pranay Sethi and Other**, 2018 (4) R.C.R. (Civil) 333 **Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram & Others**, (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur**.

9. On the other hand, learned counsel for respondent No.3 argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

10. The term 'just compensation' has been elaborated by Hon'ble Supreme Court in 2009(1) RCR (Civil) 867 (SC), **Syed Basheer Ahamed and Others Vs. Mohd. Jameel and Another**, and it has been held that while assessing compensation in a motor accident claims case, the Tribunal should award



compensation which appears to be just. The expression “which appears to be just” vests a wide discretion in the Tribunal in the matter of determination of compensation. Nevertheless, the wide amplitude of such power does not empower the Tribunal to determine the compensation arbitrarily, or to ignore settled principles relating to determination of compensation. It has been further held that although the Act is a beneficial legislation, it can neither be allowed to be used as a source of profit, nor as a windfall to the persons affected nor should it be punitive to the persons liable to pay compensation and that determination of compensation must be based on certain data establishing reasonable nexus between the loss incurred by the victim or dependents. It has been further held that misplaced sympathy, generosity and benevolence cannot be the guiding factors for determining the compensation. As such, compensation is required to be assessed by taking into consideration above-said parameters.

11. The claim petition has been instituted by wife, two minor children and father of the deceased Rishi Parkash, who had died in the accident in question. As per version of PW3, deceased used to earn Rs.8,000/- to Rs.10,000/- per month. However, Tribunal held that no cogent and convincing evidence has been led on file to establish that deceased used to earn Rs.8,000/- to Rs.10,000/- and assessed his monthly income to be Rs.2,000/-. However, at the time of accident, the truck was being driven by its driver Laxmi Narain and deceased Rishi Parkash was owner of the truck and was travelling in the said truck and in these circumstances, deceased could not have been treated as a daily wager or labourer. Hon'ble Supreme Court in (2022) 1 SCC 198, ***Chandra alias Chander alias Chanda Ram and another Vs. Mukesh Kumar Yadav***, decided vide judgment



dated 01.10.2021 has held that merely because claimants are unable to produce documentary evidence to show the monthly income of the deceased is not a ground to discard the oral evidence and in such cases, the Court is required to ensure just compensation based on preponderance of probabilities. Minimum wage notification may serve as a yardstick but cannot be the sole basis for assessing the income. Moreover, it is also well settled that where the victim/deceased belongs to unorganized sector, strict proof of income is not mandatory and notional income can be reasonably assessed based on the social status and facts and circumstances of the case.

12. In the present case, the accident had taken place on 22.03.1996 and since deceased owned a truck and was travelling in the same alongwith the driver, he could not have been treated merely as a labourer and some amount of guess work has to be applied while assessing the income. Accordingly, income of the deceased is assessed as Rs.3,000/-.

13. Deceased was 26 years of age and as such, 40% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid down in **Pranay Sethi's case (supra)**, which takes his income to **Rs.4,200/- (Rs.3,000/- + Rs.1,200/-)** .

14. The petition in hand has been instituted by wife, two minor children and father of the deceased. Hon'ble Supreme Court in 2025 Livelaw (SC) 309, **Sadhana Tomar & Ors. Vs. Ashok Kushwaha & Ors.**, has held that a legal representative is one, who suffers on account of death of a person due to motor vehicle accident and need not necessarily be a wife, husband, parent or child. The term legal representative under Motor Vehicles Act should not be given a narrow



interpretation to exclude those persons as claimants who were dependent on the deceased's income. The father and sister, being financially dependent are legal representatives under the Act entitling them to compensation. Accordingly, it is held that claimant No.4, who is the father, was also dependent upon his deceased son and deceased has thus left behind four **dependents i.e. wife, two minor children and father**, and as such **1/4th** of the income has to be deducted towards personal and living expenses as per law laid down in **Sarla Verma's case (supra)** and after deducting the same, the **monthly loss of dependency** comes out to **Rs.3,150/- (Rs.4,200/- – Rs.1,050/-)** and the **annual loss of dependency** comes out to **Rs.37,800/- (Rs.3,150/- × 12)**.

15. Since deceased was 26 years of age, multiplier of 17 has to be applied in view of the guidelines laid down in **Sarla Verma's case (supra)**, and after applying the same, the total loss of dependency comes out to **Rs.6,42,600/-**.

16. As per law laid down in **Pranay Sethi's case (supra)**, a sum of Rs.70,000/- is payable towards conventional heads i.e. Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- on account of funeral expenses. However, the judgment in **Pranay Sethi's case (supra)** was passed in the year 2017 and taking into consideration the price index prevalent in the year 1996 when the accident took place, claimant No.1 is held entitled to a sum of Rs.20,000/- towards loss of consortium, Rs.7,500/- towards funeral expenses and Rs.7,500/- for loss of estate. Likewise, claimants No.2 to 4 are also held entitled to a sum of Rs.20,000/- each towards parental and filial consortium, which takes the total compensation to Rs.7,37,600/-.

17. Accordingly, the compensation to be awarded to the claimants is



assessed as under:-

S.No.	Under Head	
1.	Age of deceased	26 years
2.	Monthly income of deceased	Rs.3,000/- per month
3.	Future prospects @ 40%	Rs.1,200/-
4.	Total income	Rs.4,200/-
5.	Number of dependents	4
6.	Deduction towards personal and living expenses of the deceased (1/4th)	Rs.1,050/-
7.	Monthly loss of dependency	Rs.3,150/-
8.	Annual loss of dependency	Rs.37,800/- (Rs.3,150/- × 12)
9.	Multiplier	17
10.	Loss of dependency	Rs.6,42,600/- (Rs.37,800/- × 17)
11.	Compensation under conventional heads to claimant No.1- wife	Rs.35,000/-
12.	Compensation to claimants No.2 to 4 towards parental and filial consortium	Rs.60,000/- (Rs.20,000/- × 3)
13.	Total Compensation	Rs.7,37,600/- (rounded off to Rs.7,38,000/-)
14.	Interest	9%

18. Resultantly, the appeal in hand is partly accepted with costs and claimants are held entitled to a sum of Rs.7,38,000/- as compensation. The enhanced compensation thus comes out to **Rs.4,38,000/- (Rs.7,38,000/- – Rs.3,00,000/-)** over and above the compensation awarded by the Tribunal along with interest at the rate of 9% per annum from the date of filing of claim petition till realization payable by respondents jointly and severally. Out of the enhanced compensation, a sum of Rs.50,000/- **each** along with proportionate interest be paid to claimants No.2 to 4 (**minor children and father of the deceased**) while balance amount be paid to claimant **No.1 (wife)** along with proportionate interest.

19. Registry is directed to email the authenticated copy of the award to



FAO-553-2003 (O&M)

- 8-

the respondent Insurance Company in terms of directions issued by the Hon’ble Supreme Court in Writ Petition (Civil) No.534 of 2020 titled **Bajaj Allianz General Insurance Company Versus Union of India and others**, decided on 16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said judgment.

20. Pending miscellaneous application(s), if any, shall also stand disposed of.

15.07.2026
amandeep

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No