



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

**Reserved on : 18.08.2026
Pronounced on : 26.08.2026**

1. FAO No.2839 of 2000 (O&M)

ANBARI AND OTHERS	VERSUS	APPELLANTS
MOHINDER PAL AND OTHERS		...RESPONDENTS

2. FAO-2816-2000

FATIMA (SINCE DECEASED) THROUGH LRS AND ANOTHER		APPELLANTS
	VERSUS	
MOHINDER PAL AND OTHERS		...RESPONDENTS

3. FAO-2817-2000

SALAMAT (SINCE DECEASED) THROUGH LRS		...APPELLANT
	VERSUS	
MOHINDER PAL AND OTHERS		...RESPONDENTS

4. FAO-2818-2000

TOTI (SINCE DECEASED) THROUGH LRS ALIAS ROSHAN		APPELLANT
	VERSUS	
MOHINDER PAL AND OTHERS		...RESPONDENTS

5. FAO-2819-2000

TOTI ALIAS ROSHAN AND OTHERS		APPELLANTS
	VERSUS	
MOHINDER PAL AND OTHERS		...RESPONDENTS

6. FAO-2820-2000

SALAMAT (SINCE DECEASED) THROUGH LRS		APPELLANT
	VERSUS	
MOHINDER PAL AND OTHERS		...RESPONDENTS

7. FAO-2821-2000

SALAMAT (SINCE DECEASED) THROUGH LRS		APPELLANT
	VERSUS	
MOHINDER PAL AND OTHERS		...RESPONDENTS

8. FAO-2822-2000

SALAMAT (SINCE DECEASED) THROUGH LRS

....APPELLANT

VERSUS

MOHINDER PAL AND OTHERS

...RESPONDENTS

**9. FAO-2838-2000 WITH
XOBJ-12-C-2001 AND
XOBJ-23-CII-2006**

SAZIA AND ANOTHER

....APPELLANTS

VERSUS

MOHINDER PAL AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Sidhant Mehra, Advocate for
Mr. Saurabh Arora, Advocate
for the appellants.

Mr. R.C. Gupta, Advocate
for respondent No.3-Insurance Company.

Mr. Rahul Pathania, Advocate and
Mr. Ravinder Arora, Advocate
for respondent No. 4 in FAO No. 2839 of 2000, FAO No.2816 of
2000, FAO No. 2817 of 2000, FAO No. 2818 of 2000, FAO No.
2819 of 2000, FAO No. 2820 of 2000, FAO No. 2821 of 2000, FAO
No.2822 of 2000 and FAO No. 2838 of 2000.

PARMOD GOYAL, J.

1. Present appeals have been filed by the appellants-claimants being aggrieved by award dated 13.06.2000 passed by learned Motor Accidents Claims Tribunal, Fatehgarh Sahib (hereinafter referred to as 'Tribunal') for enhancement of compensation. Since the present appeals have arisen from common impugned award passed by learned Tribunal vide which ten claim petitions preferred on account of motor vehicular accident dated 14.05.1995 caused by rash and negligent driving of respondent-driver while driving truck bearing registration No.HP-38-2561, were decided and dispute involved in all the appeals is identical, hence, they are being decided by way of this common

judgment.

2. In accident dated 14.05.1995, 10 human lives were lost. Three families were wiped out in said occurrence. In accident dated 14.05.1995, Amjad Khan, Smt. Anifa *alias* Wissa, Sabar, Smt. Razia, Aadil, Aarif, Mohammad Jamil, Meena and Smt. Nasira and Mohd. Yamin had died. Though before learned Tribunal 10 claim petitions were preferred, however, claimants in MACT No.45T of 1995/FAO No.2838 of 2000 titled as Sazia & Anr. Vs. Mohinder Pal & Ors. seeking compensation on account of death of Anifa wife of Mohd. Yamin are not before this Court. Gist of appeals being decided is as under:-

Sr. No.	Case title before the MACT	MACT Case No. / Appeal No.	Claim pertains to/claim by	Compensation awarded by the Tribunal
1.	Fatima (since deceased) through LR's and another Vs. Mohd. Yamin and others	MACT No. 39T of 1998 /FAO No.2816 of 2000	Compensation on account of death of Mohd. Yamin/by mother and daughter	Rs. 1,92,000/-
2.	Toti @ Roshan (since deceased) through LR's & Ors. Vs. Mohinder Pal and others	MACT No. 40T of 1998/FAO No.2819 of 2000	Compensation on account of death of Nasira/by father-in-law and three children	Rs. 1,00,000/-
3.	Toti (since deceased) through LR's alias Roshan Vs. Mohinder Pal and others	MACT No. 47T of 1998 /FAO No.2818 of 2000.	Compensation for death of Meena/by grandfather and three	Dismissed

			siblings	
4.	Sazia and Anr. Vs. Mohinder Pal and others	MACT No.45T of 1995/FAO No.2838 of 2000.	Compensation for death of Amjad Khan/by sister and grandmother	Dismissed
5.	Salamat (since deceased) through LRs Vs. Mohinder Pal and others	MACT No. 41T of 1998 /FAO No.2821 of 2000.	Compensation for death of Sabar/by mother	Rs.1,92,000/-
6.	Salamat (since deceased) through LRs Vs. Mohinder Pal and others	MACT No. 48T of 1998 /FAO No.2820 of 2000.	Compensation for death of Razia/by Mother-in-law	Dismissed
7.	Salamat (since deceased) through LRs Vs. Mohinder Pal and others	MACT No. 46T of 1998/FAO No.2822 of 2000.	Compensation for death of Aadil/by Grand mother	Dismissed
8.	Salamat (since deceased) through LRs Vs. Mohinder Pal and others	MACT No. 42T of 1998 /FAO No.2817 of 2000.	Compensation for death of Aarif/by Grand mother	Dismissed
9.	Anbari and others Vs. Mohinder Pal and others	MACT No. 43T of 1998 /FAO No.2839 of 2000.	Compensation for death of Mohd. Jamil/by father and three children	Rs.1,92,000/-

3. Out of 09 appeals which are being taken up by this Court, 04 claim

petitions were allowed and compensation was awarded to the appellants-claimants. However, 05 petitions bearing MACT No.47T of 1998/FAO No. 2818 of 2000, MACT No.45T of 1995/FAO No.2838 of 2000, MACT No.48T of 1998 /FAO No.2820 of 2000, MACT No.46T of 1998 /FAO No.2822 of 2000 & MACT No.42T of 1998 /FAO No.2817 of 2000 which had arisen on account of death of Meena (by grand-father and sisters (three)), Amjad (by grand-mother and sister), Razia (by mother-in-law), Adil (by grand-mother) and Arif (by grand-mother) respectively, were dismissed on the grounds that Meena, Amjad, Adil and Arif being children were not earning persons and appellants- claimants who had sought compensation were not dependent upon them. In case, which had arisen on account of death of Razia (by mother-in-law), claim preferred by claimant was non-suited on the ground that she was not dependent.

4. In claim petitions MACT No.39T of 1998 /FAO No.2816 of 2000, MACT No.40T of 1998/FAO No.2819 of 2000, MACT No.41T of 1998/FAO No. 2821 of 2000 and MACT No.43T of 1998 /FAO No.2839 of 2000 which had arisen on account of death of Mohd. Yamin (by mother and daughter), Nasira (by father-in-law and children (three)), Sabar (by mother) and Mohd. Jamil (by father and children (three)), compensation of Rs.1,92,000/-, Rs.1,00,000/-, Rs.1,92,000/- and Rs.1,92,000/- respectively were awarded.

5. As far as appeal bearing MACT No.47T of 1998/FAO No. 2818 of 2000, MACT No.45T of 1995/FAO No.2838 of 2000, MACT No.48T of 1998 /FAO No.2820 of 2000, MACT No.46T of 1998 /FAO No.2822 of 2000 & MACT No.42T of 1998 /FAO No.2817 of 2000 issue is whether compensation can be sought by legal heirs who are not dependent on deceased. This issue is not *res integra*.

6. The issue whether family member, though not a dependent upon the

deceased, is entitled to file a claim petition seeking compensation is no longer *res integra*. Courts in **Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai & Anr.**, 1987 (3) SCC (234), wherein brother of deceased claimed compensation, in **Gafaran & Ors. Vs. Tilakraj Kapur & Ors.**, 2005 ACJ 1711, wherein two married sisters of the deceased, who were not dependent on deceased had claimed compensation, in **New India Assurance Co. Ltd Vs. Ramya Raghavan & Anr.**, 2006 ACJ 2347, wherein petitioner was a married daughter, **Manjuri Bera Vs. Oriental Insurance Company Ltd. & Anr.**, 2007 (10) SCC 643, and in **Montford Brothers of St. Gabriel & Anr. Vs. United India Insurance & Anr.**, Civil Appeal No.3296-3270 of 2007, wherein a charitable society claimed compensation for the death of a “Brother” of the society in a motor car accident, Courts had held that under Section 166 of the 1988 Act, where the death has resulted from the accident, the claim can be preferred by all or any of the legal representatives of the deceased. This provision does not speak of dependents or all such legal representatives being dependent on the deceased. Any legal representative of the deceased can prefer claim before the Tribunal irrespective of he being dependent or not dependent on the deceased. Thus, from the above discussed noted judgments, it is clear that legal heirs a married sister/daughter, earning brother/son, a brother/son who is living separately or even a charity can seek compensation before the MACT.

7. **In Manjuri Bera Vs. Oriental Insurance company Ltd. & Anr.**, 2007 (10) SCC 643, it was held that legal representatives of deceased shall only be entitled to compensation payable for loss of estate alone. Hon’ble Supreme Court of India however, in Civil Appeal Nos.242-243 of 2020 (Arising out of SLP (Civil) Nos. 976-977 of 2020) titled as **National Insurance Company**

Limited Vs. Birender & Ors., decided on 13.01.2020 after referring to **Manjuri Bera Vs. Oriental Insurance company Ltd. & Anr.**, (supra) had held :

2. “..... In paragraph 15 of the said decision, while adverting to the provisions of Section 140 of the Act, the Court observed that even if there is no loss of dependency, the claimant, if he was a legal representative, will be entitled to compensation. In the concurring judgment of Justice S.H. Kapadia, as His Lordship then was, it is observed that there is distinction between “right to apply for compensation” and “entitlement to compensation.” The compensation constitutes part of the estate of the deceased. As a result, the legal representative of the deceased would inherit the estate. Indeed, in that case, the Court was dealing with the case of a married daughter of the deceased and the efficacy of Section 140 of the Act. Nevertheless, the principle underlying the exposition in this decision would clearly come to the aid of the respondent Nos. 1 and 2 (claimants) even though they are major sons of the deceased and also earning.
3. 15. It is thus settled by now that the legal representatives of the deceased have a right to apply for compensation. Having said that, it must necessarily follow that even the major married and earning sons of the deceased being legal representatives have a right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependent on the deceased and not to limit the claim towards conventional heads only.

8. Therefore, grand-father and sisters in FAO No.2818 of 2000, grand-mother and sister in FAO No.2838 of 2000, mother-in-law in FAO No.2820 of 2000, grand-mother in FAO No.2822 of 2000 and FAO No.2817 of 2000 being LRs of deceased are entitled to receive compensation.

- i. **FAO No.2838 of 2000 titled as Sazia & Anr. Vs. Mohinder Pal & Ors.**
- ii. **FAO No.2822 of 2000 titled as Salamat (since deceased) through LRs Vs. Mohinder Pal & Ors.**
- iii. **FAO No.2817 of 2000 titled as Salamat (since deceased) through LRs Vs. Mohinder Pal and others**
- iv. **FAO No.2818 of 2000 titled as Toti Vs. Mohinder Pal and others**

9. Learned Tribunal had non-suited claimants in appeals bearing FAO Nos.2818 of 2000, 2838 of 2000, 2822 of 2000 and 2817 of 2000 as in all these 04 appeals, deceased Meena, Amjad, Adil and Arif who were children were not earning members. Right to seek compensation in a case of minor deceased who at the time of his death was not earning is also not *res integra*. Courts are of the view that even the LRs of child who was not earning at the time of his death are entitled to compensation and loss of dependency has to be determined by taking potential income of deceased.

10. The Hon'ble Supreme Court in case titled as **Devendra Kumar Tripathi & Ors. Vs. The Oriental Insurance Company Ltd. & Anr.**, 2025 SCC Online SC 2800 had held as under:-

“7. Be that as it may, we are of the opinion that the monthly notional income can be adopted as per the Minimum Wages Act, 1948, which both learned Counsel agree, for a Class B city is at Rs. 5400/- per month. A 40% increase has to be adopted for future prospects and the multiplier is 15 as held in Reshma Kumari (supra) and one-half deduction for personal expenses. The provision of Rs. 50,000/- as medical expenses is retained. The claimants are further entitled to loss of estate and funeral expenses at the rate of Rs. 15,000/- each and loss of filial consortium at the rate of Rs. 40,000/each.”

11. In **Birbal & Anr. Vs. Bhalla & Ors.**, FAO No.3408 of 2004 decided on 03.02.2026, by this Court the multiplier method for children of different age group was adopted by this Court. It was held as under :-

*“Hon’ble Supreme Court in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2017 (16) SCC 680 had prescribed multiplier of ‘18’ for age group of 15 to 20 years and 21 to 25 years. It was further prescribed that multiplier on the basis of age groups needs to be applied to ensure uniformity. Multiplier of ‘5’ was recommended for 65 to 70 years. Taking clue from multiplier based system upon reduced dependency with age similar method needs to be adopted in a case of child, who would remain dependent on his parents for number of years before he attains adulthood, to achieve uniformity in payment of compensation. Therefore, children/adult from 15 to 20 years are entitled to award of 18 as multiplier. Multiplier of ‘15’ for the children falling in the age group of 11 to 14 would be appropriate as applied by Hon’ble Supreme Court in **Devendra Kumar Tripathi & Ors. Vs. The Oriental Insurance Company Ltd. & Anr.**, (supra). It would be appropriate if the multiplier of ‘12’ is awarded in a case of child aged between 06 to 10 years and multiplier of 10 would be appropriate in case of child between 03 to 05 and multiplier of ‘9’ would be appropriate in case of child in the age group of 0 to 03 years. The above noted multiplier would offset period of dependency of deceased on his/her parents. In present case, since deceased was 13 years old, multiplier of ‘15’ would be appropriate for the purposes of determining loss of dependency.”*

12. Therefore, in a case of minor child potential/notional income needs to be determined as per minimum wages and for determining loss of dependency 40% future prospects needs to be added.

13. Therefore, in all the 04 appeals bearing Nos. MACT No.47T of 1998/FAO No. 2818 of 2000, MACT No.45T of 1995/FAO No.2838 of 2000,

MACT No.46T of 1998 /FAO No.2822 of 2000 & MACT No.42T of 1998 /FAO No.2817 of 2000 noted above, claimants are entitled to seek compensation.

14. In present appeals, deceased Amjad Khan who was aged 07 years, deceased Adil was aged 06 months, deceased Arif was aged 02 years and deceased Meena was aged 2.5 years, therefore, the potential income of deceased persons has to be taken equivalent to minimum wages payable to unskilled worker.

15. Learned Tribunal has taken income of unskilled worker as Rs.1,800/- per month, though it is slightly higher than the minimum wages payable in year 1995, same is taken as potential/notional income of each of the 04 deceased children.

16. In order to determine loss of dependency, 40% of notional income needs to be added as future prospects in terms of mandate given by the Hon'ble Supreme Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others**, 2017 (16) SCC 680 and **Devendra Kumar Tripathi & Ors. Vs. The Oriental Insurance Company Ltd. & Anr.**, (supra). Since, children were unmarried and were survived by LRs, the deduction in the present case would be 50% of income in view of principles laid down in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009 (6) SCC 121.

17. Accordingly, in view of judgment of this Court titled as **Birbal and Another Vs. Bhalla and Ors.**, (supra), multiplier method for children of different age group has to be applied, as per said judgment, children falling in age group of 15 to 20 years were held entitled to multiplier of '18', children falling in the age group of 11 to 14 were held entitled to multiplier of '15', children falling in the age group of 6 to 10 were held entitled to multiplier of '12', children

falling in the age group of 3 to 5 were held entitled to multiplier of ‘10’ and children falling in the age group of 0 to 3 were held entitled to multiplier of ‘9’.

18. Accordingly, in case of Amjad Khan who was aged 07 years, multiplier of ‘12’ would be applicable whereas in case of Meena, Adil and Arif who were less than 03 years, multiplier of ‘9’ shall be applicable.

19. Accordingly, compensation payable to appellants-claimants in FAO No.2838 of 2000 is as under:

Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800 + 720/-)	Rs.2,520/-
Deduction	1/2 (Rs.2,520/- - 1260)	Rs.1,260/-
Multiplier	12	12
Total loss of dependency	Rs.1,260 x 12 x 12	Rs.1,81,440/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		₹15,000/-
Total Compensation awarded in appeal		Rs.2,11,440/-

20. Accordingly, compensation payable to appellant-claimant in FAO No.2822 of 2000 is as under:-

Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800 + 720/-)	Rs.2,520/-
Deduction	1/2 (Rs.2,520/- - 1260)	Rs.1,260/-
Multiplier	9	9
Total loss of dependency	Rs.1,260/- x 9 x 12	Rs.1,36,080/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		₹15,000/-
Total Compensation awarded in appeal		Rs.1,66,080/-

21. Accordingly, compensation payable to appellant-claimant in FAO No.2817 of 2000 is as under:-

Income	Rs.1,800/- per month	Rs.1,800/- per month
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Future Prospects	40% (Rs.1,800 + 720/-)	Rs.2,520/-
Deduction	1/2 (Rs.2,520/- - 1260)	Rs.1,260/-
Multiplier	9	9
Total loss of dependency	Rs.1,260/- x 9 x 12	Rs.1,36,080/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		₹15,000/-
Total Compensation awarded in appeal		Rs.1,66,080/-

22. Accordingly, compensation payable to appellants-claimants in FAO No.2818 of 2000 is as under:-

Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800 + 720/-)	Rs.2,520/-
Deduction	1/2 (Rs.2,520/- - 1260)	Rs.1,260/-
Multiplier	9	9
Total loss of dependency	Rs.1,260 x 9 x 12	Rs.1,36,080/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		₹15,000/-
Total Compensation awarded in appeal		Rs.1,66,080/-

- i. **FAO No.2816 of 2000 (MACT No.39T of 1998) titled as Fatima and others Vs. Mohd. Yamin and others**
- ii. **FAO No.2819 of 2000 (MACT No.40T of 1998) titled as Toti @ Roshan & Ors. Vs. Mohinder Pal and others**
- iii. **FAO No.2821 of 2000 (MACT No.41T of 1998) titled as Salamat Vs. Mohinder Pal and others**
- iv. **FAO No.2839 of 2000 (MACT No.43T of 1998) titled as Anvari and others Vs. Mohinder Pal and others**
- v. **FAO No.2820 of 2000 (MACT No.48T of 1998) titled as Salamat (since deceased) through LRs Vs. Mohinder Pal and others**

23. In above 05 claim petitions, appellants-claimants had sought compensation on account of untimely death of deceased Mohd. Yamin, Nasira, Sabar, Mohd. Jamil and Razia. Appellants-claimants in their respective claim petitions had claimed that deceased Mohd. Yamin was 30 years old earning Rs.4,000/- per month being carpenter, that Nasira was aged 22 years old was working as a teacher and doing embroidery work whereby earning Rs.2,000/-

per month, that Sabar who was 25 years old was a fruit and vegetable seller and was earning Rs.3,000/- per month, Mohd. Jamil who was 36 years old was earning Rs.3,500/- per month being fruit and vegetable seller and Razia who was 21 years old earning Rs.2,200/- per month by working as a teacher and had knowledge of sewing, tailoring and embroidery. However, none of the appellants-claimants has led any cogent and reliable evidence to prove pleaded vocation and income of any of the 05 deceased persons noted above. In all the claim petitions, appellants-claimants had relied only upon oral assertions without leading any corroborative or any other reliable or cogent evidence showing vocation/income of deceased persons. In case of Mohd. Yamin, Sabar and Mohd. Jamil, learned Tribunal had taken income of deceased persons to be Rs.1,800/- per month considering them to be unskilled workers by taking into consideration minimum wages. The amount of Rs.1,800/- though is higher than minimum wages being payable in year 1995, however, no interference is warranted as same was being earned by unskilled workers as well as keeping in view beneficial nature of 1988 Act.

24. As far as deceased-Nasira is concerned, learned Tribunal has erred in not taking her income at par with unskilled worker as was taken in the case of Mohd. Yamin, Sabar and Mohd. Jamil. In case of deceased-Nasira and Razia, the income of deceased-Nasira and Razia ought to have taken equivalent to income as taken in the case of other deceased persons, accordingly, the notional income of deceased-Nasira and Razia is also taken as Rs.1,800/- per month.

25. Since, all the deceased persons namely Mohd. Yamin, Nasira, Sabar, Mohd. Jamil and Razia were aged 30, 22, 25, 36 and 21 years old respectively, in order to determine loss of dependency, in all the 05 appeals, addition of 40% towards future prospects as per mandate of Hon'ble Supreme

Court in **National Insurance Company Ltd. Vs. Pranay Sethi and others**, 2017 (16) SCC 680, needs to be added.

26. Since, Mohd. Yamin was aged 30 years, therefore, multiplier of '17' would be applicable to determine loss of dependency, similarly deceased-Nasira was 22 years old, in her case, multiplier would be '18' would be applicable as Sabar was 25 years old, multiplier of '18' would be applicable, in case of Mohd. Jamil who was 36 years old, multiplier of '15' would be applicable and since deceased-Razia was 21 years old, multiplier of '18' would be applicable in view of principles laid down in **Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.**, 2009 (6) SCC 121.

27. In case of Mohd. Yamin, appellants-claimants are mother and daughter, in case of Nasira, appellants-claimants are father-in-law and children (three), in case of Sabar, appellant-claimant is mother and in case of Mohd. Jamil, appellants-claimants are father and children (three) and in case of Razia, appellant-claimant in mother-in-law, therefore, deduction towards persons expenses to the extent of 1/3rd, 1/4th, 1/3rd, 1/4th and 1/3rd shall be applicable respectively for determination of loss of dependency on account of death of Mohd. Yamin, Nasira, Sabar, Mohd. Jamil and Razia respectively.

28. Apart from compensation for loss of dependency, appellants-claimants in all the appeals shall also be entitled to **Rs.15,000/-** towards funeral expenses and **Rs.15,000/-** towards loss of estate. In FAO No.2816 of 2000, appellant-claimant No.1 shall be entitled to compensation @ **Rs.40,000/-** towards filial consortium, appellant-claimant No.2 shall be entitled to compensation @ **Rs.40,000/-** towards parental consortium. In FAO No.2819 of 2000, appellants-claimants No.2 to 4 shall be entitled to compensation @ **Rs.40,000/-** each towards parental consortium. In FAO No.2821 of 2000,

appellant-claimant shall be entitled to compensation @ **Rs.40,000/-** towards filial consortium. In FAO No.2839 of 2000, appellant-claimant No.1 shall be entitled to compensation @ **Rs.40,000/-** towards filial consortium and appellants-claimants No.2 to 4 shall be entitled to compensation @ **Rs.40,000/-** each towards parental consortium. It is, however, made clear that in case Hon’ble Supreme Court answers the reference regarding quantum of compensation under conventional heads made **in Hasina Yasmin & Ors. Vs. National Insurance Co. Ltd.**, 2025 SCC Online SC 2919, in favour of the appellants, the appellants shall be at liberty to seek the said amount by moving an appropriate application in this regard.

29. Accordingly, compensation payable to appellants-claimants in FAO No.2816 of 2000 is as under:

Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800 + Rs.720)	Rs.2,520/-
Deduction	1/3 rd (Rs.2,520/- - Rs.840/-)	Rs.1,680/-
Multiplier	17	17
Total loss of dependency	Rs.1,680 x 12 x17	Rs.3,42,720/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		Rs.15,000/-
Loss of filial consortium to claimant No.1		Rs.40,000/-
Loss of parental consortium to claimant No.2		Rs.40,000/-
Total Compensation awarded in appeal		Rs.4,52,720/-
Total Compensation awarded by the Tribunal	Rs.1,92,000/-	
Enhanced amount of compensation	Rs.4,52,720/- (awarded in appeal) – Rs.1,92,000/- (awarded by the Tribunal)	Rs.2,60,720/-

30. Accordingly, compensation payable to appellants-claimants in FAO No.2819 of 2000 is as under:

Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800 + 720/-)	Rs.2,520/-
Deduction	1/3 (Rs.2,520/- - 840)	Rs.1,680/-
Multiplier	18	18
Total loss of dependency	Rs.1,260 x 18 x 12	Rs.3,62,880/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		₹15,000/-
Total compensation awarded by Tribunal	Rs.1,00,000/-	
Total Compensation awarded in appeal		Rs.3,92,880/-
Enhanced compensation	Rs.3,92,880/- (awarded in appeal) – Rs.1,00,000/- (awarded by Tribunal)	Rs.2,92,880/-

31. Accordingly, compensation payable to appellant-claimant in FAO No.2821 of 2000 is as under:

Annual Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800 + 720)	Rs.2,520/-
Deduction	1/3 (Rs.2,520 – 840)	Rs.1,680/-
Multiplier	18	18
Total Loss of Dependency	Rs.1,680/- x18 x 12	Rs.3,62,880/-
Loss of Estate		₹15,000/-
Funeral Expenses		₹15,000/-
Loss of filial consortium to claimant		₹40,000/-
Total compensation awarded by Tribunal	Rs.1,92,000/-	
Total compensation awarded in appeal		Rs.4,32,880/-
Enhanced amount of compensation	Rs.4,32,880/- (awarded in appeal) – Rs.1,92,000/- (awarded by Tribunal)	Rs.2,40,880/-

32. Accordingly, compensation payable to appellants-claimants in FAO No. 2839 of 2000 is as under:-

Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800/- + 720)	Rs.2,520/-
Deduction	1/4th (Rs.2,520/- - 630)	Rs.1,890/-
Multiplier	15	15
Total loss of dependency	Rs.1,890/- x 12 x 15	Rs.3,40,200/-
Loss of Estate		Rs.15,000/-
Funeral Expenses		Rs.15,000/-
Loss of filial consortium to claimant No.1		Rs.40,000/-
Loss of parental consortium to claimant Nos.2 to 4	Rs.40,000 x 3	Rs.1,20,000/-
Total Compensation awarded in appeal		Rs.5,30,200/-
Total Compensation awarded by the Tribunal	Rs.1,92,000/-	
Enhanced amount of compensation	Rs.5,30,200/- (awarded in appeal) – Rs.1,92,000/- (awarded by the Tribunal)	Rs.3,38,200/-

33. Accordingly, compensation payable to appellant-claimant in FAO No.2820 of 2000 is as under:

Annual Income	Rs.1,800/- per month	Rs.1,800/- per month
Future Prospects	40% (Rs.1,800 + 720)	Rs.2,520/-
Deduction	1/3 (Rs.2,520 – 840)	Rs.1,680/-
Multiplier	18	18
Total Loss of Dependency	Rs.1,680/- x 18 x 12	Rs.3,62,880/-
Loss of Estate		₹15,000/-
Funeral Expenses		₹15,000/-
Total compensation awarded in appeal		Rs.3,92,880/-

34. Appellants-claimants in all the appeals shall be entitled to enhanced compensation (except for conventional heads i.e. loss of consortium, funeral expenses, loss of estate) along with 7.5% interest from the date of filing of claim

petitions till realization of entire amount. Interest on enhanced compensation under conventional heads shall be payable from August 2017 onwards till realization. Apportionment and liability to pay compensation shall be as per award.

XOBJ-12-C-2001 AND XOBJ-23-CII-2006 IN FAO No.2838 of 2000

35. Legal heirs of Ishar Dass Sood-respondent No.2 in claim petitions has also preferred cross-objection in appeal bearing FAO No.2838 of 2000 preferred by appellants/claimants denying their liability on twin grounds; *firstly*, that claim petition was filed against a dead person as Ishwar Dass Sood had died on 16.03.1995, whereas accident had taken place on 14.05.1995 and claim petition was filed on 03.08.1995. It was claimed that no notice was ever received being LR's of Ishwar Dass Sood and, therefore, LR's of Ishwar Dass Sood are not liable to pay compensation. Alternatively, it was claimed that on the date of accident i.e. 14.05.1995 vehicle was duly insured and insurance company had wrongly repudiated the insurance cover note on 19.05.1995, despite deposit of draft pertaining to premium amount vide demand draft. It was submitted that insurance policy was issued against cheque, however, on account of death of Ishwar Dass Sood, cheque got bounced and on coming to know about non-payment of cheque amount, demand draft was duly issued in the name of insurance company. However, as accident had taken place on 14.05.1995, insurance company wrongly repudiated the claim on 19.05.1995, which insurance company could not have done once accident had taken place.

36. Learned Tribunal vide impugned award had held respondents No.1 and 2 liable to pay compensation and had fully exonerated respondent-insurance company on the ground that respondent-driver was not holding a valid driving licence. However, the plea of insurance company that it was not liable to pay

compensation as insurance policy stood cancelled on account of non-payment of premium amount was specifically rejected by learned Tribunal.

37. As far as finding of learned Tribunal is concerned, that respondent-driver was not holding valid and effective driving licence on the date of accident, the said finding cannot be held to be erroneous or perverse, rather is based upon evidence led by insurance company in the shape of evidence of official from District Transport Office, Amritsar who had allegedly issued driving licence Ex.R-7 claimed by respondent-driver. Learned Tribunal has rightly held that respondent-driver was not holding valid driving licence and, therefore, there was no breach of conditions of insurance policy absolving insurance company from paying the compensation.

38. However, learned Tribunal has erred in exonerating insurance company from payment of compensation despite agreeing with contentions raised on behalf of appellants/claimants that the vehicle was covered by insurance policy as same was cancelled only on 19.05.1995, whereas accident had taken place on 14.05.1995. In the present case, admittedly Ishwar Dass Sood had died on 16.03.1995, insurance cover note was issued from 30.03.1995 to 29.03.1996 and accident had taken place on 14.05.1995. The cover note was issued against cheque and on dishonour of cheque on account of death of Ishwar Dass Sood who had died on 16.03.1995, fresh policy on payment of insurance premium was issued w.e.f. 26.05.1995. All these facts clearly shows that insurance company could not have repudiated insurance policy after the accident, once it has issued insurance cover note against cheque. Insurance company had only two options available with it, *one*, to cancel the policy prior to the date of accident to avoid its liability or, *second*, to cancel policy after the accident, but in that case insurance company has to honour its liability under

insurance policy and its liability subsequent to cancellation of policy could only be avoided.

39. In the present case, since cancellation was done on 19.05.1995, therefore, accident dated 14.05.1995 was fully covered by insurance cover issued by insurance company. Insurance company cannot avoid its third party liability on this account. In case, insurance company issues insurance policy against cheque, it is entitled to recover cheque amount from insured at the cost of insured or cancel policy before any liability has arisen. Accordingly, insurance company is liable to pay compensation and recover the same from respondent-driver alone as in the present case, claim petition was filed against a dead person i.e. Ishwar Dass Sood, therefore, unless his LRs were impleaded, liability cannot be imposed upon them, even if they had inherited the assets of respondent-owner. Claim petition against a dead person could not have been filed. It is worth noticing that LRs of Ishwar Dass Sood were never impleaded during the pendency of claim petition or even before this Court, even though the fact regarding death of Ishwar Dass Sood had come to the notice of Tribunal in view of evidence of RW7-Ashwani Kumar who had duly disclosed that Ishwar Dass Sood has since died. Perusal of record goes to show that no vakalatnama of Ishwar Dass Sood or on behalf of any of the LRs is available on record of learned Tribunal. Therefore, LRs of Ishwar Dass Sood cannot be held liable for payment of compensation as they were not made parties to the claim petition and claim petition was filed against a dead person i.e. Ishwar Dass Sood.

40. In view of above discussion, cross-objections are partly allowed to the above extent. It is held that insurance company shall be liable to pay compensation along with interest to appellants/claimants and shall have right to recover the same along with interest from respondent No.1-driver by filing

execution.

41. Appeals filed by claimants are accordingly allowed. Cross-objections filed by respondent-owner are also allowed to the extent noted above. Photocopy of this order be placed on the files of connected cases.

42. Pending miscellaneous application(s), if any, also stand(s) disposed of accordingly.

26.08.2026
Ravinder

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No