



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

FAO-2241-2024 (O&M)
Date of Decision: 05.12.2025

Kela Devi and another

....Appellants

V/s

Ashok Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Yashveer Kharb, Advocate, for the appellants.

Mr. D.K. Prajapati, Advocate,
for respondent No.3-insurance company.

VIKRAM AGGARWAL, J. (ORAL)

The instant appeal has been preferred by the claimants (Kela Devi and Ramphal Singh) seeking enhancement in compensation awarded to them by the Motor Accident Claims Tribunal, Panipat (for short 'MACT') vide award dated 15.02.2024 on account of death of their son Jagmahender, who expired in a motor vehicular accident which took place on 03.12.2019.

2. The appellants instituted a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'the MV Act') for the grant of compensation on account of death of Jagmahender.

3. The case of the claimants was that Jagmahender, who was a driver of an EICHER Canter bearing Regn. No.HR-67-A-3701, had commenced his journey on 02.12.2019 from Pardhana to Jaipur after loading blankets. On 03.12.2019 at about 3.00 a.m., when he reached near Village Paniyala, a Trailer bearing Regn. No.RJ-32-GB-9063 (hereinafter referred to as "the offending vehicle"), which was going ahead of the Canter applied emergency brakes as a result of which, the Canter struck on the back of the offending vehicle. Jagmahender received serious and multiple injuries. He

was taken to a hospital by his brother Pawan Kumar, who was following him

on another vehicle. Jagmahender was referred to PGI Trauma Center, Rohtak where he was declared brought dead. FIR No.293, dated 04.12.2019 was registered at Police Station Paniyala, District Jaipur, under Sections 279, 304A IPC on the complaint submitted by Pawan Kumar.

4. It was averred that Jagmahender was 30 years old and was working as a driver on the EICHER Canter owned by one Sumer Singh and was getting a salary of Rs.30,000/- per month. Apart from this, he was doing agricultural work from which he was earning Rs.20,000/- per month. In this way, his income was Rs.50,000/- per month. Rs.25,000/- was claimed to have been spent on transportation and Rs.1,50,000/- on treatment and funeral expenses. Accordingly, a sum of Rs.1 crore was claimed as compensation.

5. The driver and owner of the offending vehicle did not appear before the MACT and they were proceeded against *ex parte*.

6. The insurance company raised its usual defences in the written statement and denied the factum of the accident.

7. From the pleadings of the parties, following issues were framed:

“1. Whether accident took place on 03.12.2019 on account of rash and negligent driving of vehicle bearing No.RJ32-GB-9063 by respondent No.1 resulting into death of Jagmahender?OPP

2. If issue No.1 is proved in affirmative, whether the petitioners are entitled to compensation, if so, how much and from whom?OPP

3. Whether the insured has violated the terms and conditions of the insurance policy, if so its effect?OPD

4. Relief.”

8. Parties led their respective evidence.

9. After considering the evidence led on the record of the case, a finding was recorded by the MACT that the accident as a result of which

Jagmahender had expired had taken place on account of rash and negligent

act of the driver of the offending vehicle. The age of Jagmahender was assessed as 30 years. His income was assessed as Rs.12,000/- per month and the following compensation was awarded:-

Sr. No.	Heads of Claim	
1.	Age of the deceased	30 years
2.	Income of the deceased	Rs.12,000/- per month
3.	Future prospects @ 40%	Rs.4800/- per month (Total Income Rs.16800/-)
4.	After deducting ½ of the income as personal expenses of the deceased	Rs.8400/- per month Rs.84,00 x 12= Rs.1,00,800/-
5.	After applying Multiplier of ‘17’	Rs.1,00,800/- x 17 =Rs.17,13,600/-
5.	Funeral expenses	Rs.15000/-
6.	Loss of Estate	Rs.15000/-
7.	Total Compensation	Rs.17,44,000/-

10. I have heard learned counsel for the parties.
11. Learned counsel for the appellants submits that the MACT did not examine the matter from the correct perspective. It has been submitted that Jagmahender was a driver on an EICHER Canter and was earning Rs.30,000/- per month. The owner of the EICHER Canter duly stepped into the witness box and deposed about the salary being paid to Jagmahender but still his salary was assessed as Rs.12,000/- per month. It has been submitted that even qua agricultural work that the deceased was doing, no amount was assessed. It has further been contended that filial consortium was also erroneously not granted.
12. *Per contra*, learned counsel for the insurance company submits that the compensation awarded by the MACT is adequate and that in the absence of any proof of employment or that of agricultural work, the income was rightly assessed.
13. I have considered the submissions made by learned counsel for the parties.

14. It is not in dispute that Jagmahender was a driver on a Canter. PW-3 (Sumer Singh) also stepped into the witness box and deposed that he was paying a salary of Rs.30,000/- per month to Jagmahender. However, apart from this bald statement, no other evidence in the form of salary certificate, bank passbook etc. was produced, which could have lent credence to the statement of PW-3. Under the circumstances, the best possible alternative was to assess the income as per the minimum wages applicable for a driver. The MACT assessed the salary as Rs.12,000/- per month, which, in the considered opinion of this Court, was rightly assessed as nothing contrary to the same has been shown. Since no evidence as regards the work of agriculture was also produced, no income for the said work was assessed. However, in terms of the ratio laid down by the Supreme Court of India in the case of *National Insurance Company Limited vs. Pranay Sethi and others*, (2017)16 SCC 680, filial consortium, @ Rs.48,400/- for each dependant (for all the claimants) was required to be granted. Still further, for funeral expenses and loss of estate, Rs.18150/- for each head was also required to be awarded.

15. Having considered the submissions made by learned counsel for the parties, the compensation is assessed as under, keeping in mind the principles enunciated by the Hon’ble Supreme Court of India:-

Sr. No.	Heads of Claim	Awarded by the MACT	Enhanced Compensation
1.	Age of the deceased	30 years	No change
2.	Income of the deceased	Rs.12,000/- per month	No change
3.	Future prospects @ 40%	Rs.4800/- per month (Total Income Rs.16800/-)	No change
4.	After deducting ½ of the income as personal expenses of the deceased	Rs.8400/- per month Rs.84,00 x 12= Rs.1,00,800/-	No change

5.	After applying Multiplier of ‘17	Rs.1,00,800/- x 17 =Rs.17,13,600/-	Rs.1,00,800/- x 17 =Rs.17,13,600/- (No Change)
6.	Funeral expenses	Rs.15000/-	Rs.18150/-
7.	Loss of Estate	Rs.15000/-	Rs.18,150/-
8.	Filial consortium for parents	Not granted	Rs.96,800/- (Rs.48,400/- each)
	Total Compensation	Rs.17,44,000/-	Rs.18,46,700/-
10.			

The total compensation, therefore, comes to Rs.18,46,700/-.

After deducting a sum of Rs.17,44,000/- as assessed by the MACT, the balance compensation comes to Rs.1,02,700/-. This amount would be payable in addition to the amount assessed by the learned MACT along with interest @ 7.5% annually. The disbursal and liability to pay the same would be as per the award.

16.
- The present appeal is accordingly disposed of.
- Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

December 05, 2025
vcgarg

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No