



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

FAO-2164-2016 (O&M)
Date of Decision: 26.11.2025

Nur Nisha and anotherAppellants

V/s

Bhovinder Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ashish Yadav, Advocate, for the appellants.

VIKRAM AGGARWAL, J. (ORAL)

No one had appeared on behalf of the respondents on 22.01.2024 despite service. Today also, no one has put in appearance for the respondents. They are accordingly proceeded against *ex parte*.

Claimants have preferred the instant appeal seeking enhancement in compensation granted to them vide award dated 03.11.2015 passed by the Motor Accident Claims Tribunal, Gurgaon (for short 'MACT').

2. The facts, as emanating from the paper book, are that appellants/claimants, who are the parents of deceased-Mausam Khan, filed a claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short 'MV Act') claiming compensation on account of death of their son Mausam Khan in a motor vehicular accident which took place on 13.07.2013.

3. It was averred that on 13.07.2013, at about 2.00 p.m, Mausam after completing his daily work in the area of crusher zone of village Indri was going back to his home. In the meantime, a Dumper bearing

Regn. No.HR-55-H-0072 (hereinafter referred to as the ‘offending vehicle’), being driven by respondent No.1 (Bhovinder Singh) came from Nuh side in a rash and negligent manner and at a very high speed and struck Mausam from the back side as a result of which, he fell down and suffered injuries. It was averred that Shaukat, who was also working in the same area had gone to Indri Mor for his occupational work and after completing his work, was standing at Indri Mor and witnessed the accident. Mausam’s family was informed by the said Shaukat and then Mausam was got admitted in General Hospital, Sohna, from where, he was referred to Gurgaon. However, he was taken to Trauma Centre, Delhi, where he died at night due to injuries suffered by him in the accident. The matter was reported to the police and FIR No.681, dated 13.07.2013 under Sections 279, 304A IPC was registered at Police Station Sohna. It was averred that Mausam Khan being a skilled worker, was earning Rs.10,000/- per month. As such, compensation of Rs.25 lakhs was claimed by the claimants.

4. On notice, respondents No.1 to 2 appeared and filed their joint written statement. They denied all the averments made in the petition including the factum of the accident.

5. The claim petition was opposed by respondent No.3-insurance company. In the written statement, it took usual defences and denied the factum of the accident.

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

“1. Whether the accident in question, was caused by respondent No.1 while driving vehicle bearing registration No.HR-55-H-0072 in a rash and negligent manner resulting into death of Sh. Mausam, as alleged? OPP

2. If issue No.1 is proved, whether the petitioners are entitled to any compensation and if so to what effect and from whom?OPP

3. Whether the respondent No.3 is not liable to make payment of

any compensation on account of alleged violation of terms and conditions of insurance policy?OPR

4. Relief.”

7. Parties led their respective evidence.
8. The MACT held that the accident had taken place on account of the rash and negligent driving of the offending vehicle by respondent No.1. As regards the quantum of compensation, the age of the deceased was assessed as 20 years and his monthly income was assessed as Rs.7300/- per month. Claimant No.1, father of the deceased, was held to be not dependent on the deceased and the dependency of claimant No.2 i.e. the mother of the deceased was assessed as 50%. In terms of the law laid down in the case of *Sarla Verma vs. DTC, 2009 (6) SCC 121* and *Reshma Kumari vs. Madan Mohan, 2013 STPL (Web) 262 SC* and keeping in view the age of the deceased, a multiplier of ‘18’ was applied by the MACT. The MACT assessed and granted the following compensation:-

Sr. No.	Heads of Claim	
1.	Age of the deceased	20 years
2.	Income of the deceased	Rs.7300/-
3.	½ deduction as personal expenses	Rs.3650/- X 12 = Rs.43800/- per annum
4.	After applying Multiplier of ‘18’	Rs.43800/- x 18 =Rs.7,88,400/-
5.	Funeral expenses	Rs.20,000/-
6.	Loss of Estate	Rs.20,000/-
7.	Non-pecuniary expenses	Rs.20,000
8.	Total Compensation	Rs.8,48,400/-

As such, compensation of Rs.8,48,400/- was granted along with interest @ 9% per annum from the date of filing of the claim petition till its actual realization. As it was not proved by the respondent-Insurance company that respondent No.1 was not holding a valid driving licence, the liability to pay the compensation was fastened upon all the respondents

jointly and severally.

9. I have heard learned counsel for the appellants.

10. Learned counsel for the appellants submits that the compensation deserves to be assessed in view of the principles laid down by the Hon'ble Supreme Court in the cases of *National Insurance Company Limited vs. Pranay Sethi and others*, (2017)16 SCC 680, *Smt. Sarla Verma and others vs. Delhi Transport Corporation and another*, (2009) 6 SCC 121 and *Magma General Insurance Company Limited vs. Nanu Ram alias Chuhru Ram*, (2018) 18 SCC 130. Learned counsel submits that future prospects was not granted in terms of the judgment of the Supreme Court of India in *National Insurance Company Limited Vs. Pranay Sethi and others*, 2017 (4) RCR (Civil) 1009. As regards claim of filial consortium, it has been submitted that the same would be @ Rs.48,000/- for each dependant (for the father and the mother). Future prospects @ 40% needs to be added in the income of the deceased and, therefore, the income would come to Rs.10220/- per month i.e. Rs.7300 + Rs.2920 @ 40% future prospects.

11. Learned counsel submits that since there were a large number of siblings of the deceased, who were dependent upon his income, 1/3rd amount towards personal expenses should have been deducted instead of 1/2.

12. I have considered the submissions made by learned counsel for the appellants.

13. No doubt, the claim petition was instituted only by the parents of the deceased. However, it came in the evidence of PW1 (Rehman Khan), who is the father of the deceased, that the deceased Mausam was having 7 sisters and 5 brothers and most of them were dependent upon his income as

that there were 15 members in the family including the deceased. No details of the other brothers and sisters are forthcoming nor is the marital status given. However, in the considered opinion of this Court, where the couple had 13 children and one of them died, it can be presumed that in such a family, the deceased must have been contributing a substantial amount of his earnings for the family. Under the circumstances, deduction of 1/3rd should have been applied instead of 1/2. Future prospects @ 40% also deserves to be added. Further, a sum of ₹48,000/- to each of the claimants is required to be awarded on account of filial consortium.

14. Having considered the submissions made by learned counsel for the appellants, 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	20 years	20 years (No change)
2.	Income of the deceased	Rs.7300/-	Rs.7300/- (No change)
3.	Future Prospects @ 40%	Not given	Rs.7300/- + Rs.2920/- = Rs.10220/-
4.	Deduction on account of personal expenses	½ deduction of the assessed income Rs.3650/-	1/3 rd deduction after adding 40% future prospects to the assessed income Rs.3407/-
5.	Annual income of the deceased after deducting personal expenses	Rs.3650/- X 12 = Rs.43800/- p.a.	Rs.6813/- X 12 =Rs.81756
6.	After applying Multiplier of ‘18’	Rs.43800/- x 18 =Rs.7,88,400/-	Rs.81756/- X 18 = Rs.14,71,608/-
7.	Funeral expenses	Rs.20,000/-	Rs.18,000/-
8.	Loss of Estate	Rs.20,000/-	Rs.18,000/-
9.	Non-pecuniary expenses	Rs.20,000	-
10.	Loss of consortium/Filial consortium	Not given	Rs.96,000/- (Rs.48000/- each)
	Total Compensation	Rs.8,48,400/-	Rs.16,03,608/-

The total compensation, therefore, comes to Rs.16,03,608/-. After deducting a sum of Rs.8,48,400/- as assessed by the MACT, the balance compensation comes to Rs.7,55,208/- rounded off to **Rs.7,56,000/-**. 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.

15. The present appeal is accordingly disposed of.

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

(VIKRAM AGGARWAL)
JUDGE

November 26, 2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No