



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

FAO-3264-2003 (O&M)

KRISHNA AND ORS ..... APPELLANTS

VERSUS

SURESH AND ORS ..... RESPONDENTS

|    |                                                                                                       |            |
|----|-------------------------------------------------------------------------------------------------------|------------|
| 1. | Judgment reserved on                                                                                  | 22.01.2026 |
| 2. | Judgment pronounced on                                                                                | 24.02.2026 |
| 3. | Judgment uploaded on                                                                                  | 24.02.2026 |
| 4. | Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced. | Full       |
| 5. | The delay, if any of the pronouncement is full judgment and reason thereof.                           | NA         |

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr. Sandeep K. Sharma, Advocate with  
Mr. Lakshya Saini, Advocate and  
Mr. Utsav Sharma, Advocate  
for the appellants.

Mr. Aseem Aggarwal, Advocate  
for respondent No.3-Insurance Company (Through V.C.).

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YASHVIR SINGH RATHOR, J.

1. This appeal has been instituted against the award dated 17.04.2003 for enhancement of compensation passed by MACT Rohtak vide which a sum of Rs.3,67,200/-, in addition to Rs.12,000/- on account of loss of consortium and funeral expenses, has been awarded as compensation to the claimants on account of the death of Krishan on



account of rash and negligent driving by respondent No.1 while driving offending Truck No.HR-39-6099, which was owned by respondent No.2 and insured with respondent No.3

2. Case of the claimants is that, on 16.01.2001, Virender, Tirath Lal, Baljeet, Krishan Lal were traveling in a Matador bearing registration No.DL-2CC-5596 and at about 8:00 P.M., when the said matador reached near Kharawar by-pass, truck bearing registration No.HR-39-6099 (**hereinafter referred to as offending vehicle**) being driven rashly and negligently by the respondent No.1 came from Sampla side and rammed into the Matador, as a result of which the occupants of the Matador sustained injuries. Driver of the offending truck fled away from the spot. The injured were taken to the PGIMS Rohtak, where Baljeet Singh and Krishan Lal died and autopsy was got performed on the dead bodies. According to the claimants, the accident had taken place due to rash and negligent driving of the offending truck by its driver. FIR No. 13 dated 17.1.2001 under sections 279/337/304-A IPC was registered in Police Station Sampla against the driver of the offending truck. It is submitted that claimants were dependent upon deceased and after his death, they have no source of income and they have suffered pain and sufferings on account of his death. A sum of Rs.20,00,000/- has been claimed as compensation.

3. Respondent No.1 in his written statement has opposed the petition alleging that he was driving the truck bearing registration No.HR-39-6099 at a normal speed and on the correct side of the road and the accident had taken place due to rash and negligent driving on the part of the driver of Matador bearing registration No.DL-2CC-5596. It is also



stated that respondent No.1 was having a valid and effective driving licence at the time of the accident.

4. Respondent No. 2 did not appear and was proceeded against *ex-parte* vide order dated 18.5.2001.

5. Respondent No. 3 National Insurance Company Ltd., Rohtak filed separate written statement and has opposed the petition alleging that this court has no jurisdiction to entertain the present petition and that the petition does not disclose any cause of action against the answering respondent. It is further submitted that the driver of truck was not holding a valid and effective driving licence at the time of accident and the terms and conditions of the Insurance Policy have not been complied with by the owner and driver. Furthermore, the entire claim of the petitioner was denied alleging that the amount claimed is excessive, exorbitant and without any basis.

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

1. *Whether the accident in question took place due to rash and negligent driving of the respondent No. 1 while driving truck No. HR-39-6099, owned by respondent No.2 insured with respondent No.3, in which petitioners Tirath Lal Patel Virender had and sustained multiple injuries, whereas Krishan @ Jagdish, son of Suraj Bhan, Bhola son of Ram Kumar and Baljeet had died? OPP.*
2. *If issue No.1 is proved in affirmative, to what amount of compensation and from whom the petitioners are entitled to recovered? OPP.*
3. *Whether the respondent No.1 was holding valid and*



*effective driving licence at the time of accident? OPR-3.*

4. *Relief.”*

7. Both the parties led evidence in support of their case.

8. After hearing the parties, the learned Tribunal held under issue No.1 that the accident in question had taken place due to the rash and negligent driving on the part of respondent No.1 while driving the offending vehicle which resulted in the death of Krishan and awarded a sum of Rs.3,67,200/- as compensation, besides Rs.12,000/- on account of loss of consortium and funeral expenses alongwith interest @ 9% per annum from the date of filing of claim petition till realization. Under issue No.3, it was held that insured has not violated terms and conditions of the Insurance Policy and driver was having a valid and effective driving licence at the time of accident and all the respondents were held liable to pay compensation to the claimants, jointly and severally.

9. Feeling aggrieved, the present appeal has been filed by the claimants for enhancement of compensation awarded by the Tribunal. No notice is required to be issued to respondents No. 2 as he was already *ex-parte* before the Tribunal.

10. The Tribunal had come to the conclusion under issue No.1 that the accident in question had taken place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle. The finding on the said issue has not been assailed by respondents either by filing any appeal or cross-objections and as such, no interference in the finding of issue No.1 is thus called for and the same is accordingly affirmed.



11. Coming to the issue No.2, the present claim petition has been instituted by Krishna wife, five minor children and father of the deceased and they have claimed compensation to the tune of Rs.20,00,000/-. As per their version, deceased was 28 years of age and was running a mushroom farm and used to supply the mushrooms at Delhi in his Matador and used to earn Rs.15,000/- per month. To the same effect is the testimony of PW1 Krishna. Learned Tribunal came to the conclusion that claimants have not produced any record of income of deceased or that he was running a mushroom farm and took his monthly income to be Rs.2,000/- per month. However, the version of PW1 that deceased was running a mushroom farm has not been controverted by the respondents and as such, the deceased could not have been treated as an unskilled person and it can be assumed that he must be earning more than Rs.2,000/- per month as has been assessed by the Tribunal. The accident had taken place on 16.01.2001. Since deceased was running a mushroom farm, he has to be treated as a semi-skilled person. Even labourers used to earn around Rs.2,500/- per month in the year 2001 and since, deceased was running a mushroom farm, his income is accordingly taken as **Rs.3,000/-** per month as some amount of guesswork has to be applied while assessing the monthly income.

12. The deceased was 28 years of age as has been held by the Tribunal and 40% amount thus has to be added to his monthly income towards future prospects in view law laid down in 2017(4) RCR(Civil) 1009 '*National Insurance Company Limited Vs. Pranay Sethi and Ors.* and 2009(6) SCC 121 '*Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*'. After adding 40% towards the



future prospects, the monthly income of deceased comes out to **Rs.4,200/- (Rs.3,000 + Rs.1,200/-)**.

13. Deceased was married and has left behind six dependents i.e. wife and five minor children, and as per guidelines laid down in **Smt. Sarla Verma's case (supra)**, 1/4th income of the deceased has to be deducted towards personal expenses and after deducting Rs.1,050/- per month, monthly dependency comes out to Rs.3,150/- (Rs.4,200/- - Rs.1,050/-) and the annual loss of dependency comes out to be **Rs.37,800/- (Rs.3,150/- X 12)**.

14. The deceased was 28 years of age and as per guidelines laid down in **Smt. Sarla Verma's case (supra)** multiplier of 17 has to be applied as against the multiplier of 18 has applied by the Tribunal. After applying the same, the compensation comes out to **Rs.6,42,600/- (Rs.37,800/- X 17)**.

15. In addition to this, claimant No.1 is held entitled to a sum of Rs.70,000/- under conventional heads i.e. Rs.40,000/- towards consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Remaining claimants including father of the deceased are also held entitled to a sum of Rs.40,000/- each as parental and filial consortium in view of law laid down in 2018 (4) R.C.R. (Civil) 333, '**Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram & Others**' and (2021) 11 SCC 780, **United India Insurance Co. Ltd. Vs. Satinder Kaur**. The total compensation payable thus comes out to **Rs.9,52,600/-** as against Rs.3,79,200/- awarded by the Tribunal.

16. Accordingly, the compensation to be awarded to claimants as assessed as under:-

| S.No. | Under Head                                                                                   | Compensation awarded by the Tribunal     | Compensation awarded by High Court       |
|-------|----------------------------------------------------------------------------------------------|------------------------------------------|------------------------------------------|
| 1.    | Income of the deceased                                                                       | Rs.2,000/- p.m.                          | Rs.3,000/- p.m.                          |
| 2.    | Age of the deceased                                                                          | 28 years                                 | 28 years                                 |
| 3.    | Add-future prospects @ 40%                                                                   | NIL                                      | Rs.1,200/- p.m.                          |
| 4.    | Total Income                                                                                 | Rs.2,000/- p.m.<br>Rs.24,000/- per annum | Rs.4,200/- p.m.<br>Rs.50,400/- per annum |
| 5.    | Number of dependents                                                                         | 6                                        | 6                                        |
| 6.    | Deduction towards personal expenses of the deceased                                          | 1/5th                                    | Rs.1,050/- p.m.<br>(one fourth)          |
| 7.    | Annual loss of dependency                                                                    | Rs.20,400/- per annum<br>Rs.1,700/- X 12 | Rs.37,800/-<br>(Rs.3,150/- X 12)         |
| 8.    | Multiplier                                                                                   | 18                                       | 17                                       |
| 9.    | Total loss of dependency                                                                     | (Rs.20,400/- X 18)<br>Rs.3,67,200/-      | (Rs.37,800/- X 17)<br>Rs.6,42,600/-      |
| 10.   | Compensation for loss of consortium, funeral expenses, loss of estate to claimant No.1       | Rs.12,000/-                              | Rs.70,000/-                              |
| 11.   | Loss of consortium for remaining claimants (i.e. five minor children and father of deceased) | NIL                                      | Rs.2,40,000/-<br>(Rs.40,000/- X 6)       |
| 12.   | Total compensation                                                                           | Rs.3,79,200/-                            | Rs.9,52,600/-                            |
| 13.   | Interest                                                                                     | 9%                                       | 9%                                       |

17. Accordingly, enhanced compensation payable to claimants comes to **Rs.5,73,400/- (Rs.9,52,600/- - Rs.3,79,200/-)**. Resultantly, the petition in hand is partly accepted with costs and appellants are held entitled to a sum of **Rs.5,73,400/-** as enhanced compensation 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 i.e. 11.04.2001 till realization payable by respondents No.1 to 3, jointly and severally.

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

(YASHVIR SINGH RATHOR)  
JUDGE

24.02.2026  
Vishal Vardhan

|                           |        |
|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |