IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

221

FAO-2065-2002 (O&M)
Date of decision: 10.02.2026

RAHISAN & OTHERS ....Appellants

Versus

ASHU AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Arnav Mittal, Advocate for the appellants.

Mr. Kunal Phogat, Advocate for respondent No.2.

Ms. Madhu Sharma, Advocate for respondent No.3.

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 23.08.1999 for enhancement of compensation awarded in MACT case No.93 of 24.07.1996/24.10.1997 decided by the MACT, Gurgaon (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.3,33,500/- has been awarded as compensation to the claimants/appellants alongwith interest at the rate of 12% per annum from the date of filing of claim petition till realization on account of death of Ibrahim in a motor vehicle accident.

2. 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 occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending truck No. HR-38-7644, owned by respondent No.2 and insured with respondent No.3.

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.

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

1. Whether the accident in question took place on account of rash and negligent driving on the part of the respondent No.1?OPP

2. Whether the petitioners are entitled to compensation and if so, how much and from whom?OPP

3. Whether the respondent No.1 was not holding a valid driving licence and was not driving the vehicle with permission and under authority of insured. If so, to what effect?OPR.

4. Relief.

4. Thereafter, the parties led evidence in support of their case.

5. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.3,33,500/- as compensation to the claimants, on account of death of Ibrahim along with interest @ 12% per annum from the date of filing of claim petition till realization.

6. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.

7. At the very outset, it is pertinent to mention that the record of the appeal as well as the Tribunal has got burnt in a fire incident in the branch and the appeal in hand shall be decided as per facts and evidence mentioned in the award passed by the Tribunal.

8. As per version of claimants, deceased was running a dairy business and used to supply milk and earn Rs.6,000/- per month. He was 25 years of age and has left behind his wife, 04 children and parents i.e. 07 dependents in all.

9. To prove his income and occupation, claimants have examined one of

the claimants namely Rahishan as PW1, who deposed that her husband was a milk vendor and used to earn Rs.2,000/- per day. On the other hand, father of the deceased namely Jormal stepped into the witness-box as PW2 and deposed that his son used to earn Rs.6,000/-/Rs.6,500/- per month.

10. In the claim petition, it was claimed that deceased was earning Rs.6,000/- per month and learned Tribunal after appreciating the evidence on file disbelieved the version of both the claimants, as the version of PW1 was not in variance with the pleadings and taking into consideration the minimum wages of unskilled labourers, the income of the deceased was assessed as Rs.2,000 per month. The accident had taken place on 24.04.1996 and since no cogent and convincing evidence was led to establish in the shape of account books to show that deceased was a milk vendor, there is no reason to take a contrary view. Accordingly, income of deceased as assessed by the Tribunal @ Rs.2,000/- per month is upheld.

11. As per testimony of PW3-Dr. M.S. Ranga, who had conducted the post-mortem, deceased was 25 years of age. No evidence to prove to the contrary was led before the Tribunal by the respondents and Tribunal held the age of deceased to be 25 years as claimed by the claimants and there is no reason to take a contrary view. Accordingly, the age of deceased is taken as 25 years.

12. As per law laid down by Hon'ble Supreme Court in 2009(6) SCC 121, ***"Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*** and 2017 ACJ 2700, **'National Insurance Co. Ltd Vs. Pranay Sethi and Others'** 40% of the income has to be added towards future prospects and after adding the same, the monthly income comes to Rs.2800/- per month

(Rs.2000/- +Rs.800).

13. Deceased has left behind 07 dependents and in view of guidelines laid in ***Sarla Verma's case (supra),*** 1/5th of the amount has to be deducted towards personal and living expenses and after deducting the same, the monthly loss of dependency comes out to Rs.2,240/- and the annual loss of dependency comes out to Rs.26,880/-.

14. Deceased was 25 years of age and as such, multiplier of 18 has to be applied as per ***Sarla Verma's case (supra),*** and after applying the same, the compensation comes to Rs.4,83,840/-

15. In addition to this, claimant No.1 is also held entitled to a sum of Rs.70,000/- under 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, as per law laid down in **Pranay Sethi's case (supra).** Likewise, **r**emaining claimants are also held entitled to a sum of Rs.40,000/- each towards 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***, which takes the compensation to Rs.7,93,840/-

16. Accordingly, the compensation to be awarded to the appellants reads as under:-

S.No.	**Under Head**	**Compensation awarded by the Tribunal**	**Compensation awarded by the High Court**
1.	**Monthly income of deceased**	**Rs.2,000/-**	**Rs.2,000/-**
2.	**Age of deceased**	**25 years**	**25 years**
3.	**Future prospects @40%**	**Nil**	**Rs.800/-**
4.	**Total income**	**Rs.2,000/-**	**Rs.2,800/-**
5.	**Number of dependents**	**07**	**07**

6.	**Deduction towards personal expenses of the deceased**	**Rs.500/-**	**Rs.560/- (1/5th)**
7.	**Monthly loss of dependency**	**Rs.1500/-**	**Rs.2,240/-**
8.	**Annual loss of dependency**	**Rs.18,000/-**	**Rs.26,880/-**
9.	**Multiplier**	**18**	**18**
10.	**Loss of dependency**	**Rs.3,24,000/-**	**Rs.4,83,840/-**
11.	**General damages**	**Rs.9,500/-**	**Nil**
12.	**Compensation to claimant No.1 for loss of consortium, estate & funeral expenses**	**Nil**	**Rs.70,000/-**
13.	**Compensation to remaining claimants for loss of consortium**	**Nil**	**Rs.2,40,000/- (Rs.40,000 × 6)**
14.	**Total Compensation**	**Rs.3,33,500/-**	**Rs.7,93,840/-**
15.	**Interest**	**12%**	**9%**

17. Resultantly, appeal in hand is partly accepted with costs and appellants are held entitled to a sum of Rs.4,60,340/- (Rs.7,93,840/- - Rs.3,33,500/-), rounded to Rs.4,60,000/- as enhanced compensation over and above the compensation awarded by the Tribunal alongwith interest at the rate of 9% per annum from the date of filing of claim petition i.e. 24.07.1996 till realization.

18. The Tribunal vide impugned award had exonerated the Insurance Company/respondent No.3 of its liability to indemnify the owner/insured and only respondents No.1 and 2 were held liable to pay compensation to the claimants jointly and severally. However, the owner/insured filed FAO-3654-1999, titled ***Virender Kumar Vs. Smt. Rahisan and Others*** and a Co-ordinate Bench of this Court vide judgment dated 27.05.2011 has held Insurance Company liable to indemnify the insured. Accordingly, respondents No.1 to 3 shall be liable to pay compensation to the appellants/claimants jointly and severally. Out of the enhanced compensation, a sum of Rs.1,50,000/- be paid alongwith proportionate interest to appellant No.1 and remaining amount be given to appellants No.2 to 7

in equal shares alongwith proportionate interest.

19. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of direction 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 misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

10.02.2026
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No