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

219 **FAO-3461-2002 (O&M)**
Date of decision: 01.07.2026

GURMEET KAUR AND OTHERS ....APPELLANTS

VERSUS

STATE OF HARYANA AND OTHERS ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Raj Kumar, Advocate
for the appellants.

Mr. Abhinav Mahant, AAG Haryana for respondents No.1 & 2.

None for respondents No.3-driver.

Mr. Gopal Mittal, Advocate
for respondent No.4-Insurance Company. (through VC).

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 25.02.2002 for enhancement of compensation passed in MACT case No.157 of 2000 decided by the MACT, Yamuna Nagar (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.2,09,500/- has been awarded as compensation to the claimants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Surjeet Singh in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.3 while driving the offending vehicle bearing No.HR-37-8716 (**for short 'offending vehicle'**), owned by respondent No.1 and 2, which was insured with respondent No.4.

2. From the pleadings of parties, following issues were framed by the ld. Tribunal:-

"1. Whether the accident resulting into death of Surjeet Singh was caused due to rash and negligent driving of bus no. HR-37-

8716 by respondent no.1?OPP

2. *Whether the claimants are the legal heirs of deceased & If so, they are entitled to compensation, how much and from whom? OPP*
3. *Whether the claim-petition is not maintainable? OPR*
4. *Whether the respondent no.1 was not holding a valid and effective driving licence at the time of accident? OPR*
5. *Relief."*

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

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.2,09,500/- as compensation to the claimants, on account of death of Surjeet Singh along with interest @ 9% per annum from the date of filing of claim petition till realization. It was ordered that respondent-Insurance Company shall first of all make the payment of the awarded amount to the claimant and thereafter, it shall have a right to recover the same from respondent/insured.

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

6. 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.3 while driving the offending vehicle, owned by respondent No.1 & 2 and insured with respondent No.4. However, it was held that the driver of the offending vehicle did not possess a valid and effective driving licence and in view of violation of terms and conditions

of the insurance policy, Insurance Company was exonerated of its liability to indemnify the insured. However, it was ordered that respondent No.3-Insurance Company shall first of all make the payment of the awarded amount to the claimant and thereafter, it shall have a right to recover the same from respondent/insured. 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.

7. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.2,09,500/- has been awarded is based on conjectures and surmises and is liable to be modified and enhanced amount of compensation should be awarded. Learned counsel contended that income of the deceased has been assessed on lower side. Future prospects have also not been added to the monthly income of the deceased contrary to the settled provisions of law. Learned counsel next contended that deceased has left behind 8 dependents and 1/5th of the income should have been deducted towards personal and living expenses. However, Tribunal has deducted 1/3rd of the income. Learned counsel further contended that deceased was 53 years of age and multiplier of 10 has been applied whereas multiplier of 11 should have been applied. The compensation of Rs.9,500/- awarded under conventional heads i.e. loss of consortium, loss of estate and funeral expenses are also on lower side and same should be suitably enhanced. In support of his contentions, learned counsel has relied upon 2009(6) SCC 121 **Sarla Verma and others Vs. Delhi Transport Corporation and Another,** 2017 (16) SCC 680 **National Insurance Co. Ltd Vs. Pranay Sethi and Other**, 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.

8. On the other hand, learned counsel for the respondents argued that the adequate compensation has been awarded by the learned Tribunal and no interference in the said award is called for and appeal in hand be dismissed.

9. The term `just compensation' has been elaborated by Hon'ble Supreme Court in **2009(1) RCR (Civil) 867 (SC), Syed Basheer Ahamed and Others Vs. Mohd. Jameel and Another**, and it has been held that while assessing compensation in a motor accident claims case, the Tribunal should award compensation which appears to be just. The expression "which appears to be just" vests a wide discretion in the Tribunal in the matter of determination of compensation. Nevertheless, the wide amplitude of such power does not empower the Tribunal to determine the compensation arbitrarily, or to ignore settled principles relating to determination of compensation. It has been further held that although the Act is a beneficial legislation, it can neither be allowed to be used as a source of profit, nor as a windfall to the persons affected nor should it be punitive to the persons liable to pay compensation and that determination of compensation must be based on certain data establishing reasonable nexus between the loss incurred by the victim or dependents. It has been further held that misplaced sympathy, generosity and benevolence cannot be the guiding factors for determining the compensation. As such, compensation is required to be assessed by taking into consideration above-said parameters.

10. As per version of the claimants, deceased Surjeet Singh was working as a night Watchman/Chowkidar with Chanderpur Works, Yamuna Nagar and he used to get Rs.2,200/- per month as salary. Besides this, he had obtained loan from Ambala Kurukshetra Gramin Bank for running a flour mill/*atta chakki* in the

village. He also used to sell milk in partnership with one Amritpal Singh as they were running a milk dairy and he used to earn around Rs.8,000-9,000/- per month.

11. To prove his income claimants have examined PW5 Suresh Sharma, who produced the salary record of the deceased which shows that he was getting a salary of Rs.1901.50/- per month and the Tribunal has also relied upon the testimony of PW5 in coming to this conclusion.

12. Claimants have also examined PW4 Hari Chand Saini, Sr. Manager, Ambala, Kurukshetra Grameen Bank, Branch Office, Sabapur, who deposed that deceased Surjeet Singh had taken a loan of Rs.46,000/- for running the flour mill/*atta chakki* from their bank on 16.01.1997 and he tendered statement of account Ex.P2 showing outstanding amount of Rs.37,107/-. However, the Tribunal came to the conclusion that the elder son of the deceased, namely, Jagvinder Singh, aged about 26 years was idle and he must have been running the flour mill/*atta chakki* and loan may have been obtained by the deceased in his own name. It has been further observed that had the deceased been earning Rs.8,000-9,000/- per month as stated by his wife Gurmeet Kaur while appearing as PW2, in that eventuality, deceased would not have been doing a tough job of night watchman and the Tribunal taking into consideration the fact that the deceased had taken a loan from the bank for running the *atta chakki*, assessed his monthly income to be Rs.2,500/- from his salary while working as Chowkidar as well as by running *atta chakki*. The testimony of PW3 Amritpal Singh that they were running business of dairy farm and used to sell milk was not relied upon as no cogent and convincing evidence was led to prove this fact and the oral testimony of PW3 Amritpal Singh was thus rightly discarded. On appreciation of evidence learned Tribunal held the monthly income of the deceased to be Rs.2,500/- per month.

However, the Court cannot lose sight of the fact that the deceased was working as a night watchman and earning around Rs.1,900/- per month as salary and during the day time, he may have been running his own *atta chakki* for which he had obtained loan from the bank and it can thus safely be assumed that he must be earning at least Rs.2,000/- per month by running the *atta chakki*. The finding of the Tribunal that the son of the deceased might have been running the flour mill is not based upon any sound reasoning or supported by any material and such finding is thus not sustainable. Resultantly, it is held that deceased must have been earning around Rs.4,000/- per month from his salary as well as by way of his income from the *atta chakki*. Accordingly, the income of deceased is taken as **Rs.4,000/-** per month as against Rs.2,500/- per month as assessed by the Tribunal.

13. Deceased was 53 years of age as has also been held by the learned Tribunal and as such, 10% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid down in **Pranay Sethi's case (supra),** which takes his income to **Rs.4,400/-** per month **(Rs.4,000/- + Rs.400/-)**.

14. The petition in hand has been instituted by wife, six children and aged father of the deceased. Hon'ble Supreme Court in 2025 Livelaw (SC) 309, **Sadhana Tomar & Ors. Vs. Ashok Kushwaha & Ors**, has held that a legal representative is one, who suffers on account of death of a person due to motor vehicle accident and need not necessarily be a wife, husband, parent or child. The term legal representative under Motor Vehicles Act should not be given a narrow interpretation to exclude those persons as claimants who were dependent on the deceased's income. The father and sister, being financially dependent were legal representatives under the Act entitling them to compensation. Accordingly, it is

held that claimant No.8-father, who was 90 years of age was also dependent upon his deceased son. Therefore, it is held that deceased has left behind 8 dependents and 1/5th of the income thus has to be deducted towards personal and living expenses. After deducting, a sum of **Rs.880/-** towards personal expenses, the monthly loss of dependency comes out to **Rs.3,520/- (Rs.4,400/- - Rs.880/-)** and the annual loss of dependency comes out to **Rs.42,240/- (Rs.3,520/- X 12)**.

15. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 11 has to be applied as deceased was 53 years of age and after applying the same, the compensation comes to **Rs.4,64,640/- (Rs.42,240/- X 11).**

16. In addition to this, claimant No.1 (wife of the deceased) is 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, remaining claimants No.2 to 8 who are children and father of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of **loss of parental and filial consortium**, in view of law laid down in **Nanu Ram's case (supra)** and **Satinder Kaur's case (supra)**, which takes the compensation to **Rs.8,14,640/-**.

17. Accordingly, the compensation to be awarded to the appellants/claimants is assessed as under:-

S.No.	Under Head	Compensation awarded by the High Court
1.	Monthly income of deceased	Rs.4,000/- per month
2.	Age of deceased	53 years
3.	Future prospects @ 10%	Rs.400/-
4.	Total income	Rs.4,400/- per month
5.	Number of dependents	8

6.	Deduction towards personal expenses of the deceased	Rs.880/-
7.	Annual loss of dependency	Rs.42,240/- (Rs.3,520/- X 12)
8.	Multiplier	11
9.	Compensation on account of Loss of dependency	Rs.4,64,640/-
10.	Compensation under conventional heads	Rs.70,000/-
11.	Consortium to children and father of deceased	Rs.2,80,000/- (Rs.40,000/- each)
	Total Compensation	**Rs.8,14,640/-**
	Interest	**9%**

18. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.8,14,640/-** as compensation. The enhanced compensation thus comes out to **Rs.6,05,140/- (Rs.8,14,640/- - Rs.2,09,500/-)** rounded off to **Rs.6,05,000/-** 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. 13.11.2000, till realization. Liability to pay the enhanced compensation shall be in the same terms as has been ordered by the Tribunal and the Insurance Company shall be entitled to recover the enhanced amount of compensation from respondent-owner of the bus along with interest @ 6% per annum, from the date of deposit till realization, without filing a separate suit.

19. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of directions 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

01.07.2026
Vishal Vardhan

Whether speaking/reasoned.	:	Yes/No
Whether reportable.	:	Yes/No