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

237 **FAO-5249-2002 (O&M)**
Date of decision: 02.07.2026

SUDESH KUMARI **....APPELLANT**

VERSUS

SUBE SINGH **...RESPONDENT**

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. J.P. Dhull, Advocate for the appellant.

Ms. Ayushi Jain, Advocate for
Mr. Pardeep Goyal, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. Learned counsel for the appellant has placed on file a certificate issued by Account Officer of the Haryana Roadways, Kaithal, which is taken on record.

2. This appeal has been instituted against the Award dated 29.07.2002 passed in MACT case No.139 of 2001 decided by the MACT, Kaithal (**for short "Tribunal"**) for enhancement of compensation in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.5,88,482/- 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 Inder Singh in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-08-B-8557 (**for short 'offending vehicle'**), owned by respondent No.2, which was insured with respondent No.3.

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

"1. Whether the accident was caused due to rash and negligent driving of Jeep No.HR-08B-8557 on the part of Sube Singh respondent No.1. as alleged?OPP

2. If Issue No.1 is proved, whether the claimant entitled to recover amount by way of compensation on account of death of Inder Singh caused due to injuries received in the accident and If so to what amount and from whom?OPP

3. Whether the insured violated any term and condition of the Insurance policy, as alleged if so to what effect? OPR (insurance Com.)

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.5,88,482/- as compensation to the claimants, on account of death of Inder Singh along with interest @ 9% 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. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Registry and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned award.

8. 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

vehicle, owned by respondent No.2 and insured with respondent No.3 and they have been held liable to pay compensation jointly and severally. 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.

9. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.5,88,482/- 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. Learned counsel next contended that the contributions made by the deceased towards GPF and Group Insurance from his monthly salary have been deducted while assessing his monthly income and Tribunal has gravely erred in deducting the same as the same are part of his savings which were reimbursable at the time of retirement. Future prospects have also not been added to the monthly income of the deceased contrary to settled provisions of law. No compensation has been paid under conventional heads i.e. loss of consortium, loss of estate and funeral expenses and he prayed that compensation be awarded under all the heads 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**.

10. 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.

11. 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.

12. As per version of the claimants, deceased Inder Singh was employed as driver with Haryana Roadways, Kaithal and was getting salary of Rs.7,645/- per month. To prove his income, the claimants have examined PW1 Narinder Kumar, official from Haryana Roadways, Kaithal, who tendered his salary certificate Ex.P1 and deposed that salary of deceased was Rs.7,645/- per month which included basic pay of Rs.5,150/-. He further stated that as per service record, his date of birth is 06.03.1959. During cross-examination, he stated that a

sum of Rs.3,000/- was deducted towards GPF fund and Rs.30/- per month towards Group Insurance. Learned Tribunal after deducting the contribution towards GPF and Group Insurance assessed his monthly income to be Rs.4,615/-. However, the approach of the Tribunal was erroneous. The contributions towards GPF and GIS were out of his monthly income and same could not have been deducted while assessing the monthly income and accordingly, it is held that monthly salary of deceased was Rs.7,645/- per month.

13. As per version of claimants, deceased also used to get Traveling Allowance and overtime allowance and receipts Ex.P2 and P3 were tendered in evidence. However, the Tribunal came to the conclusion that the payments made towards overtime and Traveling Allowance cannot be treated as separate income as the same were paid as per requirements of the departments and need and the same cannot be termed as part of the salary. However, here again, the approach of the Tribunal is erroneous. Though the record of the Tribunal has got burnt in a fire incident in the Registry of the High Court yet counsel for appellant has placed on file a certificate issued by Account Officer of Haryana Roadways, Kaithal, which shows that deceased was paid some amounts on account of Travelling Allowance and Overtime Allowance from April 2000 to March 2001. However, the Travelling Allowance is paid to an employee who performs outstation duties and such an allowance is thus personal to the employee to whom it is paid and it cannot be taken as a part of his salary. For one year, he was paid Rs.34,462/- towards overtime allowance and the monthly average comes out to be Rs.2,871.83/- (Rs.34,462/- ÷ 12), which is rounded off to Rs.2,872/-. As such, deceased was earning Rs.10,517/- per month (Rs.7,645/- + Rs.2,872/-) from his salary and working overtime. The total income of the deceased thus comes out to

be Rs.10,517/- per month.

14. The date of birth of the deceased was 06.03.1959 and the accident had taken place on 20.03.2001 and thus he was around 42 years of age. Deceased was a permanent employee of the Haryana Government and as such, 30% amount has to be added to the monthly salary towards future prospects in view of law laid down in **Pranay Sethi's case (supra)** and after adding the same, i.e. Rs.2,293.50/- (30% of Rs.7,645/-), the monthly salary comes out to be Rs.9,938.5/-. After adding the earnings from overtime allowance, the total monthly income comes out to Rs.12,810.5/- (Rs.9,938.5/- + Rs.2,872/-), which is rounded off to **Rs.12,811/-**.

15. The petition in hand has been instituted by wife, two minor children and aged mother of the deceased. Accordingly, it is held that deceased has left behind 4 dependents and 1/4th of the income thus has to be deducted towards personal and living expenses as per law laid down in **Sarla Verma's case (supra)**. After deducting a sum of Rs.3,202.75/-, towards personal expenses, the monthly loss of dependency comes out to Rs.9,608.25/- (Rs.12,811/- - Rs.3,202.75/-) and the annual loss of dependency comes out to Rs.1,15,299/-, which is rounded off to **Rs.1,15,300/-**.

16. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 14 has to be applied as deceased was 42 years of age and after applying the same, the compensation comes to **Rs.16,14,200/- (Rs.1,15,300/- X 14).**

17. 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 4 who are children and mother 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.18,04,200/-**.

18. 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.9,938.5/- per month
2.	Age of deceased	42 years
3.	Future prospects @ 30%	Rs.2,293.50/-
4.	Total income	Rs.12,811/- per month
5.	Number of dependents	4
6.	Deduction towards personal expenses of the deceased	Rs.3,202.75/-
7.	Annual loss of dependency	Rs.1,15,300/-
8.	Multiplier	14
9.	Compensation on account of Loss of dependency	Rs.16,14,200/-
10.	Compensation under conventional heads	Rs.70,000/-
11.	Consortium to children and mother of deceased	Rs.1,20,000/- (Rs.40,000/- each)
	Total Compensation	**Rs.18,04,200/-**
	Interest	**9%**

19. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.18,04,200/-** as compensation. The enhanced compensation thus comes out to **Rs.12,15,718/- (Rs.18,04,200/- -**

Rs.5,88,482/-) rounded off to **Rs.12,16,000/-** 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. 04.05.2001, till realization payable by respondents, jointly and severally. Out of the enhanced compensation, a sum of Rs.1,50,000/- each be paid to the children and mother of the deceased along with interest and remaining amount be paid to claimant No.1/wife along with proportionate interest.

20. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

02.07.2026
Vishal Vardhan

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