



FAO-4337-2002 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-4337-2002 (O&M)

NEEMA AND OTHERS

..... Appellants

VERSUS

PAPPU AND OTHERS

..... Respondent

1.	Judgment reserved on	22.01.2026
2.	Judgment pronounced on	28.01.2026
3.	Judgment uploaded on	28.01.2026
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 of full judgment and reason thereof.	Nil

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by: Mr. Ishan Aggarwal, Advocate for
Mr. Sudhir Aggarwal, Advocate for the appellants.

Mr. Sahej Mahajan, Advocate for
Mr. R.K. Bishamboo, Advocate for respondent No.3.

YASHVIR SINGH RATHOR. J.

1. This appeal has been instituted against Award dated 01.05.2002 for enhancement of compensation awarded in MACT case No.41/1999 decided by the MACT, Gurgaon in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.2,75,000/- has been awarded as compensation to the claimants/appellants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Sube Singh, who was husband of claimant No.1-Neema and son of claimants No.2 and 3 in a motor vehicle accident.

2. Case of the petitioner is that on 11.02.1999 at about 5:30 AM

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deceased-Sube Singh boarded the offending bus bearing No.DL-1P-1310 for going from village Kasan to village Bagdoj. When the bus reached near HSIDC near NH No.8, one Jagdish came in a Maruti van and got the bus stopped saying that some people of the marriage party have been left. In the meanwhile, Roshan son of Chiranji got down from the van and boarded the said bus. Deceased Sube Singh on the asking of Satish got down from the bus and went on the roof of the bus for adjusting the luggage lying on the roof. When they were adjusting the luggage, respondent No.1 who was driver of the bus started driving the bus negligently at a high speed. The deceased as well as two more persons spoke loudly requesting the driver to stop the bus but of no help and the bus struck against an electric wire and deceased got entangled in it resulting in his death. FIR No.34 dated 11.02.1999 under Sections 279, 304-A IPC was registered at Police Station Bilaspur. It was submitted that deceased was a welder by profession. He also used to run a dairy and work as an agriculturist and he used to earn Rs.40,000/- per annum. He was getting a salary of Rs.2,000/- as welder and compensation on account of death of Sube Singh was claimed.

3. Respondents No.1 and 2 did not file any written statement and their defence was stuck off.

4. Respondent No.3 has taken a plea that respondent No.1 was not holding a valid and effective driving licence and the owner has violated the terms and conditions of the insurance policy.

5. On merits, the age, employment, income of the deceased and amount spent on last rites of the deceased have been disputed. It is also submitted that the offending vehicle was not involved in the accident but it has been admitted that the same was insured with the Insurance Company and dismissal of the petition



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was sought.

6. Replication was filed and from the pleadings of the parties, following issues were framed:-

“1) Whether death of Subey Singh was caused due to rash and negligent driving of vehicle No.DL-1P-1310 driven by respondent No.1 namely Pappu (driver)?OPP

2) If issue No.1 is proved to what amount the petitioners are entitled to received compensation and from which of the respondents?OPP

3) Whether respondent No.1 did not possess, a valid driving licence on the date of accident?OPR

4) Relief.”

7. Petitioners in support of their case examined PW1 Vikas Hasija, the then Assistant Ahlmad in the Court of CJM, Gurgaon, PW3 Dr. Neeraj Yadav, Medical Officer, PHC, Wazirabad, who proved post mortem report Ex. P1, PW3 Neema, one of the claimants, PW4 Satish Kumar, eye-witness, author of FIR Ex.P2 and PW5 Suresh Chand, employer of deceased Sube Singh. Thereafter, claimants closed the evidence.

8. Respondent No.3 examined RW1 Om Parkash, Clerk, DTA, Faridabad and tendered in evidence insurance policy Ex. R1, terms and conditions of policy Ex.R1, surveyor report mark A1, report of driving licence mark A2 and copy of DL Mark A3 & the evidence of respondent No.3 was closed by order of the Court.

9. After hearing learned counsel for the parties, the Tribunal came to the conclusion that accident in question had taken place due to rash and negligent driving on the part of respondent No.1, while driving the offending vehicle

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resulting in death of Sube Singh and awarded a sum of Rs.2,75,000/- as compensation to the claimants alongwith interest of 9% per annum from the date of filing of claim petition till realization to be paid jointly and severally by the respondents.

10. Feeling aggrieved, claimants preferred the present appeal.
11. The parties have been heard and material on record has been perused.
12. At the very outset, it is pertinent to mention that neither the Insurance Company nor the owner and driver have instituted any appeal against the impugned award challenging the finding on Issue No.1 and as such, there is no need to go into the finding on Issue No.1 and same is accordingly affirmed.
13. As per version of claimants, deceased was a welder and getting around Rs.2,000/- per month as salary from his employer. He was also doing agriculture work and dairy farming and in all, he used to earn Rs.40,000/- per annum. However, no evidence has been led to prove that deceased was doing any agriculture work and dairy farming and learned tribunal had discarded this part of the testimony and there is no reason to take a contrary view, as no cogent and convincing evidence has been led to establish this fact. Deceased was stated to be a welder and claimants had examined PW5 Suresh Chander, Proprietor of Harihar Engineering Works, Manesar, who deposed that deceased was working in his workshop as a welder for the last two years and he used to pay him Rs.3500/- per month as salary. However, no record was produced by the employer to prove his employment and payment of salary of Rs.3,500/- per month and as such, learned Tribunal rightly discarded his testimony and there is thus no reason to take a contrary view as the employer had not produced his record regarding employment of deceased as a welder by him. Learned trial Court believed the testimony of



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PW3 when she stated that her husband was a welder and was getting a little more than Rs.2,000/- per month. On the basis of her testimony, the Tribunal took his monthly income to be Rs.2100/-, as a semi-skilled person, as he was working as a welder. Accordingly, the income of deceased has rightly been taken as Rs.2100/- per month.

14. Deceased was 25 years of age as also held by the Tribunal and as such, 40% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid down in 2009(6) SCC 121 "***Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*** and after adding the same, the monthly income comes to Rs.2,940/- per month (Rs.2100/-+ Rs.840/-).

15. Deceased has left behind three dependants. Tribunal has deducted 1/3rd of the amount towards personal and living expenses of the deceased which have been rightly deducted as per ***Sarla Verma's case (supra)*** and after deducting 1/3rd towards personal expenses, the monthly dependency comes out to Rs.1960/- and the annual dependency comes to Rs.23,520/- (Rs.1960/- x 12).

16. As per ***Sarla Verma's case (supra)*** multiplier of 18 has to be applied since deceased was 25 years of age and after applying the same, the compensation comes to Rs.4,23,360/- (rounded to Rs.4,23,400/-).

17. As per law laid down in 2017 ACJ 2700, '**National Insurance Co. Ltd Vs. Pranay Sethi and Others**', petitioner No.1 is held entitled to a sum of Rs.40,000/- towards consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Likewise, 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**', petitioners No.2 and 3 are also held entitled to a sum of



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Rs.40,000/- each towards parental consortium. The total compensation payable thus comes out to Rs.5,73,400/- as against Rs.2,75,000/- awarded by the Tribunal. Petitioners are thus entitled to enhanced compensation of Rs.2,98,400/- (Rs.5,73,400/- - Rs.2,75,000/-).

18. Resultantly, the petition in hand is accepted with costs and petitioners are held entitled to a sum of Rs.2,98,400/- 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. 12.03.1999 till realization and respondents No.1 to 3 are liable to pay compensation to the appellants/claimants jointly and severally. Out of the total compensation, 50% shall be payable to claimant No.1 (mother) and remaining 50% shall be paid to respondents No.2 and 3 in equal share alongwith proportionate interest.

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

(YASHVIR SINGH RATHOR)
JUDGE

28.01.2026
amandeep

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