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

**213** **FAO-2045-2002 (O&M)**
**Date of decision: 01.07.2026**

**BIMLA DEVI AND ORS. ....APPELLANTS**

**VERSUS**

**SURINDER AND ORS. ...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present: Mr. Sandeep Kotla, Advocate for the appellants.

Respondent No.1 ex parte before the Tribunal.

Mr. Paul S. Saini, Advocate for respondent No.3-Insurance Company

**YASHVIR SINGH RATHOR. J.(Oral)**

1. This appeal has been instituted against the Award dated 10.01.2002 for enhancement of compensation awarded in MACT case No.144 of 2001 decided by the MACT, Panipat (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,92,000/- 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 Dalip 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.PB-07-B-4233 (**for short 'offending vehicle'**), owned by respondent No.2, which was insured with respondent No.3.

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

> *"1. Whether the accident in question took place due to rash and negligent driving of truck No.PB-07-B-4233 by respondent No.1 Surinder alias Chhinda causing death of Dalip Singh? OPP*
>
> *2. If issue no.1 is proved, whether the petitioners are entitled to*

*claim any compensation, if so, to what amount and from whom? OPP*

*3. Whether the vehicle was being driven by its driver without a valid and effective driving licence at the time of accident and as such the respondent no.3 is not liable to pay the amount of compensation? OPP*

*4. 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.1,92,000/- as compensation to the claimants, on account of the death of Dalip Singh along with interest @ 9% per annum from the date of filing of claim petition till realization.

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

6. 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.

7. 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.

8. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.1,92,000/- 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 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 for the appellant 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**.

9. 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.

10. 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.

11. As per version of claimants as stated by one of the claimant namely Bimla Devi while appearing as PW2, her husband was running a welding shop near Sugal Mill, Panipat and used to earn Rs.7,000-8,000 per month and he was 44 years of age. However, the Tribunal held the deceased to be a labourer and assessed his income to be Rs.1,500/- per month and after deducting a sum of Rs.500/- towards personal expenses, assessed the loss of dependency to be Rs.1,000/- per month. After applying multiplier of 16, compensation of Rs.1,92,000/- has been awarded.

12. However, the testimony of PW2 that deceased was running a welding shop has gone uncontroverted and he thus could not have been treated simpliciter as an unskilled worker. Since deceased was running a welding shop, it can be assumed that he must be earning at least Rs.3,000/- per month when the accident took place in the year 2000. Hon'ble Supreme Court in Civil Appeal No.6152 of 2021 - **Chandra alias Chander alias Chanda Ram and another Vs. Mukesh Kumar Yadav**, decided vide judgment dated 01.10.2021 has held that merely

because claimants are unable to produce documentary evidence to show the monthly income of the deceased is not a ground to discard the oral evidence. Hon'ble Supreme Court while deciding Civil Appeal No.15021 of 2024 titled **Karamjit Singh Vs. Amandeep Singh and another** vide judgment dated 17.12.2024 has held that a carpenter has to be treated as a skilled person and it will be unfair to classify a carpenter as an unskilled worker. Hon'ble Supreme Court in 2019 (5) RCR (Civil) 884, **Chameli Devi and others Vs. Jivrali Mian and others**, has assessed the monthly income of a carpenter to be Rs.5000/- per month in the year 2001 and it was further held that in such cases where deceased is engaged in such type of profession, claimants can only lead oral evidence.

13. In the present case, the accident had taken place in the year 2000 and it can be assumed that the deceased must have been earning at least Rs.3,000/- per month while running a welding shop. Learned Tribunal has thus gravely erred while assessing his monthly income to be Rs.1,500/- per month only, which is on lower side. Accordingly, income of deceased is taken as **Rs.3,000/-** per month from his avocation.

14. Deceased was 44 years of age as has also been held by the learned Tribunal and as such, 25% 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.3,750/-** per month **(Rs.3,000/- + Rs.750/-)**.

15. The petition in hand has been instituted by wife, four children and mother of the deceased. Accordingly, it is held that deceased has left behind 6 dependents and 1/4 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.937.5/-, which is rounded off to Rs.950/-, towards personal expenses, the monthly loss of dependency comes out to **Rs.2,800/-** and the annual loss of dependency comes out to **Rs.33,600/-**.

16. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 14 has to be applied as deceased was 44 years of age and after applying the same, the compensation comes to **Rs.4,70,400/- (Rs.33,600/- 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 6 who are children and mother of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of **loss of 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.7,40,400/-**.

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.3,000/- per month |
| 2. | Age of deceased | 44 years |
| 3. | Future prospects @ 25% | Rs.750/- |
| 4. | Total income | Rs.3,750/- per month |
| 5. | Number of dependents | 6 |
| 6. | Deduction towards personal expenses of the deceased | Rs.950/- |
| 7. | Annual loss of dependency | Rs.33,600/- |
| 8. | Multiplier | 14 |
| 9. | Compensation on account of Loss of | Rs.4,70,400/- |

| | | |
|---|---|---|
| | dependency | |
| 10. | Compensation under conventional heads | Rs.70,000/- |
| 11. | Consortium to children and mother of deceased | Rs.2,00,000/- (Rs.40,000/- each) |
| | **Total Compensation** | **Rs.7,40,400/-** |
| | **Interest** | **9%** |

19. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.7,40,400/-** as compensation. The enhanced compensation thus comes out to **Rs.5,48,400/- (Rs.7,40,400/- - Rs.1,92,000/-)** 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. 01.08.2000, till realization payable by respondents, jointly and severally. Out of the enhanced compensation, a sum of Rs.25,000/- each be paid to the children and mother of the deceased and remaining amount 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**

**01.07.2026**
**Vishal Vardhan**

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