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

****

**FAO No.858 of 2003 (O&M)**

**Gurinder Kaur and others** .....**Appellants**
**Vs.**
**Angrej Singh and others** .....**Respondents**

| | | |
|---|---|---|
| 1. | Judgment reserved on | 21.01.2026 |
| 2. | Judgment pronounced on | 10.04.2026 |
| 3. | Judgment uploaded on | 10.04.2026 |
| 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 is full judgment and reason thereof. | Nil |

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

Argued By:-Mr. Rakesh Nagpal, Advocate
for the appellants.

Service of respondents No.1 to 3
dispensed with vide order dated 9.7.2019.

Mr. D.K. Dogra, Advocate for
respondent No.4- Insurance Company.

Mr. Praveen Kumar, DAG, Haryana
for respondents No.5 and 6.

****

**Yashvir Singh Rathor, J.**

1. This appeal has been instituted against the Award dated **07.11.2002** for enhancement of compensation vide which a sum of Rs.2,90,000/- has been

awarded as compensation due to death of Sunder Singh in a motor vehicular accident on account of rash and negligent driving of vehicle (Truck No.**HR-01-A-3345)** (for short 'offending truck'), being driven by respondent No.1 in a rash and negligent manner, which was owned by respondents No.2 and 3 and insured with respondent No.4.

2. As per the version of the appellants, deceased, Sunder Singh, was an undertrial prisoner lodged in Central Jail, Ambala. On 07.12.2000, he was escorted by a police party to attend the court at Guhla. After the court proceedings, while being brought back to Ambala City, the party stepped down from a bus near a school. While they were in front of the school gate, a TATA truck bearing registration No. HR-01-A-3345, being driven at a high speed and in a rash and negligent manner hit Sunder Singh from behind. As a result of the impact, the deceased sustained grievous injuries and succumbed to the injuries shortly thereafter at Civil Hospital, Ambala. On the statement of Man Mohan Singh, Constable, FIR No. 476 dated 7.12.2000 under Sections 279/337/304A/336 IPC was registered at Police Station Ambala City.

3. Respondents No.1 and 3 were proceeded against exparte. Respondent No.2 in his written statement has raised preliminary objections to the effect that the petition is vague and does not disclose cause of action and is also bad for mis-joinder and non-joinder of necessary parties and is not maintainable in the present form. Objections were also raised that the claimants are estopped from filing the petition by their own act and conduct and that they are not entitled for compensation under the Motor Vehicles Act and that this Tribunal has no

jurisdiction to entertain and try the petition. It was further averred that the driver of the truck was holding a valid and effective driving licence. It was conceded that FIR was lodged against respondent No.1, who is the driver of Truck No. HR-01A-3345. On merits, the said respondent has denied the accident, but has contended that a false case has been registered in collusion with the police against respondent No.1. It was further submitted that Surinder Mohan is the registered owner of the truck in question which was duly insured with the insurance company.

4. Respondent No.4-Insurance Company in its separate written statement raised identical preliminary objections and further contended that the driver of the truck in question was not holding a valid and effective driving licence to drive the truck at the time of accident. Moreover, the truck in question was not insured with Respondent No.4. at the time of accident and therefore the Insurance Company was not liable to make the payment of compensation.

5. Respondents No.5 and 5-A in their written statement have admitted the factum of accident. However, it is submitted that the claimants are not entitled to any compensation from the respondents. Deceased Sunder Singh was in judicial custody in a criminal case and was being taken to Central Jail, Ambala, on the correct side of the road but the officials of respondents No.5 and 5-A were not responsible for the accident in question.

6. From the pleadings of the parties, the following issues were framed by the Tribunal:

*"1. Whether the accident dated 7.12.2000 resulting into the death of Sunder Singh took place due to rash and negligent driving of Truck No. HR-01A 3345 as alleged? OPP.*

*2. Whether the claimants are entitled to any compensation on account of the death of Sunder Singh and if so to what amount and from whom? OPP.*

*3. Whether the State of Haryana is also liable to pay compensation? OPP.*

*4. Whether the petition is bad for mis-jointer and non-joinder of necessary parties? OPR*

*5. Whether the petition is not maintainable as alleged? OPR.*

*6. Whether the offending truck was being driven without a valid and effective driving licence? OPR-4.*

*7.Whether the insurance company is not liable as alleged? OPR-4.*

*8.Relief."*

7. Both the parties led evidence in support of their case.

8. After hearing the parties, learned Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving on the part of respondent No. 1 while driving the offending vehicle and awarded a sum of Rs.2,90,000/- alongwith interest of 9% per annum from the date of filing of claim petition till realization. Under Issue No. 3, Tribunal found no evidence to hold the State of Haryana liable for the accident, as the negligence was solely attributed to the truck driver. Under Issues No. 4 and 5, Tribunal found the petition to be

maintainable and not bad for misjoinder of parties. On Issues No. 6 and 7, the Tribunal found that the driver possessed a valid driving licence and the vehicle was duly insured. Consequently, the Insurance Company was held liable to satisfy the award.

9. Feeling aggrieved, the present appeal has been filed by the claimants for enhancement of compensation awarded by the Tribunal. Since the liability has been fastened on the Insurance Company, service of respondents No. 1 to 3 was dispensed with vide order dated 9.7.2019 passed by this Court. The material on file has been perused and parties have been heard.

10. Learned counsel for the appellants argued that the impugned award is based on conjectures and surmises. The pleadings of the parties and evidence on file have not been appreciated in the correct perspective while assessing the compensation. Learned counsel further contended that from the evidence on file, it was established that deceased was running Mailk Dairy and he was also an agriculturist but his monthly income has been assessed as Rs.2400/- per month which is highly inadequate. Learned counsel further contended that deceased also owned around 4½ acres of land as reflected in jamabandi for the year 1996-97 Ex.P11 but no amount has been added towards his managerial skills. No future prospects have been applied to the monthly income of the deceased while assessing the compensation. Deceased has left behind five dependents but one third of the amount has been deducted towards personal expenses whereas one fourth of the amount should have been deducted out of the monthly income to determine the loss of dependency. Learned counsel next contended that no

compensation has been awarded towards loss of consortium and loss of estate and funeral expenses have been awarded only to the tune of Rs.2,000/- which are also on the lower side and as such, the compensation is liable to be enhanced suitably. In support of his contentions, learned counsel for the appellants 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.**

11. On the other hand, learned counsel for respondents argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

12. In order to prove their case, one of the claimants namely Gurinder Kaur has stepped into the witness box as PW4 who deposed that her husband Sunder Singh was 40 years of age who was matriculate as evident from matriculation certificate Ex.P2. He was an agriculturist and was also running a milk dairy. He had attended a course to run a dairy farm and she tendered the certificate in this regard Ex.P3. She deposed that her husband had taken loan from the Bank for running the dairy farm and has already repaid the loan to State Bank of Patiala but the loan obtained from Rural Development Bank was still outstanding for which notice Ex.P4 has been received from the said Bank. She deposed that her husband was keeping 20/22 buffaloes and 50 kgs. Milk used to

be milched at one time. She further stated that her husband also owned 7-8 acres of land and used to take another 7-8 acres of land on lease and he used to earn around Rs.30,000/- per month

13. PW2 Sh. V.K. Yadav, Assistant Manager, State Bank of Patiala Cheeka Branch, stated that Sunder Singh son of Swaroop Singh had taken loan for running a dairy farm from their bank which has already been repaid and the said record has already been destroyed.

14. From the evidence led by the petitioners, it is thus established that the deceased was a matriculate. He had also obtained training for running a dairy farm as is evident from certificate Ex.P3 and he also owned agricultural land measuring 37½ kanals of land as is evident from jamabandi for the year 1996-97 Ex.P11. However, the version of the claimants that deceased used to earn Rs.30,000/- per month from the dairy farm and agriculture is not substantiated by any cogent and convincing evidence. In case, he was earning Rs.30,000/- per month, he must have been paying income tax but no such record has been produced. No record of sale of milk too has been produced to show that he used to sell about 100 litres of milk daily. Learned Tribunal also came to the conclusion that from the oral testimony of the claimant- Gurinder Kaur – PW4, it is not established that deceased used to earn Rs.30,000/- per month and I concur with the findings arrived at by the Tribunal and there is no reason to take a contrary view. However, it is not disputed that deceased was running a dairy farm and had also obtained training in this regard. While assessing his income, the Tribunal has held that even labourers used to earn Rs.1800/- per month during

those days and since he was running a dairy farm, his income has been assessed as Rs.2400/- per month which in my opinion is on lower side. It cannot be expected that a rustic villager would be maintaining accounts for sale of milk or that the same would be available with his family after his sudden death and some amount of guess work thus has to be applied in assessing the monthly income of the deceased. 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 1.10.2021 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. As such, the oral version of PW4– Gurinder Kaur cannot be brushed aside. Accordingly, it can be assumed that deceased must be earning Rs.3,500/- per month from his dairy business. In addition to this, he also owned around 4½ acres of land as established from jamabandi Ex.P11 and he must be managing the same and as such, some amount has to be added to his monthly income towards his managerial skills in managing the land. Hon'ble Supreme Court in 2015(1) RCR (Civil) 625 – **Smt. Neeta W/o Kallappa Kadolkar & Ors. vs The Divisional .Manager, MSRTC, Kolhapur,** has held that if a person was in agricultural occupation, the monthly income can be assessed at Rs.12,000/- per month i.e. beyond the minimum wages prevalent at the time of his death. The afore-said judgment has been followed by a co-ordinate Bench of this Court in FAO No.931 of 2021 – **Shri Ram General Insurance Co. Ltd. Vs. Santosh Devi** decided vide judgment dated 28.7.2022. The accident in **Smt. Neeta's case (supra),** had taken place on 22.3.2011 and judgment was rendered on 13.1.2015. The minimum wages prevalent during those days were Rs.10,243/- and around Rs.2,000/- was added towards managerial skills for managing the land. Hon'ble Supreme Court in 2022 Livelaw (SC) 816- **K. Ramya and others Vs. National Insurance Co. Ltd. & Anr.,** while determining dependency on account of income from agricultural land has held that loss of dependency in such case has to be determined on the basis of loss of management capacity or efficiency. It was held that as a rule of prudence, computation of any individual's managerial skills should lie between 10% to 15% of the total agricultural income but the acceptable range can be increased in the light of specific circumstances and in this case, a sum of Rs.2,50,000/- per annum was assessed as income on account of loss of managerial skills and future prospects were also applied.

15. In the present case, deceased owned 37 ½ kanals of land which he was managing himself besides running a dairy farm. He was 45 years of age and has left behind minor children, wife and aged mother. It can be assumed that he must be earning at least Rs.1 lakh per annum from 4½ acres of land owned by him. After his death, there was none to look after the land except his wife and minor children and as such, around 15% of the total annual income has to be taken into consideration towards his managerial skills. From his dairy business, he was earning Rs.42,000/- per annum and by adding Rs.15,000/- towards managerial skills, his **annual income** comes to **Rs.57,000/-.**

16. No future prospects have also been added to the income of the deceased. The date of birth of the deceased was 10.1.1956. The accident had

taken place on 7.12.2000 and as such, he was below 45 years of age. He was a self employed person and as such, 25% amount has to be added to his annual income towards future prospects in view of law laid down in **Pranay Sethi's case (supra)** and after adding the same, the **annual income** comes out to **Rs.71,250/-**.

17. The petition in hand has been instituted by mother, wife and three minor children of the deceased. Accordingly, it is held that deceased has left behind 5 dependents. The Tribunal has deducted one third of the income towards personal expenses but 1/4rd of the income has to be deducted towards personal and living expenses in view of law laid down in **Sarla Verma's case (supra)** and after deducting the same, the **annual loss of dependency** comes out to **Rs.71,250/- - Rs.17,812/- = Rs.53,438/-.**

18. Since deceased was below 45 years of age, multiplier of 14 has to be applied as per guidelines laid down in **Sarla Verma's case (supra)** instead of multiplier of 15 applied by the Tribunal and after applying the same, the **compensation on account of annual loss of dependency** comes out to **Rs.7,48,132/-**.

19. In addition to this, claimant No.3-wife 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, claimants No.2 to 5 who are minor children and mother of deceased are also entitled to a sum of **Rs.40,000/- each** on account of '**loss of parental & 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.9,78,132/- (Rounded to Rs.9,78,500/-).**

20. 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. | Annual income of deceased | Rs.57,000/- per annum |
| 2. | Age of deceased | Below 45 years |
| 3. | Future prospects @ 25% | Rs.71,250/- |
| 4. | Number of dependents | 5 |
| 5. | Deduction towards personal expenses of the deceased (1/4th) | Rs.17,812/- |
| 6. | Annual loss of dependency | Rs.53,438/- |
| 7. | Multiplier | 14 |
| 8. | Compensation on account of Loss of dependency | Rs.7,48,132/- |
| 9. | Compensation under conventional heads | Rs.70,000/- ( wife)<br>Rs.1,60,000/-<br>(Rs.40,000/- each to mother and minor children of deceased) |
| 10. | Total Compensation | Rs.9,78,500/- |
| 11. | Interest | 9% |

21. Resultantly, the present appeal is partly accepted with costs and appellants/ claimants are held entitled to a sum of **Rs.9,78,500/-** as compensation. The enhanced compensation thus comes out to **Rs.6,88,500/-** (**Rs.9,78,500/- - Rs.2,90,000/-**) over and above the compensation awarded by the Tribunal payable alongwith interest at the rate of 9% per annum from the date of filing of claim

petition i.e. 30.3.2001, till realization by respondents No.1, 2 and 4, jointly and severally, as already ordered by the Tribunal. Out of the enhanced compensation, a sum of Rs.75,000/- each be paid to claimants No.2 to 5 and remaining amount be paid to wife of deceased along with proportionate interest.

22. 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.

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

**(Yashvir Singh Rathor)**
**Judge**

**April 10, 2026**
**renu**

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No