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

217 **FAO-3092-2002 (O&M)**
Date of decision: 01.07.2026

AARTI AND ORS. ....APPELLANTS

VERSUS

BALBIR SINGH AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Ms. Ekta Thakur, Advocate and
Ms. Kulwinder Kaur, Advocate
for the appellants.

Mr. Lalit Garg, Advocate
for respondent No.3-Insurance Company.

<u>YASHVIR SINGH RATHOR. J.(Oral)</u>

1. This appeal has been instituted against the Award dated 22.02.2002 for enhancement of compensation awarded in MACT case No.81 of 1999 decided by MACT, Chandigarh (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.4,68,000/- 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 Gurmauj Saran in a motor vehicular accident which took place on 18.05.1999 due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.CHK-8712 (**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 occurred due to rash and negligent driving of respondent No.1? OPP.*
>
> *2. Whether if issue No.1 is proved then to what extent/amount of*

compensation the petitioners are entitled and from whom? OPP.

3. *Whether respondent No.1 was not holding a valid driving licence? If so, to what effect? OPR.*
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.4,68,000/- as compensation to the claimants, on account of death of Gurmauj Saran 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.4,68,000/- 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 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**.

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, deceased was working as a Chowkidar/Watchman in the office of Executing Engineer, M.C. Public Health, Division No.1, Sector-11, Chandigarh and was getting a salary of Rs.5,422/- per month. To prove this fact, claimants have examined PW1 Krishan Pal, Bill Clerk who produced the salary certificate Ex.P1. The Tribunal deducted a sum of Rs.516/- which was being paid as house rent allowance and Rs.30/- being paid as washing allowance. However, HRA was a part of the salary and could not have been deducted from the salary while assessing his monthly income as held by the Hon'ble Supreme Court in 2008(2) SCC 763 **National Insurance Company Ltd. Vs. Smt. Indira Srivastava** in which it has been held that only conveyance allowance is to be deducted from the monthly salary. However, the Tribunal has rightly deducted Rs.30/- being paid as washing allowance which cannot be included in his income as it was personal to the deceased. Learned Tribunal has thus gravely erred while assessing his monthly income to be Rs.4,876/- per month only by deducting HRA. Accordingly, income of deceased is taken as **Rs.5,392/-**

per month after deducting Rs.30/- being paid as washing allowance.

12. PW1 Krishan Pal had also produced service record of the deceased, according to which the date of birth of deceased was 22.11.1961. The accident had taken place on 18.05.1999 and as such, deceased was around 38 years of age at the time of his death.

13. Deceased was 38 years of age and was a permanent government employee. Accordingly, 50% of the 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.8,088/- per month (Rs.5,392/- + Rs.2,696/-).**

14. The petition in hand has been instituted by wife, two children and mother of the deceased. Accordingly, it is held that deceased has left behind 4 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.2,022/- towards personal expenses, the monthly loss of dependency comes out to **Rs.6,066/- (Rs.8,088/- - Rs.2,022/-)** and the annual loss of dependency comes out to **Rs.72,792/- (Rs.6,066/- X 12)**.

15. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 15 has to be applied as deceased was 38 years of age and after applying the same, the compensation comes to **Rs.10,91,880/- (Rs.72,792/- X 15).**

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 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.12,81,880/-**.

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.5,392/- per month
2.	Age of deceased	38 years
3.	Future prospects @ 50%	Rs.2,696/-
4.	Total income	Rs.8,088/- per month
5.	Number of dependents	4
6.	Deduction towards personal expenses of the deceased	Rs.2,022/-
7.	Annual loss of dependency	Rs.72,792/- (Rs.6,066 X 12)
8.	Multiplier	15
9.	Compensation on account of Loss of dependency	Rs.10,91,880/-
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.12,81,880/-**
	Interest	**9%**

18. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.12,81,880/-** as compensation. The enhanced compensation thus comes out to **Rs.8,13,880/- (Rs.12,81,880/- - Rs.4,68,000/-)** rounded off to **Rs.8,14,000/-** 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. 24.07.1999, till realization payable by respondents, jointly and severally. Out of the enhanced compensation, a sum of Rs.1,00,000/- each be paid to the children and mother of the deceased only with interest and remaining amount to claimant No.1/wife along with proportionate interest.

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