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

215

Date of decision: 25.02.2026

1. FAO-594-2002

BRIJ MOHAN KAUSHIK ....Appellant

VERSUS

SAJJAN SINGH AND ANOTHER ...Respondents

2. FAO-595-2002

ARUN KASHYAP AND OTHERS ....Appellants

VERSUS

SAJJAN SINGH AND ANOTHER ...Respondents

3. FAO-596-2002

SURJIT KAUR AND ANOTHER ....Appellants

VERSUS

SAJJAN SINGH AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Hitesh Verma, Advocate
for the appellant(s). (Amicus Curiae)

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Mr. Paul S. Saini, Advocate
for respondent No.2-Insurance Company.

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YASHVIR SINGH RATHOR. J.(Oral)

1. The aforesaid three appeals have been instituted against the Award dated 14.06.2001 passed by Motor Accident Claims Tribunal, Kurukshetra (**for short "Tribunal"**) in the petitions under Section 166 of Motor Vehicles Act, 1988, filed by the appellants, seeking compensation on account of injuries suffered by Mr. Brij Mohan Kaushik, death of Mr. Joginder Lal Kashyap and death of Mr. Bachittar Singh

2. The matter is being taken up in the post lunch session.

3. Claim petition No.93 of 2001, titled Brij Mohan Kaushik Vs. Sajjan Singh and another was instituted by claimant-Brij Mohan Kaushik, for grant of compensation on account of injuries suffered by him in a motor vehicular accident due to rash and negligent driving on the part of respondent No.1- Sajjan Singh, owner-cum-driver, while driving offending truck No.HR-46-A/1070 and insured with respondent No.2.

4. Claim petition No.94 of 2001, titled Arun Kashyap and Others Vs. Sajjan Singh and another was instituted by three sons of deceased- Joginder Lal Kashyap for grant of compensation on account of death of Joginder Lal Kashyap in the same accident.

5. Claim petition No.95 of 2001, titled Surjit Kaur and Others Vs. Sajjan Singh and another was instituted by wife, daughter and son of deceased-Bachittar Singh for grant of compensation on account of death of Bachittar Singh in the same accident.

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6. The only issue required to be determined in the present appeals 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- Sajjan Singh, while driving offending truck No.HR-46-A/1070, which was owned by him and insured with respondent No.2. 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.

7. From the pleadings of parties, following issues were framed:-

"1. Whether the accident in question resulting into death of Joginder Lal Kashyap, Bachittar Singh and injuries to Brij Mohan Kaushik and Dharam Singh, was caused due to the rash and negligent driving of truck No.HR 46 A 1077 by its driver-cum-owner Sajjan Singh- respondent No.1? OPR

2. If issue No.1 is proved in affirmative, whether the claimants of all the four claim-petitions are entitled to compensation. If so how much and from whom ? OPP

3. Whether the claim petitions are not maintainable in the present from, as alleged ?OPR

4. Whether the claimants have no locus-standi to file and maintain the present claim petitions? OPR

5. Whether this Tribunal has got no jurisdiction to try and entertain the present claim petitions as alleged ? OPR

6. Whether the claim petitions are bad for mis-joinder and non-joinder of necessary parties and causes of action, as alleged ? OPR

7. Whether the truck No. HR 46 A 1077 was being driven by a

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person not holding a valid driving licence at the time of accident, as alleged? OPR

8. Relief."

8. Thereafter, the parties led evidence in support of their case.

9. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.20,000/- as compensation to the claimant-Brij Mohan Kaushik, on account of injuries suffered by him. A sum of Rs.4,00,000/- was awarded as compensation to claimants Arun Kashyap etc. on account of death of Joginder Lal Kashyap while a sum of Rs.5,00,000/- was awarded as compensation to claimants Smt. Surjit Kaur etc. on account of death of Bachittar Singh along with interest @ 9% per annum from the date of filing of claim petition till realization payable by respondents jointly and severally.

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

11. At the very outset, it is pertinent to mention that the record of the appeals as well as the Tribunal has got burnt in a fire incident in the High Court branch and the appeals in hand shall be decided as per facts and evidence discussed in the award passed by the Tribunal.

12. ***Compensation in FAO-594-2002, Brij Mohan Kaushik Vs Sajjan Singh and Another, arising out of MACT No.93 of 2001:-***

13. As per version of claimant-Brij Mohan Kaushik, he had suffered multiple injuries in the accident. To prove this fact, he stepped into the witness box as PW3 and deposed that he had suffered injuries in his head and backbone.

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Initially, he was taken to Civil Hospital, Kurukshetra and thereafter, he was referred to PGI, Chandigarh, where he remained admitted for 3-4 days. He was again admitted in PGI, Chandigarh from 22.09.1997 to 05.10.1997 and had spent about Rs.40,000/- to Rs.45,000/- on his treatment. He also incurred expenses on medicines, extra nourishment and on transportation. He was attended by his wife during hospitalization. During cross-examination, he admitted that he had submitted fitness certificate in his department and had joined the duties after the accident. He also admitted that he was fully cured.

14. PW4 Naresh Kumar stated that claimant Brij Mohan Kaushik remained on leave from 13.09.1997 to 28.12.1997 and thereafter, he had submitted fitness certificate at the time of joining the duty.

15. In addition to this, appellant has also led in evidence bills Ex.P46 to Ex.P90 regarding purchase of medicines and various tests conducted at PGI, Chandigarh, whose total comes out to Rs.8,358/-. He remained admitted in PGI, Chandigarh for about 17-18 days and Tribunal has come to the conclusion that he might have spent some amount on extra nourishment, in engaging an attendant and on transportation and must have undergone pain and sufferings as well. After evaluating the evidence led on file, the Tribunal awarded him a sum of Rs.15,000/- on account of expenses incurred on the treatment, which in my opinion have been correctly assessed as per the evidence led on file and no interference in the same is called for.

16. Claimant was also awarded a sum of Rs.5,000 for pain and sufferings, extra nourishment, attendant charges and on transportation. However, compensation under these heads is not adequate and is on lower side. No doubt,

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2026.02.27 17:21
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there is no evidence on the file that claimant had suffered grievous injury but he remained on leave from 13.09.1997 to 28.12.1997 on account of injuries suffered by him and he also remained admitted in PGI, Chandigarh for 17-18 days. As such, he has suffered trauma of accident on account of injuries suffered by him. He must have spent some amount on extra nourishment and in engaging an attendant and must have also spent some amount on transportation and in all, he is held entitled to a sum of **Rs.20,000/-** under these heads instead of Rs.5,000/- as awarded by the Tribunal.

17. Resultantly, the compensation to be awarded to the appellant is assessed as under:-

S.No.	**Under Head**	
1.	Expenses incurred on the treatment	Rs.15,000/-
2.	Expenses on attendant charges, extra nourishment and transportation	Rs.20,000/-
	Total	**Rs. 35,000/-**
	Interest	**9%**

18. Accordingly, enhanced compensation payable to claimant comes to Rs. 15,000/- (Rs.35,000/- - Rs.20,000/-).

19. ***Compensation in FAO-595-2002, Arun Kashyap and Others Vs Sajjan Singh and Another, arising out of MACT No.94 of 2001:-***

20. As per version of claimants, deceased Joginder Lal Kashyap, who was father of the claimants, was serving as Executive Engineer in Irrigation Department of the State of Haryana and had died in the accident in question on 13.09.1997. PW Arun Kashyap stated that he has one elder brother namely Tarun

Kumar Kashyap and a younger brother Varun Kumar Kashyap, out of whom, Tarun Kumar Kashyap is deaf and dumb and is unable to take care of himself. They have become destitute after death of their father. The claimants have also examined PW4 Naresh Kumar, an official from the Irrigation Department, who deposed that the salary of the deceased was Rs.16,465/- per month and he tendered the salary certificate Ex.P2. No evidence to prove to the contrary was also led by respondents and accordingly, income of the deceased was taken as Rs.16,465/- per month by the Tribunal.

21. After going through the material on file, the Tribunal came to the conclusion that the age of the deceased was 57 years. However, in the post-mortem report, the date was mentioned as 56 years but PW4 stated that the deceased was to retire on 31.10.1998, meaning thereby, he was 57 years of age and Tribunal has thus rightly taken his age to be 57 years.

22. Accordingly, the monthly income of the deceased is taken as Rs.16,465/- per month as assessed by the Tribunal. The annual income will thus comes out to Rs.1,97,580/- (Rs.16,465/- x 12). Out of this annual income of Rs.1,97,580/-, a sum of Rs.30,000/- has to be deducted towards income tax and after deducting the same, the annual income comes out to 1,67,580/- (rounded to Rs.1,68,000/-) (Rs.1,97,580/- - Rs.30,000/-).

23. Deceased was 57 years of age. As per guidelines laid down in 2009(6) SCC 121, ***"Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*** and 2017 ACJ 2700, **'National Insurance Co. Ltd Vs. Pranay Sethi and Others'** 15% of the amount has to be added to the annual income of deceased towards future prospects as he was a permanent employee and

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after adding the same, the annual income comes to Rs.1,93,200/- (Rs.1,68,000/- +Rs.25,200/-).

24. Deceased has left behind three dependents i.e. his sons, out of whom one son is deaf and dumb and in view of guidelines laid down in ***Sarla Verma's case (supra),*** 1/3rd of the amount has to be deducted towards personal and living expenses and after deducting the same, the annual dependency comes out to Rs.1,28,800/- (Rs.1,93,200/- - Rs.64,400/-).

25. Deceased was 57 years of age but Tribunal has wrongly applied multiplier of 3. Infact, multiplier of 9 has to be applied as per guidelines laid down in **Sarla Verma's case (supra)** and after applying the same, the compensation payable to claimants comes out to Rs.11,59,200/- (Rs.1,28,800/- X 9).

26. In addition to this, claimants are also held entitled to a sum of 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).** The claimants are also held entitled to a sum of Rs.40,000/- each towards parental consortium, 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*** and (2021) 11 SCC 780***, United India Insurance Co. Ltd. Vs. Satinder Kaur***, which takes the compensation to Rs.13,09,200/- (Rs.11,59,200/- +Rs.1,50,000/-) as against Rs.4,00,000/- awarded by the Tribunal.

27. The total compensation payable to the appellants is accordingly assessed as under:-

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S. No.	Under Head	
1.	Monthly income of deceased	Rs.16,465/-
2.	Age of deceased	57 years
3.	Annual income of deceased	Rs.1,97,580/- (Rs.16,465/- x 12)
4.	Deduction towards income tax	Rs.30,000/-
5.	Income after deduction of tax	1,67,580/- (rounded to 1,68,000/-) (Rs.1,97,580/- - Rs.30,000/-)
6.	Future prospects @15%	Rs.25,200/-
7.	Total Annual Income	Rs.1,93,200/- (Rs.1,68,000/- + Rs.25,200/-)
8.	Number of dependents	3
9.	Deduction towards personal expenses (1/3rd)	Rs.64,400/-
10.	Annual loss of dependency	Rs.1,28,800/- (Rs.1,93,200/- − Rs.64,400/-)
11.	Multiplier	9
12.	Loss of dependency	Rs.11,59,200/-
13.	Compensation for loss of estate and funeral expenses	Rs.30,000/- (Rs.15,000/- x 2)
14.	Parental Consortium (three children @ Rs.40,000/- each)	Rs.1,20,000/-
	Total	**Rs.13,09,200/-**

28. Accordingly, enhanced compensation payable to claimants comes to Rs.9,09,200/- (rounded to Rs.9,09,000/-) (Rs.13,09,200/- - Rs.4,00,000/-).

29. ***Compensation in FAO-596-2002, Surjit Kaur and Others Vs Sajjan Singh and Another, arising out of MACT No.95 of 2001:-***

30. As per version of claimant Surjit Kaur, deceased Bachittar Singh was driver on the ill-fated vehicle and he was serving in the Irrigation Department, Haryana as a driver. She appeared as PW2 and deposed that deceased has left behind two unmarried children namely Kulwinder Singh aged 21 years and

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Sukhvinder Kaur aged 19 years. She deposed that deceased was earning Rs.6,865/- per month and she tendered the salary certificate Ex.P1.

31. After going through the material on file, the Tribunal came to the conclusion that the age of the deceased was 49 years as his date of birth was 15.04.1948 as mentioned by PW2 Naresh Kumar, who produced the service record.

32. Accordingly, the monthly income of the deceased is taken as Rs.6,865/- per month as assessed by the Tribunal. The annual income will thus come out to Rs.82,380/- (Rs.6,865/- x 12). Out of this annual income of Rs.82,380/-, a sum of Rs.5,000/- has to be deducted towards income tax and after deducting the same, the annual income comes to 77,380/- (Rs.82,380/- - Rs.5,000/-).

33. Deceased was 49 years of age. As per guidelines laid down in 2009(6) SCC 121, ***"Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*** and 2017 ACJ 2700, **'National Insurance Co. Ltd Vs. Pranay Sethi and Others'** 30% of the amount has to be added to the annual income towards future prospects as he was a permanent government employee and after adding the same, the annual income comes to Rs.1,00,594/- (77,380/- +Rs.23,214/-).

34. Deceased has left behind three dependents i.e. wife, son and daughter and in view of guidelines laid down in ***Sarla Verma's case (supra),*** 1/3rd of the amount has to be deducted towards personal and living expenses and after deducting the same, the annual dependency comes out to Rs.67,063/- (Rs.1,00,594/- - Rs.33,531/-).

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35. Deceased was 49 years of age but Tribunal has wrongly applied multiplier of 9. Infact, multiplier of 13 has to be applied as per guidelines laid down in **Sarla Verma's case (supra)** and after applying the same, the compensation payable to claimants comes out to Rs.8,71,819/- (Rs.67,063 X 13).

36. As per law laid down in **Pranay Sethi's case (supra),** claimant No.1 is held entitled to a sum of Rs.70,000/- under conventional heads i.e. loss of consortium, loss of estate and on account of funeral expenses. Both the claimants, who are son and daughter, are also held entitled to a sum of Rs.40,000/- each towards consortium, (Rs.40,000/- X 2) 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'***, and (2021) 11 SCC 780***, United India Insurance Co. Ltd. Vs. Satinder Kaur***, which takes the compensation to Rs.10,21,819/- (Rs.8,71,819/- +Rs.1,50,000/-) as against Rs.5,00,000/- awarded by the Tribunal.

37. The total compensation payable to the appellants is accordingly assessed as under:-

S. No.	**Under Head**	
1.	Monthly income of deceased	Rs.6,865/-
2.	Age of deceased	49 years
3.	Annual income of deceased	Rs.82,380/-
4.	Deduction towards income tax	Rs.5,000/-
5.	Annual income after deduction of tax	77,380/-
6.	Future prospects @30%	Rs.23,214/-
7.	Total Annual Income	Rs.1,00,594/-
8.	Number of dependents	

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9.	Deduction towards personal expenses (1/3rd)	Rs.33,531/-
10.	Annual loss of dependency	Rs.67,063/-
11.	Multiplier	13
12.	Loss of dependency	Rs.8,71,819/-
13.	Compensation to claimant No.1 under conventional heads (loss of consortium Rs.40,000/-, loss of estate Rs.15,000/-, funeral expenses Rs.15,000/-)	Rs.70,000/-
14.	Parental Consortium (two children @ Rs.40,000/- each)	Rs.80,000/-
	Total	Rs.**10,21,819/-**

38. Accordingly, enhanced compensation payable to claimants comes to Rs.5,21,819/- (rounded to Rs.5,22,000/-) (Rs.10,21,819/- - Rs.5,00,000/-).

39. As a result of aforesaid discussion, all the aforesaid three appeals are partly accepted with costs.

40. In FAO No.594-2002, appellant-Brij Mohan Kaushik is held entitled to a sum of Rs.15,000/- as enhanced compensation over and above the compensation awarded by the Tribunal along with interest at the rate of 9% per annum from the date of filing of claim petition i.e. 19.11.1997 till realization payable by respondents jointly and severally.

41. In FAO-595-2002, appellants Arun Kashyap etc. are held entitled to a sum of Rs.9,09,000/- as enhanced compensation over and above the compensation awarded by the Tribunal along with interest at the rate of 9% per annum from the date of filing of claim petition i.e. 10.11.1997 till realization payable by respondents jointly and severally. The entire amount shall be shared equally among the appellants.

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42. In FAO-596-2002, appellants Smt. Surjit Kaur etc. are held entitled to a sum of Rs.5,22,000/- as enhanced compensation over and above the compensation awarded by the Tribunal along with interest at the rate of 9% per annum from the date of filing of claim petition i.e. 19.11.1997 till realization payable by respondents jointly and severally. Out of the enhanced compensation, a sum of Rs.3,00,000/- along with proportionate interest be paid to appellant No.1 while remaining amount be paid in equal shares to appellants No.2 and 3 along with proportionate interest.

43. The payments to the appellants shall be deposited in their bank accounts to be provided by them.

44. Registry is directed to email the authenticated copy of the award to the respondent Insurance Company in terms of direction 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.

45. A photocopy of this order be placed on the file of the connected cases.

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

(YASHVIR SINGH RATHOR)
JUDGE

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

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