S. No.237

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

****

FAO-1236-2000 (O&M)
Date of Decision:18.03.2026

SMT. SHIMLA DEVI AND OTHERS

.....Appellants

VERSUS

SURJEET SINGH AND OTHERS

.....Respondents

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

Present:- Mr. Sukhvir Singh Sahu, Advocate for the appellants.

Respondents No.1 and 2 proceeded against ex parte vide order dated 18.07.2001.

Ms. Vandana Malhotra, Advocate (through V.C.) and Ms. Manvi Verma, Advocate for respondent No.3-Insurance Company.

****

<u>YASHVIR SINGH RATHOR, J. (ORAL)</u>

1. This appeal has been instituted against the Award dated 21.12.1999 for enhancement of compensation awarded in MACT case No.125 of 1997 decided by the MACT, Hisar (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,00,000/- has been awarded as compensation to the claimants/appellants along with interest at the rate of 12% per annum from the date of filing of claim petition till realization on account of death of Charan Singh in a motor vehicle accident.

2. From the pleadings of parties, following issues were framed by learned MACT:-

> *"1. Whether the accident in question has taken place due to rash and negligent driving of the offending vehicle by respondent No.1? OPP*
>
> *2. Whether the petitioners are entitled to any compensation, if so, how much and from whom?OPP*
>
> *3. Whether the Insurance Company is not liable to pay any compensation, in view of the grounds mentioned in the written statement filed by respondent No.3? OPR-3*
>
> *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.1,00,000/- as compensation to the claimants/ appellants, on account of death of Charan Singh along with interest @ 12% 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. 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 Jeep No.DL 2 CE/8641, 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.

7. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.1,00,000- has been awarded is based on conjectures and surmises and is liable to be set aside and enhanced amount of compensation should be awarded. Learned counsel contended that compensation awarded to the claimants has been assessed on lower side. Learned counsel further contended that deceased was 21 years of age and multiplier of 17 should have been applied. No compensation has also 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.

8. 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.

9. 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.

10. The claim petition has been instituted by the parents and three minor siblings of deceased namely Charan Singh claiming compensation for his death in the accident in question. As per version of claimants, deceased was 21 years of age and learned Tribunal observed that the parents cannot be said to be dependent upon their deceased unmarried son but taking into consideration the age of the deceased and other relevant factors, a sum of Rs.1,00,000/- was awarded to all the claimants as compensation.

11. However, in my considered opinion, the compensation has not been assessed as per the settled provisions of law. It has been held by the Hon'ble Supreme Court in 2009(6) SCC 121 – **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Another** that mother is dependent upon her

unmarried son but father is not dependent. As such, mother is certainly entitled to compensation on account of death of her unmarried son. Father being not dependent is not entitled to compensation except on account of filial consortium. The minor brothers and sister too are entitled to compensation only under the head of 'consortium' as they cannot be termed as dependent upon their deceased brother during the lifetime of their father.

12. As per version of claimants, deceased was a young man having robust health and was the only bread earner in the family. The accident had taken place on 14.07.1997 and as per the version of claimants, deceased used to drive tractor and earn money by doing cultivation and harvesting the crops. However, no cogent and convincing evidence has been led in this regard. The driving licence of the deceased too has not been led in evidence to prove that he was a driver and as such, deceased has to be treated as a labourer and his monthly income has to be assessed on the basis of minimum wages prevalent in the year 1997. Hon'ble Supreme Court in 2015(1) RCR (Civil) 625 – **Smt. Neeta Vs. The Div. Manager, MSRTC Kolhapur,** has held that in the absence of salary slip/ certificate, the Court should assess monthly wages as applicable at the relevant time and as such, minimum wages fixed by State Government have to be taken into consideration to assess the monthly income of the deceased. In the year 1997, even the labourers used to earn around Rs.1500/- per month which were the minimum wages prevalent during those days and accordingly, the income of deceased is taken as Rs.1500/- per month. However, no future prospects have been added to the

monthly income of the deceased 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 by Hon'ble Supreme Court 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',** which takes his income to **Rs.2100/- per month (Rs.1500/- + Rs.600/-).**

13. As per law laid down in **Sarla Verma's case (supra),** 50% of the earnings have to be deducted towards personal and living expenses as deceased was a bachelor**.** After deducting 50% of his income towards personal expenses, the monthly dependency comes out to Rs.1050/- and the annual dependency comes out to **Rs. 12,600/- (Rs.1050/- X 12).**

14. Since deceased was 21 years of age, multiplier of 18 has to be applied in view of law laid down in **Sarla Verma's case (supra)**, and after applying the same, the total loss of dependancy comes out to **Rs.2,26,800/-.**

15. In addition to this, claimant No.1 (mother 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, claimant No.2 **(**father of the deceased), claimant No.3 (sister of the deceased) and claimants No.4 and 5 (brothers of the deceased) is also held entitled to a sum of Rs.40,000/- each on account of **loss of 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.4,56,800/-** (Rs.2,26,800/- + Rs.2,30,000/-);.

16. Accordingly, the compensation to be awarded to the appellants/claimants is assessed as under:-

S.No.	Under Head	
1.	Monthly income of deceased	Rs.1500/- per month
2.	Age of deceased	21 years
3.	Future prospects @40%	Rs.600/-
4.	Total income	Rs.2100/-
5.	Number of dependents	1
6.	Deduction towards personal expenses of the deceased	Rs.1050/- (50%)
7.	Annual loss of dependency	Rs.12600/- (Rs.1050/- X 12)
8.	Multiplier	18
9.	Compensation on account of Loss of dependency	Rs.2,26,800 /-
10.	Compensation under conventional heads to claimant No.1- Mother	Rs.70,000/-
11.	Compensation to remaining claimants for loss of consortium (Father, sister and brothers)	Rs.1,60,000/-
12.	**Total Compensation**	**Rs.4,56,800/-**
13.	Interest	9%

17. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of Rs.4,56,800/- (rounded to Rs.4,57,000/-) as compensation. The enhanced compensation thus comes out to Rs.3,57,000/- (Rs.4,57,000/- - Rs.1,00,000/-) 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. 24.10.1997 till realization payable by

respondents jointly and severally. Out of the enhanced compensation, a sum of Rs.40,000/- each along with proportionate interest be paid to appellants No.2 to 5 while remaining amount be paid to appellant No.1 along with proportionate interest.

18. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

March 18, 2026
Priyanka Thakur

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