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

**213** **FAO-2711-2001 (O&M)**
**Date of decision: 19.03.2026**

**RAJWANT AND ORS** **....APPELLANTS**

**VERSUS**

**STATE OF HARYANA AND ORS** **...RESPONDENTS**

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

Present: Mr. Deep Inder Singh Walia, Advocate
for the appellants.

Mr. Praveen Kumar, DAG Haryana for respondents No.1 & 2.

Mr. Suvir Dewan, Advocate
for respondent No.4-Insurance Company.

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

1. This appeal has been instituted against the Award dated 02.02.2001 for enhancement of compensation awarded in MACT case No.119 of 1999 decided by the MACT, Karnal (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.3,32,000/- has been awarded as compensation to the claimants alongwith interest at the rate of 12% per annum from the date of filing of claim petition till realization on account of death of Didar Singh in a motor vehicular accident caused due to rash and negligent driving by respondent No.3 while driving the offending vehicle bearing No.HR-37-6211 (**for short 'offending vehicle'**), owned by respondents No.1 and 2, which was insured with respondent No.4.

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

> 1. *Whether the accident in question took place on 30.7.1999 at about 7.10 p.m. near village Salaru due to rash and negligent driving of respondent No.3 Jai Singh driver of bus bearing*

*registration No.HR-37-6211 and by that accident, Didar Singh died. If so, what effect? OPP"*

2. *If issue No.1 is proved, whether the claimants are entitled to any compensation, if so, to what amount and from whom? OPP*
3. *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.3,32,000/- as compensation to the claimants, on account of death of Didar 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.3 while driving the offending vehicle, owned by respondents No.1 & 2 and insured with respondent No.4 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.3,32,000/- 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 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. Learned counsel further contended that deceased was 28 years of age and multiplier of 13 has been applied whereas multiplier of 17 should have been awarded. 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.

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. As per the case of the claimants, deceased Didar Singh was husband of claimant No.1, father of claimants No.2 & 3 and son of claimants No.4 and 5. He was stated to be 26 years of age. However, no cogent and convincing evidence was led to establish his age to be 26 years and the Tribunal on the basis of his age mentioned in postmortem report Ex.P8 held him to be 28 years of age at the time of his death. There is no reason to take a contrary view and accordingly, it is held that deceased was 28 years of age at the time of his death.

11. Claimant No.1 Rajwant Kaur (wife of deceased) examined herself as PW1 and stated that Didar Singh was an agriculturist and he was running a milk dairy and owned a thrasher. He used to earn Rs.10,000/- per month. Claimants also examined PW2 Sukhdev Raj, PW3 Palwinder Singh, PW4 Jagtar Singh and PW5 Jaswant Singh. However, no documentary evidence was led to show that he owned some land and he was cultivating the same prior to his death and the version of the claimants in this regard was negated. From the evidence led on file, it was held that deceased was running a milk dairy besides owning a thrasher as he had taken a loan for purchase of a thrasher and another loan for running a milk dairy, which was subsequently repaid by the claimants after his death. After going through the evidence on file, Tribunal came to the conclusion that deceased must be earning Rs.3,000/- per month by selling milk and by operating a thrasher. However, some amount of guesswork has to be applied in assessing the income as the deceased was not expected to maintain accounts regarding sale of milk and the income earned from the thrasher. The accident had taken place on 30.07.1999 and it can be assumed that the deceased must be earning **Rs.3,500/- per month**.

12. Deceased was 28 years of age as has also been held by the learned Tribunal 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 2017 ACJ 2700, **'National Insurance Co. Ltd Vs. Pranay Sethi and Others',** which takes his income to **Rs.4,900/- per month (Rs.3,500/- + Rs.1,400/-)**.

13. The petition in hand has been instituted by wife, minor son, daughter, mother and father of the deceased. However, as per law laid down in 2009(6) SCC 121 – **Sarla Verma and others Vs. Delhi Transport Corporation and Another,** father cannot be termed as dependent upon his deceased son and he is not entitled to any compensation except on account of filial consortium. Accordingly, it is held that deceased has left behind 4 dependents and 1/4th of the income thus has to be deducted towards personal and living expenses. After deducting a sum of Rs.1,225/- towards personal expenses, the monthly loss of dependency comes out to Rs.3,675/- (Rs.4,900/- - Rs.1,225/-) and the annual loss of dependency comes out to **Rs.44,100/- (Rs.3,675/- X 12)**.

14. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 17 has to be applied as deceased was 28 years of age and after applying the same, the compensation comes to **Rs.7,49,700/- (Rs.44,100/- X 17).**

15. 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 5 who are children and parents 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 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.9,79,700/- (rounded off to Rs.9,80,000/-)**.

16. 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.3,500/- per month |
| 2. | Age of deceased | 28 years |
| 3. | Future prospects @ 40% | Rs.1,400/- |
| 4. | Total income | Rs.4,900/- per month |
| 5. | Number of dependents | 4 |
| 6. | Deduction towards personal expenses of the deceased | Rs.1,225/- |
| 7. | Annual loss of dependency | Rs.44,100/- (Rs.3,675/- X 12) |
| 8. | Multiplier | 17 |
| 9. | Compensation on account of Loss of dependency | Rs.7,49,700/- |
| 10. | Compensation under conventional heads | Rs.70,000/- |
| 11. | Consortium to son, daughter, mother and father of deceased | Rs.1,60,000/- (Rs.40,000/- each) |
| | **Total Compensation** | **Rs.9,79,700/- (rounded off to Rs.9,80,000/-)** |
| | **Interest** | **9%** |

17. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.9,80,000/-** as compensation. The enhanced compensation thus comes out to **Rs.6,48,000/- (Rs.9,80,000/- -**

**Rs.3,32,000/-)** 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. 21.08.1999, till realization payable by respondents No.1 to 4, jointly and severally. Out of the enhanced compensation, a sum of Rs.1,00,000/- each be paid to both children and mother of the deceased, Rs.40,000/- to the father of the deceased and remaining amount to claimant No.1/wife 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**

**19.03.2026**
**Vishal Vardhan**

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