S. No.213

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

FAO No.2736 of 2001 (O&M)
Date of Decision:04.02.2026

Chet Ram through his LRs and others .....Appellants
Vs.
Mukhtiar Singh and others .....Respondents

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

Present:- Mr. Rakesh Dhiman, Advocate for the appellant.

Mr. D.P. Gupta, Advocate for respondent No.3.

Mr. Bhanu Pratap Singh, Advocate for respondent No.4.
(Through Video Conferencing).

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<u>Yashvir Singh Rathor, J. (Oral)</u>

<u>CM Nos.14581-14582-CII of 2001</u>

These are the applications for condonation of delay of 64 days in refiling and delay of 135 days in filing the appeal.

For the reasons mentioned in the application, the same are allowed. Delay of 64 days in refiling and delay of 135 days in filing the appeal is hereby condoned.

<u>FAO No.2736 of 2001 (O&M)</u>

1. This appeal has been instituted against award dated 10.10.2000 for enhancement of compensation awarded in MACT case No.98 of 14.11.96/24.10.1997 decided by MACT, Gurgaon, **(for short, `Tribunal')** in a petition under Section 166 of the Motor Vehicles Act, 1988 vide which a sum of Rs.3,49,500/- has been awarded as compensation to the claimants/ appellants

along with interest @12% per annum from the date of filing of petition till realisation on account of death of Sahab Singh alias Billu in a motor vehicular accident who was son of claimants- appellants and husband of respondent No.4.

2. Case of the petitioners is that on 22.10.1996, deceased- Sahab Singh was repairing dumper No.HR-26-7975 belonging to Geeta Stone Crusher Company in Naurangpur. Suddenly, dumper No.HR-47-1375 being driven by respondent No.1 - Mukhtiar Singh in a rash and negligent manner came there and hit the parked dumper No.HR-26-7975 which was under repair and Sahab Singh @ Billu sustained serious injuries on account of which he died at the spot. FIR Ex.P1 was got registered at Police Station Bilaspur. It is further submitted that deceased was 22 years of age and earning Rs.3,000/- per month. Petitioners who are parents along with his wife were dependant upon him and now they have no source of income and they have suffered huge loss on account of his death and are entitled to compensation.

3. Respondents No.1 and 2 in their written statement have controverted the contents of the petition. Allegations with regard to rash and negligent driving have been denied and it is also denied that deceased was repairing the parked truck.

4. Respondent No.3- Insurance Company has also challenged the petition on the grounds of maintainability, locus standi and cause of action. The material contents of the petition with regard to age and income of the deceased have been refuted to be wrong. It is further submitted that respondent No.1 was not holding a valid and effective driving licence and insured has violated the terms

and conditions of the insurance policy and dismissal of the claim petition was sought.

5. Replication was filed and the following issues were framed by the learned Tribunal:-

> "1. Whether the motor vehicle accident that occurred on 22.10.96 is on account of rash and negligent driving of dumber No.HR-47-1375 by respondent No.1?OPP
>
> 2. Whether the petitioners are entitled to compensation on the death of Sahab Singh alias Billu in the aforesaid accident. If so, in what amount?OPP
>
> 3. Whether respondent No.3 is entitled to repudiate the contract of insurance on the grounds alleged? OPP.
>
> 4. Relief."

6. Both the parties led their respective evidence in support of their case.

7. After hearing learned counsel for the parties and on going through the material on file, learned Tribunal came to the conclusion that the accident in question resulting in the death of Sahab Singh took place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle and Issue No.1 was decided in favour of petitioners. Under Issue No.2, claimants were held entitled to a sum of Rs.3,49,500/- as compensation. Issue No.3 was not pressed and was decided against respondent No.3. A sum of Rs.3,49,500/- was awarded as compensation to the claimants to be shared by them equally along with interest @ 12% per annum from the date of filing of petition till realisation.

8. Feeling aggrieved, claimants- appellants have filed the present appeal. The record of the Tribunal has been perused and both the parties have been heard.

9. At the very outset, it is pertinent to mention that neither the Insurance Company nor the owner and driver have instituted any appeal or have filed cross objections against the impugned award challenging the finding on Issue No.1. As such, there is no need to go into the finding on Issue No.1 and same is affirmed accordingly.

10. As per version of the appellants, the deceased was a motor mechanic, aged 22 years and he used to earn Rs.3,000/- per month. One of the claimants, namely, Chet Ram, who is father of the deceased stepped into the witness box as PW1 and he deposed that his son was getting Rs.4,000/- per month as salary by working as a Motor Mechanic. Even in the FIR Ex.P1, it is mentioned that the deceased was a Motor Mechanic and was repairing a dumper when the accident took place. Learned Tribunal after going through the evidence, came to the conclusion that the deceased was a Motor Mechanic but it did not believe the version of PW1 that he was earning Rs.4,000/- per month as in the claim petition itself, it was pleaded that he was earning Rs.3,000/- per month. Thereafter, after taking into consideration the minimum wages of skilled workers, the income of deceased was taken as Rs.2,500/- per month and there is no reason to take a contrary view as no cogent and convincing evidence has been led to establish his income to be Rs.3,000/- per month. In my considered opinion also, the income as assessed by the Tribunal is not on lower side. The accident had taken place in January, 1996 and during those days, the minimum wages of skilled persons were

also around Rs.2,500/- per month and I concur with the income as assessed by the learned Tribunal.

11. Deceased was 22 years of age. As per guidelines laid down in 2017 ACJ 2700 – **National Insurance Co. Ltd. Vs. Pranay Sethi and Others,** 40% of the amount has to be added towards future prospects as he was not in permanent employment. After adding 40% towards the future prospects, the annual income comes out to **Rs.42,000/- (Rs.3500/- X 12)**.

12. Deceased was married and has left behind three dependants i.e. his parents and wife and accordingly, one third of the income has to be deducted towards his personal and living expenses as per law laid down in 2009(6) SCC 121 – **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Another.** After deducting one third of the income towards personal expenses, the annual dependency comes out to **Rs.28,000/-** (Rs.42,000/- - Rs.14,000)**.** As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 22 years of age and after applying the same, the compensation comes to **Rs.5,04,000/- (Rs.28,000/- x 18)**.

13. In view of guidelines laid down in **Pranay Sethi's case (supra),** the wife of the deceased is also held entitled to a sum of **Rs.15,000/-** towards loss of estate, **Rs.15,000/-** towards funeral expenses and **Rs.40,000/-** towards spousal consortium. Likewise, in view of guidelines laid down in 2018 (4) R.C.R. (Civil) 333, **'*Magma General Insurance Co. Ltd. v. Nanu Ram alias Chuhru Ram & Others*'**, both the parents are also held entitled to a sum of **Rs.40,000/-** each towards filial consortium. The total compensation payable thus comes out to **Rs.6,54,000/- (Rs.5,04,000/- + Rs.1,50,000/-)** as against Rs.3,49,500/- awarded

by the Tribunal.

14. The total compensation payable to the appellant is accordingly assessed as under:-

S.No.	*Under Head*	*Compensation awarded by the Tribunal*	*Compensation awarded by High Court*
1.	*Income of the deceased*	*Rs.2,500/- p.m.*	*Rs.2,500/- p.m.*
2.	*Add-future prospects @ 40%*	*Nil*	*Rs.1,000/- p.m.*
3.	*Total Income*	*Rs.2,500/- p.m.* *Rs.30,000/- per annum*	*Rs.3,500/- p.m.* *Rs.42,000/- per annum*
4.	*Deduction towards Personal expenses of the deceased*	*Rs.10,000/- per annum (one third)*	*Rs.14,000/- per annum (one third)*
5.	*Annual loss of dependency*	*Rs.20,000/- per annum*	*Rs.28,000/- per annum*
6.	*Multiplier*	*17*	*18*
7.	*Total loss of dependency*	*(Rs.20,000/- X 17)* *Rs.3,40,000/-*	*(Rs.28,000/- X 18)* *Rs.5,04,000/-)*
8.	*Medical expenses before death*	*NA*	*NA*
9.	*Compensation for loss of consortium to wife and parents*	*Nil*	*(Rs.40,000/- X 3)* *Rs.1,20,000/-*
10.	*Compensation for the loss of estate*	*Nil*	*Rs.15,000/-*
11.	*Compensation towards funeral expenses*	*Nil*	*Rs.15,000/-*
12.	*General Damage*	*Rs.9,500/-*	*Nil*
13.	***Total compensation***	***Rs.3,49,500/-***	***Rs.6,54,000/-***

15. Accordingly, enhanced compensation payable to claimants comes to **Rs.3,04,500/- (Rs.6,54,000/- - Rs.3,49,500/-).** Resultantly, the petition in hand is accepted with costs and appellants are held entitled to a sum of **Rs.3,04,500/-** 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. 14.11.1996 till realization payable by respondents No.1 to 3 jointly and severally. The interest accruing during the 135-day delay in filing of the appeal shall be excluded from computation. Out of the enhanced amount, 50% of the amount be paid to respondent No.4 and 50% of the amount shall be shared equally by the appellants alongwith proportionate interest. Half of the amount shall be paid in cash and remaining amount shall be kept deposited in a fixed deposit in a nationalised bank for a period of one year. However, the Tribunal shall be at liberty to order release of the deposited amount in case of genuine need of the party before the expiry of one year.

16. 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.

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

(Yashvir Singh Rathor)
Judge

February 04, 2026
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Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No