



S. No.215

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.3619 of 2001 (O&M)
Date of Decision:25.03.2026

Surjit Kaur and others

.....Appellants

Vs.

Bawarjeet Singh and others

.....Respondents

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

Present:- Mr. S.S. Sidhu, Advocate for the appellants.

Mr. Paul S. Saini, Advocate for the respondent-
Insurance Company.

Yashvir Singh Rathor, J. (Oral)

1. This appeal has been instituted against the Award dated 06.09.2000 for enhancement of compensation awarded in MACT case No.31 of 1999 decided by the Motor Accident Claims Tribunal, Bathinda (**for short “Tribunal”**) in a petition under Section 166 of Motor Vehicles Act, 1988, vide which a sum of Rs.1,30,000 has been awarded as compensation to the claimants on account of death of Jagjit Singh in a motor vehicular accident which allegedly took place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.PBA-4545 (**hereinafter referred to as ‘offending vehicle’**), which was insured with respondent No.3. It was further ordered that in case the respondents failed to make the payment within a period of two months, the claimants shall be held entitled to interest @12% per annum from the date of award till the date of realisation.



2. Case of the claimants is that on 08.04.1999 at about 08:30 AM, Jagjit Singh (since deceased), while driving Moped bearing registration No.PB-03C/9076, was going on the side of canal in the area of Village Poohli. His brother Malkiat Singh was following him on his scooter. In the meanwhile, Ambassador Car bearing No.PBA-4545 being driven by respondent No.1 rashly and negligently came from the opposite direction and struck against the Moped of Jagjit Singh. Jagjit Singh, who was driving the Moped fell on the ground and sustained multiple injuries. Malkiat Singh took Jagjit Singh to Civil Hospital, Bathinda in a Jeep, but the doctors declared him dead. It is further submitted that accident in question had taken place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle owned by respondents No.2 and 2-A which was insured with respondent No.3 and they are liable to pay compensation to the claimants jointly and severally. FIR bearing No.28 dated 8.4.1999 under Sections 279 and 427 IPC was registered at Police Station Nathana. It is further submitted that deceased was 45 years of age and was working as a Sewadar with Municipal Council, Bathinda and used to earn Rs.5,100/- per month and besides this, he used to earn Rs.4,000/- per month by sale of milk and Rs.1,000/- per month on account of supervision of the land. The claimants are the wife and children of the deceased who were dependant upon him and a sum of Rs.13,22,400/- was claimed as compensation.

3. Respondents No.1 and 2-A in their joint written statement refuted the contents of the petition and denied the factum of accident. It is further submitted that deceased was himself responsible for the alleged accident.

4. Respondent No.2 in his reply pleaded that no cause of action has arisen against him. The claim petition is bad due to mis-joinder and non-joinder



of the parties. He had sold the car in question much before the accident i.e. on 30.12.1998 to Janak Rani respondent No.2-A. He denied all other allegations and sought dismissal of the petition.

5. Respondent No.3 – Insurance Company also contested the claim petition on the ground that neither the deceased nor respondent No.1 was holding a driving licence and had received injuries in some other accident. Respondent No.3 denied its liability to pay any compensation.

6. From the pleadings of parties, following issues were framed by the learned Tribunal:-

- “i) Whether the claimants are the legal heirs of deceased Jagjit Singh? If so, its effect? OPP
- ii) Whether the accident took place due to rash and negligent driving of Car No.PBA-4545, driven by Bawarjeet Singh respondent No.1, as a result of which Jagjit Singh died? OPP
- iii) If issue No.1 and 2 are proved, to what amount to compensation the claimants are entitled to and from whom? OPP
- iv) Whether the respondent No.1 Bawarjeet Singh was not holding a valid driving licence at the time of the alleged accident? If so its effect?OPR
- v) Whether the respondent No.1, 2 and 2-A were not holding valid registration, route permit and fitness certificate at the time of alleged accident? If so, its effect? OPR
- vi) Whether the claimants have got no locus standi or cause of action to file the present claim petition? If so, its effect?OPR
- vii) Relief.”

7. The parties led their respective evidence.

8. After hearing the parties and on going through the material on the file, learned Tribunal came to the conclusion that accident in question had taken place on account of rash and negligent driving on the part of respondent No.1



while driving the offending vehicle as has been observed in para No.15 of the award. However, it was further observed that the deceased himself was a handicap person and was not having left hand and was not supposed to drive a Moped. The Tribunal held that since deceased was a handicap and his left hand had been amputated, he was not authorised to drive a Moped and as such, he has also contributed to the accident. The contribution of deceased was held to be 70% and that of respondent No.1 to be 30% and 70% of the total compensation assessed by the Tribunal was deducted on account of contributory negligence.

9. Under issue No.4, it was held that Insurance Company is liable to indemnify the insured and the liability of Insurance Company along with respondents No.1 and 2-A is joint and several. After assessing the total compensation of Rs.4,22,400, deduction of 70% was applied and claimants were held entitled to a sum of Rs.1,26,720/- plus Rs.3,280/- as funeral expenses, totaling Rs.1,30,000/- as compensation. It was held that the claimants are not entitled to any interest but in case respondents failed to pay the compensation within two months, they shall be entitled to interest @12% per annum.

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

11. Learned counsel for the appellants contended that impugned award is based on conjectures and surmises. Learned Tribunal has wrongly arrived at a conclusion that deceased could not have driven a Moped due to amputation of his left hand and as such, he has also contributed to the accident whereas there is no such evidence on the file that deceased had in any manner contributed to the accident. Infact the car was being driven at a high speed and in a rash and negligent manner and after hitting the Moped, the car had turned turtle and it is



only respondent No.1 who was liable for the accident on account of his rash and negligent driving and deceased had not contributed to the accident. Learned counsel next contended that income of the deceased has been assessed on lower side as deceased was getting monthly salary of Rs.5,435/- which included Rs.3,660/- as basic pay and Rs.1,171/- as dearness allowance. Learned Tribunal after deducting the allowances, assessed his monthly income to be Rs.4,831/-. However, none of these allowances could have been deducted as they were part of his salary and Tribunal has thus wrongly assessed his monthly income to be Rs.4,831/-. Learned counsel next contended that no future prospects have been added and 30% of the amount should have been added to the monthly income of the deceased towards future prospects as he was 45 years of age. Learned counsel further contended that deceased has left behind 5 dependents and after deducting 1/4th of the income towards personal expenses, multiplier of 14 ought to have been applied to the loss of dependency. Likewise, no compensation has been awarded under conventional heads i.e. 'loss of consortium' and 'loss of estate'. Learned counsel next contended that the accident in question had taken place on 8.4.1999 and claim petition was instituted on 24.4.1999 without any delay on the part of the claimants. The Tribunal while awarding the compensation has denied payment of interest to the claimants and has observed that in case the respondents fail to pay the compensation amount within a period of two months, the claimants shall be entitled to receive interest @ 12% per annum from the date of the award till realisation. However, no cogent reasons have been assigned while refusing to pay the compensation along with interest and claimants are also entitled to interest on the afore-said amount of Rs.1,30,000/- which was awarded by the Tribunal and he prayed that compensation be duly enhanced and appeal be accepted. In support of



his arguments, 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**, (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur**.

12. On the other hand, learned counsel for the respondents argued that the award in question is well-reasoned and justified and the same does not call for any interference. Learned counsel next contended that adequate compensation has been assessed by the Tribunal and no interference in the same is called for and appeal in hand is liable to be dismissed.

13. In order to prove rash and negligent driving on the part of respondent No.1, the claimants have examined PW1 – Malkiat Singh who had witnessed the accident. He deposed that his brother Jagjit Singh was employed as a Sewadar in Municipal Committee, Bathinda. On 08.04.1999, at about 08.00 AM, he along with his brother Jagjit Singh was going to Nathana. Jagjit Singh was driving his Moped bearing registration No.PB-03C-9076 and was going ahead of him while he was following him on his scooter. When they reached in the area of Village Poohli. the offending vehicle bearing No.PBA-4545, came from the opposite side which was being driven by respondent No.1 rashly and negligently and he hit the car against the Moped of his brother who suffered injuries. One Jeep came there which was stopped and he took his brother to Civil Hospital, Bathinda where he died. He deposed that police had recorded his statement on the basis of which formal FIR was registered.



14. Nothing to shatter his veracity could be elicited during his cross-examination and his stand has remained consistent throughout. A perusal of FIR Ex.P2 also shows that similar facts have been mentioned in the FIR as have been deposed by PW1. The FIR was also promptly lodged and there is thus no possibility of false implication of the offending vehicle.

15. On the other hand, respondent No.1 has not stepped into the witness box to state his case on oath that the accident in question had not taken place on account of rash and negligent driving on his part. It is well settled that if a party does not step into the witness box to state his case on oath and does not offer himself for cross-examination, an adverse inference has to be drawn against him that the case set up by him is not true. Respondent No.1 was also challaned by the police and he had faced the trial for causing death of Jagjit Singh and as such, it can be presumed that accident in question had taken place on account of his rash and negligent driving.

16. As per post mortem report Ex.PB, there was old amputation of left hand from wrist joint in the left hand of the deceased. PW3- Subhash Chand who is an employee of Municipal Council, Bathinda has also admitted that deceased was a handicap person and was not having his left hand. As such, it is established that the left hand of the deceased had been amputated and he thus could not have driven a two wheeler. However, from the evidence on file, it is to be seen whether deceased had contributed to the accident or not. The Tribunal has held him liable for the accident to the extent of 70% but from the evidence on file, it is established that the car in question came from the opposite direction and hit the Moped and thereafter, it had turned turtle which gives rise to an inference that the car was being driven at a high speed and in a rash and negligent manner. The deceased



thus could not have been held liable for having caused the accident to the extent of 70% and at the most, both the deceased as well as respondent No.1 were equally responsible for the accident and deduction to the extent of 50% only should have been made instead of 70%. Finding on issue No.2 is accordingly modified to that effect.

17. As per version of claimants, deceased namely Jagjit Singh was working as a Sewadar with Municipal Council, Bathinda and used to earn Rs.5,100/- per month. Besides this, he used to earn Rs.4,000/- per month by sale of milk and Rs.1,000/- per month on account of supervision of the land. To prove the income, claimants have examined PW3 Subhash Chand, who has led in evidence the salary certificate Ex.P1 and deposed that deceased was getting monthly salary of Rs.5,435/- which included Rs.3,660/- as basic pay and Rs.1,171/- as dearness allowance. Learned Tribunal after deducting the allowances, assessed his monthly income to be Rs.4,831/-. However, the break-up of the salary of the deceased is as under:-

Basic Pay	:	Rs.3,660/-
DA	:	Rs.1,171/-
House Rent	:	Rs.274/-
Medical Allowance:		Rs.250/-
Bicycle Allowance:		Rs.50/-
Washing Allowance:		Rs.30/-

18. However, none of these allowances could have been deducted as they were part of his salary and Tribunal has thus wrongly taken into consideration his monthly income to be Rs.4,831/-. Resultantly, the income of the deceased is taken as Rs.5,435/- per month as mentioned in salary certificate Ex.P.1.



19. The claimants have alleged that deceased used to earn Rs.4,000/- per month by sale of milk and Rs.1,000/- per month on account of supervision of the land. However, no cogent and convincing evidence has been led in this regard to establish that he was running any milk dairy or selling milk. No revenue record has also been led in evidence to establish that he owned some land and the bald and self serving statement of claimant namely PW2 Surjit Kaur thus cannot be believed in this regard. Accordingly, income of the deceased is taken as **Rs.5,435/- per month.**

20. However no future prospects have been added to the monthly income of the deceased. Deceased was 45 years of age and was in government job and as such, 30% 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.7,065.50 per month (Rs.5,435/- + Rs.1,630.50) rounded off to Rs.7,100/-**

21. The petition in hand has been instituted by wife and four children of the deceased. Accordingly, it is held that deceased has left behind 5 dependents and $\frac{1}{4}^{\text{rd}}$ of the income thus has to be deducted towards personal and living expenses. After deducting, a sum of Rs.1,775/- towards personal expenses, the monthly loss of dependency comes out to **Rs.5,325/- (Rs.7,100/- - Rs.1,775/-)** and the annual loss of dependency comes out to **Rs.63,900/- per annum (Rs.5,325/- X 12).**

22. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 14 has to be applied as deceased was 45 years of age and after applying the same, the compensation comes to **Rs.8,94,600/- (Rs.63,900/- X 14).**



23. 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 daughters and son of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of ‘**loss of parental 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.11,24,600/-**. After deducting 50% of amount towards contributory negligence, compensation payable to claimants comes out to **Rs.5,62,300/-**

24. 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.5,435/- per month
2.	Age of deceased	45 years
3.	Future prospects @ 30%	Rs.1630.5
4.	Total income	Rs.7,065.5 per month rounded off to Rs.7,100/-
5.	Number of dependents	5
6.	Deduction towards personal expenses of the deceased (1/4th)	Rs.1,775/-
7.	Annual loss of dependency	Rs.63,900/- (Rs.5,325/- X 12)
8.	Multiplier	14
9.	Compensation on account of Loss of dependency	Rs.8,94,600/-
10.	Compensation under conventional heads	Rs.70,000/-
11.	Consortium to children of deceased	Rs.1,60,000/- (Rs.40,000/- each)



	Total Compensation	Rs.11,24,600
	After deduction of 50% for contributory negligence	Rs.5,62,300/-
	Interest	9%

25. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.5,62,300/-** as compensation. The enhanced compensation thus comes out to **Rs.4,32,300/- (Rs.5,62,300/- - Rs.1,30,000/-)** over and above the compensation awarded by the Tribunal payable alongwith interest at the rate of 9% per annum from the date of filing of claim petition i.e. 6.9.2000, till realization payable by respondents No. 1, 2-A and 3, jointly and severally. Out of the enhanced compensation, a sum of Rs.2,32,300/- be paid to the wife and Rs.50,000/ each be paid to children of the deceased along with proportionate interest.

26. No cogent reasons have also been recorded by the learned Tribunal while denying payment of interest on the compensation of Rs.1,30,000/- and it is held that claimants are also held entitled to interest @ 9% per annum on the compensation amount of Rs.1,30,000/- from the date of filing of claim petition till the date when the said amount was paid to the claimants. In case, there was delay in making payment on the part of the respondents and interest @ 12% has been paid as per award passed by the Tribunal, the claimants shall not be entitled to the interest as ordered above on the compensation amount of Rs.1,30,000/-.

27. 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.

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

(Yashvir Singh Rathor)
Judge

March 25, 2026
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No