



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

201

**FAO-4008-2003 (O&M)
Date of decision: 20.04.2026**

SMT. SANTOSH AND OTHERS

....Appellants

VERSUS

HAR CHAND SINGH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Himanshu Arora, Advocate and
Mr. Vijay Sheoran, Advocate
for the applicants/appellants.

Mr. Jasbir Singh, Advocate for
for respondent No.1.

Mr. Vinod Gupta, Advocate
for respondent No.2-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

CM-6485-CII-2019 & CM-6486-CII-2019

1. The application (CM-6485-CII-2019) for restoration of the appeal has been moved with the averments that the appeal in hand was dismissed-in-default vide order dated 01.04.2014. Infact, a fire incident had taken place in the High Court Registry on 31.01.2011, where the files of MACT were burnt in the Registry and this fact is a part of the order dated 01.04.2014. It is further submitted that the counsel representing the appellants had been elevated to the Bench of this Court



and subsequently, on making inquiry, the applicant came to know that the file was lying in the RKG branch, Sector 17, Chandigarh and had been dismissed-in-default for non-prosecution. It is submitted that the applicants-appellants are poor persons and are legal heirs of late Sandeep, who unfortunately died in the accident in the year 1997. They should not be deprived of the right of compensation due to the burning of the record and non-communication to the applicants. The delay in filing the application has also occurred which is *bona fide* and unintentional and a prayer has been made for restoration of the appeal.

2. Alongwith the application, an application (CM-6486-CII-2019) under Section 5 of the Limitation Act for condonation of delay of 1779 days in filing the application for restoration has been moved, submitting that they had no knowledge that the appeal has been dismissed-in-default.

3. The counsel, who had instituted the appeal on behalf of the applicants, had been elevated to the Bench of this Court. A fire incident had taken place in the Registry of the High Court, in which many files relating to appeals filed against the awards passed by the Motor Accident Claims Tribunal were burnt. The applicants had no knowledge that the appeal has been dismissed in default on 01.04.2014 and this fact came to their knowledge only when they inspected the record in the RKG branch, Sector 17, Chandigarh. The application is supported by an affidavit of the applicant, namely Santosh, and there is, thus, no reason to discard their version, as the contents of the application and the affidavit have gone uncontroverted.

4. For the reasons mentioned in the applications, the same are allowed



and delay of 1779 days in filing the application for restoration of FAO-4008-2003 is hereby condoned. Order dated 01.04.2014 is recalled the main appeal is directed to be restored to its original number.

5. The applications bearing CM-6485-CII-2019 and CM-6486-CII-2019 stand disposed of.

FAO-4008-2003

6. This appeal has been instituted against the Award dated 06.03.2003 for enhancement of compensation awarded in MACT case No.139 of 24.07.2000 decided by the MACT, Gurgaon (**for short “Tribunal”**) in a petition under Section 166 of Motor Vehicles Act, 1988 (**for short “Act”**) vide which a sum of Rs.4,50,000/- has been awarded as compensation to the claimants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Sandeep Kumar in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.1, owner-cum-driver, while driving offending truck No.PB-12-A-4539 (**for short ‘offending vehicle’**), which was insured with respondent No.2.

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

- “1. Whether death of Sandeep was caused due to rash and negligent driving of vehicle no.PB-12A-4539 driven by respondent No.1, as alleged? OPP*
- 2. If issue no.1 is proved to what amount the petitioners, are entitled as compensation and from which of the respondents? OPP*
- 3. Whether respondent no.1 namely Har Chand did not possess a*



valid and effective licence on the date of accident. If so to what effect? OPR

4. *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.4,50,000/- as compensation to the claimants, on account of death of Sandeep Kumar along with interest @ 9% per annum from the date of filing of claim petition till realization.

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

11. 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-owner-cum-driver while driving the offending vehicle, which was insured with respondent No.2 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.

12. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.4,50,000/- has been awarded is based on conjectures and surmises and is liable to be modified and enhanced amount of compensation should be awarded. Learned counsel contended that compensation awarded to the claimants 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 25 years of age and multiplier of 15 has been applied whereas multiplier of 18 should have been applied. No compensation has been awarded under conventional heads i.e. loss of consortium, loss of estate and funeral expenses and he prayed that same be suitably enhanced. In support of his contentions, 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**.

13. On the other hand, learned counsel for respondents argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for and appeal in hand be dismissed.

14. 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.

15. Claimant Santosh, while appearing as PW1 deposed that her husband was employed under one Sant Kumar Chaudhary and was getting Rs.5,000/- per month as salary besides Rs.50/- as D.A. To prove the income of the deceased, claimants have also examined said Sant Kumar Chaudhary as PW4, who has proved the salary certificate Ex.P4. However, the Tribunal has not relied upon the evidence led by the claimants including testimony of PW4 as no cogent and convincing evidence was led to prove the alleged employment and the salary of the deceased as no corresponding record was produced to prove this fact. The accident had taken place in the year 1997 and had he been earning more than Rs.5,000/- per month, he must have been paying income tax but no income tax returns were filed and learned Tribunal thus rightly discarded the evidence led by the claimants. However, Tribunal assessed his income to be Rs.3,000/- per month which is reasonable and there is no reason to take a contrary view. Accordingly, income of deceased is taken as **Rs.3,000/-** per month.

16. Deceased was 25 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 in **Pranay Sethi's case (supra)**, which takes his income to **Rs.4,200/-** per month (**Rs.3,000/- +Rs.1200/-**).

17. Deceased has left behind three dependents including his wife, minor son and minor daughter. Accordingly, 1/3rd of the income has to be deducted towards personal and living expenses as per law laid down in **Sarla Verma's case (supra)** and after deducting the same, the monthly loss of dependency comes out to Rs.2,800/- and the annual loss of dependency comes out to **Rs.33,600/- (Rs.2,800/- X 12)**.

18. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 25 years of age and after applying the same, the total loss of dependency comes out to **Rs.6,04,800/- (Rs.33,600/- X 18)**.

19. 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 and 3, who are son and daughter of the 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.7,54,800/- (Rs.6,04,800/- + Rs.1,50,000/-)**.

20. 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.3000/- per month
2.	Age of deceased	25 years
3.	Future prospects @ 40%	Rs.1200/-
4.	Total income	Rs.4,200/-per month
5.	Number of dependents	3
6.	Deduction towards personal expenses of the deceased (1/3rd)	Rs.1400/-
7.	Annual loss of dependency	Rs.33,600/- (Rs.2,800/- X 12).
8.	Multiplier	18
9.	Compensation on account of Loss of dependency	Rs.6,04,800/- (Rs.33,600/- X 18).
10.	Compensation under conventional heads to claimant No.1- wife	Rs.70,000/-
11.	Compensation to remaining claimants for loss of parental consortium (son and daughter)	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation	Rs.7,54,800/-
	Interest	9%

21. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.7,54,800/-** as compensation. The enhanced compensation thus comes out to **Rs.3,04,800/- (Rs.7,54,800/- - Rs.4,50,000/-) (rounded off to Rs.3,05,000/-)** 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. 24.07.2000, till realization payable by respondents, jointly and severally. Out of the enhanced compensation, a sum of Rs.75,000/- each along with proportionate interest be paid to claimants No.2 and 3 (son and daughter) while balance amount be paid to claimant No.1 (wife) along



with proportionate interest.

22. 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.

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

20.04.2026
Priyanka Thakur

(YASHVIR SINGH RATHOR)
JUDGE

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