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

Date of decision: 17.04.2026

1. FAO-2030-2002

PHUL KUMAR

..... Appellant

Versus

MAHABIR AND OTHERS

..... Respondents

2. FAO-2099-2002

MEWA DEVI AND OTHERS

....Appellants

Versus

MAHABIR AND OTHERS

...Respondents

3. FAO-2031-2002

RAMESH KUMAR

..... Appellant

Versus

MAHABIR AND OTHERS

..... Respondents

4. FAO-2156-2002

LAKHMI AND OTHERS

.....Appellants

Versus

MAHABIR AND OTHERS

..... Respondents

1.	Judgment reserved on	10.02.2026
2.	Judgment pronounced on	17.04.2026
3.	Judgment uploaded on	17.04.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Nil

CORAM : HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by: Mr. Sandeep Kotla, Advocate
for the appellant (in FAO-2030-2002, FAO-2031-2002 & FAO-2156-2002).

Mr. K.S. Dhaonra, Advocate and
Ms. Kritika Mandhan, Advocate
for the appellant (in FAO-2099-2002).

Mr. Praveen Kumar, DAG Haryana
for respondents No.2 and 3.

Mr. Vinod Gupta, Advocate
for respondent-National Insurance Company.

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<u>YASHVIR SINGH RATHOR. J.(Oral)</u>

1. The record of the present case was destroyed in a fire incident in the High Court. Learned counsel for the appellants/claimants has placed on record copies of the grounds of appeal, memo of parties, copy of judgment passed by MACT, Hisar, and photocopy of certified copies of evidence, which are taken on record. Registry is directed to tag the same at an appropriate place on the record.

2. The aforesaid four appeals have been instituted against the Award dated 09.10.2001 passed by Motor Accident Claims Tribunal, Hisar (**for short "Tribunal"**) in the petitions under Section 166 of Motor Vehicles Act, 1988, filed by the appellants seeking enhancement of compensation on account of death of Hawa Singh and Kurda Ram, injuries suffered by Ramesh Kumar and damage to the Jeep of Phul Kumar in a motor vehicular accident due to the rash and negligent driving on the part of respondent No.1-Mahabir, while driving the offending Bus No.HR-39-0916 (**hereinafter referred to as offending vehicle**), owned by respondents No.2 and 3 and insured with respondent No.4-National Insurance Company Ltd.

3. Claim petition No.16-MACT of 1999 in **FAO-2030-2002**, titled 'Phul Kumar Vs. Mahabir and others', was instituted by claimant/owner-Phul Kumar on account of damage caused to the Jeep bearing No.HR-39-5337 in the aforesaid accident.

4. Claim petition No.66-MACT of 1999 in **FAO-2099-2002**, titled 'Mewa Devi and others Vs. Mahabir and others', was instituted by wife, children and father for grant of compensation on account of death of Hawa Singh.

5. Claim petition No.80-MACT of 1999 in **FAO-2031-2002**, titled 'Ramesh Kumar Vs. Mahabir and others', was instituted by claimant Ramesh Kumar, for grant of compensation on account of injuries suffered by him in the aforesaid accident.

6. Claim petition No.95-MACT of 1999 in **FAO-2156-2002**, titled

'Lakhmi and others Vs. Mahabir and others', was instituted by sons of deceased Kurda Ram for grant of compensation on account of death of their father in the aforesaid accident.

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

> *1. Whether the accident in question had taken place due to rash and negligent driving of bus No.HR-39-0916 by respondent no.1 Mahabir? OPP*
>
> *2. Whether the accident had occurred due to the negligence of Mahabir Singh, respondent No.1 driver of bus No.HR-39-0916 or Devi Lal (since deceased) drive of Jeep No.HR-39-5337 or by their contributory negligence? OPR*
>
> *3. Whether Smt. Mewa Devi and others (MACT No.66/8.10.1999) are entitled to any compensation on account of death of Hawa Singh, if so, how much and from whom? OPP.*
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> ....
>
> *5. Whether Phool Kumar (MACT No.16 of 2000) is entitled to any compensation on account of damage of his vehicle No.HR-39/5337 if so how much and from whom? OPP*
>
> ....
>
> *7. Whether Ramesh Kumar (MACT No.80 of 1999) is entitled to any compensation on account of his injuries, if so, how much and from whom? OPP*
>
> ....
>
> *9. Whether Lakhmi and others (MACT case No.96 of 1999)*

are entitled to any compensation on account of death of their father Kurda Ram, if so, how much and from whom? OPP

10. *Whether the Insurance Company is liable to make the payment of compensation if awarded or not? OPR*
11. *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.50,000/- as compensation to claimant Phul Kumar on account of damage to Jeep bearing No.HR-39-5337, Rs.2,40,000/- on account of death of Hawa Singh, Rs.1,50,000/- on account of injuries suffered by Ramesh Kumar and Rs.50,000/- for the death of Kurda Ram under 'no fault liability' along with interest @ 9% per annum from the date of filing of the claim petitions till realization payable by respondents No.1 to 4, jointly and severally.

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

11. The only issue required to be determined in the present appeals 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 had occurred due to the rash and negligent driving on the part of respondent No.1, while driving the offending vehicle, owned by respondents No.2 and 3 and insured with respondent No.4. 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 in **FAO-2030-2002** argued that evidence with regard to the expenses incurred on repair of jeep has been ignored without any cogent reasons and the award, in question, is based on conjectures and surmises. The jeep had suffered extensive damage as the offending vehicle/bus had struck it with great force and its body was completely damaged. Only a sum of Rs.50,000/- has been awarded as compensation, whereas a sum of more than Rs.1,00,000/- was spent on its repairs and he prayed that enhanced amount of compensation be awarded.

13. Learned counsel for the claimants in **FAO-2099-2002** argued that impugned award vide which compensation 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 further contended that the income of the deceased has been assessed on the lower side. Future prospects have also not been added to the monthly income of the deceased, contrary to the settled provisions of law. No appropriate compensation has been awarded under the conventional heads, i.e. loss of consortium, loss of estate, and funeral expenses and he prayed that compensation be suitably enhanced.

14. Learned counsel for the claimant in **FAO-2031-2002** argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation which is grossly inadequate.

Learned counsel further argued that lump sum amount of Rs.1,50,000/- has been awarded by the Tribunal and compensation has not been awarded under the pecuniary and non-pecuniary heads as per settled law and the impugned award is thus liable to be modified and enhanced amount of compensation be awarded.

15. Learned counsel for the claimants in **FAO-2156-2002** argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation and awarded compensation of Rs.50,000/- on account of ‘no fault liability’, which is grossly inadequate. The finding of the Tribunal that the appellants are not entitled to compensation merely because they are major sons is legally unsustainable. Hon’ble Supreme Court in 2020 (1) RCR (Civil) 694, **National Insurance Company Limited Versus Birender and Others** has held that all legal representatives, including major and earning children, are entitled to maintain a claim petition and seek compensation. Therefore, the appellants could not have been denied just compensation on this ground and learned counsel prayed that enhanced amount of compensation be awarded.

16. In support of his contentions, learned counsel for the appellants has also 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** and (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur.**

17. On the other hand, learned counsel for respondents argued that adequate compensation has been awarded by the learned Tribunal with well reasoned justification in all the petitions and no interference in the said awards is called for and appeals in hand be dismissed.

COMPENSATION IN FAO-2030-2002, PHUL KUMAR AND OTHER VS. MAHABIR SINGH AND OTHERS, ARISING OUT OF PETITOIN NO.16-MACT OF 1999:-

18. The present claim petition was instituted by Phul Kumar, owner of the jeep No.HR-39-5337, which was damaged in the accident in question. Claimant while appearing as PW13, deposed that he is the owner of above said jeep as per Registration Certificate Ex.P58. The jeep was completely damaged in the present accident. He had spent Rs.35,000/- on its repair which was paid to the mechanic and spare parts worth Rs.65,000/- were purchased. To prove this fact, claimant has also examined PW14 Bhoop Singh (Mechanic), who deposed that he repaired the jeep in question and total expenses incurred by claimant were around Rs.65,000/- and he proved the bill Ex.P66, whereby he had charged Rs.58,000/- as repair charges. The Tribunal has observed that the mechanical examination report Ex.P59 prepared by the police after the accident and the photographs clicked by the police Ex.P74 to Ex.P83 of the damaged jeep further show that jeep was badly damaged in the accident. As per version of claimant, he had spent Rs.1,05,384/- as established from bills Ex.P84 to Ex.P93. However, the Tribunal did not rely upon the bills Ex.P84 to Ex.P93 and observed that such bills can be easily procured and they have not been legally proved. While relying upon the photographs Ex.P74 to

Ex.P83 and report of the mechanic, Tribunal awarded a lump sum compensation of Rs.50,000/- on account of damage to the jeep. However, claimant is a rustic person and he does not know the intricacies of law and he got the vehicle repaired from a local/private mechanic. The jeep was badly damaged as also held by the Tribunal and the oral testimony of the claimant thus should not have been discarded in toto. Such bills are handed over by the local mechanics in the market who do not maintain proper records as well and in these circumstances, some amount of guesswork thus has to be applied while assessing the compensation on account of damage to the jeep. Thus, it can be assumed that the claimant must have spent about Rs.75,000/- on the repair of the jeep and the compensation is accordingly enhanced to **Rs.75,000/-** as against Rs.50,000/- awarded by the Tribunal.

19. The enhanced compensation thus comes out to **Rs.25,000/- (Rs.75,000/- – Rs.50,000/-).**

COMPENSATION IN FAO-2099-2002, MEWA DEVI AND OTHERS VERSUS MAHABIR SINGH AND OTHERS, ARISING OUT OF PETITION NO.66-MACT OF 1999 :-

20. As per version of claimant, deceased was an electrician, who was earning Rs.5,000/- per month. He also owned agricultural land measuring 19 kanals, which was managed by him and in all, he used to earn Rs.8,000/- per month. He was 39 years of age and the claimants who are the wife, three children and father were dependent upon him and they are entitled to compensation.

21. The post-mortem report of the deceased has been led in evidence as

Ex.P4, which has been proved by PW3 Dr. R.P. Singhal, in which the age of the deceased is mentioned as 65 years but claimant Mewa Devi while appearing as PW16 alleged his age to be 39 years. The photographs of the dead body of deceased Hawa Singh were also clicked by the police which have been tendered in evidence as Ex.P56 and Ex.P57. Statement of son of deceased, namely, Satbir Singh under Section 161 Cr.P.C. Ex.217 was also recorded in which he mentioned the age of his father to be 60-61 years. Learned Tribunal after seeing the photographs Ex.P56 and Ex.P57 came to the conclusion that deceased was not a young man of 39 years of age and he appeared to be old. Ration Card Ex.P220 and Identity Card issued by the Election Commission of India Ex.P221 were also led in evidence. In the Voter Card issued by the Election Commission of India, age of the deceased was mentioned as 46 years as on 01.01.1994 and in the Ration Card, his age is shown as 51 years which was prepared in the year 1999 and Tribunal while relying upon the Voter Card issued by the Election Commission of India and Ration Card held the age of the deceased to be 51 years on the date of his death. As such, no Birth Certificate had been led in evidence. The age mentioned in the post-mortem report too cannot be relied upon as his dead body remained unclaimed for 3-4 days and was cremated by the police and the age must have been mentioned by someone by approximation in the post-mortem report which has rightly been discarded by the learned Tribunal. Accordingly, there is no reason to take a contrary view and it is held that deceased was 51 years of age on the date of accident.

22. Claimant-Mewa Devi stated that deceased used to earn Rs.8,000/- per

month. He used to get Rs.5,000/- per month by working as an Electrician at the shop of PW19 Kanwar Singh and Rs.3,000/- from his agricultural land. PW19 Kanwar Singh has also been examined, who deposed that deceased used to work as an electrician at his shop and he used to pay him Rs.5,000/- per month. The assertion of the claimants and the evidence led by them that deceased was an electrician has not been controverted and it can thus be safely assumed that deceased was an electrician by profession. The accident had taken place on 23.08.1999. Hon'ble Supreme Court in Civil Appeal No.6152 of 2021 - **Chandra alias Chander alias Chanda Ram and another Vs. Mukesh Kumar Yadav**, decided vide judgment dated 01.10.2021 has held that merely because claimants are unable to produce documentary evidence to show the monthly income of the deceased is not a ground to discard the oral evidence. Hon’ble Supreme Court while deciding Civil Appeal No.15021 of 2024 titled **Karamjit Singh Vs. Amandeep Singh and another** vide judgment dated 17.12.2024 has held that a carpenter has to be treated as a skilled person and it will be unfair to classify a carpenter as an unskilled worker. Hon’ble Supreme Court in 2019 (5) RCR (Civil) 884, **Chameli Devi and others Vs. Jivrali Mian and others**, has assessed the monthly income of a carpenter to be Rs.5000/- per month in the year 2001 and it was further held that in such cases where deceased is engaged in such type of profession, claimants can only lead oral evidence.

23. In the present case, the accident had taken place in the year 1999 and it can be assumed that the claimant must be earning at least Rs.3,500/- per month while working as an electrician. Learned Tribunal has thus gravely erred while

assessing his monthly income to be Rs.2,500/- per month only, which is on lower side. Accordingly, income of deceased is taken as **Rs.3,500/-** per month from his avocation as an electrician.

24. In addition to this, deceased also owned 19 kanals of land as is established from jamabandis Ex.P222 and Ex.P223 and he must have been managing the same and as such, some amount has to be added to his monthly income towards his managerial skills in managing the land. Hon'ble Supreme Court in 2015(1) RCR (Civil) 625- **Smt. Neeta W/o Kallappa Kadolkar & Ors. vs The Divisional Manager, MSRTC, Kolhapur**, has held that if a person was in agricultural occupation, the monthly income can be assessed at Rs.12,000/- per month i.e. beyond the minimum wages prevalent at the time of his death. The afore-said judgment has been followed by a Co-ordinate Bench of this Court in FAO No.931 of 2021 Shri Ram General Insurance Co. Ltd. Vs. Santosh Devi decided vide judgment dated 28.07.2022 The accident in **Smt. Neeta's case (supra)**, had taken place on 22.3.2011 and judgment was rendered on 13.01.2015. The minimum wages prevalent during those days were Rs.10,243/- and around Rs.2,000/- was added towards managerial skills for managing the land. Hon'ble Supreme Court in 2022 Livelaw (SC) 816- **K. Ramya and others Vs. National Insurance Co. Ltd. & Anr.**, while determining dependency on account of income from agricultural land has held that loss of dependency in such case has to be determined on the basis of loss of management capacity or efficiency. It was held that as a rule of prudence, computation of any individual's managerial skills should lie between 10% to 15% of the total agricultural income but the acceptable

range can be increased in the light of specific circumstances and in this case, a sum of Rs.2,50,000/- per annum was assessed as income on account of loss of managerial skills and future prospects were also applied

25. In the present case, deceased owned two and a half acres of land which he was managing himself besides working as an electrician. He was 51 years of age and has left behind wife, three children and aged father. It can be assumed that he must be earning at least Rs.60,000/- per annum from two and a half acres of land owned by him. As such, around 15% of the total annual income has to be taken into consideration towards his managerial skills. As an electrician, he was earning **Rs.42,000/- per annum (Rs.3,500/- X 12)** and by adding **Rs.9,000/- (Rs.60,000/- X 15%)** towards managerial skills, his **annual income** comes to **Rs.51,000/- (Rs.42,000/- + Rs.9,000/-)**.

26. The accident had taken place in the year 1999 and he was below 51 years of age. He was an electrician and self-employed person and as such, **10%** amount has to be added to his annual income towards future prospects in view of law laid down in **Pranay Sethi's case (supra)** and after adding the same, the **annual income** comes out to **Rs.56,100/- (Rs.51,000/- + Rs.5,100/-)**.

27. The petition in hand has been instituted by father, wife and three children of the deceased. Deceased himself was 51 years of age and his father must be around 74-75 years of age and he has to be treated as dependent upon his son. Accordingly, it is held that deceased has left behind 5 dependents. The Tribunal has deducted one third of the income towards personal expenses but 1/4rd of the income has to be deducted towards personal and living expenses in view of

law laid down in **Sarla Verma's case (supra)** and after deducting the same, the **annual loss of dependency** comes out to **Rs.42,075/- (Rs.56,100/- - Rs.14,025/-)**.

28. Since deceased was 51 years of age, multiplier of 11 has to be applied as per guidelines laid down in **Sarla Verma's case (supra)** and after applying the same, the compensation on account of **annual loss of dependency** comes out to **Rs.4,62,825/- (Rs.42,075/- X 11)**.

29. In addition to this, claimant No.1-wife 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, claimants No.2 to 5 who are minor children and father of deceased are also entitled to a sum of **Rs.40,000/- each** on account of '**loss of parental & filial 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.6,92,825/- (Rounded to Rs.6,93,000/-).**

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

S.No.	**Under Head**	**Compensation awarded by the High Court (in Rs.)**
1.	Annual income of deceased	51,000/-
2.	Age of deceased	51
3.	Future prospects @ 10%	56,100
4.	Number of dependents	5

5.	Deduction towards personal expenses of the deceased (1/4th)	14,025
6.	Annual loss of dependency	42,075
7.	Multiplier	11
8.	Compensation on account of Loss of dependency	4,62,825
9.	Compensation under conventional heads to wife	Rs.70,000/- (wife)
10.	Compensation under parental and filial consortium	Rs.1,60,000/- (Rs.40,000/- each to minor children and father of deceased)
	Total Compensation	**6,92,825 (rounded off to Rs.6,93,000)**
	Interest	**9%**

31. Accordingly, enhanced compensation payable to claimants comes to **Rs.4,53,000/- (Rs.6,93,000/- - Rs.2,40,000/-)**.

COMPENSATION IN FAO-2031-2002, RAMESH KUMAR VERSUS MAHABIR SINGH AND OTHERS, ARISING OUT OF PETITION NO.80-MACT OF 1999 :-

32. As per version of claimant, he had suffered multiple grievous injuries as well as permanent disability in the accident in question.

33. To prove the injuries, claimant has examined PW1 Dr. V.K. Kawatra, who had medico-legally examined him at Government Hospital, Hisar. PW1 found the following injuries on the person of the injured Ramesh Kumar:-

> *1. There was a lacerated wound 3 cm X 0.5 cm. bone deep on the right side of the scalp. Fresh bleeding was present. This injury was subjected to X-ray skull and for surgeon's opinion.*

2. *There Was a lacerated wound 1d/2 X 0.3 cm. on the right side of the cheek. Injury was subjected to x-ray examination.*
3. *There was a diffused swelling on the side of the mandible. This injury was subjected to x-ray examination and for dental surgeon's opinion.*
4. *There was a skin loss on the palmer aspect of the distal phalanx of right index finger. The bone was exposed. Injury was subjected for x-ray of right index finger.*
5. *There was a lacerated wound on the distal phalynx of the right finger. The injury was subjected for x-ray of right hand.*

34. He tendered the MLR Ex.P2 and when he was examined by the doctor and MLR was conducted his age was mentioned as 22 years of age as recorded by the doctor. He further deposed that Ramesh Kumar left the Government Hospital, Hisar and went to Holy Hospital, Hisar where he was treated by PW4 Dr. N.K. Mehta, PW5 Dr. Subhash Mittal and PW6 Dr. Ajay Kumar Singh.

35. PW4 Dr. N.K. Mehta deposed that the patient had suffered blunt injury in his abdomen i.e. on the spleen and pancreas. Reteroperitoneal haematoma-laparotomy operation was performed. He was also having fracture mandible, for which surgery was done. He had also left sided injury of chest including lung for which he was put on ventilator support upto 28.08.1999 i.e. for five day. For mandible fracture, PW5 Dr. Subhash Mittal performed the surgery and he deposed that tracheostomy was done under local anesthesia and on 24.08.1999, the repair of the fractures of the mandible was done with intra dental

wiring and intra maxillary fixation. He tendered the discharge slip Ex.P53.

36. PW6 Dr. Ajay Kumar Singh had examined patient Ramesh Kumar due to respiratory failure and the medical bills Ex.P5 to Ex.P52 amounting to Rs.79,270/- have been proved by PW4 Dr. N.K. Mehta.

37. Claimant while appearing as PW7 deposed that he had suffered multiple injuries in the accident and a sum of Rs.2,50,000/- was spent on his treatment which includes expenses incurred on special diet and transportation. He deposed that he was an employee in Indovex Company, Shishwala and used to get a salary of Rs.2,000/- per month. He also used to cultivate the land which had been taken on lease and from that he used to earn Rs.8,000/- per month and now, he has suffered disability to the extent of 55%.

38. To prove the disability suffered by claimant, he has examined PW2 Dr. Joginder, Civil Hospital, Hisar, who was the member of the Board of Doctors, and assessed the disability suffered by the claimant. He deposed that claimant has suffered permanent disability to the extent of 55% on account of post traumatic deformity and he tendered the disability certificate Ex.P3.

39. However, learned Tribunal gravely erred in awarding lump sum compensation of Rs.1,50,000/-, whereas as per settled position of law, the compensation should have been assessed for various pecuniary and non-pecuniary heads in view of law laid down by Hon’ble Supreme Court in 2011 ACJ 1, **Raj Kumar Vs. Ajay Kumar and another**. As already discussed above, claimant has suffered 55% permanent disability on account of post traumatic deformity as per certificate Ex.P3. This disability will remain throughout his life and it will

certainly diminish his earning capabilities and the avocation or profession he will pursue. The compensation under the head 'loss of income' thus has to be assessed keeping in view the percentage by which his earning capability has diminished and by applying a suitable multiplier in view of law laid down by Hon'ble Supreme Court in 2010(4) PLR 242 **Yadava Kumar Vs. The Divisional Manager, National Insurance Company Limited**.

40. Besides this, Hon'ble Supreme Court in 2013 (3) RCR (Civil) 934 - **G.Ravindranath @ R. Chowdary Vs. E. Srinivas and another**, has held that in a case of accident resulting in injuries to the victim, the compensation in personal injury cases should be determined under the following heads:-

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing expenditure. food and miscellaneous

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded under heads (i), (ii) (a) and (iv) It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

41. As alredy discussed, it is established that claimant had suffered multiple fractures and he was operated upon. He suffered injuries in his spleen and pancreas and reteroperitoneal haematoma-laparotomy operation was performed. He also suffered fracture of mandible for which he was operated upon. He also suffered injuries in the lung for which he remained on ventilator support and tracheostomy was done under local anesthesia. It is a matter of common knowledge that pain component in such injuries is enormous and such injuries take a long time to heal. The Tribunal has not considered the severity of injuries and has not awarded any compensation for 'pain and sufferings' and accordingly, claimant is held entitled to sum of **Rs.50,000/-** as compensation on account of '**pain and sufferings**'.

42. As per version of claimant, he used to earn Rs.2,000/- per month as salary while working with Indovax Company, Shishwala and besides this, he used to earn Rs.8,000/- per month by cultivating land which he used to take on lease. However, no evidence was led on record to establish that he had taken any land on lease and in these circumstances, the oral testimony of the claimant cannot be relied upon as a gospel truth. However, there is no reason to discard the testimony

of claimant that he used to get Rs.2,000/- per month while working with Indovax Company, Shishwala as even, labourers used to earn around Rs.2,100/- per month in the year 1999. Accordingly, the monthly income of deceased is taken as **Rs.2,000/- per month** as pleaded by him.

43. Since, claimant was 22 years of age as stated by the doctor, 40% of amount has to be added to his monthly income towards future prospects in view of law laid down in **Pranay Sethi's case (supra)** and after adding the same, his monthly income comes out to **Rs.2,800/-per month (Rs.2,000/- + Rs.800/-)**.

44. Claimant has suffered permanent disability to the extent of 55% on account of post traumatic deformity and the monthly loss of income will thus come to **Rs.1,540/- (Rs.2,800/- X 55%)** and annual loss of income will come out to **Rs.18,480/- per annum (i.e. Rs.1,540/- X 12)**.

45. 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.3,32,640/- (Rs.18,480/- X 18).**

46. It must have taken at least 4 months for the injuries to heal and during this period, claimant would not have been able to do any work and accordingly, he is held entitled to a sum of **Rs.8,000/- (Rs.2,000/- X 4)** on account of '**loss of income during the period of treatment**'. During this period of 4 months, he must have engaged an **attendant**, spent some amount on **transportation** and on **special diet**. Accordingly, claimant is held entitled to a sum of **Rs.15,000/-** under these heads.

47. The claimant has suffered multiple injuries in his mandible spleen,

pancreas and in the lung for which he remained on ventilator support and tracheostomy was done under local anesthesia. Accordingly, claimant is held entitled to a sum of **Rs.20,000/-** on account of '**loss of amenities**'.

48. Claimant has led in evidence medical bills for Rs.79,270/- proved by PW4 Dr. N.K. Mehta but no compensation has been given for the expenses incurred on treatment. As such, some amount of guesswork has to be applied while assessing the compensation on account of expenses incurred on treatment as all the bills are not generally preserved by the family members and primary concern of the family members/attendants is to take care of the injured. Accordingly, he is held entitled to a sum of **Rs.90,000/-** on account of the **'expenses incurred on treatment'**.

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

S.No.	Under Head	Compensation awarded by the High Court (in Rs.)
1.	Loss of future income/permanent disability	3,32,640/-
2.	Loss of income during treatment for period of four months	8,000/-
3.	Attendant charges, transportation & special diet	15,000/-
4.	Pain and sufferings	50,000/-
5.	Loss of amenities	20,000/-
6.	Medical expenses incurred on treatment	90,000/-

	Total Compensation	**5,15,640/-**
	Interest	**9%**

50. The enhanced compensation thus comes out to **Rs.3,65,640/- (Rs.5,15,640/- – Rs.1,50,000/-),** which is rounded off to **Rs.3,66,000/-.**

COMPENSATION IN FAO-2156-2002, LAKHMI AND OTHERS VERSUS MAHABIR SINGH AND OTHERS, ARISING OUT OF PETITION NO.95-MACT OF 1999 :-

51. As per version of claimants, deceased Kurda Ram, aged 55 years, was their father and their mother had already died. The claimants are major sons of the deceased. Deceased owned 22 acres of land. Learned Tribunal after coming to the conclusion that since the claimants were major and deceased was 70 years of age as per the post-mortem report, they are entitled to compensation of Rs.50,000/- only under 'no fault liability'.

52. However, the Tribunal gravely erred while declining the compensation to the claimants. Deceased has left behind six major children. Hon'ble Supreme Court in **Birender's case (supra)**, has held that legal representatives of the deceased including major, married and earning sons of the deceased being legal representatives have a right to apply for compensation and it will be bounden duty of Tribunal to consider the application irrespective of the fact whether concerned legal representatives were fully dependent upon the deceased and not to limit claim towards conventional heads only. Accordingly, claimants No.1 to 6 are also held entitled to compensation being legal representatives of their father, namely, Kurda Ram.

53. It has been alleged that deceased owned 22 acres of land but no revenue record has been tendered in evidence and as such, self-serving statement of one of the claimant PW28 Roshan Lal cannot be believed.

54. Deceased was 70 years of age. Accident had taken place in the year 1999 and during those days, even the labourers used to earn Rs.2,100/- per month. No evidence regarding the income of the deceased has been led on file and in these circumstances, the monthly income of deceased Kurda Ram is taken as **Rs.2,100/- per month** on the basis of prevalent minimum wages.

55. Deceased has thus left behind six dependents and 1/4th 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.1,575/- (Rs.2,100/- - Rs.525/-)** and the annual loss of dependency comes out to **Rs.18,900/- (Rs.1,575/- X 12).**

56. Since deceased was 70 years of age, multiplier of 5 has to be applied in view of the guidelines laid down in **Sarla Verma's case (supra)**, and after applying the same, the total loss of dependency comes out to **Rs.94,500/- (Rs.18,900/- X 5).**

57. In addition to this, claimant No.1 is held entitled to a sum of **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, claimants No.1 to 6 who are major children of deceased are also 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.3,64,500/-.**

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

Sr. No.	Head of Compensation	Compensation awarded by the High Court (in Rs.)
1.	Monthly Income	2,100
2.	Age of deceased	70
3.	Number of dependents	6
4.	Deduction towards personal expenses of the deceased (1/4th)	1,575
5.	Annual Loss of Dependency	18,900
6.	Multiplier	5
7.	Compensation on account of loss of dependency	94,500
8.	Compensation to claimant No.1 under the head of loss of estate and funeral expenses	30,000/- (15,000/- each)
9.	Compensation under Loss of Parental Consortium	2,40,000/-
	Total Compensation	**3,64,500**
	Interest	**9%**

59. The enhanced compensation thus comes out to **Rs.3,14,500/- (Rs.3,64,500/- – Rs.50,000/-).**

60. As a result of aforesaid discussion, all the aforesaid four appeals are partly accepted with costs.

61. In **FAO-2030-2002**, appellant is held entitled to a sum of **Rs.25,000/-** 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. 28.01.2000 till realization payable by respondents jointly and severally.

62. In **FAO-2099-2002**, appellants are held entitled to a sum of **Rs.4,53,000/-** 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. 08.10.1999 till realization payable by respondents jointly and severally. Out of the enhanced compensation, a sum of Rs.50,000/- each be paid to the children and father of the deceased and remaining amount to be paid to his wife along with proportionate interest.

63. In **FAO-2031-2002**, appellant is held entitled to a sum of **Rs.3,66,000/-** 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. 16.11.1999 till realization payable by respondents jointly and severally.

64. In **FAO-2156-2002**, appellants are held entitled to a sum of **Rs.3,14,500/-** 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. 22.09.1999 till realization payable by respondents jointly and severally, to be shared equally by the appellants.

65. The payments shall be deposited in their bank accounts to be provided by them.

66. 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.

67. A photocopy of this order be placed on the file of the connected cases.

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

(YASHVIR SINGH RATHOR)
JUDGE

17.04.2026
Vishal Vardhan

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