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

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**FAO-5213-2002 (O&M)
Date of decision: 02.07.2026**

SHYAMA DEVI ....Appellant

Versus

AMARJIT SINGH ...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Naveen Jhajolia, Advocate for the appellant.

Mr. V.K. Garg, Advocate for respondent No.3.

YASHVIR SINGH RATHOR. J.(Oral)

1. The record of the present case was destroyed in a fire incident in the High Court Branch. Learned counsel for the appellant/claimant has placed on record copies of the grounds of appeal, memo of parties, and the Award, which are taken on record. The Registry is directed to tag the same at an appropriate place in the record.

2. This appeal has been instituted for enhancement of compensation against the Award dated 03.08.2002 passed in MACT case No.80 of 2001 decided by the MACT, Karnal (**for short "Tribunal"**) in a petition under Section 166 read with Section 140 of Motor Vehicles Act, 1988 vide which a sum of Rs.2,35,200/- has been awarded as compensation to the claimant/appellant along with interest at the rate of 12 % per annum from the date of filing of claim petition till realization on account of death of Vinod Kumar in a motor vehicle accident.

3. From the pleadings of parties, following issues were framed:-

"1. Whether the accident in question resulting into the death of

Vinod Kumar and Nar Singh deceased was caused due to rash and negligent driving of truck No.HR26GA-0472 by respondent No.1, as alleged?OPP.

2. Whether the petitioners are entitled for compensation if so to what amount and from whom?OPP

3. Whether the present petition is not maintainable?OPR

4. Whether the respondent No.1 was not holding the valid driving licence at the time of accident? OPR3

5. Relief."

4. Thereafter, the parties led evidence in support of their case.

5. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.2,35,200/- as compensation to the claimant alongwith interest @ 12% per annum from the date of filing of claim petition till realization.

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

7. 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 had occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending truck bearing No.HR-26GA-0472, owned by respondent No.2 and insured with respondent No.3. 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.

8. Learned counsel for the appellants argued that the impugned award

vide which compensation of Rs.2,35,200/- 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 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. 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. In support of his contentions, learned counsel for the appellant 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.**

9. On the other hand, learned counsel for respondent No.3 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.

10. 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.

11. As per version of claimants, namely, Shyama Devi, Angoori Devi and Ram Nath Sharma, deceased Vinod Kumar was the husband of Shyama Devi and son of Angoori Devi and Ram Nath Sharma. He was 35 years of age and used to ply an auto-rickshaw and earn Rs.7,000 to Rs.8,000/- per month. To the same effect is the testimony of claimants Angoori Devi and Shyama Devi. However, the Tribunal assessed his monthly income to be Rs.2,100/- per month, as per minimum wages prevalent during those days. In the present case, the accident had taken place on 01.11.2000. The deceased was plying his auto-rickshaw which was hit by the offending vehicle and as such, deceased cannot be treated as an unskilled person and some amount of guess work has to be applied while assessing his monthly income and since the deceased used to ply an auto-rickshaw, he must be earning at least Rs.3,500/- per month and accordingly, his monthly income is taken as Rs.3,500/-.

12. As per post-mortem report, the age of the deceased was 35 years and it has also been so held by the 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.4,900/- (Rs.3,500/- + Rs.1,400/-).**

13. Deceased has left behind three dependents i.e. wife, mother and father and as such 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.3,267/- (Rs.4,900/- – Rs.1,633/-)** and the **annual loss of dependency** comes out to **Rs.39,204/- (Rs.3,267/- × 12).**

14. Since deceased was 35 years of age, multiplier of 16 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.6,27,264/-.**

15. In addition to this, **claimant-Shyama Devi (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, mother and father of the deceased are also held entitled to a sum of **Rs.40,000/- each** on account of loss of 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.7,77,264/-**.

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

S.No.	Heads	Amount
1.	Monthly income of deceased	Rs.3,500/- per month
2.	Age of deceased	35 years
3.	Future prospects @ 40%	Rs.1,400/-
4.	Total income	Rs.4,900/-
5.	Number of dependents	3
6.	Deduction towards personal expenses of the deceased	Rs.1,633/- (1/3rd)
7.	Monthly loss of dependency	Rs.3,267/-
8.	Annual loss of dependency	Rs.39,204/- (Rs.3,267/- × 12)
9.	Multiplier	16
10.	Loss of dependency	Rs.6,27,264/- (Rs.39,204/- × 16)
11.	Compensation under conventional heads to claimant No.1- wife	Rs.70,000/-
12.	Compensation to mother and father (loss of filial consortium)	Rs.80,000/- (Rs.40,000 × 2)
13.	Total Compensation	Rs.7,77,264/-
14.	Interest	9%

17. Resultantly, the appeal in hand is partly accepted with costs and claimants are held entitled to a sum of Rs.7,77,264/- as compensation. The enhanced compensation thus comes out to Rs.5,42,064/- (Rs.7,77,264/- − Rs.2,35,200/-) (rounded off to Rs.5,42,000/-) 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. 31.07.2001 till realization payable by respondents No.1 to 3 jointly and severally.

18. It is pertinent to mention that wife of the deceased namely Shyama Devi had instituted claim petition No.80 of 2001, while his parents Angoori Devi and Ram Nath Sharma had instituted claim petition No.159 of 2000. No appeal has been filed by the parents, but they are certainly entitled to their share out of the enhanced compensation assessed by this Court. Accordingly, it is ordered that a sum of Rs.1,00,000/- each along with proportionate interest be paid to the

parents and balance amount be paid to the wife along with proportionate interest.

19. 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.

20. Pending miscellaneous application(s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

02.07.2026
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No