204 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-1543-2004 (O&M)
Date of Decision: 27.02.2026

KANWAR SINGH AND OTHERS

.... Appellants

VERSUS

RAJENDER AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Kartar Singh Malik-I, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate
for respondent No.3-Insurance Company.

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YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted against the Award dated 16.10.2003 for enhancement of compensation awarded in MACT case No.118 of 2002 decided by the MACT, Narnaul (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.2,38,500/- has been awarded as compensation to the claimants/appellants along with interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Devender in a motor vehicle accident.

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

> *"1. Whether the motor vehicle accident that took place on 09.06.2002 is an outcome of rash and negligent*

driving of Jeep No.35/9568 by respondent No.1?OPP

2. *Whether the petitioners are entitled to compensation on the death of Devender Kumar 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 ground alleged?OPR*
4. *Relief."*

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

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.2,38,500/- as compensation to the claimants/appellants, on account of death of Devender along with interest @ 9% per annum from the date of filing of claim petition till realization payable by the respondents jointly and severally.

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

6. At the very outset, it is pertinent to mention that the record of the appeal as well as the Tribunal has got burnt in a fire incident in the High Court branch and the appeal in hand shall be decided as per facts and evidence discussed in the award passed by the Tribunal.

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 occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending jeep No.

HR-33-9568, owned by respondent No.2 and insured with respondent No.3 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.

8. 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.

9. As per version of claimants, deceased was 24 years of age

and was working with Hero Honda at Dharuhera and earning Rs.5,000/- per month. Certificate mark PA was placed on file, which has been issued by Manoj Enterprises, according to which, deceased was getting salary of Rs.5,000/- per month in July, 2001. However, learned Tribunal observed that the said document has not been proved by examining any witness and the proprietor of Manoj Enterprises has not been examined and the certificate Mark PA was thus rightly ignored. Even otherwise, as per version in the claim petition, deceased was working with Hero Honda at Dharuhera and certificate has been issued by one Manoj Enterprises and both these pleas are thus contradictory. Learned Tribunal has thus rightly discarded the certificate Mark PA. However, learned Tribunal observed that deceased cannot be treated as an unskilled person as he was driving a Hero Honda motorcycle at the time of accident and his monthly income was taken as Rs.3000/- per month by treating him to be a skilled person and there is thus no reason to take a contrary view.

10. Deceased was 24 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 by Hon'ble Supreme Court in 2017 ACJ 2700, **'National Insurance Co. Ltd Vs. Pranay Sethi and Others',** which takes his monthly income to Rs. 4200/- per month. (Rs.3000/- + Rs.1200/-).

11. It has come in evidence that wife of deceased had already died and he has left behind his parents and one sister. In view of law laid down in 2009(6) SCC 121 – **Sarla Verma and others Vs. Delhi Transport Corporation and Another,** father cannot be termed as

dependent upon his deceased son. Likewise, during the lifetime of parents, claimant No.3, who is the sister, cannot be treated as dependent upon her deceased brother and as such, 50% of the earnings have to be deducted towards personal and living expenses as per law laid down laid down in **Sarla Verma's case (supra)** After deducting 50% of his income towards personal expenses, the monthly loss of dependency comes out to Rs. 2,100/- and the annual loss of dependency comes out to Rs. 25,200/-. (Rs.2100/- x 12).

12. The deceased was 24 years of age. The tribunal has applied the multiplier of 13 by taking into consideration the age of the parents but the same has not been correctly applied as the multiplier has to be applied by taking into consideration the age of the deceased himself and not the age of the parents. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 24 years of age and after applying the same, the compensation comes to Rs. 4,53,600/-. (Rs.25,200/- x 18).

13. In addition to this, claimant No.2 (mother 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 (father and sister of the deceased) are also held entitled to a sum of Rs.40,000/- each on account of loss of consortium, in view of law laid down in 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, which takes the compensation to Rs. 6,03,600/-. (Rs. 4,53,600/- + Rs.1,50,000/-)

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

S.No.	**Under Head**	
1.	Monthly income of deceased	Rs.3,000/- per month
2.	Age of deceased	24 years
3.	Future prospects @40%	Rs.1,200/-
4.	Total income	Rs.4,200/- per month (Rs.3000/- +Rs.1200/-)
5.	Number of dependents	1
6.	Deduction towards personal expenses of the deceased	Rs.2,100/- (50%)
7.	Monthly loss of dependency	Rs.2,100/-
8.	Annual loss of dependency	Rs.25,200/- (Rs.2100 x 12)
9.	Multiplier	18
10.	Compensation on account of Loss of dependency	Rs.4,53,600/- (Rs.25,200/- x 18)
11.	Compensation to claimant No.2 for loss of consortium, loss of estate & funeral expenses	Rs.70,000/- (Rs.40,000/- + Rs.15,000/- + Rs.15,000/-)
12.	Compensation to remaining claimants for loss of consortium (Father and Sister)	Rs.80,000/- (Rs.40,000 x 2)
13.	**Total Compensation**	**Rs.6,03,600/-**
14.	**Interest**	**9%**

15. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of Rs.3,65,100/- (rounded to Rs.3,65,000/-) (Rs.6,03,600/- - Rs.2,38,500/-) 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. 21.08.2002 till realization payable by respondents No.1 to 3 jointly and severally. Out of the enhanced compensation, a sum of

Rs.40,000/- each along with proportionate interest be paid to appellants No.1 and 3 while remaining amount be paid to appellant No.2 along with proportionate interest.

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

27.02.2026
Priyanka Thakur

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No