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

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**FAO-3993-2002 (O&M)
Date of decision: 25.02.2026**

KAMNI DEVI AND ORS ....Appellants

Versus

JAGTAR SINGH AND ORS ...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Deepinder Singh Walia, Amicus Curiae for the appellants.

Mr. Varun Sharma, Advocate
for respondent No.3 Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 03.05.2002 for enhancement of compensation awarded in MACT case No.27 of 1997 decided by the MACT, Ludhiana (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.2,00,000/- has been awarded as compensation to the claimants/appellants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Amit Kumar in a motor vehicle accident.

2. The matter is being taken up in the post lunch session.

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

1. Whether the petitioners are LRs of Amit Kumar deceased? OPA

2. Whether Sh. Amit Kumar died in motor vehicular accident which took place on 03.08.1997 at about 3.30 P.M. in the area of Janta Nagar, Ludhiana caused due to rash and negligent driving of truck No.DL-1G-5149 by respondent Jagtar Singh? OPA

3. Whether the petitioners are entitled to recover any compensation if so the amount from whom of the respondents? OPA

4. Whether respondent No.1 was not having a valid and effective driving licence at the time of accident, if so its effect? OPA

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.2,00,000/- as compensation to the claimants/ appellants, on account of death of Amit Kumar along with interest @ 9% 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.2 that the accident occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending truck No.DL-1G-5149, 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.2 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, their son namely Amit Kumar died in the accident in question, who was 20 years of age and was working as a salesman and earning Rs.4,000/- per month, besides earning commission and his total monthly income was Rs.5,500/- per month. However, learned Tribunal observed that claimants have not examined the employer of the deceased and no cogent and convincing evidence was also led to establish his income to be Rs.5,500/- per month and the testimony of PW1-Kamni Devi, mother of the deceased, was thus rightly discarded. However, the Tribunal took notional income of deceased to be Rs.15,000/- per annum, as per second schedule. However, the income of the deceased has not been correctly assessed. Deceased was 20 years of age and was working in an unorganized sector. Accident had taken place on 03.08.1997 and even the labourers used to earn around Rs.1500/- per month. As such, some

amount of guess work has to be applied in assessing the income. Since the testimony of the mother that he was a salesman has not been controverted, deceased, thus, cannot be taken as an unskilled worker and accordingly, his income is assessed as Rs.1800/- per month.

10. Deceased was 20 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 income to Rs. 2,520/- per month.

11. Deceased was unmarried and as such, 50% of the earning has to be deducted towards personal and living expenses as per law laid down in 2009(6) SCC 121 – **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Another.** After deducting 50% of his income towards personal expenses, the monthly dependency comes out to Rs. 1,260/- and the annual dependency comes out to Rs. 15,120/-.

12. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 20 years of age and after applying the same, the compensation comes to **Rs. 2,72,160/-.**

13. In addition to this, claimant No.1 (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 (brothers 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. 4,22,160/-.

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.1,800/- per month**
2.	**Age of deceased**	**20 years**
3.	**Future prospects @40%**	**Rs.720/-**
4.	**Total income**	**Rs.2,520/-**
5.	**Number of dependents**	**1**
6.	**Deduction towards personal expenses of the deceased**	**Rs.1,260/- (50%)**
7.	**Annual loss of dependency**	**Rs.15,120/-**
8.	**Multiplier**	**18**
9.	**Compensation on account of Loss of dependency**	**Rs.2,72,160/-**
10.	**Compensation under conventional heads to mother**	**Rs.70,000/-**
11.	**Consortium to two brothers**	**Rs.40,000/- each**
12.	**Total Compensation**	**Rs.4,22,160/-**
13.	**Interest**	**9%**

15. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of Rs.4,22,160/- as compensation. The enhanced compensation thus comes out to Rs.2,22,160/- (Rs.4,22,160/- - Rs.2,00,000/-) rounded to Rs.2,22,000/- 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. 30.08.1997 till realization payable by respondents No.1 to 3 jointly and severally. A sum of Rs.40,000/- each alongwith proportionate interest be paid to claimants No.2 and 3 i.e. brothers and remaining

amount be given to claimant No.1 alongwith 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

25.02.2026
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No