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

224

FAO-3916-2004 (O&M)
Date of decision: 20.04.2026

SANTOSH RANI AND OTHERS ....Appellants

Versus

HARJIT SINGH AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Ms. Gurneet Kaur, Advocate
for the appellant(Amicus Curiae).

Mr. Neeraj Khanna, Advocate for
Mr. Ravinder Arora, Advocate for respondent No.3.

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 17.11.2003 for enhancement of compensation awarded in MACT case No.146 of 2003 decided by the MACT, Karnal (**for short "Tribunal"**) in a petition under Section 166 and 140 of Motor Vehicles Act, 1988 vide which a sum of Rs.3,16,700/- 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 Ishwar Singh 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 accident in question took place due to rash and negligent driving of truck bearing registration No.HR-20-A-9234 by its driver-respondent No.1?OPP
(2) If issue No.1 is proved, whether the claimants are entitled to receive any compensation, if so how much and from whom?OPP
(3) Whether the claim petition is not maintainable in the present

form?OPR

(4) Whether the petitioners have not come to the court with clean hands, if so its effect?OPR

(5) Whether the claim petitions are bad for mis-joinder and non-joinder of necessary parties, if so its effect?OPR

(6) Whether the respondent No.1 was not hold a valid driving licence at the time of accident, if so its effect?OPR

(7) 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.3,16,700/- as compensation to the claimants/appellants, on account of death of Ishwar Singh alongwith 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. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Branch and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned Award.

8. 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-20-A-9234, owned by respondent No.2. 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.

9. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.3,16,700/- 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 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. The compensation awarded towards loss of consortium, loss of estate and funeral expenses is also on the lower side and he prayed that same be suitably enhanced. In support of her 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.**

10. On the other hand, learned counsel for respondent 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.

11. 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.

12. As per version of claimants, deceased was working as a ‘munim’ (Clerk) with M/s Tara Chand and Sons Commission Agent at Village Babain, District Kurukshetra and he used to earn Rs.4,600/- to Rs.4,700/- per month. PW-Santosh, who is wife of the deceased deposed that deceased also used to run a milk dairy and earn Rs.3,000/- to Rs.4,000/- per month. To prove the income, claimants have examined PW3-Raj Kumar, son of Tara Chand, who deposed that Ishwar Singh was employed with their firm for the last 13-14 years, who used to look after the accounts of their firm and his annual income was Rs.55,000/- per annum and he tendered the certificate Ex. P2. During cross-examination, he stated that their firm is in existence for the last 15-20 years but he could not tell as to when Ishwar Singh was employed. He also failed to tell this fact after verifying the record as well. He also proved one entry at page No.81 that Ishwar Singh was paid a sum of Rs.55,000/- for the entire year but the Tribunal came to the conclusion that the said entry does not contain/bear the signatures of Ishwar Singh and his salary certificate and the testimony of PW3 were thus discarded

particularly because no record was produced regarding the employment. Thereafter, the learned Tribunal assessed his notional income to be Rs.2,400/- per month being a daily wager. However, it is a matter of common knowledge that claimants are often unable to produce documentary proof of income of the deceased and some amount of guess work has to be applied while assessing the monthly income. In addition to his job as an accountant with the said firm, he was also stated to be selling milk and in these circumstances, his monthly income is assessed as **Rs.3500/-** as on the date of accident i.e. 26.08.2001.

13. Deceased was 35 years of age, as per postmortem report Ex. P5 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.3500/- + Rs.1400/-).**

14. Deceased has left behind five dependents i.e. wife and four children, and as such 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.3,675/- (Rs.4,900/- – Rs.1,225/-)** and the **annual loss of dependency** comes out to **Rs.44,100/- (Rs.3,675/- X 12).**

15. 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.7,05,600/-.**

16. 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, claimants No.2 to 5 (sons and daughters 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.9,35,600/-**.

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

S.No.	**Under Head**	
1.	Monthly income of deceased	Rs.3,500/- 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	5
6.	Deduction towards personal expenses of the deceased	Rs.1,225/- (1/4th)
7.	Monthly loss of dependency	Rs.3,675/-
8.	Annual loss of dependency	Rs.44,100/- (Rs.3,675 × 12)
9.	Multiplier	16
10.	Loss of dependency	Rs.7,05,600/- (Rs.44,100 × 16)
11.	Compensation under conventional heads to claimant No.1- wife	Rs.70,000/-
12.	Compensation to four children (loss of parental consortium)	Rs.1,60,000/- (Rs.40,000 × 4)
13.	Total Compensation	Rs.9,35,600/-
14.	Interest	9%

18. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.9,35,600/-** as compensation. The enhanced compensation thus comes out to **Rs.6,18,900/- (Rs.9,35,600/- - Rs.3,16,700/-)** (rounded off to **Rs.6,19,000/-**) 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. 13.09.2001 till realization payable by respondents No.1 to 3 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 to 5 (sons and daughters of the deceased) while remaining balance amount be paid to claimant No.1 (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

20.04.2026
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No