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

FAO-4333-2004

Kashmira Singh and Others .... Appellants

Versus

Darshan Singh and Others ..... Respondents

1.	Judgment reserved on	29.04.2026
2.	Judgment pronounced on	25.05.2026
3.	Judgment uploaded on	25.05.2026
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. Ajay Kumar Chaudhay, Advocate for
Mr. Harinder Sharma, Advocate for the appellants.

Mr. R.C. Gupta, Advocate and
Mr. Nitin Gupta, Advocate for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR. J.

1. This appeal has been instituted for enhancement of compensation against the Award dated 21.04.2004 passed in MACT case No.3 of 04.01.2001 decided by the MACT, Moga (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.2,47,500/- has been awarded as compensation to the claimants along with interest at the rate of 6% per annum from the date of filing of claim petition till realization on account of death

of Narinder Singh Gill in a motor vehicle accident.

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

" 1. Whether Narinder Singh died on 21.2.2000 in motor vehicular accident due to rash and negligent driving of Jeep No.JKN-6656 by Darshan Singh respondent No.1-driver? OPP

2. Whether the claimants are the legal heirs of the deceased? OPP

3. Whether the claimants are entitled to the compensation? If so, to what amount and from whom? OPP

4. Whether the claim petition is not maintainable in the present form?OPR (1-2)

5. Whether the driver of the offending jeep was not holding a valid and effective driving licence at the time of the accident?OPR-3

6. 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.2,47,500/- as compensation to the claimants alongwith interest @ 6% per annum from the date of filing of claim petition till realization.

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

6. 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 Registry and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned Award.

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 jeep bearing No.JKN-6656, 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 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 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. Appropriate compensation has not been awarded under the conventional heads, i.e. loss of consortium and funeral expenses and he prayed that compensation 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.**

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 as deposed by claimant Daljeet Kuar, while appearing as PW5, deceased Narinder Singh Gill who was her husband was the only bread-earner in the family. His father-Kashmira Singh claimant No.1 owned 13 acres of agriculture land, who was 85 years of age and the deceased himself used to cultivate and manage the land. He was also running a milk dairy

and used to sell milk worth Rs.1,000/- daily. He was also running a poultry farm and used to sell eggs to M/s Paramjeet Egg Store at Jalandhar and his annual income was around Rs.4,00,000/-.

12. To prove his income, claimants have also examined PW4-Chaman Lal, Accountant of M/s Thakur Dass Bansi Ram, Commission Agents, Moga, who deposed that deceased used to sell his crops i.e. wheat and paddy at their shop and he tendered the “J” Forms Ex. P7 to Ex. P14.

13. Besides this, PW2-Bhajan Singh deposed that he used to work with deceased Narinder Singh Gill, who was running a dairy farm and used to sell milk worth Rs.1,000/- daily.

14. However, the Tribunal came to the conclusion that claimants have failed to prove the income of the deceased to be Rs.4,00,000/- per annum. It has been held that no record regarding running of poultry farm has been produced. The land in question measuring 13 acres was owned by his father and not by the deceased and no cogent and convincing evidence has also been led to establish that deceased used to sell milk and the Tribunal after taking into consideration the fact that deceased used to help his father in cultivating the land, assessed his income to be Rs.3,000/- per month.

15. However, the approach of the Tribunal is highly erroneous and contrary to the evidence led on file and monthly income of the deceased has not been properly assessed. Claimant No.1-Kashmira Singh was 85 years of age on the date of institution of the claim petition and as such, it cannot be presumed that he would have been cultivating the land himself. Even the Tribunal has held that claimant No.1-Kashmira Singh used to get the land cultivated from his deceased

son Narinder Singh Gill and as such, some amount of income should have been added to the monthly income of the deceased towards managerial skills in managing the land in view of law laid down in 2022 Livelaw (SC) 816, ***K. Ramya and Others. Vs. National Insurance Co. Ltd. & Anr***.

16. The deceased at the time of accident was traveling in his own car and as such, deceased cannot be termed merely as a labourer. The testimony of the claimants that deceased used to sell milk and he was also running a poultry farm cannot be brushed aside in the absence of evidence to the contrary. Hon'ble Supreme Court in Civil Appeal No.6152 of 2021 – ***Chandra alias Chander alias Chanda Ram and another Vs. Mukesh Kumar Yadav*** has held that merely because claimants are unable to produce any documentary evidence to show the monthly income of the deceased is not a ground to discard the oral evidence. As such, some amount of guess work has to be applied while assessing the income of the deceased and since he was running a milk dairy as well as a poultry farm, he cannot be termed as an unskilled person or a labourer. The accident had taken place on 21.02.2000. Accordingly, the monthly income of the deceased as on the date of his death is taken as **Rs.5,000/- per month**.

17. Deceased was cultivating 13 acres of land owned by his father and he used to sell the agriculture produce with the firm of PW4-Chaman Lal, whose "J" Forms Ex. P7 to Ex. P14 have been led in evidence and it can be assumed that deceased must be earning at least Rs.3.5 lakhs per annum from the agriculture land. No doubt, the land was owned by his father and the same must have been subsequently inherited by the remaining claimants, after the death of claimant No.1 and as such, land has gone in the hands of remaining claimants, but for

managerial skills rendered by the deceased in managing the land, some amount has to be added to his monthly income. Hon'ble Supreme Court in ***K. Ramya and others Vs. National Insurance Co. Ltd. & Anr***. ***(supra)***, 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. Accordingly, 15% of the agricultural income has to be added to the income of the deceased towards managerial skills. Therefore, by taking **15% of Rs.3.5 lakhs, i.e. Rs.52,500/- per annum**, towards **managerial skills** and adding the same to the annual income i.e. **Rs.60,000/-**, the income of the deceased is assessed at **Rs.1,12,500/- per annum**.

18. As per post-mortem report Ex.P1, deceased was 46 years of age and as such, **25%** of amount has to be added to the income of the deceased towards future prospects, which brings his income to **Rs.1,40,625/- per annum**.

19. The claim petition filed by claimant No.1, who is father of the deceased was dismissed on the ground that he owned 13 acres of land and as such, he cannot be termed as a dependent. However, the father of the deceased was 85 years of age and in such an old age, father must be dependent upon his deceased son. Hon'ble Supreme Court in (2022) 14 SCC 712, **N. Jayasree V. Cholamandalam MS General Insurance Company Ltd.**, while defining the term "legal representative" has held as under:-

"16. In our view, the term "legal representative" should be given a

wider interpretation for the purpose of Chapter XII of the MV Act and it should not be confined only to mean the spouse, parents and children of the deceased. As noticed above, the MV Act is a benevolent legislation enacted for the object of providing monetary relief to the victims or their families. Therefore, the MV Act calls for a liberal and wider interpretation to serve the real purpose underlying the enactment and fulfil its legislative intent. We are also of the view that in order to maintain a claim petition, it is sufficient for the claimant to establish his loss of dependency. Section 166 of the MV Act makes it clear that every legal representative who suffers on account of the death of a person in a motor vehicle accident should have a remedy for realization of compensation."

20. Hon'ble Supreme Court in 2025 Livelaw (SC) 309, ***Sadhana Tomar & Ors. Vs. Ashok Kushwaha & Ors***, has held that a legal representative is one, who suffers on account of death of a person due to motor vehicle accident and need not necessarily be a wife, husband, parent or child. The term legal representative under Motor Vehicles Act should not be given a narrow interpretation to exclude those persons as claimants who were dependent on the deceased's income. The father and sister, being financially dependent were legal representatives under the Act entitling them to compensation. Accordingly, it is held that claimant No.1, who was 85 years of age was also dependent upon his deceased son.

21. As such, deceased has left behind four 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 annual loss of dependency comes out to **Rs.1,05,469/- per annum**.

22. Since deceased was 46 years of age, multiplier of 13 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.13,71,097/-.**

23. In addition to this, **claimant No.2** 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.1, 3 and 4** are also held entitled to a sum of **Rs.40,000/- each** on account of loss of parental and 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.15,61,097/-**.

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

S.No.	**Under Head**	
1.	Annual income of deceased	Rs.1,12,500/- per annum
2.	Age of deceased	46 years
3.	Annual income after adding Future prospects @ 25%	Rs.1,40,625/- per annum
4.	Number of dependents	4
5.	Deduction towards personal expenses of the deceased (1/4th)	Rs.35,156/-
6.	Annual loss of dependency	Rs.1,05,469/- per annum
7.	Multiplier	13
8.	Compensation on account of Loss of dependency	Rs.13,71,097/-
9.	Compensation under conventional heads to claimant No.2- wife	Rs.70,000/-
10.	Compensation payable to claimants No.1, 3 and 4 on account of parental and filial consortium	Rs.1,20,000/- (Rs.40,000 × 3)
11.	Total Compensation	Rs.15,61,097/-

12.	Interest	9%

25. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of Rs.15,61,097/- as compensation. The enhanced compensation thus comes out to Rs.13,13,597/- (Rs.15,61,097/- - Rs.2,47,500/-) (rounded off to Rs.13,14,000/-) 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. 30.11.2000 till realization payable by respondents No.1 to 3 jointly and severally. Since claimants No.1 and 2 have died during the pendency of the appeal, the amount of compensation falling in their share, along with interest, shall be released in favour of claimants No.3 and 4, i.e. the son and daughter of the deceased, in equal shares.

26. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

25.05.2026
Amandeep

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