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

**CM-2944-CII-2026 IN/AND
FAO-5606-2004 (O&M)
Date of Decision:25.03.2026**

MAM CHAND AND ANOTHER

.....Appellants

VERSUS

KARAN SINGH AND OTHERS

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Arnav Mittal, Advocate
for the appellants.

Mr. Suvir Dewan, Advocate for
respondent No.3-Insurance Company.

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YASHVIR SINGH RATHOR, J. (ORAL)

CM-2944-CII-2026

The instant application under Order 22 Rule 3 read with Section 151 CPC is for bringing on record LRs of appellants No.1-Mam Chand and No.2-Smt. Krishna.

For the reasons mentioned in the application, the same is allowed and legal representatives of appellant No.1-Mam Chand (since deceased) and Krishna (since deceased) i.e. Mukesh Kumar and Smt. Sonia are ordered to be impleaded as legal representatives of above said appellants.

Amended memo of parties is taken on record, subject to all just exceptions.

Application stands disposed of.

<u>FAO-5071-2005</u>

1. The record of the present case was destroyed in a fire incident in the High Court Branch. Learned counsel for the appellants/claimants has placed a copy of award in the Court, which is taken on record. Registry is directed to tag the same at an appropriate place on the record.

2. This appeal has been instituted against the Award dated 27.07.2004 for enhancement of compensation awarded in MACT No.148 of 2003 decided by the MACT, Gurgaon (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,50,000/- 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 their son namely Surinder @ Sonu in a motor vehicular accident.

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

> "*i). Whether the accident in question resulting in death of Surinder alias Sonu was caused because of rash and negligent driving of vehicle No.HR-51-J-1608 by its driver respondent No.1? OPP*
>
> *ii). Whether the petitioners are entitled to get compensation, if so how much and from whom?OPP.*

iii). Whether respondent No.1 was not having a valid and effective driving licence to drive the offending vehicle at the time of accident. If so, to what effect? OPR.

iv). 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.1,50,000/- as compensation to the claimants/ appellants, on account of death of Surinder @ Sonu 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. 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 vehicle bearing No.HR-51-J-1608, 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.

9. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.1,50,000/- 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 deceased was 17 years of age but the Tribunal has assessed his income as per Second Schedule of notional basis amounting to Rs.15,000/- per annum and after deducting 1/3rd of the amount towards personal expenses, Tribunal applied multiplier of 15 and awarded a sum of Rs.1,50,000/- as compensation. Learned counsel next contended that deceased was a student of 10+1 and was 17 years of age and his income should have been assessed on the basis of wages being paid to skilled worker in the State of Haryana and Tribunal gravely erred by treating his notional income to be Rs.15,000/- per annum. Learned counsel contended that compensation awarded to the claimants has been assessed on lower side. Learned counsel further contended that deceased was 17 years of age and multiplier of 18 should have been applied instead of multiplier of 15 as applied by the Tribunal. No compensation has been awarded under the conventional heads i.e. loss of consortium, loss of estate and funeral expenses and he prayed that compensation be suitably enhanced. In support of his contentions, learned counsel for the appellants has relied upon 2025 ACJ 1624 titled **Karuna Parmar Vs. Prakash Sinha and others,** 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** and (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur.**

10. On the other hand, learned counsel for respondent No.3 argued that the adequate compensation has been awarded by the learned Tribunal and no interference in the said award is called for and appeal in hand be dismissed.

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, their son Surinder @ Sonu aged 17 years had died in the accident in question which took place on 01.12.2002. He was studying in 10+1 standard and stated to be earning Rs.6,000-7,000/- per month by helping him to look after the buffaloes. The Tribunal after referring to Second Schedule appended to the Motor Vehicles Act assessed the notional income of deceased to be Rs.15,000/- per annum, deducted 1/3rd amount towards personal expenses and after applying multiplier of 15, assessed compensation to the extent of Rs.1,50,000/- which has been awarded to the claimants.

13. Hon'ble Supreme Court in **Karuna Parmar's case (supra)** while relying upon judgment rendered by the Hon'ble Supreme Court in 2024 SCC Online SC 3692, **Baby Sakshi Greola Vs. Manzoor Ahmad Simon,** has held that minimum wages payable to a skilled worker in the concerned State have to be taken into consideration while assessing income in the case of death of a child because that would be the minimum amount which a child would have earned on attaining the age of majority. In **Karuna Parmar's case (supra)**, a girl aged 6 years had died and taking into consideration the minimum wages for skilled workers in the year 2014 to be Rs.223 per day, annual income was assessed as

Rs.80,280/- and thereafter, future prospects were applied and after applying multiplier of 18, the compensation was assessed.

14. In the present case, deceased was 17 years of age and was a student of 10+1 standard and he has to be treated as a skilled person. The accident had taken place in the year 2002 and it can be assumed that he must be earning Rs.2,500/- per month which were the minimum wages for skilled person prevalent in that year. Accordingly, income of deceased is taken as **Rs.2,500/- per month**.

15. Since deceased was 17 years of age, 40% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid in **Pranay Sethi's case (supra)**, which takes his income to **Rs.3,500/- per month (Rs.2,500/- + Rs.1,000/-).**

16. The claim petition was filed by the parents. It has been held in **Sarla Verma's case (supra)** that only mother is dependent upon her son and father is not dependent. As such, mother alone entitled to compensation on account of death of her son and father being not dependent is not entitled to compensation except on account of filial consortium.

17. Deceased has thus left behind one dependent and as per law laid down in **Sarla Verma's case (supra),** 50% of the earnings have to be deducted towards personal and living expenses. After deducting 50% of his income towards personal expenses, the monthly dependency comes out to Rs.1750/- and the annual dependency comes out to **Rs.21,000/- (Rs.1750/- X 12).**

18. Since deceased was 17 years of age, multiplier of 18 has to be applied in view of the guidelines laid down in **Sarla Verma's case (supra)** and **Karuna Parmar's case (supra)**, and after applying the same, the total loss of dependency comes out to **Rs.3,78,000/-.**

19. 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, claimant No.1 **(**father of the deceased) is also held entitled to a sum of **Rs.40,000/-** on account of loss of filial consortium, in view of law laid down in 2018 (4) R.C.R. (Civil) 333, **Nanu Ram's case (supra)** and **Satinder Kaur's case (supra)**, which takes the compensation to **Rs.4,88,000/-** (Rs.3,78,000/- + Rs.1,10,000/-).

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

S.No.	**Under Head**	**Compensation awarded by the High Court**
1.	Monthly income of deceased	Rs.2500/- per month
2.	Age of deceased	17 years
3.	Future prospects @40%	Rs.1000/-
4.	Total income	Rs.3500/-
5.	Number of dependents	1
6.	Deduction towards personal expenses of the deceased	Rs.1750/- (50%)

7.	Monthly loss of dependency	Rs.1750/-
8.	Annual loss of dependency	Rs. 21,000/- (Rs.1750/- X 12)
9.	Multiplier	18
10.	Compensation on account of Loss of dependency	Rs.3,78,000/- (Rs.21000 x 18)
11.	Compensation under conventional heads to claimant No.2-mother	Rs.70,000/-
12.	Compensation to claimant No.1 for loss of filial consortium	Rs.40,000/-
13.	**Total Compensation**	**Rs.4,88,000/-**
14.	Interest	9%

21. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants No.1 and 2 (now through LRs) are held entitled to a sum of **Rs.4,88,000/-** as compensation. The enhanced compensation thus comes out to **Rs.3,38,000/- (Rs.4,88,000/- - Rs.1,50,000/-)** over and above the compensation awarded by the Tribunal payable along with interest at the rate of 9% per annum from the date of filing of claim petition i.e. 04.03.2003 till realization payable by respondents jointly and severally, to be shared equally by both LRs of claimants along with proportionate interest.

22. 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.

23. Pending misc. application (s), if any, shall also stand disposed of.

(YASHVIR SINGH RATHOR)
JUDGE

March 25, 2026
Vishal Vardhan

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No