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

222 **FAO-3478-2002 (O&M)**
Date of decision: 11.05.2026

JASWINDER KAUR ETC. ....APPELLANT(S)

VERSUS

SMT.SANTOSH CHAWLA ETC. ...RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Ekteshwar Singh Sidhu, Advocate
for the appellant(s).

Mr. Sahej Mahajan, Advocate
for respondent No.3-Insurance Company.

<u>YASHVIR SINGH RATHOR. J.(Oral)</u>

1. This appeal has been instituted against the Award dated 25.07.2001 for enhancement of compensation awarded in MACT case No.79 of 1999 (R.B.T. No.121 of 1999) decided by the MACT, Ferozepur (**for short "Tribunal"**) in a petition under Section 166 of the Motor Vehicles Act, 1988 vide which a sum of Rs.2,50,000/- has been awarded as compensation to the claimants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Kulwinder Singh in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.2 while driving the offending vehicle bearing No.RSF-7877 (**for short 'offending vehicle'**), owned by respondent No.1, which was insured with respondent No.3.

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

> *"1. Whether death of Kulwinder Singh took place on 21.12.1998 near village Deshnok in accident caused by rash and negligent driving of truck No.RS-7877 by respondent No.2, If so its effect? OPA.*

> 2. *To what amount of compensation claimants entitled and from whom? OPA.*
> 3. *Whether respondent No.2 was not holding vali and effective driving licence at the time of accident, if so its effect? OPR-3.*
> 4. *Whether Insurance Company not liable as alleged? OPR-3.*
> 5. *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.2,50,000/- as compensation to the claimants, on account of the death of Kulwinder Singh along with interest @ 9% 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. 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.2 while driving the offending vehicle, owned by respondent No.1 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.

7. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.2,50,000/- 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 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. Learned counsel further contended that deceased was 23 years of age and multiplier of 14 has been applied whereas multiplier of 18 should have been applied. No compensation has been paid under conventional heads i.e. loss of consortium, loss of estate and funeral expenses and he prayed that compensation be awarded under all the heads and same be suitably enhanced. In support of his contentions, learned counsel for the appellant 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** and (2021) 11 SCC 780**, United India Insurance Co. Ltd. Vs. Satinder Kaur**.

8. On the other hand, learned counsel for the respondents 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.

9. 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.

10. As per version of claimants, deceased was a truck driver by profession and he used to drive truck along with his father and used to earn Rs.5,000/- per month. However, in the absence of documentary evidence or income tax returns, the Tribunal discarded the version of claimants and assessed his monthly income to be Rs.2,300/- per month. The accident had taken place on 21.12.1998. The testimony of the claimants that deceased was a truck driver has not been controverted by leading any cogent and convincing evidence, as such, version of claimants that he was a driver by profession has to be believed. Deceased thus has to be treated as a skilled person and accordingly, some amount of guesswork has to be applied while assessing his monthly income. Thus, the income of deceased is taken as **Rs.2,500/-** per month.

11. Deceased was 23 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 in **Pranay Sethi's case (supra),** which takes his income to **Rs.3,500/- per month (Rs.2,500/- + Rs.1,000/-)**.

12. The petition in hand has been instituted by wife, minor daughter, and

mother of the deceased. Deceased has thus left behind 3 dependents and 1/3 of the income thus has to be deducted towards personal and living expenses in view of law laid down in **Sarla Verma's case (supra)**. After deducting, a sum of **Rs.1,166.6/- (which is rounded off to Rs.1,167/-)** towards personal expenses, the monthly loss of dependency comes out to **Rs.2,333/- (Rs.3,500/- - Rs.1,167/-)** and the annual loss of dependency comes out to **Rs.27,996/- (Rs.2,333/- X 12)**.

13. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 23 years of age and after applying the same, the compensation comes to **Rs.5,03,928/- (Rs.27,996/- X 18).**

14. 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, remaining claimants No.2 and 3 who are daughter (now major) and mother of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of parental and filial **loss of 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.6,53,928/-**, which is rounded off to **Rs.6,54,000/-**.

15. 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.2,500/- per month
2.	Age of deceased	23 years
3.	Future prospects @ 40%	Rs.1,000/-

4.	Total income	Rs.3,500/- per month
5.	Number of dependents	3
6.	Deduction towards personal expenses of the deceased	Rs.1,667/-
7.	Monthly loss of dependency	Rs.2,333/-
8.	Annual loss of dependency	Rs.27,996/- **(Rs.2,333/- X 12)**
9.	Multiplier	18
10.	Compensation on account of Loss of dependency	Rs.5,03,928/-
11.	Compensation under conventional heads to wife	Rs.70,000/-
12.	Consortium to daughter and mother of deceased	Rs.80,000/- (Rs.40,000/- each)
	Total Compensation	**Rs.6,53,928/- (rounded off to Rs.6,54,000/-)**
	Interest	**9%**

16. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.6,54,000/-** as compensation. The enhanced compensation thus comes out to **Rs.4,04,000/- (Rs.6,54,000/- - Rs.2,50,000/-)** 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. 24.02.1999, till realization payable by respondents, jointly and severally. Out of the enhanced compensation, a sum of Rs.75,000/- each be paid to the daughter and mother of the deceased and remaining amount to claimant No.1/wife along with proportionate interest.

17. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

11.05.2026
Vishal Vardhan

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