S. No.128

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.4495 of 2002 (O&M)
Date of Decision:25.02.2026

Sudha Rani .....**Appellant**

Vs.

Lakhwinder Singh and others .....**Respondents**

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

Present:- Mr. Sachin Jangra, Amicus Curiae for the appellant.

Mr. Harsh Aggarwal and Mr. Anshul Sharma, Advocates for respondent – Insurance Company.

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Yashvir Singh Rathor, J. (Oral)

1. This appeal has been instituted against the Award dated 23.04.2001 for enhancement of compensation awarded in MACT case No.49 of 1998 decided by the MACT, Ambala (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,07,000/- has been awarded as compensation to the claimant/appellant alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Beenu Raja in a motor vehicle accident.

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

3. I have heard learned counsel for the parties and have perused the material on record.

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

> *"1. Whether the accident took place due to rash and negligent driving of truck no.DIG-6619 by respondent No.1 resulting into death of Beenu Raja, as alleged?OPP*
>
> *2. If issue No.1 is proved to what amount of compensation, the claimant is entitled to and from whom?OPP*
>
> *3. Whether the insurance Co. is not liable to make any payment of compensation on account of the preliminary objections, taken by it in its written statement?OPR(3)*
>
> *4. Whether the driver of the offending vehicle was not holding a valid driving licence?OPR*
>
> *5. Relief."*

5. Thereafter, the parties led evidence in support of their case.

6. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,07,000/- as compensation to the claimant/ appellant, on account of death of Beenu Raja along with interest @ 9% per annum from the date of filing of claim petition till realization.

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

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 occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending truck No.DIG-9166, 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. 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 the claimant, deceased was her son and aged 25 years at the time of accident which took place on 11.07.1998. He was a Graduate and was employed with a government contractor. Initially, he was being paid Rs.3,000/- per month as salary which was subsequently enhanced to Rs.4,000/- per month. Besides this, he used to impart tuitions as well.

11. To prove her case, claimant had examined Naresh Kumar PW1 who deposed that he was a partner in M/s Phul Chand and Co., which was a construction firm. Beenu Raja, since deceased, was employed as a Supervisor by them in the year 1996-97 and was being paid Rs.3,000/- per month as salary initially. Thereafter, salary was enhanced to Rs.4,000/- per month and he tendered certificate Ex.P1. During cross-examination, he stated that they are carrying on the business since the year 1984 and the firm was an income tax payee. He stated that no appointment letter or wage slip was ever issued to the deceased and no receipt was obtained from him at the time of payment of salary. He stated that they have employed hundreds of employees who include daily wage workers but they are not maintaining any wage registers nor any identity card was issued to the deceased. However, in the absence of the corresponding record relating to appointment & payment of salary, the oral testimony of PW1 thus cannot be believed to hold that deceased was being paid salary of Rs.4,000/- per month. The company was an income tax payee and had allegedly employed hundreds of workers and it must have been maintaining its record and Tribunal has thus rightly discarded the testimony of PW1 and there is no reason to take a contrary view. However, learned Tribunal assessed income of the deceased to be Rs.2,000/- per month. The accident had taken place in the year 1998 and since deceased was a graduate, he cannot be treated as an unskilled person while assessing his monthly income, he has to be treated as a skilled person being a graudate and accordingly, his income is assessed as Rs.2,500/- per month.

12. Deceased was 25 years of age as held by Tribunal. As per guidelines laid down in 2017 ACJ 2700 – **National Insurance Co. Ltd. Vs. Pranay Sethi**

and Others, 40% of the amount has to be added towards future prospects as deceased would have been a self employed person and was not a government employee. After adding 40% towards the future prospects, the monthly income comes out to **Rs.3500/- (Rs.2500/- + Rs.1000/-)**.

13. Deceased was unmarried and has left behind his parents and accordingly half of the income 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 one half of the 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).** As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 25 years of age and after applying the same, the compensation comes to **Rs.3,78,000/- (Rs.21,000/- x 18)**.

14. In addition to this, claimant is also 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).**

15. Accordingly, the compensation to be awarded to the appellant is assessed as under:-

S.No.	Under Head	Compensation awarded by the Tribunal	Compensation awarded by the High Court
1.	Monthly income of deceased	Rs.2,000/-	Rs.2,500/-
2.	Age of deceased	25 years	25 years
3.	Future prospects @40%	Nil	Rs.1000/-
4.	Total income	Rs.2,000/-	Rs.3,500/-
5.	Number of dependents	01	01
6.	Deduction towards personal expenses of the deceased	Rs.1,000/-	Rs.1,750/- (1/2)

7.	**Annual loss of dependency**	**Rs.1,000 for five years Rs.6,000/- for 12 years**	**Rs.21,000/-**
8.	**Multiplier**	**12/7**	**18**
9.	**Compensation on account of Loss of dependency**	**Rs.1,000 X 12 X 5 Rs.6,000 X 7 X 12 Rs.1,02,000/-**	**Rs.3,78,000/-**
10.	**Compensation to claimant for loss of consortium, loss of estate & funeral expenses**	**Rs.5,000/-**	**Rs.70,000/- (Rs.40,000/- + Rs.15,000/- + Rs.15,000/-)**
11.	**Total Compensation**	**Rs.1,07,000/-**	**Rs.4,48,000/-**
12.	**Interest**	**9%**	**9%**

16. Resultantly, the appeal in hand is partly accepted with costs and appellants are held entitled to a sum of Rs.4,48,000/- as compensation. The enhanced compensation thus comes out to Rs.3,41,000/- (Rs.4,48,000 - Rs.1,07,000) 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. 30.10.1998 till realization payable by respondents No.1 to 3 jointly and severally.

17. 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.

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

(Yashvir Singh Rathor)
Judge

February 25, 2026
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Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No