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

FAO-4490-2003
Date of Decision:16.02.2026

SMT. KUSUM LATA AND OTHERS

.....Appellants

VERSUS

RAJ PAL SINGH AND OTHERS

.....Respondents

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

Present:- Mr. Rohit Rana, Advocate
for the appellants.

Mr. Hardeep Singh, Advocate for
Mr. Ram Bilas Gupta, Advocate
for respondents No.1 and 2.

Mr. Surender Singh Pannu, Advocate
for respondent No.3-Insurance Company.

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Yashvir Singh Rathor, J. (Oral)

1. This appeal has been instituted against the Award dated 04.06.2003 for enhancement of compensation awarded in MACT case No.286 of 2000 decided by the MACT, Faridabad (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.3,07,072/- 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 Mukesh Kumar Sharma and the damage to scooter belonging to him in a motor vehicle accident.

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

3. 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 Bus No.UP-81-B-4980, 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.

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

> *"1. Whether the accident which took place on 3.6.2000 at about 9.40 A.M. near Nakeev Wala Pul, near Jungle of village Tappal, Distt. Aligarh (UP) on the road, was caused due to rash and negligent driving of Bus No.UP-81B/4980 being driven by Raj Pal Singh, respondent No.1 and which caused the death of Mukesh Kumar Sharma, if so its effect? OPP*
>
> *2. If issue no.1 is proved, whether the claimants are entitled to claim compensation for the death of Mukesh Kumar Sharma, if so, how much and from whom? OPP*
>
> *3. Whether the petitioners have got no locus standi and cause of action to file and maintain the present petition? OPR*
>
> *4. Whether the petition is bad for non-joinder and mis-joinder of parties? OPR*
>
> *5. Whether the respondent no.1 was not having a valid and effect driving licence at the time of alleged accident? OPR3.*
>
> *6. 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.3,07,072/- as compensation to the claimants/appellants, on account of death of Mukesh Kumar Sharma and the damage to scooter belonging to him 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. At the very outset, it is pertinent to mention that the record of the appeal as well as the Tribunal has got burnt in a fire incident in the branch and the appeal in hand shall be decided as per facts and evidence mentioned in the award passed by the Tribunal.

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.

10. As per version of claimants, deceased was 26 years of age and was practicing in Ayurvedic medicine and used to earn Rs.8,000/- per month. He has left behind his wife, 03 minor children and parents i.e. 06 dependents in all.

11. To prove his income and occupation, in addition to the testimony of claimant Smt. Kusum Latta as PW6, claimants have also examined PW5 Sombir, PW7 S.K. Bansal, PW8 Pratap Singh and PW1 S.P. Suman. Certificate Ex.P11 has been led in evidence, which shows that deceased was registered as a medical practitioner in Ayurvedic and Unani System of medicines and there is thus no reason to discard the evidence led by the claimants that the deceased was an Ayurvedic practitioner.

12. PW1 S.P. Suman has proved the documents Ex.P1 to P14 to show that deceased was having distributorship given by Amway India Enterprises, New Delhi and he used to earn commission. However, as to how much commission was being earned has not come on record.

13. PW7 S.K. Bansal stated that the annual income of the deceased for the year 2000-2001 was assessed as Rs.91,810/- and he tendered the income-tax return as Ex.P16. However, the aforesaid income-tax return was furnished by his wife after his death and during his lifetime, deceased had not furnished any income-tax return before the Income-Tax Authority and it is thus probable that an inflated income may have been reflected in the income-tax return by the wife after

the death of her husband to claim higher compensation and the Tribunal has thus rightly discarded the income-tax return and has not taken the same into consideration while assessing the monthly income of the deceased.

14. One PW8 Pratap Singh has also been examined, who deposed that deceased was a tenant in his shop, where he was running his Ayurvedic centre and he tendered the rent receipts Ex.P18 to P30. However, these receipts cannot be taken into consideration simply for the reason that neither the counter-foils of the receipts were in possession of PW8 Pratap Singh nor any receipt book has been produced to show that same were ever issued by him. No rent note allegedly executed between deceased and PW8 Pratap Singh has also been led in evidence to establish that any premises was let out by him to deceased where he was running his business. Learned Tribunal thus rightly discarded the evidence led by the petitioner that deceased was earning around Rs.8,000/- per month and there is no reason to take a contrary view as the evidence led by the claimants was not cogent and convincing. However, taking into consideration the fact that deceased was having distributorship of Amway India Enterprises, New Delhi and was a Ayurvedic practitioner, his monthly income was taken as Rs.3,000/- per month being a skilled person. Hon'ble Supreme Court in 2015(1) RCR (Civil) 625 – **Smt. Neeta Vs. The Div. Manager, MSRTC Kolhapur,** has held that in the absence of salary slip/ certificate, the Court should assess monthly wages as applicable at the relevant time and as such, minimum wages fixed by State Government have to be taken into consideration to assess the monthly income of the deceased. Even labourers used to earn Rs.2,000/- per month during the year 2003 which was the approximate minimum wages fixed by the State Government

and learned Tribunal has thus rightly assessed the income on the basis of minimum wages of a skilled person in respect of the deceased while assessing his monthly income to be Rs.3,000/- per month.

15. Accordingly, the income of the deceased is taken as Rs.3,000/- per month. Deceased has left behind wife, three minor children and parents. In view of law laid in 2009(6) SCC 121, ***"Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another,*** the father cannot be termed as a dependent upon the deceased son. The deceased thus has left behind five dependents. The date of birth of deceased was 15.08.1974. The accident had taken place on 03.06.2000 and as such, he was little less than 26 years of age. No future prospects have been awarded and since, deceased was less than 40 years of age, 40% of the amount has to be added to the monthly income of the deceased towards future prospects as per law laid down by Hon'ble Supreme Court in 2009(6) SCC 121, ***"Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*** and 2017 ACJ 2700, **'National Insurance Co. Ltd Vs. Pranay Sethi and Others'** and after adding the same, the monthly income comes to Rs.4200/- per month (Rs.3000/- +Rs.1200).

16. Deceased has left behind 5 dependents and in view of guidelines laid down in ***Sarla Verma's case (supra),*** 1/4th of the amount has to be deducted towards personal and living expenses and after deducting the same, the monthly loss of dependency comes out to Rs.3,150/- per month and the annual loss of dependency comes out to Rs.37,800/- **(3,150 x 12).**

17. Deceased was 26 years of age and as such, Tribunal has wrongly applied multiplier of 12. As per guidelines laid down in ***Sarla Verma's case***

(supra), multiplier of 17 should have been applied and after applying the same, the compensation payable to claimants comes out to Rs.6,42,600/- **(Rs.3,150/- X 12 X17).**

18. In addition to this, claimant No.1 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).** Likewise, remaining claimants including father are also held entitled to a sum of Rs.40,000/- each towards filial and parental consortium, in view of law laid down in 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***, which takes the compensation to Rs.9,12,600/-.

19. The Tribunal after going through the evidence on file has also awarded a sum of Rs.12,072/- as compensation to the claimants on account of damage to the scooter owned by the deceased. The evidence in the shape of bills Ex.P5 to P7 was led in evidence and mechanic was also examined and the compensation for damage to the scooter has rightly been assessed and no interference in the same is thus called for and after adding the same, the compensation payable to claimants comes out to Rs.9,24,672/- (Rs.9,12,600/- + Rs.12,072/-)

20. Accordingly, the compensation to be awarded to the appellants 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.3,000/-	Rs.3,000/-
2.	Age of deceased	26 years	26 years
3.	Future prospects @40%	Nil	Rs.1200/-
4.	Total income	Rs.3,000/-	Rs.4,200/-
5.	Number of dependents	05	05
6.	Deduction towards personal expenses of the deceased	Rs.1,000/- (1/3rd)	Rs.1,050/- (1/4th)
7.	Monthly loss of dependency	Rs.2,000/-	Rs.3,150/-
8.	Annual loss of dependency	Rs.24,000/-	Rs.37,800/-
9.	Multiplier	12	17
10.	Compensation on account of Loss of dependency	Rs.2,88,000/-	Rs.6,42,600/-
11.	Repair of scooter	Rs.12,072/-	Rs.12,072/-
12.	Compensation to claimant No.1 for loss of consortium, estate & funeral expenses	Rs.7000/-	Rs.70,000/-
13.	Compensation to remaining claimants for loss of consortium	Nil	Rs.2,00,000/- (Rs.40,000 × 5)
14.	Total Compensation	Rs.3,07,072/-	Rs.9,24,672/-
15.	Interest	9%	9%

21. Resultantly, appeal in hand is partly accepted with costs and appellants are held entitled to a sum of Rs.9,24,672/- as compensation. The enhanced compensation thus comes out to Rs.6,17,600/- (Rs.9,24,672/- - Rs.3,07,072/-) 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. 08.11.2000 till realization.

22. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

February 16, 2026
Priyanka Thakur

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