

2026:PHHC:046702



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

FAO-2163-2021 (O&M)

Date of Decision: 23.03.2026

Seema Devi and others

....Appellants

Versus

Ravinder Kumar @ Ravi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Yash Goyal, Advocate, for the appellants.

Mr. Punit Jain, Advocate,

for respondent No.3-Insurance Company.

VIKRAM AGGARWAL, J. (ORAL)

The instant appeal has been instituted by the appellants-claimants seeking enhancement in compensation awarded by the Motor Accident Claims Tribunal, Gurugram (for short `the MACT'), on account of death of one Suresh Kumar @ Rakesh, who expired in a motor vehicular accident, which took place on 20.12.2017.

2. A claim petition under Section 166 of the Motor Vehicles Act, 1988 (for short `the MV Act') was instituted by the widow; minor daughter and parents of one Suresh Kumar @ Rakesh. It was pleaded that on 20.12.2017, when Suresh Kumar @ Rakesh was going to drop his nephew to school on a Honda Activa, a Canter (Swaraj Mazda) bearing registration No. DL-1-

LX-2447 (hereinafter referred to as 'the offending vehicle') was parked on the wrong side of the road near Housing Board, Sector-7 Market, and some ropes meant for tying tarpaulin to the offending vehicle, were unfurling loosely. It was further claimed that when Suresh Kumar @ Rakesh tried to pass through the said loosely lying ropes, his vehicle got entangled with the said ropes and he lost control of his scooty. As a result of the same, it collided with the offending vehicle and the head of the deceased hit the offending vehicle. Respondent No.1, who was sleeping in the offending vehicle, fled from the spot along with the offending vehicle. Suresh Kumar @ Rakesh was taken to Colombia Hospital, Gurugram, where he remained admitted for two days and ultimately due to serious head injury, he expired on 22.12.2017. FIR No. 378 dated 20.12.2017 under Sections 283, 336 and 304-A IPC was registered at Police Station, New Colony. A sum of Rs.5 lakh was claimed to have been spent on the treatment of the deceased.

2.1 It was claimed that at the time of the accident, deceased-Suresh Kumar @ Rakesh was aged 28 years and was doing the work of a milkman/agriculturist and was earning Rs.40,000/- per month. It was further claimed that the claimants were fully dependent upon the deceased and they had no other source of income. Accordingly, compensation of Rs.1.00 (One crore) was claimed.

3. Respondent Nos.1 and 2 contested the petition by filing a written statement denying the involvement of the offending vehicle in the accident. The averments of the claim

petition were denied and it was asserted that the claimants had lodged a false complaint with the police only with a view to get compensation. The averments regarding the age, income and profession of the deceased and the amount spent on treatment, were denied.

3.1 Respondent No.3-Insurance Company filed its separate written statement denying the contents of the claim petition. It was further averred that respondent No.1 was not holding a valid and effective driving licence on the date of the alleged accident and that the insured had violated the terms and conditions of the Insurance Policy. It was further asserted that as per the post mortem report, the deceased had died due to head injuries, which clearly indicated that he was not wearing a helmet at the time of accident.

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

- 1. Whether the accident in question resulting into death of Suresh Kumar @ Rakesh son of Shri Braham Singh had taken place on 20.12.2017 due to wrong parking of vehicle bearing No. DL-1-LX-2447 by respondent No.1? OPP**
- 2. If issue No.1 is proved in affirmative, to what amount of compensation, the petitioners are entitled to and from whom? OPP**
- 3. Whether the insured has violated the terms and conditions of insurance policy and that driver of the offending vehicle was not holding a valid and effective driving licence at the time of accident? OPR**
- 4. Relief.**

5. Parties led their respective evidence.

6. Vide award dated 13.02.2020, the MACT allowed the petition filed by the claimants, awarding the following compensation:-

Sr. No.	Heads	Calculation (in Rs.)
i)	Age	27 years
ii)	Income	Rs.11,592/- (including future prospects @ 40%) (Rs.8280+3312/-)
iii)	1/4 of the (i) deducted as personal expenses per month of the deceased	Rs.11,592-2898/- =Rs.8,694/-
iv)	Compensation after multiplier of 17 is applied	Rs.8,694x12x17 = Rs.17,73,576/-
v)	Loss of estate	Rs.15,000/-
vi)	Loss of consortium	Rs.40,000/-
vii)	Funeral expenses	Rs.15,000/-
viii)	Expenses incurred on treatment of the deceased	1,14,476/-
	Total compensation awarded (Rs.18,43,576/- rounded off to Rs.18,44,000/- + Rs.1,14,476/-)	Rs.19,58,500/-

7. Seeking enhancement in the said compensation, the appellant-claimants have filed the instant appeal.

8. I have heard learned counsel for the parties.

9. Learned counsel for the appellants submits that the MACT erroneously considered the deceased (Suresh Kumar @ Rakesh) to be an unskilled labourer and assessed his monthly income as Rs.8,280/- per month. It has been argued that it was the categorical case of the appellants that the monthly income of the deceased was Rs.50,000–60,000/- as he was working as a milk man, an agriculturist and a part time insurance agent. It has been argued that in this regard, PW4-Rattan Lal, PW5-Prabhu Dayal and PW7-Kamal Singh, were examined. However,

the MACT did not examine their evidence from the correct perspective.

9.1 It has further been argued that the deceased was a matriculate and a certificate in this regard (Ex.P6) was duly produced on record. Learned counsel submits that under the circumstances, the monthly income could not have been assessed as Rs.8280/-.

9.2 Learned counsel has further submitted that the MACT further erred in awarding consortium to only one of the appellants-claimants, whereas in terms of the judgments of the Hon'ble Apex Court in **National Insurance Company Limited vs. Pranay Sethi and Ors.,(2017)16 SCC 680** and **Magma General Insurance Company Ltd. vs. Nanu Ram @ Chuhru Ram, (2018) 18 SCC 130**, a sum of Rs.40,000/- each ought to have been awarded to all the appellants-claimants.

10. *Per contra*, learned counsel representing the Insurance Company has submitted that since no documentary evidence was produced by the appellants to prove that the income of the deceased was Rs.50,000–60,000/- per month or that he was working as a milk man, an agriculturist and a part time insurance agent, the same was rightly assessed as Rs.8,280/- per month. However, he could not deny the factum of the consortium/filial compensation being payable in terms of the judgments of the Hon'ble Supreme Court of India in the cases of **Pranay Sethi** and **Magma General Insurance Company** (supra).

11. I have considered the submissions made by learned counsel for the parties

12. PW1-Seema Devi, who is widow of the deceased stated that her husband was doing the work of a milk dairy and he had 8 buffaloes and 6 cows. Apart from that, he used to do agriculture work besides working as a part time insurance agent and was earning Rs.50,000–60,000/- per month from the same. However, in the cross-examination, she stated that she did not have any documentary evidence in respect of the income of her husband and volunteered that she could produce the same, if required.

13. PW4-Rattan Lal had deposed that the deceased was doing the work of a milk man. He stated that he used to supply milk to his family and other persons and that he had 15-20 cows and buffaloes. In his cross-examination, he stood his ground.

14. PW5-Prabhu Dayal also deposed on the same lines. PW6-Brahm Prakash also deposed that Suresh Kumar @ Rakesh was doing the work of a milkman, was an agriculturist as also an insurance agent.

15. Similarly, PW7-Kamal Singh also deposed that he had given his land for cultivation to Suresh Kumar @ Rakesh. He produced on record the jamabandis of his land as well. However, in the cross-examination, he stated that there was no documentary evidence as regards the same.

16. The MACT, while observing that there was no documentary evidence to prove the income of the deceased,

assessed his income as Rs.8280/- per month considering him to be an unskilled labourer.

17. No doubt, there was no documentary evidence to prove that deceased-Suresh Kumar @ Rakesh was doing the work of a milkman and that he was an agriculturist and a part time insurance agent. However, it has to be borne in mind that a number of witnesses appeared and deposed about the said fact. There was no evidence from the other side to disprove the same.

18. It is not in dispute that oral evidence alone sometimes, is not trustworthy, yet in the present case, as noticed above, a number of witnesses appeared and deposed about the vocation of the deceased. Under the circumstances, the MACT should not have assessed the income of the deceased by treating him to be an unskilled labourer. Even the minimum wages for an unskilled labourer were Rs.9,585/- per month and for a semi-skilled as Rs.8,694/- per month, in the State of Haryana at the relevant time. It is well known and well settled that certain amount of guess work is also involved while assessing the income of the deceased

19. Keeping in view the entire facts and circumstances as noticed in the preceding paragraphs, this Court assesses the income of the deceased as Rs.12,000/- per month.

20. Now coming to the point of consortium etc., the claimants were 4 in number i.e., the widow of the deceased, one minor daughter and parents. In terms of the judgments of the Hon'ble Supreme Court in **Pranay Sethi** and **Magma General Insurance Company** (supra), an amount of Rs.40,000/- each

would be payable to all the claimants. In so far as the compensation awarded on account of the funeral expenses and loss of estate @ Rs15,000/- under each head is concerned, no further enhancement is required to made.

21. In view of the above, the compensation awarded by the MACT is enhanced as under:-

Sr. No.	Heads	Awarded by the MACT	Enhanced compensation
i)	Age	27 years	No Change
ii)	Income	Rs.11,592/- (including future prospects @ 40%) (Rs.8280+3312/-)	Rs.16,800/- (including future prospects @ 40%) (Rs.12,000+4800)
iii)	1/4 of the (i) deducted as personal expenses per month of the deceased	Rs.11,592-2898/- =Rs.8,694/-	Rs.16,800-4200/- = Rs.12,600/-
iv)	Compensation after multiplier of 17 is applied	Rs.8,694x12x17 = Rs.17,73,576/-	Rs.12,600x12x17= Rs.25,70,400/-
v)	Loss of estate	Rs.15,000/-	No Change
vi)	Loss of consortium	Rs.40,000/-	Rs.40,000/- x 4 Rs.1,60,000/-
vii)	Funeral expenses	Rs.15,000/-	No Change
viii)	Expenses incurred on treatment of the deceased	1,14,476/-	No change
	Total compensation awarded	Rs.19,58,500/-	Rs.28,74,876/-

22. The total compensation, therefore, comes to **Rs.28,74,876/-**. After deducting a sum of Rs. **Rs.19,58,500/-** as assessed by the MACT, the balance compensation comes to **Rs.9,16,376/-**. This amount would be payable in addition to the amount assessed by the learned MACT along with interest @

7.5% annually. The disbursal and liability to pay the same would be as per the award.

23. The present appeal is accordingly disposed of.

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

(VIKRAM AGGARWAL)
JUDGE

23.03.2026
ds

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