205 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1338-2005
Date of Decision:27.03.2026

JASBIR KAUR AND OTHERS

.....Appellants

VERSUS

STATE OF ASSAM AND OTHERS

.....Respondents

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

Present:- Ms. Neha, Advocate
for the appellants (Amicus Curiae).

Respondents No.1 to 3 already ex parte
before the Tribunal.

None for respondents No.4 to 6.

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YASHVIR SINGH RATHOR, J. (ORAL)

1. This appeal has been instituted against the Award dated 20.11.2004 for enhancement of compensation awarded in MACT case No.2 of 2001 decided by the MACT, Rupnagar (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.4,22,000/- has been awarded as compensation to the claimants/appellants along with interest at the rate of 6% per annum from the date of filing of claim petition till realization on account of death of Balwinder Singh in a motor vehicle accident.

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

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

> *"1. Whether Balwinder Singh died in a road side accident caused by Gopi Singh respondent No.2 while driving the Bus No.AS 20 0581 in and rash and negligent manner? OPP*
>
> *2. Whether the claimants are the legal representatives of deceased Balwinder Singh if so they are entitled for compensation and from whom? OPP*
>
> *3. Whether the claim petition is bad for mis-joinder of necessary parties?OPD*
>
> *4. 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.4,22,000/- as compensation to the claimants/ appellants, on account of death of Balwinder Singh along with interest @ 6% 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.3 while driving the offending bus bearing No.AS 20 0581, owned by respondent No.2. 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.4,22,000/- 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. No compensation has been awarded under conventional heads i.e. loss of consortium, loss of estate and the compensation awarded towards funeral expenses is also on the lower side and he prayed that same be suitably enhanced. In support of her contentions, learned counsel for the appellants 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**, (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur.**

10. 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.

11. As per version of claimants, deceased was travelling in army vehicle and was going from 240 Transit Camp, Guwahati to 238 Transit Camp Tenga, when the military vehicle met with an accident with bus bearing No.AS-20-0581 being driven by respondent No.3 on 30.10.1999. He suffered multiple injuries and died on 26.11.1999 during the treatment. Deceased was serving in the Indian Army and was getting a salary of Rs.10,000/- per month. However, no record from the employer was summoned to prove the income of the deceased and learned Tribunal has assessed his monthly income to be Rs.3,500/- per month. However, deceased was working in the Indian Army and in the year 1999, he must

have been earning around Rs.4,000/- per month. Accordingly, the monthly income of deceased is taken as Rs.4,000/- per month.

12. Learned Tribunal has come to the conclusion from the disposal order Ex.PY and evidence led on file that deceased was 38 years of age. Since, deceased was in permanent employment under the Indian Army and was below 40 years of age, 50% 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.6,000/- per month (Rs.4,000/- + Rs.2,000/-).**

13. As per claimants, deceased has left behind six dependents including his wife, four minor children and father. However, in view of law laid down in **Sarla Verma's case (supra),** father cannot be termed as dependent upon his deceased son and he is thus not entitled to any compensation except on account of filial consortium. As such, deceased has thus left behind five dependents and 1/4th of the income has to be deducted towards personal and living expenses as per law laid down in **Sarla Verma's case (supra)** and after deducting the same, the monthly loss of dependency comes out to Rs.4,500/- and the annual loss of dependency comes out to **Rs. 54,000/- (Rs.4,500/- X 12).**

14. Since deceased was 38 years of age, multiplier of 15 has to be applied in view of the guidelines laid down in **Sarla Verma's case (supra)**, and after applying the same, the total loss of dependency comes out to **Rs.8,10,000/- (Rs. 54,000/- x 15).**

15. 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, claimants No.2 to 5 **(**sons and daughters of the deceased) and claimant No.6 (father of the deceased) are also held entitled to a sum of Rs.40,000/- each on account of loss of parental and filial 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.10,80,000/-** (Rs.8,10,000/- + Rs.2,70,000/-).

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

S.No.	**Under Head**	
1.	Monthly income of deceased	Rs.4000/- per month
2.	Age of deceased	38 years
3.	Future prospects @50%	Rs.2000/-
4.	Total income	Rs.6000/-
5.	Number of dependents	5
6.	Deduction towards personal expenses of the deceased	Rs.1500/- (1/4th)
7.	Monthly loss of dependency	Rs.4500/-
8.	Annual loss of dependency	Rs. 54,000/- (Rs.4500/- X 12**)**
9.	Multiplier	15
10.	Compensation on account of Loss of dependency	Rs.8,10,000/- (Rs.54,000/- x15)
11.	Compensation under conventional heads to claimant No.1- wife	Rs.70,000/-
12.	Compensation to remaining claimants for loss of parental and filial consortium (sons, daughters and father)	Rs.2,00,000/- (Rs.40,000/- x 5)
13.	**Total Compensation**	**Rs.10,80,000/-**
14.	Interest	9%

17. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of Rs.10,80,000/- as compensation.

The enhanced compensation thus comes out to Rs.6,58,000/- (Rs.10,80,000/- - Rs.4,22,000/-) 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. 04.01.2001 till realization payable by respondents No.1 to 3 jointly and severally. Out of the enhanced compensation, a sum of Rs.40,000/- along with proportionate interest be paid to claimant No.6 (father), a sum of Rs.60,000/- each along with proportionate interest be paid to claimants No.2 to 5 while balance amount be paid to claimant No.1 along with proportionate interest.

18. Registry is directed to send the authenticated copy of the award to respondent No.1-State of Assam through Secretary to the Department of Transport Assam Guwahati and respondent No.2-Assam State Road Transport corporation Assam at Guwahati (Owner of the Bus), for compliance.

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

(YASHVIR SINGH RATHOR)
JUDGE

March 27, 2026
Priyanka Thakur

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