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

227 **FAO-1665-2005 (O&M)**
Date of decision: 19.05.2026

RAM PAL AND ANR. ....APPELLANTS

VERSUS

HARVINDER SINGH AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Deepak Kumar, Advocate
for the appellants.

Mr. Vinod Gupta, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

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

2. This appeal has been instituted against the Award dated 17.12.2004 for enhancement of compensation awarded in MACT case No.121 of 2001 decided by the MACT, Ludhiana (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.2,16,000/- has been awarded as compensation to the claimants alongwith interest at the rate of 6% per annum from the date of filing of claim petition till realization on account of death of Sanjiv Kumar @ Babbu in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-37-8552 (**for short 'offending vehicle'**), owned by respondent No.2, which was insured with respondent No.3.

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

> *1. Whether Sanjiv Kumar died in motor vehicular accident due to rash and negligent driving of truck No. HR-37-8552 by respondent No.1?OPClaimants.*

2. *Whether the claim petition is bad for non joinder of necessary parties?OPR3*
3. *Whether respondent No.1 was not holding a valid and effective driving licence at the time of accident?OPR3.*
4. *To what amount and from whom the claimants are entitled to receive compensation?OPClaimant*
5. *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.2,16,000/- as compensation to the claimants, on account of death of Sanjiv Kumar @ Babbu 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. 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 vehicle, 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.

8. 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 Registry and the present appeal has to be decided on the basis of the facts and evidence discussed by the

Tribunal in the impugned award.

9. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.2,16,000/- has been awarded is based on conjectures and surmises and is liable to be modified 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 22 years of age and multiplier of 12 has been applied whereas multiplier of 18 should have been awarded. 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 should 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**.

10. 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.

11. 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.

12. As per version of the claimant as stated by PW1 Ram Pal, deceased Sanjiv Kumar was his son, who used to sell milk after collecting the same from different milk dairies on commission basis and thereafter, supplied the same to Milk Chilling Centre, Pharour, owned by Ram Saran. He further deposed that the deceased used to earn Rs.12,000/- per month.

13. PW2 Gurmit Singh also stated that deceased was doing dairy farming and had kept ten buffaloes. The deceased used to collect milk from various milk dairies and sell the same to Milk Centre of Ram Saran.

14. PW3 Ram Saran stated that he runs a Milk Centre at Pharour and deceased used to supply milk at his centre after collecting the same from different milk dairies and houses. He further stated that deceased used to supply quintals of milk daily and was paid commission at the rate of Rs.1/- per kg and apart from

this, he used to sell his milk to him for which he used to pay about Rs.7,000/- per month. He tendered in evidence the copies of diaries maintained by him as Ex.AW3/1 to Ex.AW3/4. To the same effect is the testimony of one PW4 Darshan Singh regarding sale of milk by the deceased.

15. After going through the evidence on file, learned Tribunal came to the conclusion that the deceased was doing business of sale of milk and even in the FIR, it was mentioned that drums of milk were loaded on the scooter of the deceased. However, the income of deceased was assessed as Rs.3,000/- per month. The accident had taken place on 16.04.2001 and since deceased used to supply milk in large quantity to the Milk Chilling Centre, some amount of guesswork has to be applied while assessing the monthly income and he cannot be treated merely as a daily wager. Accordingly, the income of the deceased is taken as **Rs.5,000/- per month**.

16. Deceased was 22 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 monthly income to **Rs.7,000/- per month (Rs.5,000/- + Rs.2,000/-)**.

17. The petition in hand has been instituted by mother and father of the deceased. However, as per law laid down in **Sarla Verma's case (supra),** father cannot be termed as dependent upon his deceased son and he is not entitled to any compensation except on account of filial consortium. Deceased was unmarried and he has left behind his mother as sole dependent and 50% of the income thus has to be deducted towards personal and living expenses. After deducting a sum of **Rs.3,500/-** towards personal expenses, the monthly loss of dependency comes out

to **Rs.3,500/- (Rs.7,000/- - Rs.3,500/-)** and the annual loss of dependency comes out to **Rs.42,000/- (Rs.3,500/- X 12)**.

18. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 18 has to be applied as deceased was 22 years of age and after applying the same, the compensation comes to **Rs.7,56,000/- (Rs.42,000/- X 18).**

19. In addition to this, claimant No.2 (mother 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, claimant No.1 who is father of deceased is also held entitled to a sum of **Rs.40,000/-** on account of **loss of 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.8,66,000/-**.

20. 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.5,000/- per month
2.	Age of deceased	22 years
3.	Future prospects @ 40%	Rs.2,000/-
4.	Total income	Rs.7,000/- per month
5.	Number of dependents	1
6.	Deduction towards personal expenses of the deceased	Rs.3,500/-
7.	Annual loss of dependency	Rs.42,000/- (Rs.3,500/- X 12)
8.	Multiplier	18
9.	Compensation on account of Loss of dependency	Rs.7,56,000/-

10.	Compensation under conventional heads	Rs.70,000/-
11.	Consortium to father of deceased	Rs.40,000/-
12.	**Total Compensation**	**Rs.8,66,000/-**
13.	**Interest**	**9%**

21. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.8,66,000/-** as compensation. The enhanced compensation thus comes out to **Rs.6,50,000/- (Rs.8,66,000/- - Rs.2,16,000/-)** 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. 19.10.2001, till realization payable by respondents, jointly and severally. Since appellant No.2-mother of the deceased has died during pendency of the appeal, the entire amount of compensation be paid to the appellant No.1-father.

22. 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.

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

19.05.2026 **(YASHVIR SINGH RATHOR)**
Vishal Vardhan **JUDGE**

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