

- 1 -

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

Date of decision: 02.02.2026

1. FAO-1687-2005

BIMLA DEVI AND ORSAppellants

Versus

SATYA PARKASH AND OTHERS ...Respondents

2. FAO-5451-2004

ROHTASHAppellant

Versus

SATYA PARKASH AND OTHERS ...Respondents

3. FAO-5452-2004

SUBHASHAppellant

Versus

SATYA PARKASH AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. T.C.Dhanwal, Advocate
for the appellants in FAO-1687-2005.



- 2-

Mr. Sandeep Kotla, Advocate
for the appellants in FAO-5451-2004 and FAO-5452-2004.

Mr. V.K. Garg, Advocate
for respondents No.3 & 6-Oriental Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

IOIN-1-FAO-1687-2005 & IOIN-1-FAO-5452-2004

Respondents No.1 and 2 could not be served. However, the insurance company has been held liable to pay the compensation to the claimants jointly and severally with respondents No.1 and 2. No liability has been fastened upon respondents No.4 and 5 and there is thus no necessity to issue notice to respondents No.1, 2, 4 and 5 as the only issue required for determination is enhancement of compensation, if any.

IOIN stands disposed of.

FAO-1687-2005, FAO-5451-2004 and FAO-5452-2004

1. The aforesaid three appeals have been instituted against the award dated 20.10.2004 passed by the Motor Accident Claims Tribunal, Hisar, arising out of the same accident, which was registered vide FIR No.102 dated 18.09.1999 under Sections 279, 337 and 304-A of the IPC at Police Station Kolayat, Bikaner.
2. Claim petition No.342-MACT-2000 was instituted by Bimla Devi and others against Satya Parkash and others for grant of compensation on account of death of Mahender Singh, which occurred due to rash and negligent driving of the drivers of offending bus No.RRF-579 as well as jeep No.HR-39-5300. Offending bus No.RRF-579 is owned by respondent No.2 and insured with



- 3-

respondent No.3-Oriental Insurance Company Ltd., while jeep No.HR-39-5300 is owned by respondent No.5 and insured with respondent No.6-Oriental Insurance Company Ltd. As per their version, the accident in question resulting in death of Mahender Singh took place on account of rash and negligent driving on the part of drivers of both the vehicles i.e. respondents No.1 and 4.

3. Claim petition No.344-MACT-2000 was instituted by claimant-Rohtash against Satya Parkash and others for grant of compensation on account of injuries suffered by him in a motor vehicular accident due to rash and negligent driving on the part of respondent No.1- Satya Parkash, while driving offending bus No.RRF-579, owned by respondent No.2 and insured with respondent No.3.

4. Claim petition No.345-MACT-2000 was instituted by Subhash, owner of jeep No.HR-39-5300, seeking compensation on account of damage suffered by his vehicle due to rash and negligent driving on the part of respondent No.1 while driving offending bus No.RRF-579, which was owned by respondent No.2 and insured with respondent No.3.

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

1. *Whether the accident in question resulting in death of Mahender and injuries to Subhash, Bhagat Ram, Ram Partap, Moman and Rohtash took place due to the rash and negligent driving of Bus No.RRF-579 and jeep No.HR-39/5300 driven by respondent No.1 and 4 as alleged? OPP*
2. *If issue no.1 is proved, to what amount of compensation and from whom the petitioners are entitled to recover?OPP*
3. *Relief.*



- 4-

6. The only issue required to be determined in the present appeals 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. RRF-579, 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.

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

8. **Compensation in FAO-1687-2005, Bimla Devi and Ors. Vs. Satya Parkash and Others, arising out of MACT No.342-MACT of 2000:-**

9. As per version of the petitioners, deceased-Mahender Singh was 35 years of age, who was an agriculturist and was running a milk dairy also and he used to earn Rs.2,000/- per month. As per their version, deceased also owned 12 acres of land.

10. Learned counsel for the appellant has today placed on file the statements of PW2, PW3, PW4, PW5 and PW6 and statement of the counsel for the petitioners as well as statement of RW1. Learned counsel had also tendered Jamabandi Ex. P8 and Mutation Ex. P7 to show that deceased owned agriculture land. However, learned Tribunal assessed the monthly income of the deceased to be Rs.2,100/- per month and held that he must have been working as a labourer. It



- 5-

is pertinent to mention that the record of appeal as well as Tribunal has got burnt in a fire incident in the High Court branch and the present case thus has to be decided on the basis of facts and evidence discussed by the Tribunal and the documents placed on file by counsel for the appellant at the time of reconstruction. Learned counsel has placed on file the statement dated 14.08.2003 of Sh. J.D. Pruthi, Advocate, representing appellant-Bimla Devi, which shows that he had tendered Jamabandi Ex. P8 and Mutation Ex. P7, meaning thereby, deceased was owner of some land and he could not have been treated simply as a labourer and his income could not have been assessed on the basis of minimum wages applicable to a labourer as he must be managing his own land at the time of death. Hon'ble Supreme Court in *2015(1) RCR (Civil) 625 Smt. Neeta v. Divisional Manager, MSRTC, Kolhapur* has held that if a person was in agricultural occupation, the monthly income can be assessed at Rs.12,000/- per month. This judgment was rendered on 13.01.2015 and accident had taken place on 22.03.2011. This judgment has been followed by a Co-ordinate Bench of this Court in FAO-931-2021 titled *Shriram General Insurance Company Limited Vs. Santosh and Others*, decided vide judgment dated 15.07.2022.

11. In the present case, the accident had taken place on 17.09.1999 and minimum wages have been taken as 2,100/- per month and accordingly some amount of guess work has to be applied while assessing compensation for the managerial skills of the deceased, while managing his own land and he cannot be simply termed as a labourer. As such, taking into consideration the aforesaid facts and in view of law laid down in *Smt. Neeta's case (supra)*, it is established that



- 6-

deceased must have been earning more than a labourer and a sum of Rs.600/- is accordingly added to his income of Rs.2,100/- per month towards managerial skills, which takes his monthly income to Rs.2,700/-.

12. Deceased was 35 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 by Hon'ble Supreme Court in 2009(6) SCC 121 "***Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another*** and in 2017 ACJ 2700, '***National Insurance Co. Ltd Vs. Pranay Sethi and Others***', which takes his income to Rs.3,780/- per month. Deceased has left behind wife, two minor children and mother and as such 1/4th of the income has to be deducted towards personal and living expenses, which brings the monthly dependency to Rs.2,835/- and annual dependency to Rs.34,020/-.

13. As per ***Sarla Verma's case (supra)***, multiplier of 16 has to be applied as deceased was 35 years of age and after applying the same, the compensation comes to Rs.5,44,320/-.

14. As per law laid down in ***Pranay Sethi's case (supra)*** appellant No.1 is held entitled to a sum of Rs.70,000/- towards consortium, loss of estate and funeral expenses. Remaining claimants are also held entitled to a sum of Rs.40,000/- each towards parental and filial consortium (Rs.40,000/- X 3) 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***', which takes the compensation to Rs.7,34,320/-.



- 7-

15. Resultantly, appeal in hand is partly accepted with costs and appellants are held entitled to a sum of Rs.4,44,320/- (rounded to Rs.4,44,000/-) as enhanced compensation 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. 10.01.2000 till realization and respondents No.1 to 3 are liable to pay compensation to the appellants/claimants jointly and severally. Out of the enhanced compensation, a sum of Rs.2,25,000/- be paid alongwith proportionate interest to appellant No.1-Bimla Devi and remaining amount be given to appellants No.2 to 4 in equal shares alongwith proportionate interest.

16. **Compensation in FAO-5451-2004, Rohtash Vs. Satya Parkash and Others, arising out of MACT No.344 of 2000:-**

17. As per version of petitioner, he was driving jeep No.HR-39-5300 at the time of accident and he suffered multiple injuries and had spent huge amount on his treatment. To prove his case, petitioner-Rohtash stepped into the witness-box as PW4 and deposed that he was the driver of jeep No.HR-39-5300 at the time of accident. He suffered injuries in the accident and was admitted in Bikaner hospital for 04 days and thereafter, in Jain Hospital for 08 days. He deposed that he had spent Rs.75,000/- on his treatment including medicines, transportation etc. and in engaging an attendant. He had suffered injuries on his hip joint and chest. During cross-examination, he admitted that he has not maintained bills, regarding expenses incurred on the treatment. He tendered one MLR Ex. P1, which shows that he had suffered simple injuries. No X-ray report was tendered to establish that he had suffered grievous injuries and learned Tribunal came to the conclusion that



- 8-

petitioner had suffered simple injuries and was held entitled to a sum of Rs.5,000/- as compensation in lump sum.

18. However, he has categorically stated during his examination-in-chief that his ribs were fractured but this part of his testimony has not been taken into consideration by the Tribunal at all. No doubt, he has not produced any medical records or bills to establish the nature of injuries and the amount spent on treatment but he was resident of Hisar and had met with an accident in Bikaner and he may not have obtained the bills of treatment. Therefore, some amount of guess work has to be applied while assessing the compensation. The compensation of Rs.5,000/- awarded by the Tribunal is highly inadequate and taking into consideration the fact that he underwent the trauma of accident and suffered injuries, he is held entitled to a sum of Rs.10,000/- in all as compensation i.e. enhanced amount of Rs.5,000/-.

19. Resultantly, appeal in hand is partly accepted with costs and appellant is held entitled to a sum of Rs.5,000/- as enhanced compensation over and above what has been awarded by the Tribunal alongwith interest at the rate of 9% per annum from the date of filing of claim petition i.e. 02.05.2000 till realization and respondents No.1 to 3 are liable to pay compensation to the appellant/claimant jointly and severally. Entire amount be paid to the appellant in cash as the compensation is meagre.

20. **Compensation in FAO-5452-2004, Subhash Vs. Satya Parkash and Others arising out of MACT case No.345 of 2000:-**

21. To prove the damage suffered by the vehicle in question, petitioner



- 9-

has examined PW6-Indu Bhushan Mehta, Surveyor, who deposed that he had prepared survey report of vehicle No.HR-39-5300, which was exhibited as Ex. PW6/A. No doubt, the record of the Tribunal and the appeal has got burnt and the said report is now not available but the Tribunal has specifically mentioned that the Surveyor had assessed the damage to the extent of Rs.34,500/-. However, no compensation was paid to petitioner only on the ground that Rohtash Kumar, who was driving the jeep in question did not possess a driving licence authorizing him to drive maxi cab/transport vehicle and he was authorized to drive motorcycle, scooter, car and jeep only and that the claimant had admitted that his claim regarding damage caused to his jeep was repudiated by the Insurance Company on the ground that driver was not holding a valid and effective driving licence.

22. However, the approach of the learned Tribunal in this regard is erroneous. The claim petition had been instituted against driver, owner and insurer of the offending bus and merely because the driver of ill-fated jeep was not possessing a driving licence authorizing him to drive a transport vehicle cannot be made a ground to deny the compensation against the driver, owner and insurer of the offending vehicle. Such a claim could have been repudiated by the insurer of the ill-fated vehicle, in case there was a violation of terms and conditions of the insurance policy. Even otherwise, law is now well settled that a driver possessing a licence authorizing him to drive light motor vehicle/jeep can drive a light transport vehicle as held by Hon'ble Supreme Court in Civil Appeal No. 841 of 2018 titled *M/s Bajaj Allianz General Insurance Co. Ltd. vs. Rambha Devi & Ors.* vide judgment dated 06.11.2024. Accordingly, finding on issue No.2 is not



- 10-

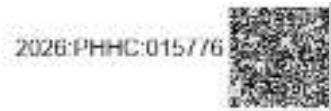
sustainable and is reversed.

23. Consequently, finding of the Tribunal whereby compensation has been denied to the owner of the vehicle namely Subhash is not sustainable. As per the survey report Ex. PW6/A prepared by PW6, it is established that vehicle had suffered damage to the extent of Rs.34,500/- and petitioner is thus entitled to compensation to that extent.

24. Resultantly, appeal in hand is partly accepted with costs and appellant is held entitled to a sum of Rs.34,500/- as compensation on account of damage caused to his vehicle bearing No.HR-39-5300 alongwith interest at the rate of 9% per annum from the date of filing of petition i.e. 04.11.2000 till realization and respondents No.1 to 3 are liable to pay compensation to the appellants/claimants jointly and severally. Entire amount be paid to the appellant in cash as the compensation is meagre.

25. In the present case, the record had got burnt due to fire incident and today, learned counsel for the appellant has placed on file statements of PW2, PW3, PW4, PW5 and PW6, statement of the counsel for the claimants as well as statement of RW1, which were recorded before the Tribunal. Same have accordingly been taken on record subject to all just exceptions. Registry is directed to tag the same at an appropriate place.

26. 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



- 11-

16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said judgment.

		(YASHVIR SINGH RATHOR)
		JUDGE
02.02.2026		
amandeep		
	Whether speaking/reasoned.	: Yes/No
	Whether Reportable.	: Yes/No