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

224

**FAO-1954-2005 (O&M)
Date of decision: 08.04.2026**

MAMTA GOYAL AND ORS ....Appellants

Versus

SUBE SINGH AND ORS. ...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Deep Inder Singh Walia, Advocate for the appellants.

Mr. Naveen Sharma, Advocate and
Mr. Rajneesh Chadwal, Advocate for respondent No.2.

Mr. D.P. Gupta, Advocate and
Mr. Shubham Gupta,Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

IOIN-1-FAO-1954-2005

As per report of Registry, notice has been issued to respondent No.2 but the same has not been received back yet.

Mr. Naveen Sharma, Advocate and Mr. Rajneesh Chadwal, Advocate have put in appearance on behalf of respondent No.2 and accordingly IOIN stands disposed of and main appeal is taken up for hearing today itself.

FAO-1954-2005

1. This appeal has been instituted against the Award dated 17.2.2005 for

enhancement of compensation awarded in MACT case No.122 of 2003 decided by the Motor Accident Claims Tribunal, Hisar (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988, vide which a sum of Rs.10,42,000/- has been awarded as compensation to the claimants on account of death of Prem Kumar Goyal in a motor vehicular accident which allegedly took place due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-47-A-7248 (**hereinafter referred to as 'offending vehicle'**) alongwith interest @ 9% per annum from the date of filing of claim petition till realisation.

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

> *1. Whether the accident in question took place due to rash and negligent driving of vehicle i.e. Trala bearing registration No.HR-47A/7248 driven by respondent No.1, as alleged?OPP*
>
> *2. Whether the petitioner died in the accident in question, if so, to what amount of compensation the petitioners are entitled and from whom?OPP*
>
> *3. Relief.*

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

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.10,42,000/- as compensation to the claimants, on account of death of Prem Kumar Goyal alongwith interest @ 9% per annum from the date of filing of claim petition till realization, payable by respondents jointly and severally.

5. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.

6. 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.

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 offending vehicle and respondents 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 and the same is affirmed.

8. Learned counsel for the appellants argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation which is grossly inadequate. Learned counsel contended that income of the deceased has been assessed on lower side. No future prospects have been added to the income of the deceased and since deceased was 38 years of age, 40% amount should have been added to the monthly income towards future prospects. Learned counsel further contended that compensation awarded on account of funeral expenses, transportation, loss of consortium and loss of estate has also been assessed on lower side and compensation is liable to be enhanced. In support of his 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** and (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur**.

9. On the other hand, learned counsel for respondents argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for

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-Prem Kumar Goyal was 38 years of age and was getting monthly salary of Rs.9,200/- and used to contribute Rs.8,000/- per month for household expenses. To prove his income, claimants have examined PW4-J.B.S. Yadav, Assistant from Guru Jambheshwar University, Hisar, who proved the salary certificate Ex. P7 and deposed that deceased was drawing salary of Rs.9,234/- per month. During cross-examination, he stated that the carry home salary of deceased was Rs.8,518/- per month. Learned Tribunal considered the carry home salary to be his monthly income, while relying upon the judgment of the Hon'ble Supreme Court in 2004(1) PLR 1, ***Asha and Others Vs. United India Insurance Co. Ltd.*** However, grave error has been committed while taking his monthly income to be Rs.8,518/- as deceased was serving in a University and some amount was being deducted towards provident fund & GIS but the same are a part of the salary and cannot be deducted while assessing monthly income. Accordingly, the income of deceased is taken as Rs.9,234/- per month.

12. However, no future prospects have been added to the monthly income of the deceased. Deceased was 38 years of age and was working as an Assistant and was in permanent employment of Guru Jambheshwar University, Hisar and as such, 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.13,851/-. Out of this monthly income of Rs.13,851/-, a sum of Rs.750/- has to be deducted towards income tax and after deducting the same, the monthly income comes to Rs.13,101/- (rounded to Rs.13,100/-).

13. The petition in hand has been instituted by wife, two children, mother and father of the deceased. Accordingly, it is held that deceased has left behind 5 dependents and 1/4th of the income thus has to be deducted towards personal and living expenses as per law laid down in **Sarla Verma's case (supra)** and after deducting a sum of Rs.3,275/- towards personal expenses, the monthly loss of dependency comes out to Rs.9,825/- and the annual loss of dependency comes out to Rs.1,17,900 /- per annum.

14. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 15 has to be applied as deceased was 38 years of age and after applying the same, the compensation comes to Rs.17,68,500/-.

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, who are two sons, mother and father of 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.19,98,500/-.

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

Sr. No.	Head of Compensation	Compensation awarded by the High Court
1.	Monthly income of the deceased	Rs.9,234/-
2.	Age of deceased	38 years

3.	Future prospects @ 50%	Rs.4617/-
4.	Deduction towards income tax	Rs.750/-
5.	Monthly income after deduction of tax	Rs.13,100/-
6.	Deduction towards personal expenses (1/4th)	Rs.3,275/-
7.	Monthly loss of dependency	Rs.9,825/-
8.	Annual loss of dependency	Rs.1,17,900/-
9.	Multiplier	15
10.	Compensation on account of loss of dependency	Rs.17,68,500 /-
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 (two sons, mother and father)	Rs.1,60,000/-
13.	Total compensation	Rs.19,98,500/-
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.19,98,500/- as compensation. The enhanced compensation thus comes out to Rs.9,56,500/- (Rs.19,98,500/- - Rs.10,42,000/-) over and above the compensation awarded by the Tribunal payable alongwith interest at the rate of 9% per annum from the date of filing of claim petition i.e. 03.08.2003, till realization payable by respondents No.1 to 3, jointly and severally. Out of the enhanced compensation, Rs.1,00,000/- each be paid to claimants No.2 to 5 (two sons and parents) and the remaining amount be paid to claimant No.1 (wife) of the deceased alongwith proportionate interest.

18. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

08.04.2026
amandeep

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