S. No.216

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

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Date of Decision:7.4.2026

1. FAO No.211 of 2005 (O&M)

Gulshan Bhatia and others .....Appellants
Vs.
State of Haryana and others .....Respondents

2. FAO No.214 of 2005 (O&M)

The Oriental Insurance Company Ltd. .....Appellant
Vs.
Gulshan Bhatia and others .....Respondents

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

Present:- Mr. B.S. Bedi, Advocate for the appellants in FAO No.211 of 2005.

Mr. Harsh Aggarwal, Advocate for appellant in FAO No.214 of 2005 and for respondent- Insurance Company in FAO No.211 of 2005.

Mr. Rahul Bansal, Advocate for Mr. D.R. Bansal, Advocate for NIC- respondent No.6 in FAO No.211 of 2005.

Mr. Praveen Kumar, DAG, Haryana for respondents No.1 and 4 in FAO No.211 of 2005 and for respondents No.6 and 10 in FAO No.214 of 2005.

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<u>Yashvir Singh Rathor, J. (Oral)</u>

1. This order shall dispose of above noted two appeals, as the same have emanated out of the same award.

<u>FAO No.211 of 2005 (O&M)</u>

2. This appeal has been instituted against the Award dated 1.11.2004 for enhancement of compensation awarded in MACT case No.11 of 2000 decided by the MACT, Chandigarh (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.20,64,678/- has been awarded as compensation to the claimants/appellants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Chandan Bhatia due to rash and negligent driving of the drivers of the truck No.HR-37-1639 **(for short, `offending truck')** and Bus No.HR-37-7752 **(for short, `offending bus')** in a motor vehicle accident.

<u>FAO No.214 of 2005 (O&M)</u>

3. This appeal has been instituted by the Insurance Company of offending Truck No.HR-37-1639 against the afore-said award vide which the claimants have been awarded a sum of Rs.20,64,678/- as compensation along with interest @ 9% per annum.

4. Case of the claimants is that on 23.9.2000, at about 2:00 AM, deceased -Chandan Bhatia boarded Bus No.HR-37-7752 from Delhi for going to Chandigarh. When the bus reached near Kurukshetra at about 5:00 AM and was being driven by the driver namely Satpal, one truck bearing HR-37-1639 was going ahead of the bus. The driver of the bus had blown horn to overtake the said truck and the driver of the truck Jasbir Singh – respondent No.3 gave a signal to the bus driver allowing him to overtake the truck. When the bus was in the process of overtaking the truck, the driver of the truck suddenly turned his truck towards right side and intentionally applied the brakes as a result of which, the front portion of the bus struck against the truck and the passengers of the bus suffered injuries and Chandan Bhatia died at the spot. It is alleged that the

accident took place due to rash and negligent driving on the part of the driver of the truck and driver of the bus also could not control the bus during the process of overtaking.

5. By way of present petition, a sum of Rs.70,00,000/- was claimed as compensation.

6. Respondents No.1 and 4, who are the owners of the bus, in their written statement have alleged that the accident in question had taken place due to rash and negligent driving on the part of the truck driver against whom FIR was lodged.

7. Respondents No.2 and 3, who are the owner and driver of the truck respectively pleaded that accident took place solely due to rash and negligent driving on the part of the bus driver who was driving the bus on the wrong side of the road in violation of the traffic rules.

8. Respondent No.5/ Insurer of the offending truck raised various preliminary objections and refuted the contents of the claim petition. It is also submitted that the drivers of the truck and bus were not having valid and effective driving licences.

9. Respondent No.6- Insurer of the offending bus opposed the petition on the ground of non-joinder of necessary parties, i.e. driver of the bus. It is also submitted that the driver of the bus was not holding a valid and effective driving licence and Insurance Company is not liable to indemnify the insured. It is further submitted that the accident took place due to negligence of the truck driver.

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

> *"i). Whether Chandan Bhatia died at 5AM on account of rash and negligent driving of the drivers of the Bus No.HR-37-7752 and truck no.HR-37-1639?OPP*
>
> *ii). Whether the claimants are entitled to compensation regarding accidental death of Chandan Bhatia being legal representatives of Chandan Bhatia deceased?OPP.*
>
> *iii) As to who is rash and negligent in causing the death of Chandan Bhatia out of the driver of Bus No.HR-37-7752 and Truck No.HR-37-1639?OPP.*
>
> *iv) Whether the driver of the Truck No.HR-37-1639 was not holding a effective driving licence at the time of alleged accident?OP-5*
>
> *v) Whether the claim petition is bad on account of non-joinder of the driver of the bus?OPR6.*
>
> *vi) Whether the driver of the Bus No.HR-37-7752 was not holding an effective driving licence at the time of accident? If so, its effect?OPR-6.*
>
> *Vii) Relief.*

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

12. Learned Tribunal after going the evidence led on file, came to the conclusion that accident in question had taken place on account of rash and negligent driving on the part of the truck driver and held respondents No.2, 3 and 5 liable jointly and severally to pay compensation to the claimants to the tune of Rs.20,64,678/-.

13. Feeling aggrieved, both the afore-said appeals have been instituted. The material on file has been perused and parties have been heard.

14. Learned counsel for appellant- Insurance Company in FAO No.214 of 2005 with which the truck was insured, argued that the impugned award is based on conjectures and surmises and infact the bus was being driven rashly and

negligently which started overtaking the truck without giving any prior signal to the driver and dashed against the truck from behind resulting in the accident and as such, the truck driver cannot be held liable for rash and negligent driving as the truck was being driven ahead of the bus and learned counsel prayed that the finding on Issue No.1 is thus liable to be reversed.

15. Learned counsel for claimants and learned counsel appearing on behalf of the respondent No.6 - State argued that the finding of the learned Tribunal is well reasoned and justified and from the evidence on file, it is established that accident in question had taken place due to rash and negligent driving on the part of the driver of the truck. The evidence led by the claimants to prove rash and negligent driving on the part of truck driver has gone unrebutted and there is thus no reason to discard the same and finding is not liable to be interfered.

16. Learned counsel for the appellants in FAO No.211 of 2005 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 25 years of age and was a businessman, 40% amount should have been added to the monthly income towards future propsects. Learned counsel contended that the Tribunal after deducting one third towards personal expenses has applied mutliplier of 17, whereas deceased has left behind five dependents and in these circumstances, one fouth of the amount should have been deducted towards personal expenses and multiplier of 18 should have been applied to the loss of dependancy. Learned counsel next contended that no

compensation has been awarded for loss of consortium, loss of estate and funeral expenses and the compensation is thus liable to be enhanced suitably. 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.**

17. On the other hand, learned counsel for respondents in FAO No.211 of 2005 further 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.

18. In order to prove rash and negligent driving on the part of the driver of the truck, the claimants have examined PW2- Bichha Ram who deposed that he was coming in the said bus No.HR-37-7752 from Panipat to Ambala. At about 5:00 AM on 23.9.2022, when the bus reached near Samani Gaon on GT Road near Peepli, one truck bearing registration No.HR-37-1639 was going ahead of the bus. The driver of the truck gave side to the driver of the bus for overtaking the truck but when the bus was overtaking the truck, the driver of the truck suddenly applied brakes without giving proper side/ space for overtaking and severed his truck towards right side as a result of which bus struck against the truck. All the passengers sustained injuries including he himself. He further deposed that Chandan Bhatia was also traveling in the bus and he had also suffered injuries. He was taken to the hospital in a bus of the Punjab Raodways and he got the FIR Ex.P4 registered at Police Station Sadar Thanesar Kurukshetra.

19. Nothing to shatter his veracity could be elicited during his cross-examination and his stand has remained consistent throughout. Though respondents No.2 and 3 (owner and driver) and respondent No.5, insurer of truck have alleged that the accident had taken place due to rash and negligent driving on the part of the bus driver, yet no evidence has been led by them to rebut the testimony of PW2 and his testimony has thus gone unrebutted and there is thus no reason to disbelieve the same. Even respondent No.3/ driver of the offending truck has not stepped into the witness box to state his case on oath and to offer himself for cross-examination and as such, an adverse inference has to be drawn against them that the case set up by them is not true. In these circumstances, there is no reason to disbelieve the testimony of PW2. No material illegality or infirmity thus has been committed by the learned Tribunal while giving finding on Issue No.1 to the effect that the accident in question had taken place due to rash and negligent driving on the part of driver of offending truck and the finding on this issue is accordingly affirmed.

20. Stand of claimants is that deceased used to earn Rs.30,000/- per month and to prove his income, claimants have examined PW3/A- Ashok Kumar, Accountant, Bhatia Motors and Bhatia Agency, who deposed that he maintains the accounts of both Bhatia Motors and Bhatia Agency. Chandan Bhatia (since deceased) was drawing a salary as an employee from Bhatia Motors and he was a partner w.e.f. the year 1998 in Bhatia Agency and thereafter, he stopped withdrawing salary from Bhatia Motors. He deposed that Chandan Bhatia had been filing income tax returns and he drew salary @Rs.10,000/- per month from the Bhatia Agency from 1.11.1998 to 31.3.1999 and he produced the certificate of the Income Tax Department `Mark X'. He further deposed that Chandan Bhatia

was also looking after business of Hindu Undivided family under the name and style of Chandan Bhatia and his HUF income for the year 1999-2000 was Rs.98,510/-.

21. PW4- Subhash Arora produced the summoned record relating to assessment year 2000-2001, financial year 1999-2000 in respect of deceased-Chandan Bhatia and deposed that he had filed the returns. He produced assessment report Ex.P.14 and photocopy of computation chart Ex.P.15 and certificate issued by Shri Anuj Garg, Income Tax Officer Ex.P.16, returns of Chandan Bhatia for the financial years 1998-1999 and proved the assessment order Ex.P17 and computation chart Ex.P18.

22. PW19- Som Parkash, Inspector, while appearing as PW5 produced the record of HUF House No.1014, Sector 40-B, Chandigarh relating to Chandan Bhatia and proved the photocopy of the assessment record of the financial years 1999-2000 and 2000-2001 Ex.P7 and Ex.P9, computation chart for the financial year 2000-2001 Ex.P8, computation chart for the year 2000-2001 Ex.P10 and voucher Ex.P11, acknowledgement return for the year 1998-1999 Ex.P13 and its computation chart Ex.P6.

23. Learned Tribunal after going through the evidence on file has come to the conclusion that only the individual income of the deceased is to be taken into consideration in assessing the compensation and not his income from Hindu Undivided Family as the claimants are still getting the said income being members of HUF. The Tribunal relied upon the last income tax return Ex.P14 for the assessment year 2000-2001, according to which annual income of the deceased from all sources was Rs.1,82,539/-. A perusal of the income tax return

Ex.P14 shows that the income of deceased from business or profession was Rs.1,59,012/- per annum and income from other sources was Rs.25,077/- and he had also paid income tax amounting to Rs.29,500/- out of his afore-said total income. The Tribunal after deducting one third of the amount towards personal expenses assessed the annual dependency to be Rs.1,21,334/-. However, only 15% of the amount earned from "income from other sources" could have been added to his income instead of the entire amount of Rs.25,077/- in view of law laid down by the Hon'ble Supreme Court in 2022(4) RCR (Civil) 435 – **K. Ramya and others Vs. National Insurance Co. Ltd. & Anr.** As such, 15% of the income from other sources towards managerial skills thus comes out to Rs.3,762/- and the annual income comes out to Rs.1,62,774/- (Rs.1,59,012/- + Rs.3,762/-).

24. However no future prospects have been added to the income of the deceased. Deceased was 25 years of age and was running his own business and as such, 40% amount has to be added to the annual income of the deceased towards future prospects in view of law laid down in **Pranay Sethi's case (supra)** and after adding the same, the annual income comes out to Rs.2,27,884/- and out of this amount, a sum of Rs.35,000/- has to be deducted towards income tax and after deducting the same, the annual income comes out to Rs.1,92,884/-.

25. The petition in hand has been instituted by parents, wife and two minor children of the deceased. Accordingly, it is held that deceased has left behind 5 dependents. The Tribunal has deducted one third of the income towards personal expenses but 1/4rd of the income has to be deducted towards personal and living expenses in view of law laid down in **Sarla Verma's case (supra)** and

after deducting the same, the annual loss of dependency comes out to Rs.1,92,884/- - Rs.48,221/- = Rs.1,44,663/-.

26. Since deceased was 25 years of age, multiplier of 18 has to be applied as per guidelines laid down in **Sarla Verma's case (supra)** instead of multiplier of 17 applied by the Tribunal and after applying the same, the total loss of dependency comes out to Rs.26,03,934/-.

27. In addition to this, claimant No.3-wife 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 1, 2, 4 and 5 who are parents and minor children of deceased are also entitled to a sum of **Rs.40,000/- each** on account of '**loss of parental & 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.28,33,934/-.

28. 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.	Annual income of deceased	Rs.1,62,774/- per annum
2.	Age of deceased	25 years
3.	Future prospects @ 40%	Rs.65,109/-
4.	Total income	Rs.2,27,884/-
5.	Income Tax Deduction	Rs.35,000/-
	Total Income after deduction of income tax	Rs.1,92,884/-
5.	Number of dependents	5
6.	Deduction towards personal expenses of the deceased (1/4th)	Rs.48,221/-

7.	Annual loss of dependency	Rs.1,44,663/-
8.	Multiplier	18
9.	Compensation on account of Loss of dependency	Rs.26,03,934/-
10.	Compensation under conventional heads	Rs.70,000/- (wife) Rs.1,60,000/- (Rs.40,000/- each to parents and minor children of deceased)
	Total Compensation	**Rs.28,33,934/-**
	Interest	**9%**

29. Resultantly, FAO No.211 of 2005 is partly accepted and appellants/ claimants are held entitled to a sum of **Rs.28,33,934/-** as compensation. The enhanced compensation thus comes out to **Rs.7,69,256/-** (**Rs.28,33,934/- - Rs.20,64,678/-**) (**Rounded to Rs.7,69,500/-)** 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. 22.12.2000, till realization payable by respondents No.2, 3 and 5, jointly and severally. Out of the enhanced compensation, a sum of Rs.50,000/- each be paid to parents, a sum of Rs.1,00,000/- be paid to children of the deceased and remaining amount be paid to wife of deceased along with proportionate interest. As mother of the deceased has died during pendency of the appeal, the share of mother will go to the legal heirs of the mother, who are already on record as respondents No.2 to 5.

30. As a result of afore-said discussion, FAO No.214 of 2005 filed by Insurance Company against the award dated 1.11.2004 stands dismissed.

31. 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.

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

33. A photocopy of this order be placed on the file of connected case.

(Yashvir Singh Rathor)
Judge

April 7, 2026
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Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No