IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

102

Date of decision: 06.02.2026

1. FAO-2453-2005

OM PARKASH AND ORS. ....Appellants

Versus

JITENDER SINGH AND ORS. ...Respondents

2. FAO-2452-2005 (O&M)

REENA ....Appellant

Versus

JITENDER SINGH AND ORS. ...Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Rakesh Nehra, Sr. Advocate with
Mr. Bindu Tanwar, Advocate
for the appellant(s).

Mr. Maninder Arora, Advocate with
Mr. Harmeet Singh, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. The aforesaid two appeals have been instituted against the Award

dated 08.02.2005 passed by Motor Accident Claims Tribunal, Rohtak (**for short "Tribunal"**) in the petitions under Section 166 of Motor Vehicles Act, 1988, filed by the appellants, seeking compensation on account of death of Smt.Krishana and injuries suffered by claimant-Reena.

2. Claim petition No.40 of 2004, titled Om Parkash and Others Vs. Jitender Singh and Others was instituted by husband and two sons of deceased-Krishana, seeking compensation to the extent of Rs.10 lakhs on account of death of Smt. Krishana in the road accident.

3. The second claim petition No.41 of 2004**,** titled as Reena Vs. Jitender Singh and Others was instituted by claimant-Reena, aged 16 years, seeking compensation of Rs.7 lakhs on account of injuries suffered by her in the said accident.

4. 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. HR-46-6369, 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.

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

> *1. Whether the accident in question took place due to the rash and negligent driving of bus No.HR-46-6369 by Jintender Singh, respondent No.1?OPR*

2. Whether Krishana alias Kishni wife of Om Parkash (MACT case titled Om Parkash etc. Versus Jitender Singh etc.) has died as result of injuries suffered in the accident, if so, to what amount of compensation, the applicants are entitled to?OPP.

3. Whether Reena, minor, (MACT case titled Reena Versus. Jitender Singh etc.), applicant amount of compensation, she is entitled to?OPP.

4. Whether Jitender Singh, respondent No.1 was holding a valid driving licence at the time of accident, if so, its effect?OPR.

5. Relief.

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

7. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.2,08,000/- as compensation to the claimants, on account of death of Smt. Krishana and a sum of Rs.1,50,000/- was awarded as compensation to claimant-Reena on account of injuries suffered by her along with interest @ 9% per annum from the date of filing of claim petition till realization.

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

9. At the very outset, it is pertinent to mention that the record of the appeal as well as the Tribunal has got burnt in a fire incident in the branch and the appeal in hand shall be decided as per facts and evidence mentioned in the award passed by the Tribunal.

10. ***Compensation in FAO-2453-2005, Om Parkash and Ors. Vs Jitender Singh and Others, arising out of MACT No.40-MACT of 2004:-***

11. As per version of claimants, deceased-Krishana was 53 years of age.

The accident took place on 28.12.2003 and she was taken to PGI, Rohtak, where she died on 09.01.2004, while she was under treatment. A sum of Rs.70,000/- was allegedly spent on her treatment. As per version of claimants, deceased used to help her husband in selling flowers while sitting on a pavement at Quilla road, Rohtak and both of them used to earn Rs.15,000/- per month. Medical bills Ex. P-22 and Ex. P-23 issued by Azad Hind Medicos, PGIMS Comples, Rohtak amounting to Rs.22,255/- and Rs.8,545/- have been placed on record to prove the expenses incurred on her treatment.

12. Learned Tribunal after going through the material on file assessed the income of deceased to be Rs.1,500/- per month. It was further held that as per post-mortem report Ex. P3, her age was 55 years and her age was accordingly taken as 55 years and multiplier of 11 was applied and a sum of Rs.1,98,000/- was assessed as compensation. A sum of Rs.10,000/- was added for the expenses incurred on the treatment and in all, a sum of Rs.2,08,000/- was awarded as compensation.

13. 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.

14. Coming to the facts of this case in hand, PW1-Om Parkash, while appearing in the witness-box deposed that deceased used to help in selling flowers while sitting on a pavement and they both used to earn Rs.15,000/- per month. However, learned Tribunal observed that statement of PW1-Om Parkash is at variance from the pleadings. In the claim petition, it has been pleaded that deceased was running a flower shop and was earning Rs.10,000/- per month. Whereas, while appearing as PW1, he stated that he alongwith his wife used to sell flowers while sitting on a pavement and they used to earn Rs.15,000/- per month and as such, the version of PW1 was not believed and was discarded. Even otherwise, there is no other cogent and convincing evidence on the file, except the self-serving and bald statement of PW1 that deceased was earning Rs.10,000/- per month and no reliance can thus be placed upon the same. However, this Court cannot lose sight of the fact that deceased must have been rendering gratuitous services to the claimants being their wife and mother and she thus has to be treated as a home-maker. Hon'ble Supreme Court in AIR 2021 (SC) 353, titled ***Kirti Vs. Oriental Insurance Co. Ltd.*** has held that the income of a home-maker should at least be assessed by adopting the lowest minimum wages applicable for unskilled

workers. Future prospects too have to be applied, while assessing the monthly income and amount incurred on personal expenses also has to be deducted. It has been further held that in view of totality of circumstances and contribution of a housewife towards household, 25% additional gratuitous income should be added towards salary. In that case, the monthly income of deceased was assessed as Rs.5,547/- to which 40% amount was added towards future prospects. 1/4th of the income was deducted towards personal and living expenses and multiplier of 17 was applied. In addition to it, 25% additional gratuitous income was added to the salary on account of services rendered by her as a home-maker and the compensation was assessed.

15. In the present case, the accident had taken place on 28.12.2003 and death had taken place on 09.01.2004. Even labourers used to earn around Rs.2,000/- per month during those days, which were the minimum wages. Accordingly, income of the deceased is taken as Rs.2,000/- per month instead of Rs.1,500/- as taken by the Tribunal.

16. As per version of petitioners, deceased was 53 years of age but in the post-mortem report Ex. P3, her age was mentioned as 55 years and learned Tribunal had taken her age to be 55 years and there is no reason to take a contrary view. Accordingly, 10% amount has to be added to the income of 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 2017 ACJ 2700, **'National Insurance Co. Ltd Vs. Pranay Sethi and Others'** which takes the monthly income of deceased to Rs.2,200/- per month.

17. Deceased has left behind three dependents and as such, 1/3rd of the income has to be deducted towards personal and living expenses and after deducting the same, the monthly loss of dependency comes out to Rs.1,467/- and the annual loss of dependency comes out to Rs.17,604/-.

18. Deceased was 55 years of age and as such multiplier of 11 has to be applied as per ***Sarla Verma's case (supra),*** and after applying the same, the compensation comes to Rs.1,93,644/-.

19. Besides this 25% of the income of Rs.2,200/- per month (including future prospects) has to be added as gratuitous income on account of services being rendered by the deceased as a home-maker, which comes to Rs.550/- per month and Rs.6,600/- (Rs.550 x 12) per annum. After applying multiplier of 11, it comes to Rs.72,600/- (Rs.6,600/- x 11). Appellants are thus also entitled to a sum of Rs.72,600/- on account of services rendered by deceased as a home-maker, which takes the compensation to Rs.2,66,244/- (Rs.1,93,644 + Rs.72,600/-)

20. As per law laid down in **Pranay Sethi's case (supra)** claimant No.1 is held entitled to a sum of Rs.70,000/- under conventional heads i.e. loss of consortium, loss of estate and on account of funeral expenses. Both the claimants, who are sons, are also held entitled to a sum of Rs.40,000/- each towards consortium, (Rs.40,000/- X 2) 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.4,16,244/- (rounded to Rs.4,16,000/-). After adding medical expenses of Rs.10,000/- which have already been awarded by the Tribunal, the compensation comes out to Rs.4,26,000/-.

21. Accordingly, the compensation to be awarded to the appellants reads

as under:-

S.No.	Under Head	Compensation awarded by the Tribunal	Compensation awarded by the High Court
1.	Monthly income of deceased	Rs.1500/- per month	2,000/- per month
2.	Age of deceased	55 years	55 years
3.	Future prospects @10%	Nil	Rs.200/-
4.	Total income	Rs.1,500/- per month Rs.18,000/- per annum	Rs.2,200/- per month Rs.26,400/- per annum
5.	Number of dependents	3	3
6.	Deduction towards personal expenses of the deceased (1/3rd)	Nil	Rs.733/- per month Rs.8,796/- per annum
7.	Annual loss of dependency	Nil	Rs.17,604/- (26,400-Rs,8,796/-)
8.	Multiplier	11	11
9.	Total loss of dependency	Rs.1,98,000/- (Rs.18,000/- X 11)	Rs.1,93,644/- (Rs.17,604/- X 11)
10.	Addition of 25% of gratuitous income	Nil	Rs.72,600/- (Rs.550/- X 12 X 11)
11.	Compensation to claimant No.1 for loss of consortium, estate & funeral expenses	Nil	70,000/-
12.	Compensation to claimant No.2 and 3 on account of parental consortium	Nil	Rs.80,000/- (Rs.40,000/-+ Rs.40,000/-)
13.	Medical expenses	Rs.10,000/-	Rs.10,000/-
14.	Total Compensation	Rs.2,08,000/-	Rs.4,26,244/- (rounded to Rs.4,26,000/-)
15.	Interest	9%	9%

22. Resultantly, appeal in hand is partly accepted with costs and appellants are held entitled to a sum of Rs.2,18,000/- (Rs.4,26,000/- - Rs.2,08,000/-) 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. 12.03.2004 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.1,50,000/- be paid alongwith proportionate interest to appellant No.1 and remaining amount be given

to appellants No.2 to 3 in equal shares alongwith proportionate interest.

23. ***Compensation in FAO-2452-2005, Reena Vs Jitender Singh and Others, arising out of MACT No.41-MACT of 2004:-***

24. As per version of appellant/claimant, she had suffered fracture of shaft femur of right side and both bones of right leg. She was operated upon and nail was inserted and she remained hospitalized up to 10.01.2004 i.e. for 13 days. She further requires an operation to remove the nail/implant after union of the fracture, as has been deposed by Dr. Zile Singh Kundy (PW2), Orthopedic Surgeon, PGIMS, Rohtak. He further deposed that he alongwith Dr. N.K. Magoo and Dr. Raj Singh had medically examined Ms. Reena and assessed her disability. She was found to be suffering from 4% permanent disability and 12% temporary disability. The permanent disability was on account of shortening of right limb by 1 inch and temporary disability was on account of pain and non-union of femur and tibia right leg and thigh and she tendered the disability certificate as Ex. P1.

25. Claimant-Reena, while appearing as PW3, deposed that she was 16 years of age and was unmarried. Her right leg has been shortened by one inch and she has spent Rs.17,000/- on her treatment. Prior to the accident, she used to knit darries and earn Rs.3,000/- per month but now, she cannot earn anything. Petitioner has also led in evidence medical bills Exhibits P6 to P10 amounting to Rs.11,653/- and prescription slips Exhibits P11 to P21. Learned Tribunal did not rely upon the medical vouchers Exhibits P6 to P10, and awarded her a lump sum compensation of Rs.1,50,000/-, which in my opinion has not been properly assessed and same is grossly inadequate.

26. Admittedly, appellant had suffered fractures of shaft femur of right

side and both bones of right leg. She was operated upon and an implant was inserted, which is again required to be removed by performing another surgery. It is well known that pain component in such type of injuries is enormous, as such injuries take a long time to heal. Accordingly, appellant is held entitled to a sum of Rs.45,000/- on account of pain and suffering.

27. Appellant had suffered permanent disability to the extent of 4% alongwith shortening of her right leg by one inch. Appellant was unmarried and a young girl of 16 years of age and shortening of her leg will certainly diminish her marriage prospects. She will have to live with a shortened leg throughout her life and will not be able to walk properly and will suffer on account of loss of amenities as well. Accordingly, she is held entitled to a sum of Rs.1,20,000/- on account of permanent disability, loss of marriage prospects and loss of amenities.

28. The injuries suffered by the petitioner were grievous and she was operated upon and it must have taken at least 05 months for the injuries to heal. During this period, she must have visited the hospitals, must have engaged an attendant and she must have spent some amount on special diet and accordingly, she is held entitled to a sum of Rs.15,000/- under this head.

29. During the period of recovery from injuries for at least 05 months, she would not have been able to do any work. Taking her monthly income to be around Rs.2,000/- per month, she is held entitled to a sum of Rs.10,000/- for loss of income during the period she remained under treatment. In addition to this, she has led in evidence the medical bills Exs. P6 to P10, amounting to Rs.11,653/- alongwith prescription slips Exs.P11 to P21 but the same have been ignored on the ground that the bills have not been proved. However, it is a matter of common

knowledge that proceedings before the Tribunal are of summary nature. If there is some evidence before a Tribunal, in order to prove a fact, then no unnecessary doubt or suspicion should weigh with it in deciding the claim case. The provisions of Indian Evidence Act are not applicable to such summary proceedings and the probative value of the documents should not be suspected without any reasonable cause as the assessment of compensation involves some amount of guess work, hypothesis, consideration and sympathy of the Tribunal, as held in 1995 ACJ 366 (SC), titled ***R.D Hattangadi Vs. Pest Control (India) Pvt. Ltd.*** Reference can also be made to 1990 ACJ 127, titled ***National Insurance Co. Vs. Saloni Dargan and Others,.*** Hon'ble Supreme Court in 2019 ACJ 454 ***Vimla Devi and Others Vs. National Insurance Co. Ltd.*** has held that "At the outset, we may reiterate as has been consistently said by this Court in a series of cases that the Act is a beneficial piece of legislation enacted to give solace to the victims of motor accidents who suffer bodily injury or die untimely. The Act is designed in a manner which relieves the victims from ensuring strict compliance provided in law, which are otherwise applicable to the suits and other proceedings while prosecuting the claim petitions filed under the Act for claiming compensation for the loss sustained by them in the accident".

30. However, the Tribunal has not given cogent reasons while ignoring the medical bills produced by the appellant. Appellant is accordingly held entitled to a sum of Rs.11,653/- spent on her treatment.

31. Resultantly, the compensation to be awarded to the appellant is assessed as under:-

S.No.	Under Head	
1.	Pain and sufferings	Rs.45,000/-

2.	Compensation on account of permanent disability, shortening of leg, loss of amenities and marriage prospects	Rs.1,20,000/-
3.	Expenses on special diet, transportation and attendant charges	15,000/-
4.	Loss of income during the period of treatment	Rs.10,000/-
5.	Medical expenses	Rs.11,653/-
6.	Total	Rs. 2,01,653/- (rounded to Rs.2,02,000/-)

32. Resultantly, the appeal in hand is partly accepted with costs and appellant is held entitled to a sum of Rs. 52,000/- (Rs.2,02,000/- - Rs.1,50,000/-) as enhanced compensation 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. 12.03.2004 till realization payable by respondents No.1 to 3 jointly and severally. The entire amount of compensation shall be paid to the appellant in cash as the compensation is meagre.

33. 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 16.03.2021 and Insurance Company shall comply with the directions as issued under Clause (F) of the said judgment.

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

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

(YASHVIR SINGH RATHOR)
JUDGE

06.02.2026
amandeep

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