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

227 **FAO-3205-2005**
Date of decision: 20.04.2026

PREMWATI & ORS. **....APPELLANTS**

VERSUS

SURINDER & ORS. **...RESPONDENTS**

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Mahesh Inder Preet, Advocate and
Mr. Sushil Jain, Advocate
for the appellants.

Mr. Neeraj Khanna, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 01.12.2004 for enhancement of compensation awarded in MACT case No.87 of 2002 decided by the MACT, Sonipat (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.8,00,000/- has been awarded as compensation to the claimants alongwith interest @ 9% per annum from the date of filing of claim petition till realization on account of death of Dharampal 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-46-A-6572 (**for short 'offending vehicle'**), owned by respondent No.2, which was insured with respondent No.3.

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

> *1. Whether Dharampal son of Puran Chand died in a motor vehicle accident, caused on account of rash and negligent driving of Jeep No. HR-46-A-6572, owned by respondent no. 2,*

insured with respondent no. 3 and being driven by respondent no. 1 on 23.8.2002 in the area of Kharkhode, District Sonipat? OPP.

2. *If issue no.1 is proved, to what amount of compensation, the petitioners are entitled, if so, from whom? OPP.*
3. *Whether respondent no.1 was not holding a valid driving licence at the time of accident, if so, its effect? OPR-3.*
4. *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.8,00,000/- as compensation to the claimants, on account of death of Dharampal along with interest @ 9% per annum from the date of filing of claim petition till realization.

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

6. 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 the primary liability to satisfy the award will be that of Insurance Company. 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. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.8,00,000/- has been awarded is based on

conjectures and surmises and is liable to be set aside and enhanced amount of compensation should be awarded. Learned counsel contended that income of the deceased has been assessed on the lower side. Future prospects have also not been added to the monthly income of the deceased contrary to settled provisions of law. No compensation has been paid under conventional heads i.e. loss of consortium and loss of estate, whereas, compensation awarded under the head of funeral expenses is on lower side 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**.

8. 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.

9. 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.

10. As per version of claimants, deceased was working as a Veterinary doctor in Government Veterinary Hospital, Sehri and getting a monthly salary of Rs.11,378/- per month. He was also a private practitioner and used to earn Rs.5,000/- per month from the said private practice.

11. To prove the income of the deceased, claimants have examined PW4 Kishan Chand Sharma, who deposed that Dharam Pal was posted as Veterinary Livestock Development Assistant in the Department and was getting a monthly salary of Rs.11,378/- per month, as per Salary Certificate Ex.P4 and he was an income tax assessee. He deposed that Dharam Pal died in roadside accident on 23.08.2002. He further stated that the date of birth of the deceased as per service book was 20.05.1950 and he joined the service on 02.06.1970 and as such, he was 52 years of age at the time of his death. The Tribunal assessed the monthly income of deceased to be Rs.10,648/- which was his carry home salary but the entire salary being drawn by him should have been taken into consideration as any amount deducted towards Provident Fund, GIS or income tax could not have been deducted.

12. Though, it has been alleged that he was doing private practice and earning another sum of Rs.5,000/- per month yet this part of the testimony of claimant PW2 Premwati cannot be accepted as a gospel truth as no Government doctor is allowed to do private practice. Moreover, no Income Tax Returns have been led in evidence to establish that he was earning more than his salary income. Accordingly, income of deceased is taken as **Rs.11,378/-** per month.

13. Deceased was in permanent Government employment and he was 52 years of age and as such, 15% of the amount has to be added towards future prospects in view of law laid down in **Pranay Sethi's case (supra)**. The monthly income comes out to **Rs.13,084/- (Rs.11,378/- + Rs.1,706/-)**. Deceased was an income tax assessee and as such, a sum of **Rs.500/-** per month is to be deducted from the salary towards income tax and after deducting the same the total monthly income thus comes out to **Rs.12,584/- (Rs.13,084/- - Rs.500/-)**.

14. The petition in hand has been instituted by wife and sons of the deceased. Accordingly, it is held that deceased has left behind 3 dependents and 1/3rd of the income thus has to be deducted towards personal and living expenses. After deducting, a sum of **Rs.4,194/-** towards personal expenses, the monthly loss of dependency comes out to **Rs.8,390/- (Rs.12,584/- - Rs.4,194/-)** and the annual loss of dependency comes out to **Rs.1,00,680/- (Rs.8,390/- X 12)**.

15. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 11 has to be applied as deceased was 52 years of age and after applying the same, the compensation comes to **Rs.11,07,480/- (Rs.1,00,680/- X 11).**

16. 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, remaining claimants No.2 & 3 who are sons of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of **loss of 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.12,57,480/-**.

17. 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.11,378/- per month
2.	Age of deceased	52 years
3.	Future prospects @ 15%	Rs.1,706/-
4.	Total income (after deducting Rs.500/- per month as income tax)	Rs.12,584/- per month (Rs.13,084 – Rs.500/-)
5.	Number of dependents	3
6.	Deduction towards personal expenses of the deceased	Rs.4,194/-
7.	Annual loss of dependency	Rs.1,00,680/- (Rs.8,390/- X 12)
8.	Multiplier	11
9.	Compensation on account of Loss of dependency	Rs.11,07,480/-
10.	Compensation under conventional heads	Rs.70,000/-
11.	Consortium to sons of deceased	Rs.80,000/- (Rs.40,000/- each)
12.	**Total Compensation**	**Rs.12,57,480/-**
13.	**Interest**	**9%**

18. Resultantly, the appeal in hand is partly accepted with costs and

appellants/claimants are held entitled to a sum of **Rs.12,57,480/-** as compensation. The enhanced compensation thus comes out to **Rs.4,57,480/- (Rs.12,57,480/- - Rs.8,00,000/-)** which is rounded off to **Rs.4,57,000/-** 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. 04.12.2002, till realization to be shared equally by all the claimants. However, liability to pay the enhanced compensation shall remain in the same terms as has been ordered by the Tribunal and respondent No.3 shall be entitled to recover the enhanced compensation from respondents No.1 and 2 from the date of deposit along with interest @ 6% per annum till realization without filing a separate suit.

19. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

20.04.2026
Vishal Vardhan

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