S. No.102

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

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Date of Decision:21.5.2026

1. FAO No.3710 of 2005

Krishan Lal Jain .....Appellant
Vs.
Ramesh Kumar and others .....Respondents

2. FAO No.3711 of 2005

Inderjeet Jain and others .....Appellants
Vs.
Ramesh Kumar and others .....Respondents

3. FAO No.3712 of 2005

Ganesh Kumar and others .....Appellants
Vs.
Ramesh Kumar and others .....Respondents

4. FAO No.3713 of 2005

Ganesh Kumar and others .....Appellants
Vs.
Ramesh Kumar and others .....Respondents

5. FAO No.3714 of 2005

Sanjeev Kumar Jain and another .....Appellants
Vs.
Ramesh Kumar and others .....Respondents

6. FAO No.3715 of 2005

Inderjit Jain .....Appellant
Vs.
Ramesh Kumar and others .....Respondents

7. FAO No.3716 of 2005

Champa Lal Jain .....Appellant
Vs.
Ramesh Kumar and others .....Respondents

1.	Judgment reserved on	19.05.2026
2.	Judgment pronounced on	21.05.2026
3.	Judgment uploaded on	21.05.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement is full judgment and reason thereof.	Nil

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

Argued By:-Mr. Utsav Sharma, Advocate for
Mr. Sandeep K. Sharma, Advocate
for the appellants.

Mr. H.S. Gharoo, Advocate for
Mr. Amit Kumar Goyal, Advocate
for respondent- Insurance Company.

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Yashvir Singh Rathor, J.

1. The afore-said appeals have been instituted for enhancement of compensation against the common award dated 2.11.2004 passed by MACT, Sirsa vide which claimants had sought compensation on account of death of Jagga Singh, Kamlesh Rani, Chander Parkash, Sheela Rani, Manju Rani and Subha Sh. Chand Jain and injuries suffered by claimants Inderjeet Jain, Krishan Lal, Baby Mani and Chmpa Lal in a motor vehicular accident which allegedly took place on 19.10.2002 due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-39A/2165 (**hereinafter referred to as 'offending vehicle'**), which was insured with respondent No.3.

Since all the appeals have arisen against the common award, the same are being decided together by way of this judgment.

2. Following issues were framed in all the afore-said claim petitions by the Tribunal:-

> "1. Whether accident in question took place due to rash and negligent driving of respondent no.1, as alleged?OPP.
>
> 2. Whether petitioners are entitled to recover compensation from respondents as prayed for?
>
> 3. Whether petitions of petitioners are not maintainable?OPR
>
> 5. Relief."

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

4. After hearing the parties and going through the material on file, learned Tribunal came to the conclusion that accident in question had taken place on account of rash and negligent driving on the part of respondent No.1 while driving the offending vehicle and Issue No.1 in all the claim petitions was decided against the respondents. No appeal or cross objections have been filed by the respondents in any of the appeal and the finding on Issue No.1 has not been assailed by the respondents and same is accordingly affirmed.

5. Feeling aggrieved against grant of inadequate compensation, the appeals in hand have 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 in question had taken place due to rash and negligent driving of respondent No.1.

7. I have heard learned counsel for the parties and have perused the material placed on record.

8. Learned counsel for the appellants argued that the compensation awarded by the learned Tribunal in all the petitions is grossly inadequate and the settled principles of law with regard to assessment of compensation under various heads have not been taken into consideration. The income of the deceased as well as injured have been assessed on lower side. Future prospects have not been added and proper multiplier has not been applied in the case of death of deceased persons. Deduction has not been made properly towards personal expenses. Besides this, no compensation for loss of consortium has been awarded. Nothing has also been paid towards attendant charges, special diet and expenses incurred in engaging an attendant in the case of injured claimants. Learned counsel lastly contended that the Tribunal should have awarded compensation which appears to be just and wide discretion vests in the Tribunal in the matter of determination of compensation which is a beneficial legislation. While assessing compensation under Motor Vehicles Act, it can neither be allowed to be used as a source of profit nor as a windfall to the person affected nor should it be punitive to the persons liable to pay compensation and the determination of compensation should be based on certain data, establishing reasonable nexus between the loss incurred by the victim or the dependants of the deceased and learned counsel prayed that the compensation be adequately enhanced in all the appeals. In support of his

contentions, learned counsel for the appellants has relied upon 2014 (1) RCR (Civil) 914 **Sanjay Verma Vs. Haryana Roadways, 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 adequate compensation has been awarded after taking into consideration the material on file. The award in question does not suffer from any material ambiguity and same does not call for any interference and learned counsel prayed that appeals in hand be dismissed.

10. **Compensation in FAO No.3710 of 2005 "Krishan Lal Jain Vs. Ramesh Kumar and others":**

Claim Petition No.4 of 2003 has been instituted by claimant – Krishan Lal Jain (injured). As per version of claimant – appellant- Krishan Lal Jain, he had retired as Patwari from Canal Department and had opened his office at Rania providing specialised services to the farmers with regard to their issues with the Canal Department and he used to earn Rs.5,000/- per month. However, due to the injuries suffered by him, he has become permanently disabled.

11. The Tribunal after going through the material placed on file awarded him a total compensation of Rs.61,920/- and held as under:-

> "In petition "Krishan Lal Versus Ramesh Kumar etc.", petitioner sought compensation for permanent disability/ injuries suffered by

him in the accident. No cogent proof of income of petitioners available on record. Accordingly, monthly income of petitioner is to be assessed at Rs.2000/- per month considering the monthly income of a daily wages labourer. Annual income of petitioner would come to Rs.24,000/- only. As per Disability Certificate (Ex.PW8/A), petitioner suffered 30% disability in the accident. This disability would reduce the earning capacity of petitioner by atleast 25%. Annual loss of wages to petitioner would, thus, be Rs.6000/- only. The petitioner was of 58 years of age at the time of accident. Therefore, a multiplier of six would apply. Applying a multiplier of six, total loss of income due to disability comes to Rs.36,000/- only. Medical bills Ex.PW9/39 to Ex.PW9/49 show that petitioner incurred Rs.25920/- as his medical expenses due to this accident. Thus, total compensation payable to petitioner comes to Rs.61920/- only.

12. However, in my considered opinion, adequate compensation has not been assessed under pecuniary and non-pecuniary heads as per the settled law. The law is well settled that the compensation to be awarded for injuries suffered by victim in a motor vehicular accident should be just and equitable. Courts have consistently held that while money cannot erase the pain, suffering, or trauma but it is the only legal means to provide restitution and restore the victim to his previous position as far as possible for which 'just compensation' has to be assessed. It is also well settled that while it is impossible to fully compensate for the loss of limb, life, or quality of life, the compensation must be 'Just', meaning thereby, that it should be fair, reasonable, and equitable based on the evidence and

not merely a 'Windfall' or a 'Pittance'. The core objective is to put the injured/victim in the same position he would have been if the accident had not taken place, to the extent money can do so. This approach ensures that the law provides a realistic recompense for the trauma endured, rather than just providing normal relief.

13. Besides this, Hon'ble Supreme Court in 2013 (3) RCR (Civil) 934 - **G.Ravindranath @ R. Chowdary Vs. E. Srinivas and another**, has held that in a case of accident resulting in injuries to the victim, the compensation in personal injury cases should be determined under the following heads:-

Pecuniary damages (Special damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing expenditure. food and miscellaneous

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded under heads (i), (ii) (a) and (iv). It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

14. Coming to the facts of the case in hand, the Tribunal has assessed the monthly income of the claimant to be Rs.2,000/- per month. However, the accident had taken place on 19.10.2002 and during those days, even the labourers used to earn around Rs.3,000/- per month as per the minimum wages and some amount of guess work thus has to be applied while assessing the income of claimant who was doing consultancy work. Accordingly, income of the claimant is taken as Rs.3,000/- per month.

15. Claimant was 58 years of age but no future prospectus have been added to his monthly income and in view of law laid down in **Pranay Sethi's case (supra),** 10% amount has to be added towards future prospects which brings his monthly income to **Rs.3,300/- per month (Rs.3,000/- + Rs.300/-)**.

16. To prove the injuries suffered by him, claimant has examined PW9 Dr. Vijay Kumar Jaiswal. He deposed that patient had suffered head injury, eye injury and facial injury. Left eye of claimant was operated upon by Dr. Jaswant Rai Bansal in his hospital and certificate Ex.PW9/37 was issued by Dr. Jaswant Rai Bansal and he identified his certificate. He further stated that he has seen discharge certificate issued by his team Ex.PW9/38 which bears signatures of Dr. M.C. Verma, who was member of the team.

17. In addition to this, claimant has also examined PW8 Dr. C.P.Dadhich, Medical Officer, Civil Hospital, Sirsa, who deposed that on 13.11.2002, Board of

Doctors, constituted by Civil Surgeon, Sirsa, examined Krishan Lal, claimant and he was also member of the Board. The claimant was having phthisis bulbi left eye and vision was nil and the Board assessed his permanent disability at 30% vide certificate Ex.PW8/A which bears his signatures as well as signatures of other members of the Board. As such, from the evidence led by the claimant, it is established that he had suffered facial injuries, head injury and injury in his eye. He was operated upon and he lost vision of one eye and his disability has been assessed at 30%. The Tribunal has not awarded any compensation on account of Pain and Sufferings and in view of the severity of injuries, the claimant is held entitled to a sum of **Rs.40,000/-** on account of **Pain and Sufferings.**

18. It must have taken at least three months for the injuries to heal and during this period, claimant would not have been able to do any work and must have suffered loss of income and he is held entitled to a sum of **Rs.9,000/- (Rs.3,000/- X 3)** on account of **loss of Income during the period of treatment.**

19. Likewise during this period, he must have engaged an attendant and he is held entitled to a sum of **Rs.5,000/-** for **engaging an attendant**. He is also held entitled to a sum of **Rs.5,000/-** for the **expenses incurred on transportation** and another sum of **Rs.5,000/-** on account of **special nourishment**.

20. As already discussed above, the claimant has lost his one eye and his disability has been assessed as 30% on this account. As per his version, he had retired as a Patwari and used to render services to the farmers in respect to their problems with the Canal Department and used to earn Rs.5,000/- per month. However, his income has been held to be Rs.3,000/- per month. No doubt, he

would be able to carry on his avocation with one eye but his efficacy would certainly be compromised owing to excess strain to be suffered by the other eye and the disability will thus certainly diminish his earning capability and in these circumstances, the compensation for loss of income due to permanent disability has to be assessed keeping in view law laid down by Hon'ble Supreme Court in 2010(4) PLR 242- **Yadava Kumar Vs. The Divisional Manager, National Insurance Company Limited**.

21. The monthly loss of income due to permanent disability will thus come to Rs.990/- (Rs.3,300/- X 30%) and '**annual loss of income**' will come out to **Rs.11,880/- per annum (i.e. Rs.990/- X 12)**.

22. The claimant was 58 years of age and in view of law laid down in **Pranay Sethi's case (supra),** the multiplier of 9 has to be applied which takes the compensation to **Rs.1,06,920/- (Rs.11,880/- X 9)** on account of '**loss of income**' due to permanent disability.

23. The claimant has suffered injuries and has lost one eye and no amount had been awarded towards loss of amenities and he is accordingly held entitled to a sum of **Rs.20,000/-** on account of **loss of amenities.**

24. The Tribunal has also awarded a sum of Rs.25,920/- on account of expenses incurred on treatment as per bills produced by claimant. No interference in the same is called for.

25. Resultantly, the compensation to be awarded by this Court is assessed as under:-

Sr. No.	Head	This Court (₹)
1.	Age of the deceased	58 years
2.	Monthly income of deceased	Rs.3,000/-
3.	Future Prospects @ 10%	Rs.300/-
4.	Annual Loss of Income	Rs.11,880/-
5.	Multiplier	9
6.	Compensation for Loss of income	Rs.1,06,920/-
7.	Pain and Sufferings	Rs.40,000/-
8.	Loss of income during the period of treatment	Rs.9,000/-
9.	For engaging an attendant, Expenses incurred on transportation and for special nourishment	Rs.15,000/- (Rs.5,000/- each under each head)
10.	Expenses incurred on treatment as per bills awarded by Tribunal	Rs.25,920/-
11.	Loss of Amenities	Rs.20,000/-
	Total	Rs.2,16,840/-
	Interest	9%

26. As a result of afore-said discussion, the present appeal is partly allowed with costs and the claimant is held entitled to enhanced compensation of **Rs.1,54,920/- (Rs.2,16,840/- - Rs.61,920/-) (Rounded off to Rs.1,55,000/-)** over and above the compensation awarded by Tribunal, payable by respondents No.1 to 3 jointly and severally, along with interest @ 9% per annum, from the date of filing of claim petition i.e. 10.1.2003, till realization.

27. **Compensation in FAO No.3711 of 2005**
"Inderjeet Jain and others Vs. Ramesh Kumar and others":-

Claim Petition No.5/2003 has been instituted by claimants – Inderjeet Jain, Ravish Kumar, Puneet Kumar, Ranju Bala and Bindu Bala (husband and children of deceased- Kamlesh Rani). As per version of claimants, deceased-Kamlesh Rani was a housewife and was 47 years of age.

28. Learned Tribunal after going through the material on file assessed the notional income of deceased to be Rs.15,000/- per annum. One third of her income was deducted on account of personal expenses and annual loss of income came to Rs.10,000/-. Relying upon post-mortem report Ex. P7, her age was accordingly taken as 47 years and multiplier of 10 was applied and a sum of Rs.1,00,000/- was assessed as compensation. A sum of Rs.5,000/- was awarded for loss of consortium and Rs.2,000/- was awarded towards funeral expenses and in all, a sum of Rs.1,07,000/- was awarded as compensation. However, the compensation awarded by the Tribunal on account of death of a housewife is grossly inadequate.

29. 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.

30. Deceased was a housewife and she also used to assist her husband and children in preparation of sweets which used to be sold. However, the Tribunal has assessed the notional income to be Rs.15,000/- per annum only but the approach of the Tribunal is highly erroneous. 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. The accident had taken place on 19.10.2002 and during those days, even the labourers used to earn around Rs.3,000/- per month which were the minimum wages and accordingly, the income of deceased is taken as Rs.3,000/- per month.

31. Deceased was 47 years of age and as such, 25% amount has to be added to the monthly income of the deceased towards future prospects in view of

law laid down in **Sarla Verma's case (supra)** and **Pranay Sethi's case (supra)**,which takes her income to **Rs.3,750/- per month (Rs.3,000/- + Rs.750/-).**

32. In view of law laid down in **Kirti's case (supra),** 25% additional amount has to be added on account of gratuitous services being rendered by the deceased and after adding the same, the monthly income of deceased comes out to Rs.4687.5 per month and Rs.56,250/- (Rs.4687.5 X 12) per annum.

33. Deceased has left behind five dependents and as such, 1/4th of the income has to be deducted towards personal and living expenses and after deducting the same, the annual loss of dependency comes out to **Rs.42,187.5 (Rs.56,250/- - Rs.14,062.5) (Rounded off to Rs.42,188/-).**

34. Deceased was 47 years of age and as such multiplier of 13 has to be applied as per ***Sarla Verma's case (supra),*** and after applying the same, the compensation comes to **Rs.5,48,444/- (Rs.42,188 X 13).**

35. In addition to this, claimant No.1 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 to 5 who are sons and daughters of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of '**loss of parental 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.7,78,444/- (Rs.5,48,444/- + Rs.70,000/- + Rs.1,60,000/-).**

36. 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.3,000/- per month**
2.	**Age of deceased**	**47 years**
3.	**Future prospects @ 25% (As per Pranay Sethi's case supra)**	**Rs.750/- Rs.3,750/- per month**
4.	**For gratuitous services @ 25% (As per Kirti's case (supra)**	**Rs.937.5 Rs.4687.5**
4.	**Total Annual income**	**Rs.4687.5 X 12 Rs.56,250/- per annum**
5.	**Number of dependents**	**5**
6.	**Deduction towards personal expenses of the deceased (1/4th)**	**Rs.14,062.5**
7.	**Annual loss of dependency**	**Rs.42,188/-**
8.	**Multiplier**	**13**
9.	**Compensation on account of Loss of dependency**	**Rs.5,48,444/-**
10.	**Compensation under conventional heads**	**Rs.70,000/-**
11.	**Consortium to children of deceased**	**Rs.1,60,000/- (Rs.40,000/- each)**
	Total Compensation	**Rs.7,78,444/- (Rounded off to Rs.7,78,500/-)**
	Interest	**9%**

37. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.7,78,500/-** as compensation.

The enhanced compensation thus comes out to **Rs.6,71,500/-** (**Rs.7,78,500/-** - **Rs.1,07,000/-**) 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. 10.1.2003, till realization payable by respondents No.1 to 3 jointly and severally. Out of the enhanced compensation, a sum of Rs.50,000/- each be paid to children of the deceased while remaining amount be paid to husband alongwith proportionate interest.

38. **Compensation in FAO No.3712 of 2005
"Ganesh Kumar and others Vs. Ramesh Kumar and others ":-**

Claim Petition No.6/2003 has been instituted by claimants – Ganesh Kumar, Naresh Kumar, Mukesh Kumar and Mamta Rani (children of deceased-Chander Parkash). As per version of claimants, deceased-Chander Parkash was 52 years of age.

39. Learned Tribunal after going through the material on file assessed the income of deceased to be Rs.2,000/- per month considering the monthly income of a daily wage labourer. The annual income of deceased was assessed as Rs.24,000/-. One third of his income was deducted on account of personal expenses and annual loss of income came to Rs.16,000/-. His age was held to be 52 years and multiplier of 8 was applied and a sum of Rs.1,28,000/- was assessed as compensation. A sum of Rs.2,000/- was added for funeral expenses and in all, a sum of Rs.1,30,000/- was awarded as compensation.

40. As per version of claimants, deceased – Chander Parkash was a karyana merchant and used to sell `gachak', sweets, patasha etc.in the market, alongwith the claimants. The products used to be prepared at their house in which

their mother Sheela Devi, who also died in the same accident also used to contribute. He deposed that deceased used to earn Rs.10,000/- per month and was having good health. After his death, their business has been adversely affected.

41. However, deceased was running his own business alongwith his sons and wife and he thus could not have been treated as a daily wager. The accident had taken place on 19.10.2002. Hon'ble Supreme Court in Civil Appeal No.6152 of 2021 – **Chandra alias Chander alias Chanda Ram and another Vs. Mukesh Kumar Yadav**, decided vide judgment dated 01.10.2021 has held that merely because claimants are unable to produce documentary evidence to show the monthly income of the deceased is not a ground to discard the oral evidence. As such, some amount of guess work has to be applied while assessing the income. Accordingly, income of the deceased is taken as Rs.3,000/- per month as he was running business of sale of sweets.

42. No future prospects have been added to the monthly income of the deceased by the Tribunal. Deceased was 52 years of age and as such, 10% 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.3,000/- per month (Rs.3,000/- + Rs.300/-).**

43. The petition in hand has been instituted by children of the deceased. Accordingly, it is held that deceased has left behind 4 dependents and 1/4th of the income thus has to be deducted towards personal and living expenses. After deducting a sum of Rs.825/- towards personal expenses, the monthly loss of dependency comes out to **Rs.2475/- (Rs.3300/- - Rs.825/-)** and the annual loss of dependency comes out to **Rs.29,700/- per annum (Rs.2,475/- X 12)**.

44. 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 loss of dependency comes to **Rs.3,26,700/- (Rs.29,700/- X 11)**.

45. In addition to this, claimants are held entitled to a sum of **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 who are children of deceased are also held entitled to a sum of **Rs.40,000/-** each on account of '**loss of parental 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.5,16,700/- (Rs.3,26,700/- + Rs.15,000/- + Rs.15,000/- + Rs.1,60,000/- (Rs.40,000/- X 4). /-.**

46. 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.3,000/- per month**
2.	**Age of deceased**	**52 years**
3.	**Future prospects @ 10%**	**Rs.300/-**
4.	**Total income after adding future prospects**	**Rs.3,300/-**
5.	**Number of dependents**	**4**
6.	**Deduction towards personal expenses of the deceased (1/4th)**	**Rs.825/-**
7.	**Monthly loss of dependency**	**Rs.2,475/-**
7.	**Annual loss of dependency**	**Rs.29,700 /- (Rs. 2,475/-- X 12)**
8.	**Multiplier**	**11**

9.	**Compensation on account of Loss of dependency**	**Rs.3,26,700/-**
10.	**Compensation for loss of estate and funeral expenses**	**Rs.30,000/- (Rs.15,000/- + Rs.15,000/-)**
11.	**Parental Consortium (Four children @ Rs.40,000/- each)**	**Rs.1,60,000/-**
	Total Compensation	**Rs.5,16,700/-**
	Interest	**9%**

47. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.5,16,700/-** as compensation. The enhanced compensation thus comes out to **Rs.3,86,700/-** (**Rs.5,16,700/- - Rs.1,30,000/-**) 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. 10.1.2003, till realization payable by respondents No.1 to 3 jointly and severally. The entire amount shall be shared equally by the appellants.

48. **Compensation in FAO No.3713 of 2005
"Ganesh Kumar and others Vs. Ramesh Kumar and others":-**

Claim Petition No.7/2003 has been instituted by claimants – Ganesh Kumar, Naresh Kumar, Mukesh Kumar and Mamta Rani (children of deceased-Sheela Devi). As per version of claimants, deceased-Sheela Devi was 50 years of age. The claimants alongwith their father were running their own business and used to sell gachak, sweets, patasha etc.in the market. The products used to be prepared at their house in which their mother, deceased- Sheela Devi, also used to contribute.

49. Learned Tribunal after going through the material on file assessed the notional income of deceased to be Rs.15,000/- per annum. One third of her income was deducted on account of personal expenses and annual loss of income came to Rs.10,000/-. Her age was 50 years and multiplier of 8 was applied and a sum of Rs.80,000/- was assessed as compensation. A sum of Rs.2,000/- was added towards funeral expenses and in all, a sum of Rs.82,000/- was awarded as compensation.

50. Deceased was a housewife and she also used to assist her husband and children in preparation of sweets which used to be sold. However, the Tribunal has assessed her notional income to be Rs.15,000/- per annum only but the approach of the Tribunal is highly erroneous. 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. The accident had taken place on 19.10.2002 and during those days, even the labourers used to earn around Rs.3,000/- per month which were the minimum wages and accordingly, the income of deceased is taken as Rs.3,000/- per month.

51. Deceased was 50 years of age and as such, 25% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid down in **Sarla Verma's case (supra)** and **Pranay Sethi's case (supra)**, which takes her income to **Rs.3,750/- per month (Rs.3,000/- + Rs.750/-).**

52. In view of law laid down in **Kirti's case (supra),** 25% additional amount has to be added on account of gratuitous services being rendered by the deceased and after adding the same, the monthly income of deceased comes out to Rs.4687.5 per month and Rs.56,250/- (Rs.4687.5 X 12) per annum.

53. Deceased has left behind four dependents and as such, 1/4th of the income has to be deducted towards personal and living expenses and after deducting the same, the annual loss of dependency comes out to **Rs.42,187.5 (Rs.56,250/- - Rs.14,062.5) (Rounded off to Rs.42,188/-).**

54. Deceased was 50 years of age and as such multiplier of 13 has to be applied as per ***Sarla Verma's case (supra),*** and after applying the same, the loss of dependency comes to **Rs.5,48,444/- (Rs.42,188 X 13).**

55. In addition to this, claimants are held entitled to a sum of **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 who are children of deceased are also held entitled to a sum of **Rs.40,000/-** each on account of '**loss of parental 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.7,38,444/- (Rs.5,48,444/- + Rs.15,000/- + Rs.15,000/- + Rs.1,60,000/- (Rs.40,000/- X 4).**

56. 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.3,000/- per month**
2.	**Age of deceased**	**50 years**
3.	**Future prospects @ 25% (As per Pranay Sethi's case supra)**	**Rs.750/- Rs.3,750/- per month**
4.	**Gratuitous income @ 25% (As per Kirti's case (supra)**	**Rs.937.5 Rs.4687.5**
4.	**Total Annual income**	**Rs.4687.5 X 12 Rs.56,250/- per annum**
5.	**Number of dependents**	**4**
6.	**Deduction towards personal expenses of the deceased (1/4th)**	**Rs.14,062.5**
7.	**Annual loss of dependency**	**Rs.42,188/-**
8.	**Multiplier**	**13**
9.	**Compensation on account of Loss of dependency**	**Rs.5,48,444/-**
10.	**Compensation for loss of estate and funeral expenses**	**Rs.30,000/-**
11.	**Parental Consortium (Four children @ Rs.40,000/- each)**	**Rs.1,60,000/- (Rs.40,000/- each)**
	Total Compensation	**Rs.7,38,000/-**
	Interest	**9%**

57. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.7,38,000/-** as compensation. The enhanced compensation thus comes out to **Rs.6,56,000/-** (**Rs.7,38,000/-** -

Rs.82,000/-) 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. 10.1.2003, till realization payable by respondents No.1 to 3 jointly and severally. The entire amount shall be shared equally by the appellants.

58. **Compensation in FAO No.3714 of 2005**
"Sanjeev Kumar Jain and anr. Vs. Ramesh Kumar and others":-

Claim Petition No.8/2003 has been instituted by claimants – Sanjeev Kumar and Baby Mani Jain (husband and daughter of Manju Rani). As per version of claimants, deceased-Manju Rani was 30 years of age, who was a housewife.

59. Learned Tribunal after going through the material on file assessed the notional income of deceased to be Rs.15,000/- per annum. One third of her income was reduced on account of personal expenses and annual loss of income came to Rs.10,000/-. Her age was 30 years and multiplier of 16 was applied and a sum of Rs.1,60,000/- was assessed as compensation. A sum of Rs.5,000/- was added towards loss of consortium and Rs.2,000/- was added towards funeral expenses and in all, a sum of Rs.1,67,000/- was awarded as compensation.

60. Deceased was a housewife. However, the Tribunal has assessed her notional income to be Rs.15,000/- per annum only but the approach of the Tribunal is highly erroneous. 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. The accident had taken place on 19.10.2002 and during those days, even the labourers used to earn around Rs.3,000/- per month which were the minimum wages and accordingly, the income of deceased is taken as Rs.3,000/- per month.

61. Deceased was 30 years of age 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 in **Sarla Verma's case (supra)** and **Pranay Sethi's case (supra)**,which takes her income to **Rs.4,200/- per month (Rs.3,000/- + Rs.1,200/-).**

62. In view of law laid down in **Kirti's case (supra),** 25% additional amount has to be added on account of gratuitous services being rendered by the deceased and after adding the same, the monthly income of deceased comes out to Rs.5,250/- per month and Rs.63,000/- (Rs.5,250/- X 12) per annum.

63. Deceased has left behind two dependents and as such, 1/3rd of the income has to be deducted towards personal and living expenses and after deducting the same, the annual loss of dependency comes out to **Rs.42,000/- (Rs.63,000/- - Rs.21,000/-).**

64. Deceased was 30 years of age and as such multiplier of 17 has to be applied as per ***Sarla Verma's case (supra),*** and after applying the same, the loss of dependency comes to **Rs.7,14,000/- (Rs.42,000/- X 17).**

65. In addition to this, claimant No.1 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, claimant No.2 who is minor daughter of deceased is also held entitled to a sum of **Rs.40,000/-** on account of '**loss of parental 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.8,24,000/- (Rs.7,14,000/- + Rs.70,000/- + Rs.40,000/-).**

66. 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.3,000/- per month
2.	Age of deceased	30 years
3.	Future prospects @ 40% (As per Pranay Sethi's case supra)	Rs.1200/- Rs.4,200/- per month
4.	Gratuitous income @ 25% (As per Kirti's case (supra)	Rs.1,050/- per month Rs.5,250/- per month
4.	Total Annual income	Rs.5,250/- X 12 Rs.63,000/- per annum
5.	Number of dependents	2
6.	Deduction towards personal expenses of the deceased (1/3rd	Rs.21,000/-
7.	Annual loss of dependency	Rs.42,000/-
8.	Multiplier	17
9.	Compensation on account of Loss of dependency	Rs.7,14,000/-

10.	**Compensation under conventional heads**	**Rs.70,000/-**
11.	**Consortium to daughter of deceased**	**Rs.40,000/-**
	Total Compensation	**Rs.8,24,000/-**
	Interest	**9%**

67. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.8,24,000/-** as compensation. The enhanced compensation thus comes out to **Rs.6,57,000/-** (**Rs.8,24,000/-** - **Rs.1,67,000/-**) 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. 10.1.2003, till realization payable by respondents No.1 to 3 jointly and severally. The entire amount shall be shared equally among the appellants.

68. **<u>Compensation in FAO No.3715 of 2005</u>**
<u>"Inderjit Jain Vs. Ramesh Kumar and others":</u>

Claim Petition No.9 of 2003 has been instituted by claimant – Inderjit Jain (injured). As per version of injured- claimant - Inderjit Jain, he had suffered multiple injuries including permanent disability on account of injuries suffered by him in the accident. He suffered injuries on his head, left ear and multiple lacerated wound on the skull. His left ear was torn apart. Head injury caused a serious oedema affecting the mental faculty of the deponent and his behaviour abnormally changed on account of the head injury. He was initially treated at Civil Hospital, Hansi from where he was shifted to CMC, Hisar and he remained admitted there for seven days. Thereafter, he was treated as an outdoor patient and had spent about Rs.80,000/- on his treatment. Prior to accident, he was running a sweet shop by the name of "Jain Sweet Bhandar", Rania and used to earn Rs.50,000/- per month.

69. To prove the injuries suffered by him, claimant has examined PW9 Dr. Vijay Kumar Jaiswal who deposed that on 19.10.2002, injured Inderjit was brought to CMC Hospital, Hisar with a history of road traffic accident. He had suffered moderate head injury and multiple scalp lacerations and ear injury. He remained admitted in the hospital upto 25.10.2002. He was operated upon for scalp injury and hospital had charged Rs.11,470/- excluding expenses incurred on medicines and investigations. He tendered the bill Ex.PW9/1, discharge slip Ex.PW9/2, reports Ex.PW9/3 and Ex.PW9/4 and bills Ex.PW9/6 to Ex.PW9/15. He deposed that claimant will have to take medicines for one to two years due to head injuries to prevent convulsions and fits.

70. The Tribunal after going through the material placed on file awarded him a total compensation of Rs.40,970/- and held as under:-

> "In petition "Inderjit Jain Versus Ramesh Kumar etc." (Petition No.9 of 2003), petitioner sought compensation for injuries/ disability suffered by him in this accident. Dr. Jaiswal (PW9) deposed before the tribunal that petitioner remained admitted in C.M.C Hospital, Hisar after this accident. According to him, Rs.11,470/- were charged from petitioner as hospital expenses. Abovesaid witness also deposed that petitioner would require to take medicines for next two years to avoid further complications. Dr. Jaiswal (PW9) also deposed that petitioner required services of a permanent attendant for two months after this accident. Petitioner is entitled to Rs.10,000/- for his future

medical treatment for the next two years. Petitioner would also get Rs.10,000/- as charges for a permanent attendant for 2/3 months. Medical bills Ex.PW9/6 to Ex.PW9/15 show that petitioner spent Rs.9500/- upon his medical treatment. This amount is also to be reimbursed to petitioner. Total compensation payable to petitioner including hospital charges, as referred to above, would, thus, come to Rs.40970/- only."

71. A perusal of the award shows that the Tribunal has awarded him total compensation of Rs.40,970/- which includes Rs.11,470/- towards expenses paid in the hospital for treatment, Rs.10,000/- for future medical treatment, Rs.9,500/- again for medical treatment and total expenses on treatment come to Rs.30,970/-. In addition to this, a sum of Rs.10,000/- has been awarded for engaging a permanent attendant for 2/3 months. However, no compensation has been awarded on account of Pain and Sufferings. It has come in the testimony of PW9 that patient had suffered head injuries and he was operated upon in the hospital and as such in view of the severity of injuries, the claimant is held entitled to a sum of **Rs.20,000/-** for **Pain and Sufferings**.

72. The Tribunal has awarded a sum of Rs.30,970/- for the expenses incurred on the treatment on the basis of bills produced by him and there is thus no scope for further enhancement in the same.

73. A sum of Rs.10,000/- has also been awarded for engaging an attendant for 2/3 months which is also adequate and no interference in the same is called for.

74. However, it must have taken at least three months for the injuries to heal and during this period, claimant must have spent some amount on **transportation** as well as on **special diet** and he is accordingly held entitled to a sum of **Rs.7,500/- (Rs.2,500 X 3)** under both these heads.

75. Resultantly, the compensation to be awarded by this Court is assessed as under:-

Sr. No.	Head	This Court (₹)
1.	**Pain and Sufferings**	**Rs.20,000/-**
2.	**Transportation and Special during the period of treatment**	**Rs.7,500/-**
3.	**Expenditure on treatment**	**Rs.30,970/-**
4.	**Attendant charges**	**Rs.10,000/-**
	Total	**Rs.68,470/-**
	Interest	**9%**

76.. As a result of afore-said discussion, the present appeal is partly allowed with costs and the claimant is held entitled to enhanced compensation of **Rs.27,500/- (Rs.68,470/- - Rs.40,970/-)** over and above the compensation awarded by Tribunal, payable by respondents No.1 to 3 jointly and severally, along with interest @ 9% per annum, from the date of filing of claim petition i.e. 10.1.2003, till realization.

77. **Compensation in FAO No.3716 of 2005**
"Champa Lal Vs. Ramesh Kumar and others":

Claim Petition No.10 of 2003 has been instituted by claimant – Champa Lal. As per version of claimant, he had suffered grievous injuries including fracture of humerus bone and he had spent huge amount on his treatment.

78. To prove the injuries, claimant had examined PW9 Dr. Vijay Kumar Jaiswal, CMC Hospital, Hisar, who deposed that on 19.10.2002, patient was admitted in their hospital as an indoor patient who had suffered chest injury, head injury and fracture humerus. He was treated in the hospital and was operated upon for the fracture. Nailing and interlocking was done and he was discharged on 25.10.2002 vide discharge summary Ex.PW9/16 which bears signatures of Dr. Manish Soni. He also tendered investigation reports Ex.PW9/17 to Ex.PW9/20. He further deposed that hospital had charged Rs.16,880/- from the patient vide receipt Ex.PW9/21 but these bills exclude medicines and investigation charges. He further stated that the bills for medicines are Ex.PW9/22 to Ex.PW9/36 which were prescribed by the hospital.

79. The Tribunal after going through the material placed on file, awarded a sum of Rs.25,000/- for Pain and Sufferings and Rs.28,380/- for the expenditure incurred on treatment and in all, a sum of Rs.53,580/- was awarded as compensation to the claimant. However, the compensation granted to the claimant is grossly inadequate. In view of the severity of the injuries and the fact that the claimant had undergone surgery for fracture humerus and implant was inserted, he is held entitled to a sum of **Rs.30,000/- for Pain and Sufferings.**

80. It must have taken at least three months for the injuries to heal and during this period, claimant would not have been able to pursue his job or work. It can be assumed that he must have been earning at least Rs.3,000/- per month which were the prevalent minimum wage in the year 2002 and he is accordingly

held entitled to **Rs.9,000/- for loss of income (Rs.3,000/- X 3).** During this period of three months, he must have spent some amount on **transportation, in engaging an attendant** and on **special diet** and he is accordingly held entitled to a sum of **Rs.5,000/- for transportation**, **Rs.5,000/- for special diet** and **Rs.5,000/-** for engaging an attendant.

80. So far expenses incurred on treatment are concerned, Tribunal has awarded a sum of Rs.28,380/- on account of expenses incurred on treatment as per bills produced by him and the same has thus been rightly assessed.

81. Resultantly, the compensation to be awarded by this Court is assessed as under:-

Sr. No.	**Head**	**This Court (₹)**
1.	**Pain and Sufferings**	**Rs.30,000/-**
2.	**Loss of income during the period of treatment**	**Rs.9,000/-**
3.	**For engaging an attendant, Expenses incurred on transportation and for special diet**	**Rs.15,000/- (Rs.5,000/- each under each head)**
4.	**Expenses incurred on treatment as per bills awarded by Tribunal**	**Rs.28,380/-**
5.	**Total**	**Rs.82,380/-**
6.	**Interest**	**9 %**

82. As a result of afore-said discussion, the present appeal is partly allowed with costs and the claimant is held entitled to enhanced compensation of **Rs.28,800/- (Rs.82,380/- - Rs.53,580/-)** over and above the compensation awarded by Tribunal, payable by respondents No.1 to 3 jointly and severally, along

with interest @ 9% per annum, from the date of filing of claim petition i.e. 10.1.2003, till realization.

83. 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.

84. All the pending misc. application(s), if any, shall stand disposed of.

85. A photocopy of this order be placed on the files of connected cases.

(Yashvir Singh Rathor)
Judge

May 21, 2026
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Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No