212(2)

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

1) FAO-3920-2005
Date of Decision: 30.03.2026

GOBIND RAM AND ANR. .... Appellants

Versus

KRISHAN LAL AND OTHERS ….... Respondents

2) FAO-4081-2005

RAMESHWAR …..Appellant

Versus

KRISHAN LAL & ORS ….Respondents

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Anil Ghangas, Advocate with
Mr. Abhishek, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate and
Ms. Gunjan Nahata, Advocate
for respondents No.3 and 5.

Mr. Sandeep Suri, Advocate,
Ms. Vandana Malhotra, Advocate (Through V.C.)
Mr. Rajneesh Malhotra, Advocate (Through V.C.) and
Ms. Manvi Verma, Advocate
for respondent No.7-National Insurance Company.

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YASHVIR SINGH RATHOR, J. (Oral)

1. The aforesaid two appeals have been instituted against the Award dated 03.05.2005 passed by Motor Accident Claims Tribunal, Bhiwani arising out of the same Award.

2. Claim petition No.56 of 2002 was instituted by Gobind Ram @ Goma Ram and another against Krishan Lal and others for grant of compensation on account of death of Ved Parkash which occurred due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-16-GA-0295 (**for short 'offending vehicle'**), owned by respondent No.2, which was insured with respondent No.3.

3. Claim petition No.19 of 2003 was instituted by Rameshwar owner of jeep bearing No. HR-16A-0522 seeking compensation on account of damage suffered by his vehicle due to rash and negligent driving on the part of respondent No.1 while driving the offending vehicle bearing No.HR-16-GA-0295 (**for short 'offending vehicle'**), owned by respondent No.2, which was insured with respondent No.3.

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

> *(i) Whether the accident resulting into death of Ved Parkash and damage to vehicle bearing No.HR-16A-0522 had occurred on 20.10.2002 due to rash and negligent driving of truck No.HR-16-GA-0295 by Krishan Lal, respondent No.1?OPP*
>
> *(ii) Whether the petitioners are entitled to compensation, if so, to what amount and from whom?OPP*

(iii) Whether respondent No.1 Krishan Kumar was not having a valid driving licence on the date of the accident, if so, to what effect? OPR No.3.

(iv) Relief.

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

6. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,76,000/- as compensation to the claimants (in MACT No.56 of 2002) on account of death of Ved Parkash and a sum of Rs.25,000/- as compensation to the claimant (in MACT No.19 of 2003) on account of damage to his vehicle alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization.

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

8. It is pertinent to mention that the record of the appeal bearing FAO No.4081 of 2005 and the Tribunal has got burnt in a fire incident in the High Court and the present appeals have to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned Award.

9. 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 had occurred due to the rash and negligent driving on the part of respondent No.1, while driving the offending vehicle which

was owned by respondent No.2 and insured with respondent No.3 and they have been held liable to pay compensation jointly and severally. No appeal or cross-objections have been filed by respondents, challenging the said finding and accordingly finding on issue No.1 is not required to be interfered with.

10. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.1,76,000/- 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 the income of the deceased has been assessed on lower side. Future prospects have also not been added to the monthly income of the deceased contrary to settled provisions of law. Learned counsel further contended that deceased was 22/23 years of age and multiplier of 12 has been applied whereas multiplier of 18 should have been applied. No compensation has been awarded under the conventional heads of loss of consortium and loss of estate and the compensation awarded for funeral expenses has also been assessed on the lower side and he prayed that compensation be suitably enhanced. In support of his contention, learned counsel for the appellants has relied upon 2009(6) SCC 121 – ***Sarla Verma and others Vs. Delhi Transport Corporation and Another,*** 2017 ACJ 2700, ***National Insurance Co. Ltd. Vs. Pranay Sethi and Others,*** 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.***

11. Learned counsel further contended that the evidence led by

claimant Rameshwar to prove the damage suffered by the jeep and the expenses incurred on its repair has been ignored without any cogent reasons and the Award, in question, is based on conjectures and surmises. The jeep had suffered extensive damage as the offending vehicle/truck had overturned over it and its body was completely damaged. Only a sum of Rs.25,000/- has been awarded as compensation, whereas a sum of Rs.2,17,000/- was spent on its repairs and learned counsel prayed that the appeal, in hand, be accepted and the enhanced amount of compensation be awarded.

12. 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 appeals in hand be dismissed.

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. As such, compensation is required to be assessed by taking into consideration above-said parameters.

14. ***Compensation in FAO No.3290 of 2005 titled as Gobind Ram and another Vs. Krishan Lal and others, arising out of MACT No.56 of 2002:-***

15. As per the version of the claimants, the deceased namely Ved Parkash aged 22/23 years was their son and was unmarried. He was a driver by profession and also used to do agricultural work and earn Rs.7,000/- per month. To the same effect is the statement made by PW-2 Govind Ram, who is the father of the deceased. However, during cross-examination, he admitted that he does not possess any document to prove the income of the deceased and his son was also not an income-tax assessee. The learned Tribunal did not assess the monthly income of the deceased, but in para No.21, the monthly loss of dependency was calculated to be Rs.1,200/-, meaning thereby, his income was assessed to be Rs.2,400/- per month and after deducting 50% amount towards personal expenses, the monthly loss of dependency was held to be Rs.1,200/- per month. The accident had taken place on 20.10.2002. There is no dispute about the fact that the deceased was a driver as he was driving the jeep, in question, at the time of the accident. Resultantly,

some amount of guesswork has to be applied in assessing the monthly income of the deceased, who was also stated to be doing agricultural work. Accordingly, the income of the deceased is taken as Rs.3,000/- per month.

16. The deceased was 22/23 years of age, as has also been held by the learned Tribunal and as such, 40% amount has to be added to the monthly income of the deceased towards future prospects in view of the law laid down in ***Pranay Sethi's*** case (supra), which takes his income to Rs.4,200/- per month (Rs.3,000 + 1,200/-).

17. The petition, in hand, has been instituted by the father and mother of the deceased. However, as per the law laid down in ***Sarla Verma's*** case (supra), the father cannot be termed as dependent upon his deceased son and he is not entitled to any compensation except on account of filial consortium. As such, the deceased has left behind one dependent and 50% of the income, thus, has to be deducted towards personal and living expenses as per the law laid down in ***Sarla Verma's*** case (supra) and after deducting the same, the monthly loss of dependency comes out to Rs.2,100/- and the annual loss of dependency comes out to **Rs.25,200/- (Rs.2,100/- x 12).**

18. Since the deceased was 22/23 years of age, multiplier of 18 has to be applied as per the law laid down in ***Sarla Verma's*** case (supra) and after applying the same, the annual loss of dependency comes out to **Rs.4,53,600/- (Rs.25,200/- x 18).**

19. In addition to this, claimant No.2 (mother 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 the law laid down in ***Pranay Sethi's*** case (supra). Likewise, claimant No.1, who is the father of the deceased, is also held entitled to a sum of **Rs.40,000/-** on account of loss of filial consortium, in view of the law laid down in ***Nanu Ram's*** case (supra) and ***Satinder Kaur's*** case (supra), which takes the compensation to **Rs.5,63,600/- (Rs.4,53,600/- + Rs.1,10,000/-).**

20. 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.3000/- per month
2.	Age of deceased	23 years
3.	Future prospects @ 40%	Rs.1,200/-
4.	Total income	Rs.4,200/- per month
5.	Number of dependent	1
6.	Deduction towards personal expenses of the deceased 1/2	Rs.2,100/- (50%)
7.	Monthly loss of dependency	Rs.2,100/-
8.	Annual loss of dependency	Rs.25,200/- (Rs.2,100 × 12)
9.	Multiplier	18
10.	Compensation on account of Loss of dependency	Rs.4,53,600/- (Rs.25,200/- x 18)
11.	Compensation under conventional heads to claimant No.2- mother	Rs.70,000/-
12.	Consortium to claimant No.1 for loss of filial consortium	Rs.40,000/-
13.	Total Compensation	Rs.5,63,600/-

14.	Interest	9%

21. As a result of the aforesaid discussion, the compensation payable to the appellants is assessed as **Rs.5,63,600/-** and the enhanced compensation comes out to **Rs.3,87,600/- (Rs.5,63,600/- – Rs.1,76,000/-),** rounded off to **Rs.3,88,000/-.**

22. ***<u>Compensation in FAO No.4081 of 2005 titled as Rameshwar Vs. Krishan Lal and others, arising out of MACT No.19 of 2003:-</u>***

23. The present claim petition was instituted by Rameshwar, owner of the jeep No. HR-16A-0522, which was damaged in the accident in question. As per the version of the claimant, his jeep was totally damaged in the accident in question and he had spent a sum of Rs.2,17,000/- on its repairs. To the same effect is the testimony of claimant-Rameshwar while appearing as PW-1. During cross-examination, he stated that the jeep was purchased by him for a sum of Rs.2,35,000/-, which was manufactured in the year 1996. He further examined PW-3 Dalbir Singh, mechanic, who tendered his affidavit as Ex.PW-3/A and deposed that a sum of Rs.2,17,000/- was incurred on the repair of the damaged jeep. However, during cross-examination, he admitted that he does not have any proof regarding running of the said workshop by him. He does not maintain any accounts regarding daily income from the repairs of vehicles. His brother used to prepare the bills as he is an illiterate person. He admitted that the bills do not bear his signatures.

24. The learned Tribunal held that as per the registration certificate, the claimant is the registered owner of the vehicle which was manufactured in the year 1996. However, neither any mechanic report has been led in evidence to prove the nature and extent of damage to the said jeep nor any surveyor's report or rough estimate has been brought on file and such type of inflated bills showing expenses incurred on the repair of the damaged vehicle can be easily procured by a party. The Tribunal, after taking into consideration the totality of the facts and circumstances of the case, awarded a sum of Rs.25,000/- to the claimant on account of damage caused to the jeep bearing No. HR-16A-0522.

25. However, in my opinion, the compensation awarded by the Tribunal is on the lower side. The claimant is a rustic villager and he does not know the intricacies of law and he got the vehicle repaired from a private mechanic. A perusal of FIR No.176 dated 20.10.2002, under Sections 279, 337 and 304-A of the IPC registered at Police Station Bhawani Khera, District Bhiwani, shows that the offending truck had fallen over the jeep and one Maruti car and the passengers had got entangled in the said jeep as well as the Maruti car. The driver of the jeep had died in the accident in question and it can be inferred that the chassis of the jeep must have got totally damaged as the driver got crushed inside the jeep. In these circumstances, it can be assumed that the jeep must have suffered extensive damage. Though, as per the version of the claimant as well as PW-3, a sum of Rs.2,17,000/- was incurred on its repairs, yet the bills tendered in evidence by PW-3 cannot be relied upon as the same do not bear his signatures and have not been issued by him but in view of the totality of the facts and circumstances of the case and

applying some guesswork, I am of the considered opinion that the claimant must have spent at least a sum of Rs.75,000/- on the repair of the jeep and he is, accordingly, entitled to a sum of Rs.75,000/- for the damage caused to the jeep. Accordingly, the finding on issue No.2 in claim petition No.19/2003 is partly modified and the claimant is held entitled to a sum of Rs.75,000/- as compensation for the damage of his jeep.

26. Resultantly, the appeal in hand is partly accepted with costs and the appellant/claimant is held entitled to a sum of **Rs.75,000/-** as compensation. The enhanced compensation thus comes out to **Rs.50,000/- (Rs.75,000 – Rs.25,000).**

27. As a result of aforesaid discussion, both the appeals are partly accepted with costs and appellants in **FAO No.3290 of 2005** are held entitled to enhanced compensation of **Rs.3,88,000/-** 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. 30.11.2002, till realization payable by respondents No.1 to 3, jointly and severally. Out of the enhanced compensation, a sum of Rs.40,000/- be paid to the father of the deceased alongwith proportionate interest while remaining amount be paid to claimant No.2-mother alongwith proportionate interest.

28. In **FAO No.4081 of 2005,** appellant Rameshwar is held entitled to enhanced compensation of **Rs.50,000/-** alongwith interest @ 9% per annum from the date of filing of claim petition i.e. 30.11.2002, till realization, payable by respondents No.1 to 3, jointly and severally.

29. 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.

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

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

(YASHVIR SINGH RATHOR)
JUDGE

30.03.2026
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Whether speaking/reasoned Yes/No
Whether Reportable Yes/No