S. No. 243

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO-5071-2005 (O&M)
Date of Decision:23.03.2026

**NANAK CHAND AND ANOTHER**

**.....Appellants**

**VERSUS**

**KASHMIRA SINGH AND OTHERS**

**.....Respondents**

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

Present:- Mr. Arun Kumar, Advocate
for the appellants (Amicus Curiae).

Mr. V.K. Garg, Advocate for
respondent No.3-Insurance Company.

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**YASHVIR SINGH RATHOR, J. (ORAL)**

1. This appeal has been instituted against the Award dated 03.11.2004 for enhancement of compensation awarded in MVA Case No.81 decided by the MACT, Faridabad (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.1,08,500/- has been awarded as compensation to the claimants/appellants along with interest at the rate of 6% per annum from the date of filing of claim petition till realization on account of death of their son namely Bir Singh @ Shamsher Singh in a motor vehicle accident.

2. The matter is being taken up in the post lunch session.

3. From the pleadings of parties, following issues were framed by learned MACT:-

> *"1. Whether the accident took place at Ganda Nala Bridge, G.T. Road, Banchari, District Faridabad on 20.10.2001 at about 5.15 P.M. within the jurisdiction of Police Station Hodal due to rash and negligent driving of offending vehicle bearing its registration No.HR-38F/4472 by respondent No.1, as alleged? OPP.*
>
> *2. If issue No.1 is proved, to what amount of compensation, the petitioners are entitled to and from whom?OPP.*
>
> *3. Whether the petition is not maintainable in the present form? OPR.*
>
> *4. Whether the petitioners have no locus standi and cause of action to file the present petition?OPR.*
>
> *5. Whether the petition is bad for mis-joinder and non-joinder of necessary parties? OPR.*
>
> *6. Whether the respondent No.1 was not holding a valid and effective driving licence at the time of alleged accident?OPR-3.*
>
> *7. Relief.*

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

5. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,08,500/- as compensation to the claimants/ appellants, on account of death of Bir Singh @ Shamsher Singh along with interest @ 6% per annum from the date of filing of claim petition till realization.

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

7. It is pertinent to mention that the record of the present appeal and the Tribunal has got burnt in a fire incident in the High Court Branch and the present appeal has to be decided on the basis of the facts and evidence discussed by the Tribunal in the impugned Award.

8. 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 tractor trolley bearing *No.HR-38F/4472*, 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.

9. Learned counsel for the appellants argued that the impugned award vide which compensation of Rs.1,08,500/- 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 compensation awarded to the claimants has been assessed on lower side. Learned counsel further contended that deceased was 8/9 years of age and multiplier of 18 should have been applied. No compensation has been awarded under the conventional head of loss of consortium and the compensation awarded under other conventional heads

i.e. loss of estate and funeral expenses has also been assessed on the lower side and he prayed that compensation be suitably enhanced.

10. On the other hand, learned counsel for respondent No.3 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.

11. 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.

12. In the present case, the accident had taken place on 20.10.2001. Deceased was 8/9 years of age and Tribunal has awarded lump sum compensation of Rs.1,00,000/- besides compensation under statutory heads, total amounting to Rs.1,08,500/-.

13. Hon’ble Supreme Court in 2025 ACJ 1624 titled **Karuna Parmar Vs. Prakash Sinha and others** while relying upon judgment rendered by the Hon’ble Supreme Court in 2024 SCC Online SC 3692, **Baby Sakshi Greola Vs. Manzoor Ahmad Simon,** has held that minimum wages payable to a skilled worker in the concerned State have to be taken into consideration while assessing income in the case of death of a child because that would be the minimum amount which a child would have earned on attaining the age of majority. In **Karuna Parmar’s case (supra)**, a girl aged 6 years had died and taking into consideration the minimum wages for skilled workers in the year 2014 to be Rs.223 per day, annual income was assessed as Rs.80,280/- and thereafter, future prospects were applied and after applying multiplier of 18, the compensation was assessed.

14. In the present case, deceased was 8/9 years of age and the accident took place on 20.11.2001 and during those days, minimum wages earned by a skilled person were around Rs.2100/- per month. Accordingly, income of deceased is taken as Rs.2100/- per month.

15. Since deceased was 8/9 years of age, 40% amount has to be added to the monthly income of the deceased towards future prospects in view of law laid down by Hon’ble Supreme Court in 2017 ACJ 2700, **‘National Insurance**

**Co. Ltd Vs. Pranay Sethi and Others',** which takes his income to **Rs.2,940/- per month (Rs.2100/- + Rs.840/-).**

16. It has been held by the Hon'ble Supreme Court in 2009(6) SCC 121 – **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Another** that only mother is dependent upon her son and father is not dependent. As such, mother alone entitled to compensation on account of death of her son and father being not dependent is not entitled to compensation except on account of filial consortium.

17. As per law laid down in **Sarla Verma's case (supra),** 50% of the earnings have to be deducted towards personal and living expenses. After deducting 50% of his income towards personal expenses, the monthly dependency comes out to Rs.1470/- and the annual dependency comes out to **Rs. 17,640/- (Rs.1470/- X 12).**

18. Since deceased was 8/9 years of age, multiplier of 18 has to be applied in view of the guidelines laid down in **Karuna Parmar's case (supra)**, and after applying the same, the total loss of dependency comes out to **Rs.3,17,520/-.**

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 law laid down in **Pranay Sethi's case (supra).** Likewise, claimant No.1 **(**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 law laid down in

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***, which takes the compensation to **Rs.4,27,520/-** (Rs.3,17,520/- + Rs.1,10,000/-).

20. Accordingly, the compensation to be awarded to the appellants/claimants is assessed as under:-

| **S.No.** | **Under Head** | |
|---|---|---|
| 1. | Monthly income of deceased | Rs.2100/- per month |
| 2. | Age of deceased | 8/9 years |
| 3. | Future prospects @40% | Rs.840/- |
| 4. | Total income | Rs.2940/- |
| 5. | Number of dependents | 1 |
| 6. | Deduction towards personal expenses of the deceased | Rs.1470/- (50%) |
| 7. | Monthly loss of dependency | Rs.1470/- |
| 8. | Annual loss of dependency | Rs. 17,640/- (Rs.1470/- X 12) |
| 9. | Multiplier | 18 |
| 10. | Compensation on account of Loss of dependency | Rs.3,17,520/- (Rs.17640 x 18) |
| 11. | Compensation under conventional heads to claimant No.2-mother | Rs.70,000/- |
| 12. | Compensation to claimant No.1 for loss of filial consortium | Rs.40,000/- |
| 13. | **Total Compensation** | **Rs.4,27,520/-** |
| 14. | Interest | 9% |

21. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of Rs.4,27,520/- as compensation. The enhanced compensation thus comes out to Rs.3,19,020/- (Rs.4,27,520/- - Rs.1,08,500/-) (rounded to Rs.3,19,000/-) 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. 19.08.2003 till realization payable by respondents jointly and severally. Out of the enhanced compensation, a sum of Rs.40,000/- along with proportionate interest be paid to appellant No.1 while remaining amount be paid to appellant No.2 along with proportionate interest.

22. 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.

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

**(YASHVIR SINGH RATHOR)**
**JUDGE**

**March 23, 2026**
Priyanka Thakur

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No