S. No.217

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

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FAO No.543 of 2005 (O&M)
Date of Decision:05.03.2026

Smt. Paramjit Kaur and others .....Appellants
Vs.
Gurmail Singh and others .....Respondents

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

Present:- Mr. Paramvir Singh, Advocate for the appellants.

Mr. D.R. Bansal, Advocate with Dr. Anjali B. Dev, Advocate for respondent No.3.

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<u>Yashvir Singh Rathor, J. (Oral)</u>

1. This appeal has been instituted against the Award dated 02.11.2004 for enhancement of compensation awarded in MACT case No.259 of 2004 decided by the MACT (Adhoc) Patiala (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.3,75,000/- has been awarded as compensation to the claimants/appellants on account of death of Gurdarshan Singh in a motor vehicle accident.

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

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

> *"1. Whether Sh. Gurdarshan Singh, died due to rash and negligent driving of Gurmail Singh respondent no.1 in an accident which occurred on 11.6.2002 with canter no.HR 37-6367?OPP*

> *2. Whether the claimants are entitled to any compensation, if so to what amount and from whom?OPP*
>
> *3. Whether Gurmail Singh respondent no.1 was not holding valid driving licence as on the date of accident?OPR3.*
>
> *4. Whether the petition is collusive between the claimants and respondents No.1 and 2?OPR3*
>
> *5. Whether Canter No.Hr-37-6367 was not holding valid route permit and fitness certificate?OPR3.*
>
> *5. 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.3,75,000/- as compensation to the claimants/ appellants, on account of death of Gurdarshan Singh.

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

7. 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 canter No.HR-37-6367, 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.

8. 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.

9. As per version of the claimants, deceased was working in Glaxo Smith Kline Pvt. Ltd., Nabha and was getting salary of Rs.8,100/- per month. To prove this fact, the claimants have examined PW2 Sumeet Bansal, Junior Finance Officer, Galaxo Smith Kline Pvt. Ltd., Nabha, who produced the salary and service record of deceased- Gurdarshan Singh. He deposed that deceased was working as a Production Workman in the factory and was in service since 31.05.1999. His date of birth was 1.7.1970. He produced the salary slip of the

deceased for the month of May, 2002 Ex.P2 and stated that his gross salary was Rs.8,100/- per month. He also used to be paid Rs.283/- as overtime charges. He also tendered the salary details Ex.P3. He further stated that deceased was also being paid Rs.14760/- per annum as leave travel allowance besides bonus as per Bonus Act in addition to the monthly gross salary. During cross-examination, he stated that the salary is deposited in the bank account of the employee and carry home salary for the month of May, 2002 was Rs.6474/-. He also tendered the salary record for the month of April, 2002 and during his month, he was paid Rs.5681/- as he worked for 28 days and was absent for two days. He further stated that deceased was member of Employees Provident Fund which used to be deducted from his salary. He further stated that as per their record, he was not an ad hoc employee. He admitted that he has not brought record regarding payment of bonus and leave travel concession. He also admitted that as per salary details Ex.P3, deceased was only entitled to the amount shown as LTC and bonus but there is no record regarding payment of the same to him. He also admitted that he has not brought the record of previous years to show whether any payment was made towards LTC or bonus.

10. In this manner, as per testimony of PW2, the gross salary of the deceased was Rs.8100/- per month but carry home salary was Rs.6474/- per month, meaning thereby, some deductions were made from his salary towards ESI and Provident Fund. The Tribunal took into account the salary slip for April, 2002 when he had worked for 28 days and was paid Rs.5681/- as carry home salary. However, the approach of the Tribunal in this regard was not correct and the Tribunal should have relied upon the gross salary certificate Ex.P2 according to

which deceased was getting Rs.8,100/- per month as salary. So far as, payment towards LTC and bonus are concerned, no record has been produced to show that any such payments were made to the deceased and in these circumstances, the testimony of PW2 that deceased used to get Rs.14760/- per annum as LTC cannot be relied upon. Accordingly, it is held that deceased was getting Rs.8,100/- per month as salary.

11. It has also come in evidence that deceased was working in the said company since 31.05.1999. He was not an ad-hoc employee & as such, deceased must be in permanent employment of the said company. His date of birth was 1.7.1970 and he was 32 years of age and in these circumstances, 50% of the amount has to be added 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 monthly income to Rs.12,150/-. However, a sum of Rs.1,000/- has to be deducted towards income tax and after deducting same, monthly income comes to Rs.11,150/-.

12. As per version of claimants, deceased has left behind seven dependents including wife, four children and parents. However, as per law laid down in 2009(6) SCC 121 – **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Another,** the father cannot be treated as a dependent upon the deceased son and accordingly, the claimant No.7, who is father is not entitled to any compensation except on account of filial consortium. In the circumstances, deceased has left behind six dependents and 1/4th amount has to be deducted towards personal and living expenses in view of law laid down in **Smt. Sarla Verma's case (supra)**, as against one third of amount deducted by the Tribunal

towards personal and living expenses**.** After deducting one fourth of the income towards personal expenses, the monthly dependency comes out to Rs.8,363/- and the annual dependency comes out to **Rs.1,00,356/- (Rs.8,363/- x 12).**

13. Deceased was 32 years of age. Tribunal has applied multiplier of 15 to the loss of dependancy. However, as per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 16 has to be applied and after applying the same, the compensation comes to **Rs.16,05,696/- (Rs.1,00,356/- X 16)**.

14. In addition to this, claimant No.1 is also 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 7 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 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.18,45,696/- (Rs.16,05,696/- + Rs.40,000 X 6).

15. Accordingly, the compensation to be awarded to the claimants is assessed as under:-

S.No.	Under Head	Compensation awarded by the High Court
1.	Monthly income of deceased	Rs.8,100/-
2.	Age of deceased	32 years
3.	Future prospects @50%	Rs.12,150/-
4.	Tax deduction	Rs.1,000/-
4.	Total income	Rs.11,150/- per month
5.	Number of dependents	6
6.	Deduction towards personal expenses of the	Rs.2787.5 (1/4)

	deceased	
7.	**Annual loss of dependency**	**Rs.1,00,356/-**
8.	**Multiplier**	**16**
9.	**Compensation on account of Loss of dependency**	**Rs.16,05,696/-**
10.	**Compensation to claimant No.1 for loss of consortium, loss of estate & funeral expenses**	**Rs.70,000/-** **(Rs.40,000/- + Rs.15,000/- + Rs.15,000/-)**
	Consortium to remaining claimants (Parental & filial)	**Rs.40,000/- each** **Rs.40,000/- X 6 = Rs.2,40,000/-**
11.	**Total Compensation**	**Rs.18,45,696/-**
12.	**Interest**	**9%**

16. Resultantly, the appeal in hand is partly accepted with costs and appellants are held entitled to a sum of Rs.18,45,696/- as compensation. The enhanced compensation thus comes out to Rs.14,70,696/- (Rs.18,45,696/- - Rs.3,75,000) 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. 02.11.2004 till realization payable by respondents No.1 to 3 jointly and severally.

17. 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.

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

(Yashvir Singh Rathor)
Judge

March 05, 2026
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Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No