S. No. 228

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

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**FAO-982-2005 (O&M)
Date of Decision:18.03.2026**

PREM KAUR AND OTHERS

.....Appellants

VERSUS

RANGA SINGH AND OTHERS

.....Respondents

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

Present:- Mr. Tarun 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 02.09.2004 for enhancement of compensation awarded in MACT case No.202 of 2002 decided by the MACT, Panchkula (**for short "Tribunal"**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.4,94,340/- has been awarded as compensation to the claimants/appellants alongwith interest at the rate of 6% per annum from the date of filing of claim petition till realization on account of death of Jeet 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 in question had taken place on account of rash and negligent driving of tractor trolley bearing No.HR-03-D-4257 by respondent No.1? OPP.*
>
> *2. Whether the claimants are entitled to compensation if so to what amount and from whom?. OPP.*
>
> *3. Whether respondent No.1 was driving the vehicle in question without a valid and effective driving license in violation of the terms and conditions of insurance policy?...OPR-3.*
>
> *4. 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.4,94,340/- as compensation to the claimants/ appellants, on account of death of Jeet 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-03-D-4257, 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.4,94,340/- 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 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 52 years of age and not 55 years and multiplier of 7 has been applied whereas multiplier of 16 should have been applied. No compensation has been awarded under conventional heads i.e. loss of consortium, loss of estate and funeral expenses and he prayed that compensation be awarded under all the heads and same 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. As per version of claimants as deposed by claimant Prem Kaur (CW2) by way of her affidavit Ex.C4, her husband Jeet Singh (since deceased) was employed as an Operator in the office of Sub-divisional Engineer M.C. Public Health, Chandigarh and he was getting a salary of Rs. 8812/- per month. She deposed that she has got two sons and one unmarried daughter, who are claimants and they all are major. To prove the salary of the deceased, the claimants have examined CW4 Mehar Singh, Senior Assistant, from the office of M.C. Public Health, who produced the salary certificate of the deceased Ex.C6 issued by

Executive Engineer, M.C. Public Health, Division No.3, Chandigarh. As per the salary certificate, deceased was working as Operator on the date of his death. His total salary was Rs.8967/- per month which included basic pay, ADA, CCA, FMA and HRA. A sum of Rs.15/- was being deducted towards GIS and Rs.125/- towards LIC. After deducting the aforesaid amounts from the monthly salary of Rs. 8,967/-, his income was assessed at Rs.8,827/- per month. However, the contribution towards GIS and LIC are also reimbursable on the maturity of the policy and are a part of his income. The contribution deposited for GIS and LIC cannot be deducted from the salary and Tribunal has erred while deducting the same. Accordingly, the monthly income of deceased is taken as Rs.8,967/- as per said salary certificate Ex.C6.

13. As per version of CW2 Prem Kaur, deceased was 52 years of age. However, no record was summoned to prove the date of birth of the deceased as his date of birth must have been recorded in the service book. Therefore, the oral version has rightly been discarded and since age of deceased was mentioned as 55 years in post-mortem report Ex.P2, Tribunal rightly took his age to be 55 years.

14. Since, deceased was 55 years of age and he was in permanent employment under the Municipal Corporation, Chandigarh, 15% 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.10,312/- per month (Rs.8967/- + Rs.1345/-).**

15. Deceased has left behind his wife and three major children. Now the point to be decided is as to whether claimants No.2 to 4, who are the major children are entitled to compensation or not. Hon'ble Supreme Court in 2020 (1) RCR (Civil) 694, **National Insurance Company Limited Versus Birender and Others**, has held that legal representatives of the deceased including major, married and earning sons of the deceased being legal representatives have a right to apply for compensation and it will be bounden duty of Tribunal to consider the application irrespective of the fact whether concerned legal representatives were fully dependent upon the deceased and not to limit claim towards conventional heads only. Accordingly, claimants No.2 to 4 are also held entitled to compensation being his legal representatives.

16. Deceased has thus left behind four dependents and 1/4th of the income has been deducted towards personal and living expenses as per law laid down in 2009(6) SCC 121 – **Smt. Sarla Verma and others Vs. Delhi Transport Corporation and Another** and after deducting the same, the monthly loss of dependency comes out to Rs.7734/- and the annual loss of dependency comes out to **Rs. 92,808/- (Rs.7,734/- X 12).**

17. The Tribunal has applied multiplier of 7 which is on lower side and since deceased was 55 years of age, multiplier of 11 has to be applied in view of the guidelines laid down in **Sarla Verma's case (supra)**, and after applying the same, the total loss of dependency comes out to **Rs.10,20,888/-.**

18. 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, claimants No.2 and 3 **(**sons of the deceased) and claimant No.4 (unmarried daughter of the 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 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.12,10,888/-** (Rs.10,20,888/- + Rs.1,90,000/-).

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

S.No.	**Under Head**	
1.	Monthly income of deceased	Rs.8967/- per month
2.	Age of deceased	55 years
3.	Future prospects @15%	Rs.1345/-
4.	Total income	Rs.10,312/-
5.	Number of dependents	4
6.	Deduction towards personal expenses of the deceased	Rs.2578/- (1/4th)
7.	Monthly loss of dependency	Rs.7,734/-
8.	Annual loss of dependency	Rs.92,808/- (Rs.7,734/- X 12)
9.	Multiplier	11
10.	Compensation on account of Loss of dependency	Rs.10,20,888/-
11.	Compensation under conventional heads to claimant No.1- wife	Rs.70,000/-
12.	Compensation to remaining claimants for loss of parental consortium (sons and unmarried daughter)	Rs.1,20,000/-
13.	**Total Compensation**	**Rs.12,10,888/-**
14.	Interest	9%

20. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of Rs.12,10,888/- as compensation. The enhanced compensation thus comes out to Rs.7,16,548/- (Rs.12,10,888/- - Rs.4,94,340/-) (rounded to Rs.7,17,000/-) 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. 16.09.2002 till realization payable by respondents jointly and severally. Out of the enhanced compensation, a sum of Rs.1,00,000/- each along with proportionate interest be paid to appellants No.2 to 4 while remaining amount be paid to appellant No.1 along with proportionate interest.

21. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

March 18, 2026
Priyanka Thakur

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