S. No.213

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO No.895 of 2005 (O&M)
Date of Decision:12.03.2026

Anupama and others **.....Appellants**

Vs.

Jagpal and others **.....Respondents**

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

Present:- Mr. Vikas Kumar, Advocate for the appellants.

Mr. Pardeep Goyal, Advocate for respondent No.4-NIA.

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Yashvir Singh Rathor, J. (Oral)

1. This appeal has been instituted against the Award dated 17.08.2004 for enhancement of compensation awarded in MACT case No.38 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.10,89,760/- has been awarded as compensation to the claimants alongwith interest at the rate of 9% per annum from the date of filing of claim petition till realization on account of death of Rajender Kumar Yadav in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.1 while driving offending vehicle bearing No.HR-38E-9509 (**for short 'offending vehicle'**), owned by respondents No.2 and 2(a), which was insured with respondent No.3.

2. From the pleadings of parties, following issues were framed by the ld. MACT:-

"1. Whether the alleged accident resulting into the death of Rajender Kr. Yadav took place due to rash and negligent driving of Bus No.HR-38E-9509 by respondent No.1?OPP

2. If issue no.1 is proved, whether the petitioners are entitled to compensation and if so how much and from whom?OPP

3. Whether respondent No.1 was not holding a valid and effective driving licence on the date of alleged accident and if so its effect? OPR-3.

4. Relief."

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

4. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.10,89,760/- as compensation to the claimants, on account of death of Rajender Kumar Yadav along with interest @ 9% per annum from the date of filing of claim petition till realization.

5. Feeling aggrieved, the appeal in hand has 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 occurred due to the rash and negligent driving on the part of respondent No.1 while driving the offending vehicle, owned by respondent No.2 and 2(a) 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.

7. 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.

8. As per version of the claimants, deceased namely Rajender Kumar Yadav was working with the Railways and was earning Rs.7,000/- per month. To prove his income, the claimants have examined PW3 Chander Kanta Sharma, Senior Clerk, Railway Station, Ballabhgarh, who deposed that deceased Rajender Kumar Yadav was working with Railway Department and was posted as Pointsman B Grade and his salary in the month of May, 2002 was Rs.6683/- including DA, HRA, CA, NDA and TPT and she tendered the salary certificate Ex.P5 and salary slip Ex.P6. No evidence to prove to the contrary was led by the

respondents. The Tribunal also relied upon the salary certificate Ex.P5 in which the break-up of the monthly salary is as under:-

Basic Pay	:	3440/-
DA	:	1686/-
HRA	:	1032/-
CA	:	125/-
NDA	:	300/-
TPT	:	100/-
		6683/-

9. As per law laid down by Hon'ble Supreme Court in Appeal (Civil) 5830 of 2007 – **National Insurance Company Ltd. Vs. Indira Srivastava and others**, only the conveyance allowance is to be deducted and all other allowances including HRA are a part of monthly salary. After deducting a sum of Rs.125/- which was paid as conveyance allowance, the monthly income comes out to Rs.6683/- - Rs.125/- = Rs.6558/-.

10. The Tribunal has come to conclusion that deceased was 35 years of age on the basis of evidence led before it. The deceased was in permanent employment of the Railway Department and as such, 50% of the amount has to be added to the salary 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.9837/- (Rs.6558/- + Rs.3279/-)** per month. Out of the afore-said amount, a sum of Rs.500/- has to be deducted towards income tax and after deducting the same, the monthly income comes out to Rs.9337/- (Rs.9837/- - Rs.500/-).

11. The petition in hand has been instituted by wife, five children and parents of the deceased. However, as per law laid down in 2009(6) SCC 121 – **Sarla Verma and others Vs. Delhi Transport Corporation and Another,** father cannot be termed as dependent upon his deceased son and he is thus not entitled to any compensation except on account of filial consortium. Accordingly, it is held that deceased has left behind seven dependents and 1/5th of the income thus has to be deducted towards personal and living expenses. After deducting a sum of Rs.1867.40 towards personal expenses, the monthly dependency comes out to Rs.7469.60 (Rs.9337 – Rs.1867.40) (rounded off to Rs.7470/-) and the annual dependency comes out to **Rs.89,640/-**.

12. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 16 has to be applied as deceased was 35 years of age and after applying the same, the compensation comes to **Rs.14,34,240/- (Rs.89,640/- X 16).**

13. 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, remaining claimants No.2 to 8 who are children and parents of deceased are also held entitled to a sum of **Rs.40,000/- each** on account of **loss of parental & 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.17,84,240/-** (Rs.14,34,240/- + Rs.70,000/- + Rs.2,80,000/-).

14. 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.6558/- per month
2.	Age of deceased	35 years
3.	Future prospects @ 50%	Rs.3279/-
4.	Income Tax	Rs.500/-
4.	Total income after deducting income tax	Rs.9337/- per month
5.	Number of dependents	7
6.	Deduction towards personal expenses of the deceased (1/5th)	Rs.1867.40 per month
7.	Annual loss of dependency	Rs.89640/- (Rs.7470 X 12)
8.	Multiplier	16
9.	Compensation on account of Loss of dependency	Rs.14,34,240/- (Rs.89640/- X 16)
10.	Compensation under conventional heads to wife	Rs.70,000/-
11.	Consortium to children, mother and father of deceased	Rs.2,80,000/- (Rs.40,000/- X 7)
12.	**Total Compensation**	**Rs.17,84,240/-**
13.	**Interest**	**9%**

15. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.17,84,240/-** as compensation. The enhanced compensation thus comes out to **Rs.6,94,480/- (Rs.17,84,240/- - Rs.10,89,760/-)** 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. 17.08.2004, till realization payable by respondents No.1 to 3 , jointly

and severally. Out of the enhanced compensation, a sum of Rs.60,000/- each be paid to the children and mother of the deceased, Rs.40,000/- to the father of the deceased and remaining amount to claimant No.1/ wife along with proportionate interest.

16. 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.

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

(Yashvir Singh Rathor)
Judge

March 12, 2026
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Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No