



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

135

**FAO-4908-2018 (O&M)
Date of decision: 26.05.2026**

SHEELA AND OTHERS

....APPELLANTS

VERSUS

SANJAY AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Ms. Ankita Gupta, Advocate, Amicus Curiae
for the appellants.

Mr. Punit Jain, Advocate and
Mr. Aalok Verma, Advocate
for respondent No.2-Insurance Company.

YASHVIR SINGH RATHOR. J.(Oral)

1. This appeal has been instituted against the Award dated 06.01.2018 for enhancement of compensation awarded in Claim Petition No.100 of 2015 decided by the Motor Accident Claims Tribunal, Hisar (**for short “Tribunal”**) in a petition under Section 166 of the Motor Vehicles Act, 1988 vide which a sum of Rs.10,96,000/- has been awarded as compensation to the claimants alongwith interest at the rate of 7% per annum from the date of filing of claim petition till realization on account of death of Satbir in a motor vehicular accident which took place due to rash and negligent driving on the part of respondent No.1 (owner-cum-driver) while driving the offending vehicle bearing No.HR-46-D-6434 (**for short ‘offending vehicle’**), which was insured with respondent No.2.

2. From the pleadings of parties, following issues were framed by the learned Tribunal:-

“1. Whether the accident in question occurred due to rash and negligent driving of the offending vehicle three wheeler



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bearing no.HR-46-D/6434 by respondent no.1? OPP

2. *Whether the petitioners are entitled to recover the compensation from the respondents, if so, to what effect? OPP*
3. *Whether the present petition of the petitioners is not maintainable in law? OPR.*
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.10,96,000/- as compensation to the claimants, on account of death of Satbir along with interest @ 7% 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 (owner-cum-driver) while driving the offending vehicle, which was insured with respondent No.2 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. Learned counsel for the appellants argued that the impugned award vide which compensation has been awarded is based on conjectures and surmises



and is liable to be modified 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. Compensation awarded under conventional heads i.e. loss of consortium, loss of estate and funeral expenses is on the lower side. No compensation has been awarded for loss of parental consortium to the children and he prayed that compensation be awarded under all the heads and same be suitably enhanced. In support of her contentions, learned counsel for the appellant has relied upon 2009(6) SCC 121 **Sarla Verma and others Vs. Delhi Transport Corporation and Another**, 2017 (16) SCC 680 **National Insurance Co. Ltd Vs. Pranay Sethi and Other**, 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**.

8. On the other hand, learned counsel for the respondent No.2 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.

9. 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.

10. As per version of claimant, deceased used to sell utensils and earn Rs.15,000/- per month and to the same effect is the testimony of the claimant-Sheela while appearing in the witness-box as PW1. However, the learned Tribunal has assessed his monthly income to be Rs.7,600/- as per the Minimum Wages Act. However, in such cases, where a person is working in an unorganized sector, the claimants are often unable to prove the actual income by leading any positive evidence and in these circumstances, some amount of guesswork has to be applied while assessing the monthly income. The accident had taken place on 03.05.2015 and accordingly, the income of deceased is taken as **Rs.9,000/- per month** which will be just and proper.

11. Deceased was 36 years of age as held by Tribunal and 40% amount thus has to be added to the monthly income of the deceased towards future prospects in view of law laid down in **Pranay Sethi's case (supra)**, which takes his monthly income to **Rs.12,600/- per month (Rs.9,000/- + Rs.3,600/-)**.

12. The petition in hand has been instituted by wife and four children of



the deceased and as such, deceased has left behind 5 dependents and as per law laid down in **Sarla Verma's case (supra)**, 1/4th of the income thus has to be deducted towards personal and living expenses. After deducting a sum of **Rs.3,150/-** towards personal expenses, the monthly loss of dependency comes out to **Rs.9,450/- (Rs.12,600/- - Rs.3,150/-)** and the annual loss of dependency comes out to **Rs.1,13,400/- (Rs.9,450/- X 12)**.

13. As per guidelines laid down in **Sarla Verma's case (supra)**, multiplier of 15 has to be applied as deceased was 36 years of age and after applying the same, the compensation comes to **Rs.17,01,000/- (Rs.1,13,400/- X 15)**.

14. The Tribunal has already awarded a sum of **Rs.70,000/-** under the conventional heads to claimant No.1-wife 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)**, which is an adequate awarded amount and as such, no interference in the same is called for. However, no compensation has been awarded under the head of parental consortium and accordingly, claimants No.2 to 5 being the children (now major) of deceased are held entitled to a sum of **Rs.40,000/-** each on account of **loss of parental consortium**, in view of law laid down in **Nanu Ram's case (supra)** and **Satinder Kaur's case (supra)**, which takes the compensation to **Rs.19,31,000/-**.

15. 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.9,000/-



2.	Age of deceased	36
3.	Future prospects @ 40%	Rs.3,600/-
4.	Total income	Rs.12,600/-
5.	Number of dependents	5
6.	Deduction towards personal expenses of the deceased	Rs.3,150/-
7.	Monthly loss of dependency	Rs.9,450/-
8.	Annual loss of dependency	Rs.1,13,400/- (Rs.9,450/- X 12)
9.	Multiplier	15
10.	Compensation on account of Loss of dependency	Rs.17,01,000/-
11.	Compensation under conventional heads	Rs.70,000/-
12.	Consortium to four children of deceased	Rs.1,60,000/- (Rs.40,000/- each)
	Total Compensation	Rs.19,31,000/-
	Interest	9%

16. Resultantly, the appeal in hand is partly accepted with costs and appellants/claimants are held entitled to a sum of **Rs.19,31,000/-** as compensation. The enhanced compensation thus comes out to **Rs.8,35,000/- (Rs.19,31,000/- - Rs.10,96,000/-)** 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. 07.08.2015, till realization payable by respondents, jointly and severally. Out of the enhanced compensation, a sum of Rs.1,00,000/- each be paid to the children and remaining amount to claimant No.1/wife along with proportionate interest.

17. 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.

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

26.05.2026
Vishal Vardhan

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether reportable.	:	Yes/No