2026:PHHC:106113

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision: 04.08.2026

248-1 **FAO-4886-2003**

MEENA AND OTHERS

..... Appellants

Versus

RAJBIR SINGH AND OTHERS

..... Respondents

248-2 **FAO-4887-2003**

SHIV DAYAL

....Appellant

Versus

RAJBIR SINGH AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Ms. Lipika, Advocate for
Mr. R.S. Mamli, Advocate for the appellants.

Mr. Pardeep Goyal, Advocate with
Ms. Ayushi Jain, Advocate
for respondent No.2-Insurance Company.

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YASHVIR SINGH RATHOR. J.(Oral)

1. The present appeals have been filed by the claimants seeking enhancement of the compensation. A perusal of the Award shows that the liability of respondents No.1 and 2 was held to be joint and several and as such, there is no necessity to issue notice to respondent No.1 owner-cum-driver. Accordingly,

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issuance of notice to respondent No.1 is dispensed with.

2. The aforesaid two appeals have been instituted against the Award dated 29.10.2003 passed by Motor Accident Claims Tribunal, Kurukshetra (**for short "Tribunal"**) in the petitions under Section 166 of Motor Vehicles Act, 1988 **(for short "Act"),** filed by the appellants seeking enhancement of compensation on account of death of Zile Singh and damage to the tractor of Shiv Dayal in a motor vehicular accident on account of rash and negligent driving on the part of respondent No.1-Rajbir Singh, owner-cum-driver, while driving the offending Tata-608 bearing registration No.HR-45-0335 (**hereinafter referred to as offending vehicle**), which was insured with respondent No.2.

3. Claim petition No.117 of 2002 in **FAO-4886-2003**, titled 'Meena and others Vs Rajbir Singh and others', was instituted by wife, minor children and father for grant of compensation on account of death of Zile Singh.

4. Claim petition No.118 of 2002 in **FAO-4887-2003**, titled 'Shiv Dayal Vs Rajbir Singh and others' was instituted by claimant/owner-Shiv Dayal on account of damage caused to the tractor bearing No.HR-07C-6020 owned by him in the aforesaid accident.

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

1. *Whether the accident in question was caused due to rash and negligent driving of TATA-608 vehicle No.HR-45-0355 by Rajbir Singh respondent no.1? OPP*
2. *Whether the petitioners are entitled to compensation?*

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If so, how much and from whom? OPP.

3. *Whether the claim petitions are not maintainable in the present form? OPR.*
4. *Whether the claimants are estopped from filing the claim petitions? OPR.*
5. *Whether the claimants have no locus-standi or cause of action to file the claim petitions? O.P.R.*
6. *Whether the claim petitions have been filed in collusion with respondent no.1? If so, to what effect? O.P.R.*
7. *Whether the claim petitions are bad for non-joinder and mis-joinder of parties and causes of action? O.P.R.*
8. *Whether the vehicle was not being driven in accordance with terms and conditions of the insurance policy? If so, to what effect? O.P.R.*
9. *Relief.*

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

7. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.3,30,000/- as compensation on account of death of Zile Singh and Rs.25,000/- as compensation to claimant Shiv Dayal on account of damage to tractor bearing No.HR-07C-6020 along with interest @ 9% per annum from the date of filing of the claim petitions till realization payable by respondents No.1 and 2, jointly and severally.

8. Feeling aggrieved, the appeals in hand have been preferred by claimants. The material on file has been perused and parties have been heard.

9. The only issue required to be determined in the present appeals relates to the assessment of compensation. Therefore, the entire facts regarding

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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, owner-cum-driver, while driving the offending vehicle, which was insured with respondent No.2. 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.

10. Learned counsel for the claimants in **FAO-4886-2003** argued that the impugned award vide which compensation of Rs.3,30,000/- 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 who should have been treated as a skilled person. Future prospects have also not been added to the monthly income of the deceased contrary to settled provisions of law. A paltry sum of Rs.10,000/- has been awarded for loss of consortium, funeral expenses and loss of estate. Learned counsel submitted that the compensation awarded under the conventional heads is inadequate and he prayed that appropriate compensation be awarded under all the heads by suitably enhancing the amount. In support of her contentions, learned counsel 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**, (2021) 11 SCC 780 **United India Insurance Co. Ltd. Vs. Satinder Kaur.**

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11. Learned counsel for the appellant in **FAO-4887-2003** argued that evidence with regard to the expenses incurred on repair of tractor has been ignored without any cogent reasons and the award, in question, is based on conjectures and surmises. The tractor had suffered extensive damage as the offending vehicle/Tata-608 had struck it with great force and its tube and axle of rear wheel, mudguard rear right side, rim of right rear wheel, front axle and pedals were damaged. Only a sum of Rs.25,000/- has been awarded as compensation, whereas a sum of more than Rs.80,000/- was spent on its repairs and he prayed that enhanced amount of compensation be awarded.

12. On the other hand, learned counsel for respondent No.2 argued that adequate compensation has been awarded by the learned Tribunal with well reasoned justification in all the petitions and no interference in the said awards is called for and appeals in hand be dismissed.

Analysis and assessment of compensation in FAO-4886-2003, Meena and others Vs Rajbir Singh and others, arising out of MACT Case No.117 of 2002 :-

13. Coming to the assessment of compensation, the concept of `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

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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.

14. The present claim petition has been instituted by the wife, minor children and father of deceased Zile Singh, who had died in the accident in question. Claimant Meena while appearing as PW1 deposed that deceased was 25 years of age and he used to work as a denter and painter and earn Rs.8,000/- to Rs.9,000/- per month. However, learned Tribunal held that the claimants have failed to lead cogent and convincing evidence to prove the income of the deceased and their bald and self-serving statement was not relied upon. However, the version of the claimant that deceased was a denter and painter has gone unrebutted and the Tribunal assessed his monthly income to be Rs.2,500/- per month. Hon'ble Supreme Court in (2022) 1 SCC 198, ***Chandra alias Chander alias Chanda Ram and another Vs. Mukesh Kumar Yadav***, has held that merely because claimants are unable to produce documentary evidence to show the monthly income of the

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deceased is not a ground to discard the oral evidence and in such cases, the Court is required to ensure just compensation based on preponderance of probabilities. Minimum wage notification may serve as a yardstick but cannot be the sole basis for assessing the income. Moreover, it is also well settled that where the victim/deceased belongs to unorganized sector, strict proof of income is not mandatory and notional income can be reasonably assessed based on the social status and facts and circumstances of the case. Hon'ble Supreme Court while deciding Civil Appeal No.15021 of 2024 titled **Karamjit Singh Vs. Amandeep Singh and another** vide judgment dated 17.12.2024 has held that a carpenter has to be treated as a skilled person and it will be unfair to classify a carpenter as an unskilled worker. Hon'ble Supreme Court in 2019 (5) RCR (Civil) 884, **Chameli Devi and others Vs. Jivrali Mian and others**, has assessed the monthly income of a carpenter to be Rs.5000/- per month in the year 2001 and it was further held that in such cases where deceased is engaged in such type of profession, claimants can only lead oral evidence.

15. In the present case, the accident had taken place in the year June 2002 and it can be assumed that the deceased who was a denter-cum-painter must be earning at least Rs.4,000/- per month while working as a denter-cum-painter. Learned Tribunal has thus gravely erred while assessing his monthly income to be Rs.2,500/- per month, which is on lower side. Accordingly, income of deceased is taken as **Rs.4,000/-** per month.

16. The Tribunal has held that deceased was 25 years of age and as such, 40% amount has to be added to the monthly income of the deceased towards

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future prospects in view of law laid down in **Pranay Sethi's case (supra),** which takes his income to **Rs.5,600/-** per month **(Rs.4,000/- + Rs.1,600/-).**

17. Deceased has left behind six dependents i.e. his wife, four minor children and father. As per law laid down in 2025 Livelaw (SC) 309, **Sadhana Tomar & Ors. Vs. Ashok Kushwaha & Ors**, father has to be treated as financially dependent upon his deceased son. Accordingly, it is held that deceased has left behind six dependents and as such, 1/4th of the income has to be deducted towards personal and living expenses as per law laid down in **Sarla Verma's case (supra)** and after deducting the same, the monthly loss of dependency comes out to **Rs.4,200/- (Rs.5,600/- − Rs.1,400/-)** and the annual loss of dependency comes out to **Rs.50,400/- (Rs.4,200/- X 12)** to which multiplier of 18 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.9,07,200/- (Rs.50,400/- x 18).**

18. In addition to this, claimant No.1 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 to 6 (children and father of the deceased)** are also held entitled to a sum of **Rs.40,000/- each** on account of loss of parental and filial 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.11,77,200/- (Rs.9,07,200/-/- + Rs.2,70,000/-).**

19. Accordingly, the compensation to be awarded to the

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appellants/claimants is assessed as under:-

S. No.	**Under Head**	**Amount**
1.	Age of deceased	25 years
2.	Monthly income of deceased	Rs.4,000/- per month
3.	Future prospects @ 40%	Rs.1,600/-
4.	Total income	Rs.5,600/-
5.	Number of dependents	6
6.	Deduction towards personal expenses of the deceased (1/4th)	Rs.1,400/-
7.	Monthly loss of dependency	Rs.4,200/-
8.	Annual loss of dependency	Rs.50,400/- (Rs.4,200/- X 12)
9.	Multiplier	18
10.	Loss of dependency	Rs.9,07,200/- (Rs.50,400/- x 18)
11.	Compensation under conventional heads to claimant No.1- wife	Rs.70,000/-
12.	Compensation to claimants No.2 to 6 (children and father of the deceased) towards parental and filial consortium	Rs.40,000/- each (Rs.40,000/- x 5 = Rs.2,00,000/-)
	Total Compensation	**Rs.11,77,200/-**

20. Resultantly, the appellants/claimants are held entitled to a sum of **Rs.11,77,200/-** as compensation. The enhanced compensation thus comes out to **Rs.8,47,200/- (Rs.11,77,200/- - Rs.3,30,000/-) (rounded off to Rs.8,47,000/-).**

Analysis and assessment of compensation in **FAO-4887-2003, Shiv Dayal Vs Rajbir Singh and others,** ***arising out of MACT Case*** **No.118 of 2002** ***:-***

21. As per version of claimant Shiv Dayal, he was owner of the tractor in question which was damaged in the accident and he had spent Rs.85,000/- on its repair and to prove the expenses incurred on repair of tractor, he has examined PW3 Salinder Kumar, who deposed that he runs a repair shop and is working as tractor mechanic. He has repaired the claimant's tractor and charged Rs.3,200/-

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from him vide bill Ex.P2.

22. PW4 Vikram Dawar, Auto Traders, has produced the bill book and proved bill Ex.P3 in respect of spare parts purchased by claimant for the aforesaid tractor for Rs.49,500/-.

23. Claimant Shiv Dayal PW5 himself deposed that he is the owner of the said tractor which he had purchased for Rs.3,20,000/- and he has spent Rs.75,000/- on its repair.

24. The copy of mechanic's report Ex.P8 has also been produced and the damaged parts included the tube and axle of rear wheel, mudguard rear right side, rim of right rear wheel, front axle and pedals. After going through the evidence, the Tribunal has awarded a sum of Rs.25,000/- as compensation for its repair and held as under:-

> "*18. From the aforesaid evidence, it is proved that the petitioner is owner of the aforesaid tractor. It is further proved that the tractor was damaged in the accident and the extent of damage has been shown in mechanic's report Exhibit P8. As regards expenses of repairs, mehanic Salinder Kumar had not brought any record. Bill Exhibit P2 does not contain bill number. Space for the same is lying blank. Registration number of the tractor is not mentioned in the bill. It is not even mentioned that it is for repair of tractor. He had not even brought his bill book containing carbon copy of the bill. He did not maintain any cash book. In fact he brought no record Vikram Dawar stated that he had not seen the aforesaid tractor and its number was written in the bill at the instance of the purchaser. In other bills in his bill book, registration numbers of the vehicles had not been mentioned. Moreover, some depreciation in cost of new*

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parts which were replaced has to be given because the tractor was more than four years old at the time of accident. Some amount has also to be deducted for salvage value of the damaged parts. It also cannot be said that all parts mentioned in bill Exhibit P3 were used in the repair of the tractor. So thumb rule has to be applied to some extent for assessing the compensation amount in this case. Keeping in view all the circumstances, compensation of Rs.25,000/- is assessed in this case. Respondent no.1 being driver as well as owner of the offending vehicle and respondent no.2 being insurer thereof, both the respondents shall be jointly and severally liable to pay compensation in both the cases."

25. The reasoning given by the learned Tribunal while assessing the compensation for damage to the tractor is just and reasonable as no evidence was led to establish that the spare parts purchased against bill Ex.P3 were actually used in the repair of the tractor. The bill Ex.P2 led in evidence by the mechanic too did not bear any bill number and space for the same was lying blank and in view of the nature of evidence led by the claimant, grant of a sum of Rs.25,000/- as compensation for repair of the tractor by applying guesswork is just and reasonable and no interference in the same is called for.

26. As a result of afore-said discussion, **FAO-4886-2003** filed by the claimants Meena etc. is partly accepted with costs while **FAO-4887-2003** filed by claimant Shiv Dayal stands dismissed with costs. Claimants in **FAO-4886-2003** are held entitled to a sum of **Rs.8,47,000/-** as enhanced compensation 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. 18.07.2002 till

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realization payable by respondents No.1 and 2 jointly and severally with the primary liability being of insurer. Out of the enhanced compensation, a sum of Rs.75,000/- each along with proportionate interest be paid to the claimants No.2 to 5 (children of the deceased), a sum of Rs.1,00,000/- along with proportionate interest be paid to claimant No.6 (father of the deceased) and remaining amount to be paid to claimant No.1 (wife of the deceased) along with proportionate interest.

27. 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.

28. A photocopy of this order be placed on the file of the connected cases.

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

(YASHVIR SINGH RATHOR)
JUDGE

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

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