IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. FAO-862-2003 (O&M)

DAYAWATI AND OTHERS

....Appellants

VERSUS

SURENDER AND OTHERS

...Respondents

2. FAO-1170-2003(O&M)

SHASHI SACHDEVA AND OTHERS

....Appellants

VERSUS

SURENDER AND OTHERS

...Respondents

1.	Judgment reserved on	15.07.2026
2.	Judgment pronounced on	12.08.2026
3.	Judgment uploaded on	12.08.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	FULL
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	NIL

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr. Rajinder Paul, Advocate for
Mr. B.B. Bagga, Advocate for the appellants.

Mr. Arvind Kashyap, Advocate for
Ms. Bhumija Gupta, Advocate for
respondent No.2 in both cases.

Mr. Maninder Jit, Advocate for
Mr. Amit Jaiswal, Advocate for
respondent No.3-Insurance Company in both cases.

Service of respondent No.4 dispensed with
vide order dated 15.07.2019.

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Service of respondent No.5 dispensed with vide order dated 31.05.2023.

Mr. Armaan Gagneja, Advocate for respondent No.6-Insurance Company in both cases.

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YASHVIR SINGH RATHOR, J.

1. By this judgment, I shall dispose of the aforesaid two appeals as the same have emanated out of the same accident.

2. The record of the present cases has been destroyed in a fire incident in the High Court Registry. Learned counsel for the appellants/claimants has placed on record copy of Award passed by MACT, Sonipat, which is taken on record. Registry is directed to tag the same at an appropriate place.

3. The aforesaid two appeals have been instituted against the Award dated 01.10.2002 passed by Motor Accident Claims Tribunal, Sonipat (**for short "Tribunal"**) in MACT case No.346 of 2000 and MACT Case No.26-RBT of 2000 in the petitions under Section 166 of Motor Vehicles Act, 1988 **(for short "Act")**, filed by the appellants seeking enhancement of compensation vide which a sum of Rs.1,78,000/- has been awarded as compensation to the claimants/appellants- Dayawati etc. on account of death of Kawal Kumar and a sum of Rs.1,78,000/- has been awarded as compensation to the claimants/appellants- Shashi Sachdeva etc. on account of death of Nitin Sachdeva in a motor vehicular accident due to the rash and negligent driving on the part of respondent No.1, while driving the offending Truck No.DL-1GB-0353 (**hereinafter referred to as offending vehicle**), owned by respondent No.2 and

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insured with respondent No.3.

4. From the pleadings of parties, following issues were framed by learned MACT:-

> *"1. Whether Kawal Kumar and Nitin Sachdeva died on motor vehicle accident caused on account of rash and negligent driving of truck No.DL-1GB-0353 (Tanker), owned by respondent no.2, insured with respondent no.3 and being driven by respondent no.1 OR due to rash and negligent driving of Jeep No.HR-06F-9008, owned by respondent no.5, insured with respondent no.6 and being driven by respondent no.4 OR due to contributory negligence of both the vehicles on 10.11.2000 in the area of G.T. Road Shahbad? OPP.*
>
> *2. If issue no.1 is proved, to what amount of compensation, the petitioners in each case, are entitled, if so, from whom? OPP.*
>
> *3. Whether respondents no.1 and 4 were not holding any valid driving licence on the date of accident, if so, its effect? OPR-3 & 6.*
>
> *4. Relief."*

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

6. After hearing the parties and going through the material on the file, learned Tribunal awarded a sum of Rs.1,78,000/- as compensation on account of death of Kawal Kumar to the claimant Dayawati etc. and a sum of Rs.1,78,000/- as compensation on account of death of Nitin Sachdeva to the claimants Shashi Sachdeva etc. along with interest @ 9% per annum from the date of filing of the claim petitions till realization payable by respondents No.1 to 3, jointly and severally.

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

8. The only issue required to be determined in the present appeals 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 truck bearing No.DL-1GB-0353, owned by respondent No.2 and insured with respondent No.3. 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 in both appeals argued that the impugned award vide which compensation of Rs.1,78,000/- each on account of death of Kawal Kumar and Nitin Sachdeva 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 future prospects have not been added to the monthly income of the deceased contrary to settled provisions of law. No compensation has been awarded under the heads of loss of consortium and loss of estate and only a sum of Rs.15,000/- has been awarded towards transportation of dead bodies and funeral expenses. Learned counsel submitted that the compensation awarded under the conventional

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heads is inadequate and he prayed that appropriate compensation be awarded by suitably enhancing the amount. In support of his contentions, learned counsel for the appellants 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.**

10. On the other hand, learned counsel for respondents No.2 and 3 argued that the award in question is well reasoned and justified. The material on file has been appreciated in the correct perspective while assessing the compensation and no interference in the same is thus called for.

11. Coming to the assessment of compensation, 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

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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.

Analysis and assessment of compensation in FAO-862-2003, Dayawati and others Vs Surender and others, arising out of MACT Case No.346 of 2000 :-

12. The present claim petition was instituted by claimant Dayawati etc. who are the mother, two brothers and two sisters of deceased namely Kawal Kumar. Deceased was working with Haryana Roadways at Sonipat and earning Rs.5,000/- per month as per salary slip Ex.P1 and it has also been so held by the Tribunal. While relying upon post-mortem report Ex.P2, Tribunal has held the age of deceased to be 22/23 years. Deceased was unmarried and Tribunal assessed monthly loss of dependency to be Rs.800/- and annual loss of dependency to be Rs.9600/- and after applying multiplier of 17, total loss of dependency was assessed as Rs.1,63,000/- to which a sum of Rs.15,000/- was added for transportation of dead body and funeral expenses and total compensation of Rs.1,78,000/- was awarded to the claimants.

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13. The salary slip Ex.P1 was duly taken into consideration by the Tribunal which assessed the monthly income of the deceased as Rs.5,000/-. Accordingly, the income of the deceased is taken as **Rs.5,000/- per month.** However, no future prospects have been added to the monthly income of the deceased. Since deceased was 22/23 years of age and was in permanent employment with Haryana Roadways, 50% amount 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 income to **Rs.7,500/-** per month **(Rs.5,000/- + Rs.2,500/-).**

14. Deceased was a bachelor and claimants No.2 and 3 are his elder brothers who are residing separately. PW1 Dayawati has admitted that claimant Anil is engaged in finance business and resides separately with his family and claimant Sunil is 34 years of age and is working as a J.E. in Delhi. She also admitted that both the daughters i.e. claimants No.4 and 5 are also married and they were not dependent upon the income of deceased. As such, deceased has left behind only one dependent i.e. his mother and 50% of the income thus 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.3,750/- (Rs.7,500/- − Rs.3,750/-)** and the annual loss of dependency comes out to **Rs.45,000/- (Rs.3,750/- 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.8,10,000/- (Rs.45,000/- x 18).**

15. In addition to this, claimant No.1 is held entitled to a sum of

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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),** which takes the compensation to **Rs.8,80,000/- (Rs.8,10,000/- + Rs.70,000/-).**

16. So far as claimants No.2 to 5 are concerned, who are the elder brothers and sisters of deceased, they were not dependent upon the deceased and they are not entitled to any compensation except on account of loss of consortium and all of them are awarded a sum of **Rs.20,000/- each** towards **loss of consortium**, which takes the compensation to **Rs.9,60,000/- (Rs.8,80,000/- + Rs.80,000/-).**

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

S. No.	**Under Head**	**Amount**
1.	Age of deceased	22/23 years
2.	Monthly income of deceased	Rs.5,000/- per month
3.	Future prospects @ 50%	Rs.2,500/-
4.	Total income	Rs.7,500/-
5.	Number of dependents	1
6.	Deduction towards personal expenses of the deceased (50%)	Rs.3,750/-
7.	Monthly loss of dependency	Rs.3,750/-
8.	Annual loss of dependency	Rs.45,000/- (Rs.3,750/- X 12)
9.	Multiplier	18
10.	Loss of dependency	Rs.8,10,000/- (Rs.45,000/- x 18)
11.	Compensation under conventional heads to claimant No.1- mother	Rs.70,000/-
12.	Compensation to claimants No.2 to 5 (brothers and sisters of deceased) towards loss of consortium	Rs.20,000/- each (Rs.20,000/- x 4 = Rs.80,000/-)
	Total Compensation	**Rs.9,60,000/-**

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18. Resultantly, the appellants/claimants are held entitled to a sum of **Rs.9,60,000/-** as compensation. The enhanced compensation thus comes out to **Rs.7,82,000/- (Rs.9,60,000/- - Rs.1,78,000/-).**

Analysis and assessment of compensation in* FAO-1170-2003, *Shashi Sachdeva and others* Vs Surender and others, *arising out of MACT Case* No.26-RBT of 2000 *:-

19. This claim petition was instituted by the parents and two brothers of the deceased. Learned Tribunal has held that deceased was a photographer and running his own photo studio by the name of M/s. Sachdeva Studio Bahalgarh and he used to earn Rs.5,000/- per month. Deceased was 22 years of age as per post-mortem report Ex.P3. Deceased was unmarried and Tribunal assessed monthly loss of dependency to be Rs.800/- and annual loss of dependency to be Rs.9,600/- and after applying multiplier of 17, total loss of dependency was assessed as Rs.1,63,000/- to which a sum of Rs.15,000/- was added for transportation of dead body and funeral expenses and total compensation of Rs.1,78,000/- was awarded to the claimants.

20. Learned Tribunal has assessed the monthly income of the deceased as Rs.5,000/-, which in my opinion is adequate. Accordingly, the income of the deceased is taken as **Rs.5,000/- per month.** However, no future prospects have been added to the monthly income of the deceased. Since deceased was 22 years of age, 40% amount 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 income to **Rs.7,000/-** per month **(Rs.5,000/- + Rs.2,000/-).**

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21. Deceased was a bachelor and the claim petition has been filed by his mother, father and two brothers. 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. Claimants No.3 and 4 are the unmarried brothers of the deceased. However, they cannot be considered financially dependent upon the deceased during the lifetime of their father. As such, deceased has left behind two dependents i.e. parents. Deceased was a bachelor and as such, 50% 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.3,500/- (Rs.7,000/- − Rs.3,500/-)** and the annual loss of dependency comes out to **Rs.42,000/- (Rs.3,500/- 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.7,56,000/- (Rs.42,000/- x 18).**

22. 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 (father of the deceased)** is also held entitled to a sum of **Rs.40,000/-** on account of loss of 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.8,66,000/- (Rs.7,56,000/- + Rs.1,10,000/-).**

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23. So far as claimants No.3 and 4 are concerned, they are unmarried brothers of the deceased. However, they cannot be considered dependent upon the deceased during the lifetime of their father. They are, therefore, not entitled to any compensation except for loss of consortium. Accordingly, they are awarded a sum of **Rs.20,000/- each** towards **loss of consortium**, which takes the compensation to **Rs.9,06,000/- (Rs.8,66,000/- + Rs.40,000/-).**

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

S. No.	**Under Head**	**Amount**
1.	Age of deceased	22 years
2.	Monthly income of deceased	Rs.5,000/- per month
3.	Future prospects @ 40%	Rs.2,000/-
4.	Total income	Rs.7,000/-
5.	Number of dependents	2
6.	Deduction towards personal expenses of the deceased (50%)	Rs.3,500/-
7.	Monthly loss of dependency	Rs.3,500/-
8.	Annual loss of dependency	Rs.42,000/- (Rs.3,500/- X 12)
9.	Multiplier	18
10.	Loss of dependency	Rs.7,56,000/- (Rs.42,000/- x 18)
11.	Compensation under conventional heads to claimant No.1- mother	Rs.70,000/-
12.	Compensation to claimant No.2 (father of the deceased) towards filial consortium	Rs.40,000/-
13.	Compensation to claimants No.3 and 4 (unmarried brothers of the deceased) towards loss of consortium	Rs.20,000/- each (Rs.20,000/- x 2 =Rs.40,000/-)
	Total Compensation	**Rs.9,06,000/-**

25. Resultantly, the appellants/claimants are held entitled to a sum of **Rs.9,06,000/-** as compensation. The enhanced compensation thus

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comes out to **Rs.7,28,000/- (Rs.9,06,000/- - Rs.1,78,000/-).**

26. As a result of afore-said discussion, **FAO-862-2003** filed by the claimants Dayawati etc. and **FAO-1170-2003** filed by the claimants Shashi Sachdeva etc. are partly accepted with costs.

27. Claimants Dayawati etc. in **FAO-862-2003** are held entitled to a sum of **Rs.7,82,000/-** 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. 25.11.2000 till realization payable by respondents No.1 to 3 jointly and severally. Out of the enhanced compensation, a sum of Rs.20,000/- each along with proportionate interest be paid to the claimants No.2 to 5 (brothers and sisters of the deceased) while remaining amount be paid to claimant No.1 (mother of the deceased) along with proportionate interest.

28. Claimants Shashi Sachdeva etc. in **FAO-1170-2003** are held entitled to a sum of **Rs.7,28,000/-** 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. 14.12.2000 till realization payable by respondents No.1 to 3 jointly and severally. Out of the enhanced compensation, a sum of Rs.20,000/- each along with proportionate interest be paid to the claimants No.3 and 4 (brothers of the deceased), a sum of Rs.3,00,000/- along with proportionate interest be paid to claimant No.2 (father of the deceased) and remaining amount be paid to claimant No.1 (mother of the deceased) along with proportionate interest.

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29. 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.

30. A photocopy of this order be placed on the file of the connected case.

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

12.08.2026 **(YASHVIR SINGH RATHOR)**
Priyanka Thakur **JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No

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