



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

**FAO-1494-2002 (O&M)
Date of Decision: 16.07.2026**

DINESH SHAH

..... APPELLANT

VERSUS

GURCHARAN SINGH AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Vijayveer Singh, Advocate and
Mr. Paramveer Singh, Advocate
for the appellant.

Mr. Abhishek Goyal, Advocate and
Mr. Pardeep Goyal, Advocate
for respondent No.3-Insurance Company.

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal has been instituted by claimant for enhancement of compensation against the Award dated 03.09.2001 passed in MACT Case No.4 of 2000 decided by MACT, Karnal (**for short “Tribunal”**) in a petition under Section 166 of Motor Vehicles Act, 1988 vide which a sum of Rs.18,000/- has been awarded as compensation to the claimant/appellant along with interest at the rate of 9% per annum due to injuries suffered by him in a motor vehicular accident on account of rash and negligent driving on the part of respondent No.1 while driving Truck/Tanker bearing No.PAT-7207 (**for short ‘offending vehicle’**), owned by respondent No.2, which was insured with respondent No.3.

2. From the pleadings of parties, following issues were framed



by the learned Tribunal:-

- “1. Whether the deceased Sagar Shah had died in a roadside vehicular accident which had occurred on 13.11.99 in the area of police station Butana on account of rash and negligent driving of truck/tanker No.PAT-7207 by respondent No.1 Gurcharan Singh? OPP”*
- 2. If issue No.1 is proved, whether the claimants are entitled to be compensated for the death of Sagar Shah. If so to what extent and by whom? OPP*
- 3. Whether the respondent No.1 was not holding a valid licence at the time of accident and as such he was plying the above truck in violation of the terms of insurance policy if so, its effect? OPR3*
- 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.18,000/- as compensation to the claimant on account of injuries suffered by him along with interest 9% per annum from the date of filing of claim petition till realization. The respondents shall be jointly and severally liable to pay the amount. However, it is ordered that as per terms of insurance policy Ex.R3, respondent No.3 shall pay the whole amount on behalf of respondents No.1 and 2.

5. Feeling aggrieved, the appeal in hand has been preferred. The material on file has been perused and parties have been heard.

6. The Tribunal has held respondents No.1 to 3 liable to pay the



compensation jointly and severally. Insurance Company has already appeared and as such, there is no necessity to issue notice to respondents No.1 and 2 who are the driver and owner, respectively.

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 Registry 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 occurred due to the rash and negligent driving on the part of respondent No.1 while driving offending vehicle, 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 and the same is affirmed.

9. Learned counsel for the appellant argued that the Tribunal has not appreciated the facts of the case and evidence on file in the correct perspective while assessing the compensation which is grossly inadequate. The compensation has not been awarded under the pecuniary and non-pecuniary damages as per settled law and the impugned award is thus liable to be enhanced.

10. On the other hand, learned counsel for respondent No.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. The law is well settled that the compensation to be awarded for injuries suffered by victim in a motor vehicular accident should be just and equitable. Courts have consistently held that while money cannot erase the pain, suffering, or trauma but it is the only legal means to provide restitution and restore the victim to his previous position as far as possible for which 'just compensation' has to be assessed. It is also well settled that while it is impossible to fully compensate for the loss of limb, life, or quality of life, the compensation must be 'Just', meaning thereby, that it should be fair, reasonable, and equitable based on the evidence and not merely a 'Windfall' or a 'Pittance'. The core objective is to put the injured/victim in the same position he would have been if the accident had not taken place, to the extent money can do so. This approach ensures that the law provides a realistic recompense for the trauma endured, rather than just providing normal relief.

12. Hon'ble Supreme Court in 2013 (3) RCR (Civil) 934 - **G.Ravindranath @ R. Chowdary Vs. E. Srinivas and another**, has held that in a case of accident resulting in injuries to the victim, the compensation in personal injury cases should be determined under the following heads:-

Pecuniary damages (Special damages)

- (i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food and miscellaneous expenditure.



(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising:

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability

(iii) Future medical expenses.

Non-pecuniary damages (General damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity).

In routine personal injury cases, compensation will be awarded under heads (i), (ii) (a) and (iv) It is only in serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant that compensation will be granted under any of the heads (ii) (b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life.

13. As per version of claimant, he has suffered injuries in the accident in question including fracture lower end of tibia for which he was treated at Civil Hospital, Karnal. Learned Tribunal awarded a lump sum compensation of Rs.18,000/- on account of injures suffered by him instead of granting the compensation under various heads.

14. It is proved on file that claimant had suffered fracture in his



leg and it is a matter of common knowledge that pain component in such injuries is enormous and such injuries take a considerable time to heal. Therefore, taking into consideration the severity of injuries, claimant is held entitled to a sum of **Rs.15,000/-** for '**pain and sufferings**'.

15. The Tribunal has held that the claimant was a labourer and assessed his monthly income to be Rs.2,000/- per month as per minimum wages by treating him as a casual labourer as against Rs.4,000/- per month claimed by him. However, Hon'ble Supreme Court in (2022) 1 SCC 198, **Chander alias Chander alias Chanda Ram and another Vs. Mukesh Kumar Yadav**, decided vide judgment dated 01.10.2021 has held that merely because claimants are unable to produce documentary evidence to show the monthly income of the 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, 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. As such, some amount of guess work has to be applied while assessing the monthly income. The accident had taken place on 13.11.1999. The claimant was working as a labourer and his income is accordingly assessed as **Rs.3,000/-** per month.

16. The claimant had suffered fracture in his leg and injuries on his various body parts. As such, it must have taken at least 3 months for



the injuries to heal. During this period of 3 months, the claimant would not have been able to do any work and must have suffered loss of income. Accordingly, he is entitled to compensation of **Rs.9,000/- (Rs.3,000/- X 3)** for ‘**loss of income**’.

17. During the aforesaid period of 3 months, claimant must have been spent some amount on ‘special diet’, in ‘engaging an attendant’ and on ‘transportation’. As such, claimant is held entitled to compensation of **Rs.7,500/-** for ‘**special diet**’, ‘**engaging attendant**’ and ‘**transportation charges**’.

18. The Tribunal has held that the claimant was treated at Civil Hospital, Karnal and no bills have been led in evidence for the expenses incurred on treatment and no amount was thus awarded. However, it is a matter of common knowledge that patients or their attendants do not preserve all the bills and some amount of guesswork has to be applied while assessing the ‘expenses incurred on treatment’. Taking into consideration the nature of injuries and the fact that the treatment in Civil Hospital may have been free of cost, claimant is held entitled to a sum of **Rs.5,000/-** for the ‘**expenses incurred on treatment**’.

19. Resultantly, the compensation to be paid is assessed as under:-

Sr. No.	Head of Compensation	Compensation Assessed by this Court (₹)
1.	Pain and Sufferings	15,000/-
2.	Expenses Incurred on Treatment	5,000/-
3.	Loss of Income	9,000/-
4.	Special Diet, Attendant Charges and Transportation Charges (composite)	7,500/-

	Total	36,500/-
	Interest	9% per annum

20. As a result of aforesaid discussion, the present appeal is partly accepted with costs and the claimant is held entitled to enhanced compensation of **Rs.18,500/- (Rs.36,500/- - Rs.18,000/-)** over and above the compensation awarded by Tribunal, payable on the same terms as has been ordered by the Tribunal, along with interest @ 9% per annum, from the date of filing of claim petition i.e. 07.01.2000, till realization.

21. 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.

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

(YASHVIR SINGH RATHOR)
JUDGE

16.07.2026
Vishal Vardhan

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No