

RA-CR-150-2019(O&M) in
FAO-7221-2011

-1-

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

RA-CR-150-2019(O&M) in
FAO-7221-2011
Date of decision:-27.07.2022

Surinder Kaur and others

...Applicants/Appellants

Versus

Gurdeep Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.R.K. Shukla, Advocate
for the applicants/appellants.

Mr.Sumit Aggarwal, Advocate for
Mr.Ashwani Talwar, Advocate
for the respondent No.3 – Insurance company.

H.S. MADAAN, J.

CM-18960-CII-2019

1. Heard.
2. For the reasons mentioned in the application, the same is allowed and delay of 35 days in filing the review application stands condoned.

RA-CR-150-2019

3. Brief facts of the case are that on account of death of Mohinder Singh stated to be aged 45 years working as Assistant Manager in Nabha Primary Co-op Agricultural Development Bank Ltd. Nabha, in a motor vehicular accident, which took place on 25.9.2009 in the area of Fagan Majra, statedly on account of rash and negligent driving of truck bearing registration No.JK-02R-9587 (hereinafter referred to as the offending vehicle) by its driver Gurdeep Singh, Legal representatives (LRs) of deceased, namely, his widow Smt.Surinder Kaur, adult son Nipinder Singh, minor son Prabhjot Singh and mother Smt.Gurdial Kaur had brought a claim petition under Section 166 of the Motor Vehicles Act against Gurdeep Singh – driver, Gurmit Singh owner and Oriental Insurance Company Ltd. insurer of the offending vehicle. In the claim petition, they had impleaded Harnek Singh, father of the deceased as a proforma respondent.

4. After contest, MACT, Patiala vide award dated 8.8.2011 accepted the claim petition and granted compensation of Rs.38,47,200/- with interest @ 9% per annum payable by all the three respondents jointly and severally. Three appeals were filed against that award, first by Oriental Insurance Company Ltd. against Surinder Kaur and others LR's of deceased Mohinder Singh, second also by Oriental Insurance Company with regard to compensation awarded to LR's of Amrinder Singh, another deceased, who had lost his life in the same mishap and third on behalf of the claimants Surinder Kaur and others. All the three appeals were taken up together for adjudication and vide order dated 4.7.2019, the appeals

filed by the Insurance company were dismissed, whereas the appeal preferred on behalf of LRs of Mohinder Singh, namely, Surinder Kaur and others was allowed partly and compensation awarded by MACT, Patiala was enhanced by Rs.50,000/-.

5. Now the applicants/claimants Surinder Kaur and others have filed an application for review of the award. The reasons for the review mentioned in the application are as under:

- (i) The future prospects were not added by the Tribunal while assessing the income of the deceased.
- (ii) The Tribunal deducted $1/3^{\text{rd}}$ as personal and living expenses, which should have been $1/4^{\text{th}}$ as the number of dependents were more than three.
- (iii) The Tribunal had not applied proper multiplier.

6. The application is being opposed on behalf of the respondent No.3 – insurance company.

7. I have heard learned counsel for the applicants/claimants and learned counsel for respondent No.3 – insurance company besides going through the record.

8. The relevant provisions relating to review of the order are Section 114 and Order 47 Rule 1 CPC. The scope of review has been dealt with at length by the Apex Court in a judgment referred to by learned counsel for the respondent i.e. **Kamlesh Verma Versus Mayawati and others, 2013(4) RCR(Civil) 75**, wherein it was observed as under:

A. Civil Procedure Code, Section 114 – Civil Procedure Code,

Order 47 Rule 1 – Review of judgment – Application for review on ground that there was error in judgment – Held :-

- (i) An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review.*
- (ii) The mere possibility of two views on the subject is not a ground for review.*
- (iii) Review is not re-hearing of an original matter – The power of review cannot be confused with appellate power which enables a superior Court to correct all errors committed by a subordinate Court. 1997(4) RCR(Civil) 458, 2000(3) RCR(Civil) 252, 2006(3) RCR(Civil) 601, relied.*

9. A perusal of the application goes to show that the applicants are finding faults in the award passed by MACT, Patiala. All such faults should have been brought to the notice of the Court at the time of addressing arguments in the appeal and not by way of moving an application for review. A perusal of the order passed by the Court goes to show that all the relevant factors were taken into consideration while assessing compensation keeping in view the age of deceased to be 45 years, an increase of 30% had been given towards future prospects. In view of the facts and circumstances 1/3rd was deducted towards personal expenses of deceased. It was observed in the order passed by this Court that the claimants were entitled to get compensation under conventional heads i.e. Rs.15,000/- on account of loss of estate, Rs.40,000/- towards

loss of consortium and Rs.15,000/- as funeral expenses, total Rs.70,000/-, which were awarded to them, otherwise the amount of compensation assessed by the Tribunal was found to be just and adequate not calling for further enhancement.

10. The application for review filed on behalf of the applicants/claimants is misconceived and is dismissed accordingly.

27.07.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No