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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****254****FAO-947-2019(O&M)****Date of decision: 28.08.2025****Sukhwinder Kaur & Others****...Appellant(s)****Vs.****Amrik Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Manglesh Kumar, Advocate for
Mr. Shakti Mehta, Advocate
for the appellants.

Mr. Paul S. Saini, Advocate
Ms. Alisha Rai, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.**

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.10,20,820/- awarded by Motor Accident Claims Tribunal, Panchkula (hereinafter 'the learned Tribunal') vide Award dated 05.11.2018 passed in MACP Case No.91 dated 11.05.2017 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 4 claimants are the 50-year-old widow, 25-year-old son, 23-year-old son, and 28-year-old daughter of deceased Bhag Singh.

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2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Bhag Singh had died due to the injuries suffered by him in the motor vehicular accident that took place on 19.04.2017 at about 12 pm due to the rash and negligent driving of truck bearing registration No.PB-29M-9372 (hereinafter “the offending vehicle”) by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that “...an amount of Rs.1,00,000/- each should have been granted for loss and love and affection.” It is further pleaded that the learned Tribunal has granted interest @ 7.5% per annum; whereas it should be 12%. Learned counsel accordingly prays that present appeal be allowed; Award dated 05.11.2018 be set aside; and compensation as claimed in the Claim Petition may kindly be granted to the favour of the appellants, in the interest of justice.

4. No other argument is made on behalf of the appellants.

5. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellants.

6. Perusal of record reveals that it was the pleaded case of the appellants that the deceased was working as a Gardener and Sweeper and was earning Rs.20,000/- per month. However, admittedly, the claimants had

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failed to produce any documentary proof regarding occupation and income of the deceased. In fact, even no identity proof was brought by claimant No.1 to prove that she was wife of deceased. She had further admitted in her deposition as PW1 that her daughter claimant No.4 is married and her sons are doing their own work. She had also denied the suggestion that she is not the legally wedded wife of the deceased. As appellants had been unable to prove income of the deceased as Rs.20,000/- per month, the learned Tribunal had taken income of the deceased as Rs.7,314/- per month on the basis of the Minimum Wages prevailing at the relevant time. It was the pleaded by the claimants that deceased was 50 years old, accordingly, Tribunal had made an addition of 25% towards future prospects thereby calculating monthly income to be Rs.9,142/- ($\text{Rs.7,314/-} \times 25/100 = \text{Rs.1,828/-}$) ($\text{Rs.7,314/-} + \text{Rs.1,828/-}$). Learned Tribunal further made deduction of $1/3^{\text{rd}}$ towards personal expenses ($\text{Rs.9,142/-} - \text{Rs.3,047/-} = \text{Rs.6,095/-}$). As deceased was 50 years old, multiplier of 13 was also correctly applied. Thus, calculating total loss of dependency to be Rs.9,50,820/- ($\text{Rs.6,095/-} \times 12 \times 13$). Learned Tribunal had further awarded Rs.15,000/- towards funeral expenses and transportation of dead body; Rs.15,000/- towards loss of estate; and Rs.40,000/- to claimant No.1/widow towards loss of consortium.

7. As regards conventional heads, as per recent judgments of the Hon'ble Supreme Court in "**Shri Ram General Insurance Co. Ltd. Vs. Bhagat Singh Rawat & Others**" Civil Appeal Nos.2410-2412/2023 Law Finder Doc ID

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2251622 and “Mehmooda Bee & Others Vs. National Insurance Co. Ltd.” (@ SLP (C) No.16767 of 2022) Law Finder Doc ID # 2070774 and “Bebi Giri Vs. National Insurance Co. Ltd.” Civil Appeal No.6551 of 2022 Law Finder Doc ID # 2070826, a total sum of Rs.70,000/- is to be granted under the conventional heads.

8. Even otherwise, as per judgment of the Hon’ble Supreme Court in (SC) SLP No.13931 of 2017 titled as “New India Assurance Co. Ltd. Vs. Vinish Jain & Others” Law Finder Doc ID # 977386, it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

9. This above-said judgment of the Hon’ble Supreme Court has been followed by the Kerala High Court in “The Managing Director, Divisional Controller Versus Alikutty and Others” Law Finder Doc Id # 1885188. Relevant para 18 of the said judgment is reproduced below:-

*“18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards”.*

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10. Above said view has been reiterated by the Kerala High Court in **“Reliance General Insurance Company Limited Vs. Adila and Others”**,

Law Finder Doc ID # 1921609, paras 16 and 17 of which read as under:-

“16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.

17. In New India Assurance Co., Ltd v. Vineesh.J[2018 (3) SCC 619], the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent.”

11. Further, no doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in **“State of Haryana Vs. Jasbir Kaur” Law Finder Doc ID # 64043** and **“Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty and another” (2003) 7 SCC 197**, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. In case of **“General Manager, KSRTC Vs. Susamma Thomas and others” (1994) 2 SCC 176**, Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

12. Further, a 3-Judge Bench judgment of the Hon'ble Supreme Court in the case of **“Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379**; holding that: *“Motor Vehicles Act, 1988,*

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Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case."

13. In view of the above, present appeal is **dismissed**.

14. Pending application(s) if any also stand(s) disposed of.

28.08.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No