

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****129****FAO-694-2025 (O&M)****Date of decision: 06.02.2025****United India Insurance Company Limited****...Appellant(s)****Vs.****Neha Thakur and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Vikas M. Gupta, Advocate
for the appellant.

*********NIDHI GUPTA, J.****CM-2228-CII-2025**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 45 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant, the same is allowed and the delay of 45 days in filing the accompanying appeal is condoned.

FAO-694-2025 (O&M)

The present appeal has been filed by the Insurance Company laying challenge to the Award dated 04.09.2024 passed by the learned Motor Accident Claims Tribunal, Fazilka (hereinafter referred to as "the Tribunal") whereby the claim petition bearing MACP No. 599 dated 28.04.2021 filed by the claimant/respondent No.1 herein, under Sections 166 and 140 of the Motor Vehicles Act (hereinafter referred to as "the Act"), has been partly allowed; and the claimant has been



granted compensation of Rs.36,60,900/- along with interest @ 7.5% per annum from the date of filing of the claim petition till realization.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and the evidence adduced before it, concluded that the deceased Karan Jakhar had died to the injuries suffered by him in a Motor Vehicular Accident that took place on 24.11.2020 at about 05:00 a.m. due to the rash and negligent driving of the Truck bearing registration No. RJ 50 GA 5154 (hereinafter referred to as 'the offending vehicle') which was owned and driven by respondent No.2 herein; and insured by the appellant herein. The sole claimant/respondent no.1 herein is the wife of the deceased Karan Jakhar.

3. Learned counsel for the appellant-Insurance Company assails the impugned Award dated 04.09.2024 on the ground of income of the deceased. Learned counsel contends that the income of the deceased has been assessed on the higher side as Rs.20,000/- p.m. It is submitted that the deceased was stated to be an agriculturist. However, there is nothing on record to indicate that the deceased was earning the assessed income. No evidence was led by the claimant to prove the income of the deceased. It is contended that in these circumstances, in the face of lack of any evidence regarding the income of the deceased, his income ought to have been assessed as per the Punjab Minimum Wages Act, as per which, the minimum wages for the semi skilled labourer in the year 2020 could not have been more than Rs.10,000/-



p.m. It is accordingly prayed that the present appeal be allowed; and the impugned award be modified.

4. No other argument is raised on behalf of the appellant.

5. I have heard learned counsel for the appellant and perused the case file in great detail.

6. Perusal of the record of the case shows that the sole claimant is the widow of the deceased Karan Jakhar, who was about 34 years at the time of accident. It was the pleaded case of the claimant before the learned Tribunal that on the fateful day of 24.11.2020 at about 5.00 am, one Manish Kumar son of Raj Kumar resident of village Maujgarh Tehsil Abohar along with Sanjay Jakhar son of Jai Narain Jhakhar resident of village Panjkosi was coming back from village Maujgarh to Abohar in the vehicle of Sanjay Jakhar after attending a marriage party fixed for 23.11.2020 at village Maujgarh and Rajat son of Ranbir Kumar resident of village Gaddan Dob was going ahead to them in his separate vehicle i.e. Creta car bearing registration no. PB 22Q 5005, which was being driven by him and deceased Karan Jakhar was sitting in the said car adjoining to the driver seat with Rajat. When they reached just ahead to Gidderanwali Tibbas, near H.P. Petrol Pump and were to overtake a truck bearing registration no. PB 22K 7407 going on their side, then a truck bearing registration no. RJ 50 GA 5154/the offending vehicle, which was being driven by respondent no. 1, whose name later on was disclosed as Subhash, at a very high speed and in a very rash and negligent manner came from the front side and struck with the car make Creta bearing



registration no. PB 22Q 5005 from front side even without giving any signal and due to high speed of the said truck, the same also pushed the other truck bearing registration no. PB 22K 7407, as a result of which, Rajat and Karan Jakhar suffered multiple injuries and driver and Conductor of truck no. PB 22K 7407 also suffered multiple injuries and all the three vehicles were also badly damaged. The respondent no. 1 i.e. driver of offending truck fled away from the spot. The injured were taken to Civil Hospital, Abohar, but Karan Jakhar died after reaching hospital due to severe injuries. This accident was witnessed by Manish Kumar, Sanjay Jakhar and Rajat. The accident took place due to rash and negligent driving of offending truck by respondent no. 1. Regarding this accident, an FIR no. 167 dated 24.11.2020 under sections 304-A, 279, 337, 338, 427 IPC was registered at police station, Khuian Sarwar against respondent no. 1. The postmortem examination of deceased was conducted from Civil Hospital, Abohar. Had respondent no.1 exercised due care and caution while driving the truck, the accident could have been avoided and precious life of deceased Karan Jakhar could have been saved. The claimant is entitled to claim compensation from respondents, who are jointly and severally liable to pay the same to claimant.

7. It was further pleaded by the claimant that the deceased was an agriculturist. He was also keeping buffaloes and running dairy farm. Since the year 2011, the deceased was also carrying business of agro products under the name and style of M/s. Kissan Agro Enterprises,



Abohar. It was pleaded that the income of the deceased from all sources was approximately Rs.28 to 30 lacs per annum. In support of her claim, the claimant had produced Jamabandis (Ex.C4 to C6) to demonstrate that the deceased was agriculturist. Even the J-form slips in the name of Bhim Singh, who was the partner of the deceased, were placed on record by the claimant. No doubt, the claimant failed to prove the original 'F' form register which contains the entries of the J-forms which were issued by the Bhartiya Kaapas Nigam Ltd., Abohar; as also the enterprise budget of the crop reflecting the gross crops sale per acre. In this background, the learned Tribunal assessed the income of the deceased to be Rs.20,000/-p.m. The learned Tribunal also took into consideration the fact that the land in the ownership of the deceased would devolve to the claimant.

8. I find no error in the income as assessed by the learned Tribunal. Admittedly, Jamabandis (Ex.C4 to C6) were brought on record by the claimant reflecting the ownership of the deceased to the extent of his share therein. J-forms were also placed on record to establish that the deceased was an agriculturist. Furthermore, the deceased was able bodied and only about 34 years at the time of accident. The deceased and his wife/claimant had no children. The parents-in-law of the claimant had also expired. As such, the claimant had no other source of income.



9. Thus, keeping in mind of all the above facts, it is my considered view that there is no error in the income of the deceased as assessed by the learned Tribunal.

10. The learned Tribunal calculated the compensation payable to the deceased in the following manner:-

11. The age of the deceased was taken to be 34 years on the basis of his date of birth mentioned as 20.11.1986 by the claimant during her cross-examination. As there is one claimant, deduction of 1/3rd was made towards personal expenses. As such, income of the deceased was calculated to Rs.1,59,996/- per annum. As the deceased was 34 years of age, multiplier of 16 was correctly applied; and future prospects of 40% were correctly added. Thus, taking the total dependency to be Rs.35,83,910/-. Under the conventional heads, an amount of Rs.15,000/- was granted towards loss of estate; Rs.15,000/- towards funeral expenses; and Rs.40,000/- towards loss of consortium. Thus, totalling to Rs.36,60,910/- (rounded off to Rs.36,60,900/-).

12. From the above facts, it is clear that a very just and fair compensation has been awarded to the claimant. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. The 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**', (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. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is ‘just’. In my considered view, in the present case, the learned Tribunal has awarded a very ‘just’ compensation, which is in accordance with the law laid down by the Hon’ble Supreme Court and therefore, does not warrant the interference of this Court.

- 13. In view of the above, present appeal is **dismissed**.
- 14. Pending application(s) if any also stand(s) disposed of.

06.02.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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