

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****115****FAO-2184-2019 (O&M)**
Date of decision: 11.11.2025**Smt. Banarshi Devi****...Appellant(s)****Vs.****Santosh Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:-** Mr.Amandeep Rana, Advocate for the appellant.Mr. H.S.Gharoo, Advocate for
Mr. Amit Kumar Goyal, Advocate
for respondent No.3-Insurance Co.*********NIDHI GUPTA, J.****CM-6701-CII-2019**

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 28 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of Clerk of learned counsel for the applicant/appellant, the same is allowed and delay of 28 days in refiling the accompanying appeal is condoned.

FAO-2184-2019 (O&M)

The present appeal has been filed by the sole claimant seeking enhancement of compensation of Rs.70,000/- awarded by the learned



Motor Accident Claims Tribunal, Narnaul (hereinafter referred to as “the learned Tribunal”) vide Award dated 27.08.2018 passed in MACT Case No. 127 dated 30.10.2017 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The sole claimant is the widow of the deceased Bhoop Singh, who was about 75 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Bhoop Singh had died due to the injuries suffered by him in motor vehicular accident that took place on 17.07.2017 due to the rash and negligent driving of Vehicle bearing registration No.JH-02R-0227 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. All the respondents were held liable to pay the said compensation jointly and severally.

3. The learned counsel for the appellant assails the impugned Award by submitting that the learned Tribunal has not awarded any interest on the compensation amount. It is submitted that the appellant was entitled to interest on the compensation amount. It is further submitted that it is admitted fact on record that the deceased was getting pension of Rs.9,300/-p.m. As such, appellant could not have been denied compensation merely because she was also receiving pension amount. In support of his contention, learned counsel for the appellant relies upon judgment of Hon’ble Supreme Court in **Lal Dei v. Himachal Road**



Transport, (SC) : Law Finder Doc Id # 187804 decided on 27.08.2007;

holding that:

“Motor Vehicles Act, 1988, Sections 168(1), 140 and 141 - Motor Vehicles Act, 1939, Sections 110B, 92A and 92B Claim for compensation for death in a bus accident - Tribunal deducted the family pension amount from the dependency of the claimants - Held - Claims tribunal as well as High Court could not have deducted the amount of family pension given to the family while calculation the dependency of the claimants - Order directing deduction of family pension set aside 1998(4) RCR (Civil) 177(SC) Relied.

4. It is accordingly prayed that the present Appeal be allowed; and the compensation amount be enhanced to Rs.20 lacs along with interest @ 18% per annum.

5. *Per contra*, counsel for respondent No.3 opposes submissions made on behalf of the appellant and submits that the impugned Award suffers from no infirmity as the compensation awarded to the appellant is just and fair. Hence, present Appeal deserves to be dismissed.

6. No other argument is raised on behalf of the parties. I have heard Id. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

7. The deceased was proved to be 75 years old at the time of accident, on the basis of his Postmortem Report Ex.PW4/D. It is the pleaded case of the appellant that the deceased was earning Rs.35,000/- p.m. i.e. Rs.15,000/- p.m. as agricultural income and Rs.20,000/- by way of



pension. However, appellant had been unable to prove any income of the deceased from agricultural sources. Moreover, from the evidence on record, it was proved that the deceased was getting pension of only Rs.9,300/- p.m. as evident from document Ex.PW3/B. Admittedly, after death of Bhoop Singh, appellant as his widow is getting pension of Rs. 9,750/- p.m. as evident from Ex.PW3/C. Learned Tribunal therefore, correctly held that appellant had not suffered any financial loss due to death of the deceased. Reliance of the appellant upon the aforesaid judgment of **Lal Dei (supra)** is misplaced as the same is distinguishable on facts and law. Moreover, Hon'ble Supreme Court in more recent judgment of **Vishavjit Singh v. Cholanmandalam Ms General Insurance Company Limited, (SC) : Law Finder Doc Id # 2753589**, decided on 21.05.2025, has held as under: -

“9. The issue with regard to the reduction of the deceased's income from Rs. 22,712/- (Rupees Twenty Two Thousand Seven Hundred Twelve) per month to Rs. 6,500/-(Rupees Six Thousand Five Hundred) per month, upon scrutiny, appears to be justified. Since, the deceased was a pensioner and there was no evidence of any independent source of income, the High Court has rightly held that the amount being received by the widow as family pension had to be deducted. Accordingly, we find no ground to interfere with the income of the deceased as assessed by the High Court at Rs. 6,500/- (Rupees Six Thousand Five Hundred) per month.” (Emphasis added)



8. Reference is also made to a judgment passed by this Court in **ICICI Lombard General Insurance Company Ltd. v. Priya PS, (Punjab And Haryana) : Law Finder Doc Id # 2804935**; wherein it is held that *“Compensation in motor accident cases - Family pension cannot be added to the income of deceased for determining loss of dependency - Only notional income of deceased as determined by Tribunal to be considered.”*
9. Reference is also made to judgment of the Hon’ble Supreme Court in **Krishna & Ors. - Versus Tek Chand & Ors. (SC); Law Finder Doc Id # 2531576, decided on 05.02.2024**; wherein it is held as under:-

“6. In the case of a motor vehicle accidents, when negligence is proved, loss of dependency is compensated for the very same reason. In our view, there cannot be a duplication in payments or a windfall owing to a misfortune. In another words, on the death of the person in harness, owing to a road traffic accident the dependents of a deceased cannot be doubly benefited as opposed to those who are dependents of a deceased who dies owing to illness or any other reason under the Rules formulated by the Haryana Government.” (Emphasis added)

10. Further, appellant had been unable to produce any document of agricultural income. Therefore, the appellant was held not entitled to any compensation under the head of loss of dependency. Learned Tribunal had accordingly awarded amount of Rs.40,000/- towards loss of consortium; Rs.15,000/- towards funeral expenses; and Rs.15,000/- towards loss of estate. I find no error in the same.



11. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellants. 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**’ **(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**, the Hon’ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

12 **Dismissed.**

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

11.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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