IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

114 **FAO-4081-2023 (O&M)**
Date of decision: 12.09.2025

Payal Verma and another **...Appellant(s)**

Vs.

Ajay and others **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vaibhav Parashar, Advocate
for the appellants.

Mr. Dinesh Kumar Prajapati, Advocate
for respondent No.3-Royal Sundaram.

***

NIDHI GUPTA, J.

CM-13527-CII-2023

Prayer in this application filed under Section 151 CPC is for condonation of delay of 464 days in refiling the accompanying appeal.

2. The reason given in the application is vague and does not constitute sufficient ground for condonation of extraordinary and inordinate delay of 464 days.

3. The application is accordingly **dismissed.**

FAO-4081-2023 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.7,07,600/- awarded by the learned Motor Accident Claims Tribunal, Faridabad (hereinafter referred to as "the learned Tribunal") vide Award dated 16.12.2019 passed in MACP Case No.

371 dated 12.11.2018 filed under Sections 166 and 140 of the Motor Vehicles Act, (hereinafter referred to as "the Act"). The two claimants are the one married and one unmarried daughter of the deceased Shyam Sunder, who was 54 years 9 months 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 the deceased-Shyam Sunder had died due to the injuries suffered by him in a motor vehicular accident that took place on 13.09.2018 at about 5:20 p.m. due to the rash and negligent driving of a Maruti Suzuki Swift bearing registration No.HR-51-AZ-1622 (hereinafter "the offending vehicle") being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The learned Tribunal awarded the above said compensation along with interest @ 9% per annum. All the respondents were held liable to pay the said compensation jointly and severally.

3. Learned counsel for the appellants seeks enhancement of compensation by *inter alia* submitting that income of the deceased has been taken on the lower side as only Rs.7,000/-p.m. as an unskilled worker. Learned counsel submits that the deceased was working in a private dairy thus income of the deceased ought to have been taken as Rs.30,000/- p.m. as alleged. It is submitted that even as per the relevant Minimum Wage Notification, income of the deceased ought to have been taken as Rs.8,541/- p.m. as admissible to an unskilled worker. In support, learned counsel for the appellants hands over a copy of the Notification dated 28.08.2018 issued by the Labour Department, Haryana.

4. Learned counsel further submits that nothing has been awarded by way of consortium whereas both claimants were entitled to consortium of Rs.40,000/- each. It is further submitted that funeral expenses and interest are on the lower side, and 1/4th deduction ought to have been made. Further, future prospects ought to have been added @ 15%. Moreover, deceased had remained admitted in hospital from 13.09.2018 upto 28.09.2018 on which date the deceased had died yet, nothing has been awarded towards medical expenses.

5. It is accordingly prayed that present Appeal be allowed; and the awarded compensation be enhanced in the above terms.

6. *Per contra,* learned counsel for the respondent No.3-Insurance Co. Vehemently opposes submissions made on behalf of the appellants and submits that married daughter of the deceased/claimant No.2 cannot be taken as a dependent in terms of latest judgment of the Hon'ble Supreme Court in **Deep Shikha and another vs. National Insurance Company Ltd. And others (SC): Law Finder Doc Id # 2729764.** Accordingly, deduction of 50% ought to have been made towards personal expenses. Learned counsel further submits that income of the deceased was not proved as claimed; and therefore, income as assessed by the Tribunal is correct. Moreover, even if income is taken as Rs.8541/-p.m. as per the relevant Notification, compensation paid to the appellants would still be reduced. Accordingly, he prays for dismissal of the present appeal.

7. No other argument is raised on behalf of the parties. I have heard ld. Counsel and perused the case file in detail and given my thoughtful consideration to the rival submissions of the parties.

8. The record reveals that it was the pleaded case of the appellants that the deceased was running a milk dairy and was earning Rs.30,000/- p.m. However, except for the bald statement made by the appellants, no proof, either of avocation or income was produced by the appellants. As such, learned Tribunal had taken income of the deceased as Rs.7,000/- p.m. Age of the deceased was proved to be 54 years 9 months at the time of accident on the basis of his Aadhar Card wherein his date of birth is mentioned as 10.12.1963. Accordingly, learned Tribunal had correctly made addition of 10% towards future prospects. Further, learned Tribunal had made deduction of 1/3rd towards personal expenses; and applied multiplier of 11; thereby calculating compensation amount to be Rs. 6,77,556/-(7000+10%-1/3rd =7000+700-2567=5133 (Rs.5133 x 12 x 11). Learned Tribunal had further awarded Rs.15,000/- towards funeral expenses and Rs.15,000/- towards loss of estate and had accordingly granted total compensation of Rs.7,07,600/- along with interest @ 9% p.a.

9. Undisputedly, as per the prevailing law in terms of judgment in **Deep Shikha (supra);** claimant No.2 cannot be taken as a dependent upon the deceased being married and, therefore, deduction of 50% ought to have been made towards personal expenses. It would, therefore, follow that compensation in excess of what is admissible to the appellants has already been awarded to them; and therefore, no ground is made out for

enhancement of compensation. Even if income of the deceased is taken as Rs.8,541/-p.m., even in that eventuality, after adding 10% as future prospects and deducting 50% towards personal expenses, applying multiplier of 11; and adding Rs.30,000/- as conventional heads, the compensation amount of Rs.6,50,076.6 (8541+854.1-4697.55 x 12 x 11+ Rs.30,000) would be less than the awarded compensation of Rs.7,07,600/-.

10. In any event, 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,** has 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.

11. 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 strait-jacket 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".*

12. 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."*

13. Keeping in view the above factual and legal position, no ground is made out to interfere in the impugned Award. The present appeal is accordingly **dismissed.**

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

12.09.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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