



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

240

FAO-1671-2025 (O&M)
Date of decision: 27.05.2025

Naseem Ahmed and others

...Appellant(s)

Vs.

Subhan Khan and others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Parbeen Kumari, Advocate for
Mr. Amit Kumar Jain, Advocate
for the appellants.

NIDHI GUPTA, J.**CM-5172-CII-2025**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 44 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 44 days in filing the accompanying appeal is condoned.

FAO-1671-2025 (O&M)

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.15,66,460/- awarded by the learned Motor Accident Claims Tribunal, Nuh (hereinafter referred to as "the



learned Tribunal”) vide Award dated 19.10.2024 passed in MACP No. 344 dated 29.03.2022 filed under Section 166 and 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). The four claimants are 44 years old father, 39 years old mother, 18 years old sister, and 17 years old brother of the 19 years old deceased Sahil.

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-Sahil had died due to the injuries suffered by him in a motor vehicular accident that took place on 27.10.2021 due to the rash and negligent driving of Pickup bearing registration No.HR-55X-6715 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2 and insured by respondent No.3. The above said compensation was awarded alongwith interest @ 7% per annum to be paid by respondents No.1 to 3 jointly and severally.

3. The only ground on which learned counsel for the appellants seeks enhancement of compensation is that the deceased was a college going student, who was in the second semester in polytechnic Education Society at Village Malab. Learned counsel submits that therefore, income of the deceased could not have been taken as that of unskilled labourer as Rs.9,800/- per month; and it ought to have been taken as a skilled labourer. It is further submitted that nothing has been awarded by way of transportation as deceased had to be shifted form hospital to hospital. It is accordingly prayed that the present appeal be allowed; the impugned Award be modified and compensation be enhanced.

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



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

6. I find no merit in the submissions made by learned counsel for the appellants. Perusal of the record of the case shows that it was pleaded case of the appellants that the deceased was a student of Polytechnic Education Society at Village Malab. However, for lack of reliable evidence, learned Tribunal had taken income of the deceased as unskilled labour as Rs.9,800/- per month on the basis of Haryana Government Notification dated 01.09.2021 (w.e.f. 01.07.2021). Age of the deceased was proven to be 19 years on the basis of postmortem report Ex.P9; Aadhar Card Ex.P17; and copy of Senior Secondary School Examination Certificate Ex.P44, as per which date of birth of the deceased was stated to be 01.06.2002. As such, on the date of accident i.e. 27.10.2021, deceased was 19 years old. Accordingly, learned Tribunal had made addition of 40% towards future prospects i.e Rs.3,920. Thus, monthly income of the deceased came to be Rs.13,720/- (9800+3920). As deceased was a bachelor, deduction of 50% was correctly made towards personal expenses; thereby calculating monthly income to be Rs.6,860/- (13720-6860); and annual income was calculated to be Rs.82,320/- (6860 x 12). Multiplier of 18 was correctly applied thereby calculating dependency to be Rs.14,81,760/- (82320 x 18). Under the conventional heads, learned Tribunal had awarded Rs.18,150/- for funeral expenses, Rs.18,150 for loss of estate, and Rs.48,400/- for loss of consortium; thereby calculating total compensation to be Rs.15,66,460/-(1481760+18150+18150+48400).



7. Although appellants have claimed that nothing has been awarded towards transportation, however, appellants have produced nothing to show that any expense was incurred towards transportation.

8. 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. Mahadev 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 **KSRTC Vs. Susamma Thomas 1994 Volume-II SCC 176**, the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

9. **Dismissed.**

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

27.05.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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