IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-1903-2025(O&M)
Date of decision: 09.07.2025

Anita & Another

...Appellant(s)

Vs.

Rajiv & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Bhupinder Singh, Advocate for
Mr. Namit Khurana, Advocate
for the appellants.

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NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.9,30,244/- awarded by the Motor Accident Claims Tribunal, Jhajjar (hereinafter referred to as "the Tribunal") vide Award dated 18.01.2025 passed in MACP-335 dated 13.11.2019 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act"). The 2 claimants are the wife and son of deceased Anoop Singh

2. Ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced before it concluded that deceased Anoop Singh had died due to injuries suffered by him in a motor vehicular accident that took place on 23.08.2019 at about 5:30 am due to the rash and negligent driving of Bolero Car bearing registration No.HR-46E-9285 (hereinafter

referred to as "the offending vehicle") by respondent No.2. The offending vehicle was owned by respondent No.1 and insured by respondent No.3.

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.8,000/- per month. It is submitted that at the time of accident, deceased Anoop Singh was working with Parle Biscuits Pvt. Ltd. as an Assistant Operator and was drawing salary of about Rs.34,000/- per month as is evident from his Salary Slip (Annexure P1). It is submitted that accordingly, learned Tribunal was in error in taking income of the deceased on the lower side as only Rs.8,000/- per month.

4. Learned counsel further submits that the learned Tribunal has incorrectly made deduction of 1/3rd towards personal expenses; and consortium has been awarded only to the claimant No.1/wife; whereas consortium ought to have been awarded even to the claimant No.2/son also. It is accordingly prayed that the impugned Award be modified.

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

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

7. It has firstly been argued by learned counsel for the appellants that income of the deceased has been taken on the lower side as only ₹8000/– per month; whereas deceased was working as Assistant

Operator with Parle Biscuits Pvt. Ltd. from where he was earning about Rs.34,000/- per month. However, record reveals that no evidence to prove the said income was adduced by the appellants before the learned Tribunal. Only a bald statement was made by claimant No.1/wife/PW1 that deceased was earning Rs.34,000/- per month. No documentary evidence was adduced to support the said statement. In fact, even employment of the deceased was not proven by the appellants before the learned Tribunal as the appellants did not produce any appointment letter, joining letter, salary record, EPF record, attendance sheet, etc. to show deceased was working with Parle Biscuits Pvt. Ltd.

8. It had also been pleaded by the claimants before the learned Tribunal that deceased was earning Rs.2 lakh from agriculture sources. However, even agricultural income was not proved as no documents were produced to show that deceased owned any agricultural land, let alone that he was deriving any income from agriculture sources.

9. It was in this background that the learned Tribunal had assessed notional income of the deceased as Rs.8,500/- per month on the basis of Minimum Wages applicable at the relevant time. I find no error in the same.

10. However, before this Court, the appellants have produced 'Annexure P1' stated to be the Pay Slip of the deceased for the month of August 2019. On a Court query as to why this Salary Slip was not produced

by the appellants before the learned Tribunal, learned counsel for the appellants has no reply. Even the document (Annexure P1) is not accompanied by any appropriate application for adducing additional evidence. As such, the said Salary Slip cannot be taken into consideration at this stage, especially as the same has not been proven in accordance with law and the veracity of the same cannot be established. Thus too, I find no error in the notional income as assessed by the learned Tribunal.

11. Further, learned Tribunal has made an addition of 15% towards future prospects, although, as per law the same ought to have been 10%. As such, the learned Tribunal had calculated income of the deceased to be Rs.9,775/- per month (Rs.8,500/- + Rs.1,275/-). Further, it has been admitted by learned counsel for the appellants before this Court that at the time of filing of Claim Petition, claimant No.2/son of the deceased was major being about 21 years of age, yet, the learned Tribunal has taken claimant No.2 to be dependent upon the deceased and has accordingly made a deduction of 1/3rd towards personal expenses; thereby calculating monthly dependency to be Rs.6,517/- (Rs.9,775/- - Rs.3,258/-); and annual dependency to be Rs.78,204/- (Rs.6,517/- x 12). Further age of the deceased was proven to be 54 years on the basis of his Aadhaar Card (Ex.P2) in which his date of birth is mentioned as 09.05.1965. Keeping in view the age of the deceased, learned Tribunal has correctly applied multiplier of 11. Thus, calculating total dependency to be Rs.8,60,244/- (Rs.78,204/- x 11). Learned Tribunal has

further awarded Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and Rs.15,000/- towards funeral expenses, thereby awarding Rs.70,000/- under the conventional heads; and total compensation of Rs.9,30,244/-.

12. It has also been argued on behalf of the appellant that consortium has been awarded only to the claimant no.1/wife. However, 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.

13. 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".*

14. 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."*

15. In any event, as noted above, amount in excess of that admissible as per law, has been awarded to the appellants in as much as future prospects have been added at the rate of 15%, whereas the same auto have been added at the rate of 10%. In view of the same, I find no ground is made out to interfere in the impugned Award. Present appeal accordingly stands **dismissed.**

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

09.07.2025 **(Nidhi Gupta)**
Sunena **Judge**

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