



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

109

Date of decision: 10.12.2025

FAO-3767-2022(O&M)

Smt. Ekta Devi & Others

...Appellant(s)

Vs.

Ram Jeevan Yadav & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ranjit Kumar Jain, Advocate
for the appellants.

NIDHI GUPTA, J.CM-11477-CII-2022

This is an application under Section 151 CPC for condonation of delay of 37 days in re-filing the appeal.

After going through the contents of the application, which is supported by affidavit of Clerk of counsel for the appellants, the same is allowed subject to all just exceptions and delay of 37 days in re-filing the present appeal is condoned.

CM-11478-CII-2022

Present application under Order 41 Rule 27 for production of additional evidence has been filed.

By way of this application, the applicants/appellants seek to bring on record Affidavit (Annexure A1) of one Sh. Surinder Sharma,



deposing that the deceased Rakesh Kumar was employed with the deponent Surinder Sharma as an Electrician since 2015 to whom he was paying Rs.20,000/- to Rs.25,000/- per month.

The only reason given by the applicants/appellants in the present application for not producing the said Affidavit before the learned Tribunal is *“That the appellants were facing acute starvation and were not in the right state of mind after such a big tragic loss and the appellants were not able to track down the employer of the deceased Rakesh Kumar due to non-availability of sources at that time.”*

The same constitutes no ground for producing additional evidence at this belated stage before this Court. The above averment does not satisfy the requirement of the provision, inasmuch as does not constitute ‘due diligence’ within the meaning of Rule 27(1)(aa). ‘Inadvertence’, on part of a party, cannot be construed as sufficient cause within the provision. The Hon’ble Supreme Court in **CA 16899 of 1996 “Karnataka Board of Wakf Vs. Government of India” Law Finder Doc ID # 71670**, has categorically held that parties to an appeal shall not be entitled to produce additional evidence, unless they have shown that despite due diligence, they were unable to produce such evidence. In the present case, petitioner has admittedly, not shown due diligence.

Reference is also be made to judgment of the Hon’ble Supreme Court in **C.A. No.10195 of 2013 titled as “Govt. of**

**Karnataka and Another Vs. K.C. Subramanya & Others” Law Finder Doc ID**

495411, wherein Their Lordships have held as follows:-

“6. On perusal of this provision, it is unambiguously clear that the party can seek liberty to produce additional evidence at the appellate stage, but the same can be permitted only if the evidence sought to be produced could not be produced at the stage of trial in spite of exercise of due diligence and that the evidence could not be produced as it was not within his knowledge and hence was fit to be produced by the appellant before the appellate forum.

7. It is thus clear that there are conditions precedent before allowing a party to adduce additional evidence at the stage of appeal, which specifically incorporates conditions to the effect that the party in spite of due diligence could not produce the evidence and the same cannot be allowed to be done at his leisure or sweet will.”

Clearly, the applicants failed to exercise due diligence. Present application accordingly stands **dismissed**.

FAO-3767-2022

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.20,42,200/- awarded by the Motor Accident Claims Tribunal, Chandigarh (hereinafter ‘the learned Tribunal’) vide Award dated 25.01.2022 passed in MACP Case No.15 dated 04.01.2019 filed under Section 166 of the Motor Vehicles Act (hereinafter “the Act”). The 4 claimants are the widow, one minor son, and parents of deceased Rakesh Kumar, who was 38 years old at the time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Rakesh Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 05.12.2018



at about 7:45 pm due to the rash and negligent driving of motorcycle bearing registration No.PB-65-AT-8418 (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 aforesaid compensation has been awarded along with interest @ 8% per annum. The respondents were held jointly and severally liable for payment of compensation amount.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side as only Rs.9,800/- per month as that of an unskilled person. It is submitted that it was the clear case of the appellants that the deceased was working at an Electrical Shop in Chandigarh as an Electrician. It is contended that the appellants have sought to bring on record the Affidavit (Annexure A1) of the employer of the deceased by way of additional evidence to prove that deceased was employed as an Electrician. It is contended that therefore, income of the deceased has been taken on the lower side. Moreover, interest has also been awarded on the lower side as only 8%; whereas the same should be 12%. Even under the conventional heads, less amount has been granted to the appellants. It is accordingly prayed that the present appeal be allowed, and compensation be enhanced.

4. No other argument is made on behalf of the appellants. I have heard learned counsel and perused the case file in detail. I find no merit in the submission advanced on behalf of the appellants.



5. It was the pleaded case of the appellants that deceased was working as an Electrician in a Shop and earning Rs.25,000/- per month. However, the appellants failed to produce any evidence before the learned Tribunal to substantiate the said contention. Thus, learned Tribunal had taken income of the deceased as Rs.9,774/- per month rounded off to Rs.9,800/- per month on the basis of Order issued by Assistant Labour Commissioner, Chandigarh regarding minimum wages admissible to an unskilled person for the period 01.01.2018 to 31.03.2019. I find no error in the same. The Affidavit sought to be produced by the appellants by way of additional evidence before this Court, does not inspire confidence of this Court. A perusal of the said Affidavit shows that the same is not accompanied by Aadhaar Card of the deponent to establish his identity. Even otherwise, the deponent has merely stated that he *"is a businessman and running his business of electronics and electrical appliances."* However, the name and style under which the business is being run, is not mentioned. Even otherwise, the said Affidavit is contrary to the testimony of claimant No.1/widow who while appearing as PW1 had admitted in her cross-examination that she did not know in which shop her deceased husband was working as Electrician; and that her husband was not Diploma holder in any Electrician course. Nothing has been stated as to how the appellant discovered the identity of the alleged employer. Even otherwise, as noted above, the appellants cannot be permitted to produce additional evidence at this belated stage as the same



would have been available to the appellants before the Tribunal. Thus, I find no error in the income of Rs.9,800/- as assessed by the learned Tribunal.

6. Further, age of the deceased was determined to be 38 years 20 days on the basis of Matriculation Certificate of the deceased (Ex.PW1/6) wherein his date of birth is mentioned as 15.10.1980. Accordingly, Tribunal had made an addition of 40% towards future prospects; and correctly applied multiplier of 15. As there were 4 claimants, deduction of $\frac{1}{4}^{\text{th}}$ was made. Under the conventional heads, the Tribunal has awarded Rs.40,000/- to each of the four claimants; and has further awarded Rs.15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses; thereby granting total compensation of Rs.20,42,200/-, in the following manner:-

Head	Amount
Annual income	Rs.9,800/- x 12 = Rs.1,17,600/-
Future prospects @ 40% of annual income	Rs.47,040/-
Total notional annual income	Rs.1,17,600/- + Rs.47,040/- = Rs.1,64,640/-
Deduction of $\frac{1}{4}^{\text{th}}$	Rs.41,160/-
Multiplicand	Rs.1,64,640/- - Rs.41,160/- = Rs.1,23,480/-
Multiplier	15
Compensation for loss of dependency	Rs.1,23,480/- x 15 = Rs.18,52,200/-
Compensation for loss of consortium for each of four dependents (Rs.40,000/- x 4)	Rs.1,60,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Total	Rs.20,42,200/-



7. 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 & Another Vs. Jasbir Kaur & Others**' 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 the case of "**General Manager, KSRTC Vs. Susamma Thomas & Others**" 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.

8. In view of the above, present appeal is **dismissed**.

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

10.12.2025

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No