

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****124****FAO-2676-2024 (O&M)****Date of decision: 04.12.2025****Umesh and others****...Appellant(s)****Vs.****Sanjay Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Virender Soni, Advocate for the appellants.

NIDHI GUPTA, J.**CM-10078-CII-2024**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 172 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant No.1 the same is allowed and delay of 172 days in filing the appeal is condoned.

FAO-2676-2024 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.23,61,800/- awarded by the learned Motor Accident Claims Tribunal, Rohtak (hereinafter referred to as "the learned Tribunal") vide Award dated 18.07.2023 passed in MACP Case No. 79 dated 02.03.2021 filed under Section 166 of the Motor Vehicles Act,



(hereinafter referred to as “the Act”). The nine claimants before the learned Tribunal are 51-year-old father; 50-year-old mother; 17-year-old brother; 8-year-old sister; 6-year-old sister; 29-year-old widow; and 3 minor children of the deceased Harinandan Yadav, who was 28 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 the deceased-Harinandan Yadav had died due to the injuries suffered by him in a motor vehicular accident that took place on 26.01.2021 at about 02:00 a.m. due to the rash and negligent driving of a Trailer-TATA Motors bearing registration No.RJ32GC-4109 (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 submitting that the income of the deceased has been taken on the lower side as only Rs.10,000/-p.m. It is submitted that from the evidence of PW2 Cleaner of Truck, appellants had proved that the deceased was a driver and earning Rs.25,000/- per month. As such, income of the deceased deserves to be enhanced. It is also submitted that consortium has been awarded only to claimant No.6/widow of the deceased; whereas all the claimants were entitled to grant of consortium.



Thus, compensation is very much on the lower side and deserves to be enhanced to Rs.50 lacs on account of death of Harinandan Yadav.

4. No other argument is raised on behalf of the appellants. I have heard Id. counsel and perused the case file in detail.

5. I find no merit in the contention of the appellants in respect of income of the deceased - to the effect that it was proved that deceased was working as Driver and earning Rs.25,000/- p.m. The argument of the appellants is proved wrong from the fact that before the learned Tribunal the claimants had pleaded that deceased was earning Rs.20,000/- per month; whereas before this Court, it has been stated that deceased was earning Rs.25,000/- p.m. Even further appellants can derive no benefit from the evidence of PW2 the alleged Cleaner of the Truck as no documentary evidence has been produced by the appellants to prove the alleged income of the deceased. In this circumstance, learned Tribunal had correctly assessed notional income of the deceased as Rs.10,000/- p.m.

6. Further, claimants No. 3, 4 and 5 were correctly held not to be dependent on the deceased as they are sisters and brother of the deceased. Thus, learned Tribunal had correctly made deduction of 1/5th towards personal expenses; thereby calculating total monthly salary as Rs.8,000/- (Rs.10,000-2,000); and annual income to be Rs.96,000/- (Rs.8,000 x 12). Age of the deceased was determined to be 28 years at the time of his death. Therefore, multiplier of 17 was correctly applied;



thereby calculating annual dependency to be Rs.16,32,000/- (Rs.96,000 x 17). Learned Tribunal had further added future prospects @ 40%; thereby granting total compensation of Rs.22,84,800/- (Rs.16,32,000+Rs.6,52,800). Under the conventional heads, learned Tribunal had awarded Rs. 16,500/- for loss of estate; Rs.44,000/- for loss of consortium to widow; and Rs.16,500 /- for funeral expenses; thereby granting total compensation of Rs.23,61,800/- (Rs.22,84,800+16,500+44,000+16,500). However, claimants No. 1 and 2 being parents, and claimants No. 7, 8 and 9 being minor children of the deceased are entitled to consortium of Rs.44,000/- each i.e. Rs.2,20,000/-.

7. Accordingly, the present appeal is **partly allowed** in the above terms without notice to the respondents as the said enhancement is in conformity with the law laid down by Hon’ble Supreme Court in ***“National Insurance Company Limited vs. Pranay Sethi and others”, Special Leave Petition (Civil) No. 25590 of 2014.*** However, in case any of the respondents are aggrieved of the above enhancement of compensation, liberty is granted to them to revive the present appeal within eight weeks. Registry is further directed to send a copy of this order to the respondents by registered/speed post.

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

04.12.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No