

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****118****FAO-1886-2024 (O&M)****Date of decision: 03.12.2025****Bhateri and others****...Appellant(s)****Vs.****Bharat Bhushan and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Preeti Singh, Advocate
for the appellants.

*********NIDHI GUPTA, J.****CM-7215-CII-2024**

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 41 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of learned counsel for the applicant/appellant No.1, the same is allowed and delay of 41 days in filing the appeal is condoned.

FAO-1886-2024 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.19,34,477/- awarded by the Id.

Motor Accident Claims Tribunal, Bhiwani (hereinafter "the learned



Tribunal”) vide Award dated 06.12.2023 passed in MACT Case No. 39 dated 16.10.2019 filed under Section 166 of the Motor Vehicles Act, (hereinafter “the Act”). The 4 claimants are the 45-year-old widow; 27-year-old son; 45-year-old son; and 22-year-old daughter as mentioned in the memo of parties of the present appeal; and 42-year-old widow, 24-year-old son; 42-year-old son; and 18-year-old daughter as mentioned in the memo of parties before the Tribunal of the deceased Jagdish, who was 48 years old at time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Jagdish had died due to the injuries suffered by him in a motor vehicular accident that took place on 29.02.2016 due to the rash and negligent driving of a Truck bearing registration No. HR-74-7250 (hereinafter “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The Tribunal awarded above said compensation along with interest @ 7% per annum. All the respondents were held liable to pay the compensation jointly and severally. However, insurance company has been granted recovery rights.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that under the conventional heads, less amount has been awarded to the appellants and the same deserves to be enhanced. Even income of the deceased has been assessed on the lower side. Future prospects have been wrongly assessed @ 30% and the same should be enhanced.



4. It is accordingly prayed that present Appeal be allowed; and the compensation be enhanced in the above manner.

5. No other argument is raised on behalf of the appellants. I have heard Id. Counsel and perused the case file in detail. I find no merit whatsoever in the submissions made on behalf of the appellants.

6. It was the pleaded case of the appellants before the learned Tribunal that the deceased Jagdish was working in Public Health Engineering Department as Beldar and was getting salary of Rs.27,487/- per month. Accordingly, learned Tribunal had assessed the income of the deceased as Rs.27,487/- per month. The age of the deceased was determined to be 48 years on the basis of his service book Ex.P2 in which his date of birth is mentioned as 06.07.1967. Thus, on the date of accident i.e. 29.02.2016, the age of the deceased was 48 years and 7 months. Accordingly, learned Tribunal had correctly made addition of 30% towards future prospects ($\text{Rs.}27487 + 30\% = \text{Rs.}35,733/-$); thereby calculating annual income of the deceased to be Rs.4,28,796/- ($\text{Rs.}35,733/- \times 12$). After deduction of income tax, net annual income of the deceased comes to Rs.4,10,916/-. As there were 4 claimants, deduction of 1/4th was made towards personal expenses; thereby calculating annual income to be Rs.3,08,187/- ($\text{Rs.}4,10,916 - \text{Rs.}1,02,729/-$). Learned Tribunal had correctly applied multiplier of 13; thereby calculating annual dependency as Rs.40,06,431/- ($\text{Rs.}3,08,187/- \times 13$).



7. PW3 Pawan Kumar had deposed that appellants will be receiving the last drawn salary of the deceased i.e. Rs.27,487/- per month upto February 2023 i.e. total amount of Rs.22,61,954/- as financial assistance from the Government. Accordingly, learned Tribunal in terms of judgment of the Hon'ble Supreme Court in **Reliance General Insurance Company Ltd. vs. Shashi Sharma and others Civil Appeal No. 9654 of 2016**, had deducted the said amount of Rs.22,61,954/- from Rs.40,06,431/-; thereby granting compensation of Rs.17,44,477/-. The Tribunal has further awarded a sum of Rs.40,000/- each to claimants No. 2 to 4 towards filial consortium; and further awarded Rs.70,000/- under conventional heads; thereby granting total compensation of Rs.19,34,477/- (Rs.17,44,477 + Rs.40,000 + Rs.40,000 + Rs.40,000 + Rs.70,000).

8. From the above facts, it is clear that a more than just and fair compensation has been awarded to the appellants. In fact, the claimants No.2 to 4 being major children of the deceased who had not proved their financial dependence upon the deceased, deduction of 50% ought to have been made towards personal expenses; yet, the learned Tribunal has made a deduction of 1/4th. Thus, 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. 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 case of ‘General Manager, KSRTC Vs. Susamma Thomas and others’ (1994) 2 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. 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**.

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

03.12.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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