



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

266 Date of decision: 15.02.2025

1. FAO-2086-2024 (O&M)
Hakamdin and others ...Appellant(s)

Vs.
Sehroon Khan and others ...Respondent(s)

AND

2. FAO-2087-2024 (O&M)
Hakamdin and another ...Appellant(s)

Vs.
Sehroon Khan and othersRespondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Anas Ahmed, Advocate for the appellants.

NIDHI GUPTA, J.

FAO-2086-2024:

The present FAO-2086-2024 has been filed by the claimants seeking enhancement of compensation of Rs.15,89,000/- granted by the learned Motor Accident Claims Tribunal, Nuh (hereinafter referred to as “the Tribunal”) vide Award dated 20.01.2024 passed in MACP No. 51 dated 08.02.2022 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). The 5 claimants are the parents, 2 brothers, and 1 sister of the deceased Arbaj, who was stated to have been about 19 years old at the time of accident.

FAO-2087-2024:

The present FAO-2087-2024 has been filed by the claimants seeking enhancement of compensation of Rs.8,27,000/- granted by the



learned MACT, Nuh vide Award dated 20.01.2024 passed in MACP No. 52 dated 08.02.2022 filed under Section 166 of the Act. The 2 claimants are the parents of the deceased Munni, who was stated to have been about 9 years old at the time of accident.

2. Both the above said appeals are being disposed of by this common order as both arise out of the same common impugned Award dated 20.01.2024, between same parties, in respect of the same accident dated 02.12.2021 and the facts, issues and parties involved in both the cases are identical.

3. For the sake of facility, facts are being drawn from FAO-2086-2024.

4. Brief facts of the case are that the learned Tribunal upon appraisal of the pleadings, and the oral and documentary evidence adduced by the parties, concluded that deceased-Arbaj and deceased Munni had died due to the injuries suffered by them in a motor vehicular accident that took place on 02.12.2021 due to the rash and negligent driving of Truck bearing registration No. RJ-14-GK-4888 (hereinafter referred to as 'the offending vehicle'), which was being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3 herein. The above said compensation was granted by the learned Tribunal alongwith interest @ 7% per annum from the date of institution of the claim petition till realization. The respondent No.3- insurance company was held liable to pay the above said compensation



with the right to recover the same from respondent No.2-owner of the offending vehicle.

5. Learned counsel for the appellants in FAO-2086-2024 seeks enhancement of the compensation on the ground that the income of the deceased Arbaj has been taken on the lower side as only Rs.10,000/- p.m. despite the fact that the deceased was B.A. (Political Science) student and was earning Rs.20,000/- per month by giving tuitions to the students. It is contended that even otherwise the deceased Arbaj had cleared the assessment in the IT-ITes Sector conforming to Level-1. Therefore, minimum wages of a skilled worker should have been taken at least.

6. No other argument is made on behalf of learned counsel for the appellants.

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

8. As regards the deceased Arbaj, it has been contended on behalf of learned counsel for the appellants that income of the deceased has been taken on the lower side as only Rs.10,000/- p.m.; whereas he was earning Rs.20,000/- p.m. by giving tuitions to students. However, no documentary proof whatsoever was produced by the appellants to prove that 19-year-old deceased was having any income.

9. On the contrary, it has been noted by the learned Tribunal in para 14 of the impugned Award that learned counsel representing the claimants before the learned Tribunal, had produced copy of Notification



regarding Minimum Wages in State of Haryana from 01.07.2021 to be Rs.9,803/-p.m. It was in this background that the learned Tribunal assessed the income of the deceased to be Rs.10,000/- per month.

10. I find no error in the same. Further age of the deceased Arbaj was taken to be 19 years on the basis of his Senior Secondary Examination mark-sheet. As such, future prospects were correctly added @ 40% (Rs.10,000+Rs.4,000=Rs.14,000X12=Rs.1,68,000/-). As the claimants/ appellants No. 3, 4 and 5 were brothers and sister of the deceased, the learned Tribunal had rightly held them to be not dependant upon the deceased, as they would be dependant upon their father-claimant/ appellant No.1; and also keeping in view the fact that deceased was bachelor at the time of accident; deduction of 50% was correctly made towards personal expenses. Thus, annual income of the deceased came to be Rs.84,000/-. As the deceased was 19 years of age, multiplier of 18 was correctly applied (Rs.84,000 X 18=Rs.15,12,000). The learned Tribunal further granted Rs.44,000/-for loss of consortium (filial); Rs.16,500/- for funeral expenses; and Rs.16,500/- for loss of estate. Thus, total compensation of Rs. 15,89,000/- (Rs.15,12,000 + Rs.44,000 + Rs.16,500 + Rs.16,500) has been awarded to claimants No. 1 and 2.

11. In respect of the deceased Munni in FAO-2087-2024, no argument was made before this Court for enhancement of compensation. However, it has been pleaded in para 5 of the said appeal that *“due to the injuries sustained in the alleged accident, appellant is*



lying on bed and is old getting Pension and not able to do agricultural and dairy work after the said accident which he was earlier doing.....”.

12. Clearly therefore, the above said pleadings in respect of the deceased Munni are totally misconceived and not applicable. It has come on record that Munni, upon being taken to hospital, was declared brought dead, whereas Arbaj was shifted to Trauma Centre, Delhi where he died during treatment on 05.12.2021. As such, FAO-2087-2024 in respect of the deceased Munnni is liable to be dismissed on this short ground itself.

13. Even otherwise, I find no error in the compensation as computed in respect of the deceased Munni. Munni was a student of 3rd standard. As she was 9 years old at the time of accident, her notional income had been assessed to be Rs.50,000/- per annum by relying upon the judgment of this Court in ***Jahul and another Vs. Madan Lal and others, FAO-431-2016, decided on 20.03.2023***, wherein in the case of 15 years old deceased, this Court had taken notional income of the deceased therein to be Rs.50,000/- per month. Learned Tribunal further correctly applied multiplier of 15. (Rs.50,000 X 15=Rs.7,50,000). The learned Tribunal further granted Rs.44,000/-for loss of consortium (filial); Rs.16,500/- for funeral expenses; and Rs.16,500/- for loss of estate. Thus, total compensation of Rs. 8,27,000/- (Rs.7,50,000 + Rs.44,000 + Rs.16,500 + Rs.16,500) has been awarded to claimants No. 1 and 2.



14. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellants. Accordingly, in view of the discussion above, I find no case is made out which merits interference with the impugned Award. I find the compensation awarded to the appellants to be just and fair in the facts and circumstances of the case. 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. Mahadev Shetty and another**', (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. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is 'just'. In my considered view, in the present case, the learned Tribunal has awarded a very 'just' compensation, which is in accordance with the law laid down by the Hon'ble Supreme Court and therefore, does not warrant the interference of this Court. In the 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.

15. Learned counsel for the appellants is unable to controvert or dispute the above said facts, findings and/or the legal position.

16. Both appeals accordingly, stand **dismissed**.



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

15.02.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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