IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226 **FAO-5293-2023 (O&M)**
Date of decision: 25.04.2025

Navraj Kaur and others ...Appellant(s)

Vs.

Sunny Masih Others ...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Vikas Kumar Gupta, Advocate for the appellants.

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NIDHI GUPTA, J.

CM-18097-CII-2023

This is an application under Section 151 CPC for condonation of delay of 163 days in refiling the appeal.

Heard.

In view of averments mentioned in the application, which is duly supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 163 days in refiling the present appeal is condoned.

FAO-5293-2023 (O&M)

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.74,93,842/- awarded by the learned Motor Accident Claims Tribunal, Chandigarh (hereinafter referred to as "the learned Tribunal") passed in MACP No. 317 dated 31.05.2017 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The 5 claimants are the widow, the two sons aged 22 and 19 years; and parents of deceased Gurbaj Singh, who was stated to have been about 45 and a half 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-Gurbaj Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 24.01.2017 due to the rash and negligent driving of truck bearing registration No.PB-11-CB-2765 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1; owned by respondent No.2 and insured by respondent No.3. All the respondents were held jointly and severally liable to make the payment of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that the income of the deceased has been taken on the lower side as only Rs.44,205/- p.m.; whereas the deceased was earning Rs.46,048/- p.m. It is submitted that the deceased was Head Constable in Punjab Police and was drawing gross salary of Rs.46,816/- p.m. As such, the annual salary of the deceased was Rs.5,61,792/-. However, the learned Tribunal has taken the income of the deceased as Rs.44,205/-p.m. and accordingly, the annual salary of the deceased was wrongly taken as Rs. 5,30,465/-. It is also submitted that nothing has been granted by way of medical reimbursement to the appellants. The appellants had spent a huge amount on his medical expenses and the same ought to have been reimbursed to the appellants. It is submitted that addition of 30% future prospects is on the lower side as the deceased was getting promotions and increments from time to time. It is accordingly prayed that

the present appeal be allowed; the impugned Award be modified and compensation be enhanced.

4. No other argument is raised on behalf of the appellants.

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

6. I find no merit whatsoever in the submissions made on behalf of the appellants. It is not disputed that at the time of accident, the deceased was working as Head Constable in Punjab Police. It was pleaded by the appellants in the claim petition that the deceased was drawing monthly salary of ₹50,000/- per month; whereas, before this Court, it has been argued that the deceased was getting salary of Rs.46,816/-p.m. PW-4 Head Constable Narinder Singh from SSP Office, Patiala had proved the salary statement of the deceased from June 2016 to January 2017 as Ex.PW-4/1; as per which the gross salary of the deceased as Rs.46,816/-p.m. for the month of January 2017. The salary statement of the deceased was also proved by the evidence of PW-6 LR Narinder Singh ASI from Accounts Branch. However, while proving the salary statements/tax deduction record of the deceased for the years 2014-15, 2015-16, and 2016-17 as Ex.PW5/1 to Ex.PW5/3, PW-6 LR Narinder Singh ASI from Accounts Branch had also deposed that for the financial year 2016-17, Rs.9,202/- was deducted as income tax from the salary of the deceased. As per Ex.PW-5/3, the deceased was paid total annual salary of Rs.5,39,667/- from March 2016 to February 2017 of which Rs.9,202/- was deducted as income tax; thus, making net salary of deceased as Rs.5,30,465/-. Accordingly, learned Tribunal had taken net monthly income of the

deceased as Rs.44,205/- and net annual income as Rs.5,30,465/-. Further, as per evidence of PW-3 ASI Lakhwinder Singh from SSP Office Patiala, date of retirement of the deceased was 31.07.2029.

7. It is also undisputed that Rs.4,85,640/- was paid to the claimants as GPF; Rs.10,000/- was paid as Deposit Link Insurance; Rs.30,000/- was paid under Group Insurance; and Rs.19,470/-was paid under GIS/Saving, to the claimants. These payments were proved from the entries to this effect as Ex.R7; as also from the evidence of RW-2 ASI Arvinder Kaur, Accounts Branch. Even all retiral benefits have been received by the claimants as evident from Ex.R6. Thus, in actual fact, these amounts were deductible from the compensation paid to the claimants.

8. It is also relevant to note that claimant No.2/Sukhsagarpreet Singh has been appointed as Senior Constable (permanent job) belt No.1649 Patiala on compassionate ground vide order dated 21.11.2018 Ex.R4. Accordingly, compensation was granted in the following manner: -

1.	Name of the deceased	Gurbaj Singh
2.	Date of accident	24.1.2017
3.	Age at the time of accident	45 years 6 months
4.	No. of dependents.	Five
5.	Annual income=44,205 x 12	Rs.5,30,465/-
6.	Future propsects @ 30% of annual income.	Rs.1,59,140/-
7.	Total Annual Notional Income = annual income + future prospects	Rs.6,89,605/-
8.	Deductions towards personal expenses = total notional annual income x 1/4	Rs.1,72,402/-
9.	Multiplicand = Total Notional Income-Deductions towards personal expenses	Rs.5,17,203/-
10.	Multiplier	14
11.	Compensation for loss of dependency= Multiplicant x Multiplier	Rs.72,40,842/-
12.	Compensation for loss of consortium for dependents = Five x 44,000/-	Rs.2,20,000/-

13.	Compensation for loss of estate	Rs.16,500/-
14.	Compensation for funeral expenses	Rs.16,500/-
	Total:-	**Rs.74,93,842/-**

9. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellant. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted 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 and another Vs. Jasbir Kaur and others' Law Finder Doc ID # 64043 and 'Divisional Controller K.S.R.T.C. Vs. Mahadeva 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.

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

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

25.04.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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