

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****243****FAO-3671-2023(O&M)****Date of decision: 14.02.2025****Sayyara and others****...Appellant(s)****Vs.****Laxman and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ketan Antil, Advocate for the appellants.

*********NIDHI GUPTA, J.****CM-12077-CII-2023**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 210 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant No.1, the same is allowed and delay of 210 days in filing the accompanying appeal is condoned.

FAO-3671-2023 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.22,19,000/- awarded by the Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the Tribunal') vide Award dated 05.08.2022 passed in MACP No. 274 dated 23.05.2019



filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 5 claimants before the learned Tribunal were the widow, 2 minor children, and parents of the deceased Arif, who was stated to have been about 25 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and evidence adduced before it, concluded that the deceased Arif had died due to the injuries suffered by him in a motor vehicular accident that took place on 26.04.2019 due to the rash and negligent driving of a Canter bearing registration No. HR-55-W-2579 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3 herein. The learned Tribunal awarded the compensation as above alongwith interest @ 7.5% per annum from the date of filing of the petition till actual realization of the amount. All the respondents were held liable to pay the said compensation jointly and severally.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that the salary certificate Ex.P19 produced by the appellants, has been ignored by the learned Tribunal. It is submitted that perusal of the said salary certificate Ex.P19 proves that the deceased was working as a driver and was earning Rs. 20,000/- per month.

4. The second ground on which the enhancement is sought is that nothing has been paid to the claimants No. 2 to 5 by way of consortium. It is accordingly prayed that the impugned Award be modified; and the present appeal be allowed.



5. No other argument is raised on behalf of the appellants.
6. I have heard learned counsel for the appellants and perused the case file in great detail.
7. Perusal of the record of the case shows that it was the pleaded case of the appellants/claimants that the deceased was a driver and was agriculturist and was earning Rs.65,000/- p.m. from both sources. It has been argued on behalf of the appellants that to prove the income of the deceased, they had produced salary certificate Ex.P19 of the deceased showing his income as a driver to be Rs.20,000/- p.m. The said salary certificate also stands proved by the evidence of PW3, the proprietor, with whom the deceased was working. However, it has been admitted by learned counsel for the appellants before this Court that no supporting documents in the form of copy of appointment letter, deduction of PF, copy of bank passbook, statement of bank accounts etc. had been produced by the claimants to prove that the deceased was working as a driver and/or salary of Rs.20,000/- per month was regularly deposited in the bank account of the deceased.
8. Learned counsel for the appellants has also been unable to inform this Court as to date of appointment of the deceased as a Driver.
9. In this background, the learned Tribunal had taken the income of the deceased as a Trolly Driver under Heavy Driving License as per the relevant/2019 Minimum Wages to be Rs.10,000/- per month. I find no error in the same. Nothing has been shown to this Court to prove the alleged avocation of the deceased as a driver or an agriculturist. Further, the age of



the deceased was proven to be 28 years on the basis of Post Mortem Report Ex.P9. Accordingly, addition of 40% future prospects was made. Thus, taking monthly income of the deceased to be Rs.14,000/- per month. As there were 5 claimants, deduction of 1/4th was correctly made towards personal expenses (Rs.14,000-Rs.3,500 = Rs.10500/-). Multiplier of 17 was correctly applied in complete conformity with the judgment of Hon'ble Supreme Court in **"Smt. Sarla Verma and others Vs. Delhi Transport Corporation and another"** Law Finder Doc ID # 188882. Thus, his annual income comes to be Rs.21,42,000 (Rs.10,500 X 12 = Rs.1,26,000 X 17 = Rs.21,42,000). The learned Tribunal further granted Rs.16,500/- for loss of estate; Rs.16,500 for funeral expenses; and Rs.44,000/- for loss of consortium. Thus, granting total compensation of Rs.22,19,000/- (Rs.21,42,000 + Rs.16,500 + Rs.16,500 + Rs.44,000), along with interest @ 7.5% per annum from the date of filing the petition till realization.

10. It has been contended on behalf of the appellants that nothing has been granted by way of consortium to the appellants No. 2 to 5. However, the said argument of the appellant is liable to be rejected in view of the recent judgments of the Hon'ble Supreme Court in **"Shri Ram General Insurance Co. Ltd. Vs. Bhagat Singh Rawat & Others"** Civil Appeal Nos.2410-2412/2023 and **"Mehmooda Bee & Others Vs. National Insurance Co. Ltd."** (@ SLP (C) No.16767 of 2022) and **"Bebi Giri Vs. National Insurance Co. Ltd."** Civil Appeal No.6551 of 2022, wherein it has been held that maximum sum of Rs.77,000/- can be granted under the conventional heads.



11. Reference may also be made to a judgment of the Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others"**, where it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

12. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in **"The Managing Director, Divisional Controller Versus Alikutty and Others"** Law Finder Doc Id # **1885188**. Relevant para 18 of the said judgment is reproduced below:-

*"18. It is to be borne in mind, the accident occurred on 23.2.2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the breadwinner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straitjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards".*

13. Above said view has been reiterated by the Kerala High Court in **"Reliance General Insurance Company Limited Vs. Adila and Others"**, Law Finder Doc ID # **1921609**, paras 16 and 17 of which read as under:-

"16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.



17. *In New India Assurance Co., Ltd v. Vineesh.J[2018 (3) SCC 619], the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent.”*

14. Learned counsel for the appellants is unable to controvert or dispute the above said factual and legal position as noted above.

15. As such, the present appeal is **dismissed**.

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

14.02.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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