120 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-3099-2024 (O&M)
Date of Decision: 17.09.2025

JASWINDER KAUR AND OTHERS ...Appellants
Vs.
HARINDER SINGH AND OTHERS ...Respondents

CORAM:- HON'BLE MS. JUSTICE NIDHI GUPTA

Present: Mr. Jaideep Verma, Advocate for the appellants.

NIDHI GUPTA, J. *(Oral)*

1. The present appeal has been filed by the claimants seeking enhancement of the compensation of Rs.77,25,875/- awarded by the learned Motor Accident Claims Tribunal, Rupnagar (hereinafter 'the Tribunal'), vide Award dated 22.04.2024 passed in MACP/34/2022, dated 28.02.2022 filed under Section 166 of the Motor Vehicles Act, 1988, (in short 'MV Act'). The four claimants are the widow, two minor children, and mother of the deceased, Jeewan Singh, who was 40 years old at time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and oral and documentary evidence adduced by the parties concluded that the deceased had died due to the injuries suffered by him in a motor vehicular accident that took place on 26.01.2022, due to rash and negligent driving by a car Tata Indigo bearing registration No.PB-12-L-0287 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.3; owned by respondent No.1; and insured by respondent No.2. Learned Tribunal awarded the above said compensation along with interest @7.5% per annum. The respondents were held jointly and severally liable to pay the said compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that learned Tribunal has made an addition of only 25% towards future prospects; whereas the same ought to have been at the rate of

40%. It is further submitted that even under the conventional heads, less amount has been awarded to the appellants, which deserves to be enhanced. Even interest has been granted at low rate of 7.5% per annum, whereas it should be @ 9% per annum. It is accordingly prayed that the amount of compensation be enhanced, and the Award be modified as above.

4. No other argument has been made on behalf of the appellants/claimants.

5. I have heard ld. counsel and gone through the record in detail and find no merit in the submissions advanced by the ld. counsel for the appellant.

6. Perusal of the record of the case reveals that it was a pleaded case of the appellants before the ld. Tribunal that the deceased was doing Transport Business and was earning Rs.2,00,000/- per month. In support of the claim, the appellants had placed on record the Income Tax Returns of the deceased for the assessment year 2021-22, Ex. P-13, as per which annual income of the deceased was Rs. 4,31,540/-; and Income Tax Return for the year 2023-2024 Ex.P-19, as per which income of the deceased was Rs. 5,92,400/-. While assessing the income, the ld. Tribunal took note of the fact that after the death of the deceased, the Transport Business could be run by the claimants; and that admittedly after the death of the deceased, claimant No.1/widow had agreed to sell the trucks owned by the deceased, vide agreement Ex. P-9, as the claimants were unable to run the Transport Business. The learned Tribunal also took note of the other evidence adduced by the parties, in form of back account statements of the deceased Ex. P-14, P-18, P-23, P-24 and P-25. Accordingly, after considering all relevant material ld. Tribunal had taken income of the deceased as Rs.5,92,400/- per annum from the Transport Business at the time of his death. I find no error in the same.

7. Age of deceased was determined to be 40 years at time of his death on the basis of post-mortem report, Ex.P-12. As deceased was admittedly self-

employed, ld. Tribunal had made an addition of 25% towards future prospects; which is in accordance with law. Argument of the ld. Counsel for the appellants to the effect that addition of future prospects ought to have been made @ 40% is mis-guided, as addition of 40% of future prospects is to be made where age of the deceased is below 40 years. In the present case, it is not so. Therefore, future prospects have been correctly added @ 25%. As there are four claimants, deduction of 1/4th had been correctly made; and multiplier of 15 has also been correctly applied, keeping in view the above age of the deceased. As regards conventional heads, ld. Tribunal has awarded Rs.44,000/- towards loss of consortium to claimants; Rs. 16,500 towards loss of estate; and Rs. 16,500/- towards funeral expenses including 10% increase after 03 years.

8. It has been contended on behalf of the appellants that meagre amount has been awarded under the conventional heads. The said argument is liable to be rejected in view of the 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/- only can be granted under the conventional heads. In the present case, ₹77,000/– has been awarded under the conventional heads. As such, no ground for interference is made out.

9. Even otherwise, Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others",** has held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by Courts as, such variation in compensation is within permissible limits.

10. 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 bread-winner. 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 straightjacket 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".*

11. 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."*

12. Accordingly, ld. Tribunal has awarded compensation in the following manner, which was to be disbursed in the claimants.

Sr. No.	Heads of claim	Amount
1	Total Annual Income	₹ 5,92,400/-
2	Future prospects 25%	₹ 1,48,100/-
3	Total income including future prospectus.	₹ 5,92,400/-+₹1,48,100/-₹ 7,40,500/-
4	Actual annual income after deducting income tax.	₹7,40,500/-₹60,600 = ₹6,79,900/-

5	Deduction 1/4th	₹ 6,79,900/- - ₹1,69,975/- = ₹ 5,09,925/-
6	Multiplicand (annualised)	₹ 5,09,925/-
7	Multiplier (15)	₹ 5,09,925/- x 15 = ₹76,48,875/-
8	Loss of consortium	₹ 44,000/-
9	Loss of estate	₹ 16,500/-
10	Funeral Expenses	₹ 16,500/-
	Total	₹ 77,25,875/-

13. Keeping in view the entirety of the above noted facts and circumstances of the case, I find no error in the compensation awarded to the appellants.

14. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellants. 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. Mahadev 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 **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. The present petition is **dismissed**.

Pending applications, if any, stand disposed of.

(NIDHI GUPTA)
JUDGE

17.09.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No