



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
241

FAO-4612-2019(O&M)
Date of decision: 11.11.2025

Sumitra Devi

...Appellant(s)

Vs.

Manik & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Arvind Kumar Yadav, Advocate
for the appellant.

Mr. Dinesh Kumar Prajapati, Advocate
for respondent No.3.

NIDHI GUPTA, J.
CM-15500-CII-2019

This is an application under Section 151 CPC for condonation of delay of 212 days in re-filing the appeal.

After going through the contents of the application, which is supported by affidavit of counsel for the appellant, the same is allowed subject to all just exceptions and delay of 212 days in re-filing the present appeal is condoned.

CM-15503-CII-2019

This is an application under Section 5 of Limitation for condonation of delay of 24 days in filing the appeal.



After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 24 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by claimant seeking enhancement of compensation of Rs.12,86,640/- awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter 'the learned Tribunal') vide Award dated 14.05.2018 passed in Claim Petition filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The sole claimant/appellant is the mother of deceased Raju Vishwakarma, who was 30 years old at the time of accident.

2. Mr. Dinesh Kumar Prajapati, Advocate puts in appearance on behalf of respondent No.3/Insurance Company and files Power of Attorney, which is taken on record.

3. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Raju Vishwakarma had died due to the injuries suffered by him in a motor vehicular accident that took place on 21.01.2017 due to the rash and negligent driving of truck bearing registration No.TN-52H-9373 (hereinafter "the offending vehicle") being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3. The aforesaid compensation has been awarded along with interest @ 7.5% per annum.



Respondents were held jointly and severally liable for payment of compensation.

4. Learned counsel for the appellant seeks enhancement of compensation by submitting that income of the deceased has been wrongly assessed by the learned Tribunal as only Rs.8,800/- per month. It is submitted that deceased was working as a Driver of HTV vehicles. This is evident from the Driving Licence of the deceased (Ex.P3). It is submitted that Minimum Wages for an HTV Driver are Rs.10,567/-. However, the learned Tribunal has taken income of the deceased as that of an unskilled labourer as Rs.8,800/- per month only. Therefore, income of the deceased deserves to be re-assessed. Further, nothing has been granted on account of consortium. Interest has been granted on the lower side as only Rs.7.5% per annum; whereas the same should be 12% per annum. Learned counsel accordingly prays for enhancement of compensation as above.

5. Ld. counsel for respondent No.3 vehemently opposes the submissions made on behalf of the appellant and submits that the impugned Award suffers from no error; and prays for dismissal of the appeal. Learned counsel further submits that the employment of the deceased as Truck Driver has nowhere been proved by the appellant. The appellant has not produced any employer of the deceased to prove his employment as Driver of HTV vehicles. Even no proof of income has been brought on record. It is submitted that accordingly, income of the deceased has been correctly assessed by the



Tribunal. It is submitted that mere production of Driving Licence cannot in any manner be construed as proof of employment or income. Accordingly, dismissal of the appeal is prayed for.

6. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellant.

7. Perusal of record of the case shows that it was the pleaded case of the appellant that deceased was employed as a Driver of Heavy Transport Vehicles and was earning Rs.20,000/- per month. However, admittedly the appellants have failed to produce any proof of, either employment or income. Merely holding the Driving Licence for transport vehicle (Ex.P3) would not in any manner imply employment as Driver. Admittedly, the appellant has failed to produce the employer of the deceased as a witness. The appellant has also failed to produce any proof of income. No bank account statements, salary slip etc. of the deceased have been brought on record to prove the alleged income of ₹20,000/- per month. In these circumstances, the learned Tribunal had correctly taken income of the deceased as that of an unskilled labourer as Rs.8,800/- per month.

8. Further, as deceased as Bachelor at the time of accident, deduction of 50% towards personal expenses, has been correctly applied. Age of the deceased was proved to be 30 years from his Post-Mortem Report (Ex.P1). Accordingly, the learned Tribunal has correctly made an addition of



40% towards future prospects; and correctly applied multiplier of 17. The learned Tribunal has further awarded Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. However, the learned Tribunal has failed to award consortium of Rs.48,000/-. Accordingly, compensation awarded to the appellant is re-assessed in the following manner:-

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.8,800/- per month	Rs.8,800/- per month
Future prospects	(40%) Rs.8,800/- + Rs.3,520/- = Rs.12,320/-	(40%) Rs.8,800/- + Rs.3,520/- = Rs.12,320/-
Deduction	(50%) Rs.12,320/- - Rs.6,160/- = Rs.6,160/-	(50%) Rs.12,320/- - Rs.6,160/- = Rs.6,160/-
Annual income	Rs.6,160/- x 12 = Rs.73,920/-	Rs.6,160/- x 12 = Rs.73,920/-
Multiplier	(17) Rs.12,56,640/-	(17) Rs.12,56,640/-
Loss of estate	Rs.15,000/-	Rs.15,000/-
Funeral expenses	Rs.15,000/-	Rs.15,000/-
Consortium	Nil	Rs.48,000/-
Total	Rs.12,86,640/-	13,34,640/-

9. Accordingly, present appeal is **partly allowed**, as above.
10. Pending application(s) if any also stand(s) disposed of.

11.11.2025
Sunena

(Nidhi Gupta)
Judge

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