IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-5497-2022(O&M)
Date of decision: 26.09.2025

Savitri Devi & Others

...Appellant(s)

Vs.

Yogesh Kumar & Others

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. A.K. Yadav, Advocate
for the appellants.

Mr. Sandeep Suri, Advocate
Mr. Divyam Suri, Advocate
for respondent No.3-Insurance Company.

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NIDHI GUPTA, J.

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.40,66,861/- awarded by the Motor Accident Claims Tribunal, Rewari (hereinafter 'the learned Tribunal') vide Award dated 09.02.2021 passed in MACP/381 dated 27.07.2017 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 3 claimants are the 44-year-old mother, 45-year-old father, and 21-year-old sister of deceased Pawan Sharma, who was 30 years old at the time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Pawan Sharma had died due to the injuries suffered by him in a motor vehicular accident that took place on 16.03.2017 due to the rash and negligent driving of car bearing registration No.HR-36Q-8625 (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 @ 9% p.a. Respondents were held jointly and severally liable for payment of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that nothing has been awarded to the appellants towards loss of love and affection. It is prayed that Rs.4 lakh be granted under the said head. It is also submitted that income of the deceased has been assessed on the lower side and deceased was earning Rs.35,000/- per month. Future prospects ought to have been granted @ 50% instead of 40%; and rate of interest should be 12% instead of 9%. Only Rs.15,000/- has been granted on account of loss of estate; and the same should be Rs.1 lakh. Learned counsel accordingly prays for enhancement of impugned Award.

4. Per contra, learned counsel for respondent No.3-Insurance Company vehemently opposes the submissions made on behalf of the appellants; and submits that the alleged income of the deceased was not proved by the appellants before the learned Tribunal. Moreover, as per the

PAN Card of the deceased, his age was 36 years 7 months at the time of death. As such, the learned Tribunal has wrongly applied multiplier of 17; whereas multiplier of 15 was applicable.

5. It is further pointed out that the present Award dated 09.02.2021 had been challenged by the respondent No.3-Insurance Company by way of FAO-619-2021; which had been partly allowed by a Co-ordinate Bench of this Court vide order dated 07.09.2021; wherein compensation of Rs.40,66,861/- awarded to the appellants herein was reduced to Rs.35,99,149/-. A copy of said order dated 07.09.2021 has been handed over in the Court, which is taken on record. It is submitted that accordingly, the present appeal deserves to be dismissed.

6. No other argument is made on behalf of the parties.

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

8. The Tribunal has awarded compensation as follows:-

Head	**Amount**
Income	Rs.27,480/- per month
Addition of 40%	Rs.11,136/-
Total	Rs.38,976/-
Deduction of 50% towards personal expenses	Rs.19,488/-
Net	Rs.19,488/-
Multiplier	17
Loss of dependency	Rs.39,75,552/- (Rs.19,488/- x 12 x 17)
Loss of estate	Rs.15,000/-
Funeral expenses and transportation expenses	Rs.15,000/-
Medical expenses	Rs.61,309/-
Total	**Rs.40,66,861/-**

9. Perusal of order dated 07.09.2021 shows that the said order was passed in the presence of learned counsel for the claimants, who represents the appellants herein; and no argument regarding consortium was raised by the appellants before the Co-ordinate Bench. Accordingly, compensation of the appellants was reassessed as follows as recorded in Para 9 of the order dated 7.9.2021, which is reproduced hereinbelow:-

> *"9. In view of the above, the appeal is partially allowed. The multiplier of 17 applied by Tribunal is reduced to 15. The annual dependency assessed by the Tribunal is Rs. 2,33,856/- (Rs. 19488/- x 12). Applying the multiplier of 15, the amount comes to Rs.35,07,840. After adding the amount of Rs.91,309/- awarded by the Tribunal under other conventional heads, the total compensation amount comes to Rs.35,99,149/-. The same be paid to the claimants along with 9% interest in the mode and manner, as directed by Tribunal."*

10. The above facts are not denied by learned counsel for the appellants. Even otherwise, as per 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" Law Finder Doc ID # 977386,** 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.

11. 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".*

12. 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."*

13. A 3-Judge Bench judgment of the Hon'ble Supreme Court in the case of ***"Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379;*** has held that: "*Motor Vehicles Act, 1988, Section*

168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case."

14. In view of the above noted factual and legal position, the present appeal accordingly stands **dismissed.**

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

26.09.2025 **(Nidhi Gupta)**
Sunena **Judge**

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