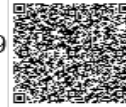
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****227****FAO-3378-2021 (O&M)****Date of decision: 13.05.2025****Payal and others****...Appellant(s)****Vs.****Sanjay and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Yash Goyal, Advocate
for the appellants through V.C.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.23,62,480/- awarded by the learned Motor Accident Claims Tribunal, Karnal (for short "the learned Tribunal") vide Award dated 15.02.2021 passed in MACP Case No. 46 dated 21.02.2019 filed by the appellants under Sections 166 and 140 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The 4 claimants are the widow, 2 minor children and mother of the deceased Kushal Kant.

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-Kushal Kant had died due to the injuries suffered by him in a motor vehicular accident that took place on 30.01.2019 at about 9:30 p.m. due to the rash and negligent driving of a Car bearing registration



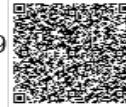
No.HR-10R-9339 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The aforesaid compensation was awarded along with interest @ 6% per annum from the date of filing the petition till actual realisation. All the respondents were held jointly and severally liable to pay the compensation.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that very meagre amount has been granted under conventional heads. Even deduction of 1/4th has been wrongly made; and that interest has been granted only @ 6% per annum, whereas it should have been 18% per annum. It is accordingly prayed that keeping in view from all angles, the present appeal deserves to be allowed; and Award passed by learned Tribunal is liable to be modified.

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

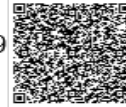
5. I have heard learned counsel for the appellants and perused the case file in great detail.

6. I find no merit whatsoever in the submissions made on behalf of the appellants. Perusal of the record shows that it was the pleaded case of the appellants before the learned Tribunal that at the time of accident, deceased was 34 years old. Before his death, the deceased was working as skilled Raj Mistri and earning Rs.20,000/- p.m. However, no evidence whatsoever was produced by the appellants to prove the income or even the stated avocation of the deceased. As such, learned Tribunal had correctly taken income of the deceased according to the minimum wages



prescribed by the Labour Commissioner, Haryana as Rs.11,370/- p.m. In conformity with the judgment passed by Hon'ble Supreme Court in ***"National Insurance Company Limited vs. Pranay Sethi and others"***, ***Special Leave Petition (Civil) No. 25590 of 2014***, learned Tribunal had further made addition of 40% towards future prospects; thereby taking monthly income to be Rs.15,918/- (11,370+4548), rounded off to Rs.15920/-. As there were 4 claimants, deduction of 1/4th was correctly made; and monthly income was calculated to be Rs.11,940/- (15,920-3980); and annual income came to be Rs.1,43,280/- (11,940 x 12). As the deceased was 34 years old, multiplier of 16 was correctly applied and loss of dependency was calculated to be Rs.22,92,480/- (1,43,280 x 16). Learned Tribunal further awarded Rs.15,000/- for loss of estate; Rs.40,000/- for loss of consortium and Rs.15,000 for funeral expenses in conformity with the aforesaid judgment. Thus, granting total compensation of Rs.23,62,480/-.

7. 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 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/- only can be granted under the conventional heads. In the present case, ₹70,000/- has been awarded under the conventional heads.

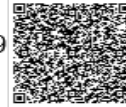
8. Even otherwise, the Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others"**, has held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation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

9. 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 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".*

10. 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."*

11. 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 **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.

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

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

13.05.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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