IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112 **FAO-3843 of 2025 (O&M)**
Date of decision :09.09.2025

MANI MANGLA AND OTHERS ... APPELLANTS

VERSUS

ABHYUDAYA PALIWAL @ BANU AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Kunal Jindia, Advocate
for the appellants.

****

PARMOD GOYAL, J.

CM-11990-CII-2025

This is an application for condonation of delay of 180 days in filing the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 180 days in filing the present appeal, is hereby condoned.

CM-11991-CII-2025

This is an application under Order 22 Rule 3 of CPC for permission to implead legal representative of appellant No. 5/Saroj Devi Mangla.

For the reasons mentioned in the application, same is allowed as prayed for, subject to all just exceptions, however, the same shall be for the purpose of pursing present appeal only and without prejudice to the rights of any third party/person. Amended memo of parties is taken on record.

Registry to do the needful.

Main Case

1. Present appeal has been preferred by the wife, adult children, and mother of the deceased Arun Kumar Mangla (hereinafter referred to as the "Deceased"), who died in a road accident which took place on 21.07.2019, on account of rash and negligent driving by Respondent No. 1 while driving car bearing registration No. HR-30-S 7016.

2. Being aggrieved by the impugned award dated 27.08.2024 passed by the Motor Accident Claims Tribunal, Palwal (hereinafter referred to as "Tribunal"), vide which the appellants were found entitled to total compensation of Rs 27,57,700/-, the appellants are seeking enhancement of compensation awarded by the Tribunal as the same is not according to their entitlement.

3. Since the factum of the accident is not in dispute, the facts, as recorded in the impugned award passed by the Tribunal are not being noted again for sake of brevity.

4. It was the case of the appellants/claimants that the deceased was running a business of manufacturing and selling iron boxes and was earning Rs 70,000/- per month, contributing entire amount for the welfare of the appellants/claimants. Learned Tribunal, however, concluded that keeping in view the fact that the deceased was a businessman and subsequently business has been inherited and run by his son, even if the business continues to generate income after the death of the deceased, it has to be examined as to what is the extent to which the family was financially dependent on the active management and involvement of the deceased in the business. Considering the age of the deceased as 57 years and prospective duration of further active involvement in the business, the notional salary for the managerial contribution of the deceased was assessed on the

basis of the ITR placed on record for the objective assessment of income. The Learned Tribunal has considered the income tax return for the assessment year 2019-2020 (EX P7) which shows the gross income of Mangla Enterprises, being run by the deceased and his son as Rs 6,97,287 for the entire year and assessed the notional income of the deceased to be Rs 30,000/- per month. Since the deceased, was 57 years old multiplier of 9 was applied. Additional 10% was awarded towards future prospects. Personal expenses were deducted to the extent of 1/4th.

5. The Tribunal in the present case has awarded the following compensation:

Monthly Income	Rs 30,000/- per month (income on the basis of ITR)	Rs 30,000 per month
Future Prospects	10% (Rs 30,000 + 3,000)	Rs 33,000/-
Deduction	1/4th number of dependents - 4 (Rs 33,000 - 8250)	Rs 24,750 /-
Multiplier	9	9
Total Loss of Dependency	Rs 24, 750 X 12 X 9	Rs 26,73,000/-
Loss of Estate	Rs 18,150/-	Rs 18,150/-
Funeral Expenses	Rs18,150/-	Rs 18,150/-
Loss of Spousal Consortium	Rs 48,400/-	Rs 48,400/-
Total Compensation awarded		Rs 27,57,700/-

6. Compensation awarded by the Tribunal has been challenged on the ground that the Tribunal has erred in determining the monthly income of the deceased to be Rs 30,000/- instead of Rs 70,000/-. Claimants/appellants have accordingly sought enhancement of compensation. Learned counsel for the claimants-appellants have contend that although it is specifically averred in the claim petition that the deceased was running a business of manufacturing and selling of iron boxes but the Tribunal has wrongly assessed the income of the deceased as per income tax return filed for the financial year 2019-2020 by taking only managerial input by deceased.

7. Learned Tribunal has dealt with issue of income of deceased as under:-

> *"20. However, during evidence, the petitioners have placed on record the income tax return of the deceased for the assessment year 2014–15 as EXP2, income tax return for the assessment year 2015 –16 as EXP3, income tax return for the assessment year 2026–17 as EXP4, income tax return for the assessment year 2017–18 as EXP5, income tax for the assessment year 2018–19 as EXP6, and the income tax return for the assessment year 2019–20 as EX P7. Further, the documents relating to Gaurav Deep Mangla/Petitioner no.2, have been placed which are the income tax return for the assessment year 2020–21 as EXP 11, the acknowledgement for the income tax return for the assessment year 2021– 22 as EXP 12 ,the copy of the registration certificate of the GST issued under the legal name of Gaurav Deep Mangla, trade name Mangla Enterprises(proprietorship) as EX P13, the current bank account statement of Mangla enterprises for the year 2018 as EX P 14, statement of a current bank account of Mangla Enterprises for the year 2019 as EX P15 & 16, the statement of the current bank account of Mangla Enterprises for the year 2020 as EX P 17, the statement of the current bank account of Mangla Enterprises for the year 2022 as EXP 18, the statement of the current bank account of Mangla Enterprises for the month of January 2023 as EXP 19. On this point, of the assessment of the income of the deceased who was a Businessman running a proprietorship for under the name of Mangla Enterprises engaged in the business of manufacturing and selling iron boxes, the learned counsel for*

the petitioners has placed reliance upon the decision of Hon'ble Supreme Court of India in the cases titled "Rukmani Devi others versus Om Prakash others" reported as 1991 ACJ 3, "K.Ramya others versus National Insurance Company Limited and another" reported as 2022 ACJ 2602, "Usha Kumari others versus Reliance General insurance Company Ltd" reported as 2023 ACJ 105,and on "Saroop Devi and others versus Balbir Singh others" reported as 2023 ACJ 2678.

21. On the other hand, the learned counsel for the respondent no.3/insurance company placed reliance upon the decision of Hon'ble Supreme Court in the case titled "State of Haryana and another versus Jasbir Kaur and others" reported as 2003 PLJ 414, upon the decision of Hon'ble High Court of Bombay in the case titled "Maharashtra State Road Transport Corporation, Mumbai versus Dilip and others" reported as 2018 MCR 1086, upon the decision of Hon'ble High Court of Orissa in the case titled "Divisional Manager, New India Assurance Company Limited versus Sandhya rani Bebarta and others", reported as 2014 AAC 2021, And lastly on the decision of Hon'ble Supreme Court in the case titled "New India Assurance Company Limited versus Yogesh Devi", reported as 2012 ACJ 702.

22. From the decisions relied upon by either counsel, for the assistance of this Tribunal, it becomes apparent that for the assessment of the income of the deceased businessman whose business has been subsequently inherited and is being run by his son, the focus has to be put on the loss of dependency to the family rather than just the income generated from the business. The income of the deceased before the death is usually assessed based on the income tax returns filed, business accounts, balance sheets or any other reliable financial documents that can provide a true picture of the earnings of the deceased. The share of the deceased in the profit or the salary drawn from the business and other allowances or benefits directly attributable to him can also be considered. Still the main consideration is the loss of the financial support or dependency. Even if the business continues to generate income after the deceased's death, it has to be examined as to what is the extent to which the family was financially dependent on the active management and involvement of the deceased in the business. The fact that the son is running the business might mitigate the loss to some extent, but it does not nullify the loss of personal involvement and guidance which the deceased provided. If the deceased was actively involved in running the business, his personal effort and skills are considered as an income source. An effort should be made to differentiate between the contribution of the *deceased to the business and the inherent value of the business which can continue under a successor. Notional salary for a manager can be deducted if the business continues and the Son runs it, indicating what the deceased would have drawn for his active involvement. The age of the deceased, and his prospective duration of active involvement in the business has also to be kept in mind.*

23. Coming to the peculiar facts of the present petition, it is evinced that the business of Mangla enterprises has been inherited by the petitioner no.2. Not only PW3 Gaurav Deep Mangla has admitted in his cross examination that after the death of his father he is running the business of manufacturing and selling the iron boxes but he also admitted the suggestion that even previously the iron box factory was being run by him and his father, jointly and now, it is him alone who is running the factory.PW3 clearly stated that after the death of Mr Arun Kumar Mangla, he PW3) has become the owner of the factory of iron boxes. he went on to say to the extent that the deceased was not shown as an employee in this factory and volunteered that his father was the proprietor of the factory, i.e. Mangla Enterprises. He admitted the suggestion that they have a joint Hindu family. With regard to income tax returns, he stated that earlier he used to file the income tax return in his personal name but now he is showing the income also from the iron box factory. in his own ITR. The income tax return for the year preceding the death of Arun Kumar Mangla i.e. assessment year 2019–20 shows the total income of the proprietor of the Mangla Enterprises as Rs.635770. Whereas the ITR return submitted by the son of the deceased after inheriting the business i.e. of the assessment year 2020–21 shows the total income as 1012740. The other₹ documents attached with the ITR i.e. the trading and profit loss account statement for the year ending 31st March 2021 shows Mr Gaurav Deep Mangla to be the proprietor of the Mangla Enterprises and this document shows that the total amount dedicated towards salary is Rs.3258310/whereas the net profit is shown as Rs.1700290/-. The balance sheet as on 31st March 2020 shows the assets and liabilities rounding up to Rs.12962646/-. The registration certificate of the GST shows that now the proprietorship of Mangla Enterprises is being run by Mr Gaurav Deep Mangla. Not only Mr. Gaurav Deep Mangla has successfully inherited the entire business but rather the enterprise under him is flourishing. At the same time the contribution of the deceased has also to be assessed while keeping the value added by the experience of the old man as it was his endeavour to start the Mangla Enterprises which later turned into a family business. The intrinsic value of the business has no doubt enabled Mr Gaurav Deep Mangla to take it further, but it cannot be overlooked that the old man was still actively *contributing to the business as the main torchbearer since the ITR of the income derived from the business of the firm, was also filed under his name. In such circumstances considering the advance age i.e. 57 years, prospective duration of further active involvement in the business, and for aforementioned reasons, Tribunal if is of the opinion notional salary for the managerial contribution of the deceased should be assessed on the basis of the documents placed before this Tribunal by the petitioners, for the objective assessment of the income. In such circumstances, the last income tax return furnished by the deceased for the assessment year 2019–20 should become the determinant document. Document placed during evidence as EXP7 shows the gross income as Rs.697287/- for the entire year of the entire business of Mangla Enterprises, which was being operated by the deceased as well as his son. Even if it is considered that the entire gross income of the enterprise was at the disposal of the deceased and his son, the entire gross income if divided between the two(father and son) would come to Rs.30,000 per month each. In such circumstances, the Tribunal considers it just and reasonable, to assess the notional salary of the deceased to be* ***Rs.30,000 per month****."*

8. A perusal of the above conclusions drawn by the learned Tribunal shows that it had duly considered the fact that, although the firm was being run as a proprietorship by the deceased, he was being assisted by Gaurav Deep Mangla, who had inherited the firm and has been able to increase income of firm after the death of the deceased.

9. Keeping in view that the deceased alone was not solely responsible for the profits of the firm, and that he was being assisted by Gaurav Deep Mangla, one of the petitioners who had inherited the buisness, the learned Tribunal rightly concluded that, in order to determine the actual income attributable to the deceased, it was necessary to assess individual contribution of deceased in overall profit to assess income of deceased and concluded that deceased had actively contributed in running the firm. Accordingly, by taking a notional salary for his managerial contribution, the Tribunal assessed the deceased's income at

₹3,60,000 per annum (i.e., ₹30,000 per month), out of the total profit of ₹6,97,287 earned by the firm.

10. Keeping in view fact that in said profit, one of the petitioners was also actively involved, I do not find any error in the said conclusion drawn by learned Tribunal. The income of the deceased has been rightly appreciated in the facts and circumstances of the present case and no ground is made out for enhancement on this account. The Deceased was 57 years of age at the time of death. Therefore, the addition of 10% towards future prospects and deduction of 1/4th towards personal expenses considering that there were five dependents, cannot be faulted with. The application of the multiplier of 9 is also in accordance with the judgment of the Hon'ble Supreme Court in '***Sarla Verma and others Vs. Delhi Transport Corporation and another 2009(6) SCC 121.***

11. In addition to the compensation awarded under the head of loss of dependency, petitioner has been granted compensation towards funeral expenses, and a sum of Rs. 18,150/- has been awarded under the head of loss of estate. Further, Compensation on account of consortium has been awarded to the extent of Rs. 48,400/-.

12. It is noted that the learned Tribunal did not award consortium to the married sons and daughter i.e. petitioner Nos. 2, 3 and 4, nor to the mother of the deceased, i.e., petitioner No. 5. However, considering that the learned Tribunal treated all the petitioners as five dependents had applied 1/4th deduction towards personal expenses rather than a 1/3rd deduction, I find non award of consortium is compensated by Tribunal by awarding deduction of 1/4th towards personal expenses. Therefore, the overall compensation awarded to the petitioners is just and

reasonable, and in accordance with law. I find no merit in the present petition. Accordingly, the same is dismissed.

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

09.09.2025 **(PARMOD GOYAL)**
manoj **JUDGE**

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