

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****218****FAO-1470-2010(O&M)****Date of decision: 04.02.2025****Vikas Tanwar and another****...Appellant(s)****Vs.****Narender Pal Naik and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Palak Jain, Advocate for
Mr. Anil Ghanghas, Advocate for the appellants.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.3,12,000/- awarded by the Motor Accident Claims Tribunal (Fast Track Court), Bhiwani (hereinafter referred to as 'the Tribunal') vide Award dated 09.06.2009 partly allowing the claim petition bearing MACT Case No. 9 dated 06.12.2005 filed under Section 166 of the Motor Vehicles Act, 1988 read with the Motor Vehicles (Amendment) Act, 1994 (hereinafter referred to as 'the Act'). The 2 claimants before the learned Tribunal were the sons of the deceased Bijender Singh, who was stated to have been about 38 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of the pleadings and evidence adduced before it, concluded that the deceased Bijender Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 16.09.1999 due to the rash and



negligent driving of a TATA Sumo bearing registration No. DL-7C-6985 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.3; and owned by respondent No.4 herein. The learned Tribunal awarded the compensation as above alongwith interest @ 7% per annum from the date of institution of the petition till realization of the amount. The respondents No. 3 and 4 were held liable to pay the said compensation jointly and severally.

3. Learned counsel for the appellants seeks enhancement of compensation on the ground that the learned Tribunal failed to assess the income of the deceased correctly. It is submitted that the deceased was a Skilled Engineer retired from Indian Air Force and after his retirement, he was earning Rs. 20,000/- p.m. from various sources. Despite this, income of the deceased has been taken only as Rs.3,000/- p.m. Furthermore, the deceased was 38 years of age at the time of accident and, therefore, multiplier of at least 16 ought to have been applied.

4. It is further submitted that the learned Tribunal has misread the evidence on record in exonerating the respondents No. 1 and 2, who are the driver and owner of the Military vehicle No.2.5 TON-TATA. It is submitted that it was demonstrated before the learned Tribunal that the rash and negligent driving was on the part of the said Military Truck No.2.5 TON-TATA, yet, no liability has been imposed upon the respondents no.1 and 2/Driver and owner, respectively of the said military truck. It is accordingly prayed that the present appeal be allowed.

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



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

7. Brief facts of the case as set out by the claimants in the claim petition are that on 16.09.1999, the deceased Bijender Singh alongwith one Jaipal son of Gahar Singh, Rajput was going to Rohtak from Bhiwani in offending vehicle being driven by respondent No.3. When they reached towards Rohtak side, one Military vehicle No. 2.5 TON-TATA being driven by respondent No.1 in a rash and negligent manner at high speed came from the opposite side and struck with the TATA Sumo in which the deceased was travelling. In the said accident, the deceased suffered grievous injuries. He was hospitalized in General Hospital, Bhiwani from where he was referred to PGIMS, Rohtak, where he succumbed to his injuries on 17.09.1999.

8. Thus, though as per the claimants, the offending vehicle in question was the Military vehicle No.2.5 TON-TATA, however, the learned Tribunal on the basis of the evidence adduced by the parties, concluded that there was no rash and negligent driving on the part of the said Military vehicle No.2.5 TON-TATA. It was found that in fact it was the TATA Sumo in which the deceased was travelling, which was being driven in a rash and negligent manner by respondent No.3. Accordingly, no liability was fastened upon the respondents no.1 and 2.

9. It is also pertinent to note that in respect of the accident in question, the respondent No.1-driver of the Military vehicle and respondent No.2-Union of India, Ministry of Defence, New Delhi (owner of



Military vehicle) got registered an FIR No. 291 dated 16.09.1999 under Sections 279, 337, 427 IPC at Police Station, Sadar Bhiwani (Ex.P2); in which respondent No.3 was subsequently charge-sheeted under Sections 279, 337, 304-A IPC by the Court.

10. It may also be pointed out that the claimants had produced one Ram Niwas son of Mange Ram as RW-3, the alleged eye-witness of the accident in question, who had deposed that Military vehicle was going towards Bhiwani. The offending vehicle was coming from Bhiwani side. It was stated by RW-3 that TATA Sumo was at the moderate speed and on the left side of the road; whereas the military vehicle lost its balance and struck against the TATA Sumo. Thus, as per the statement of RW-3, the alleged eye-witness, made before the learned Tribunal, the accident had taken place on account of the negligence of the driver of the military vehicle.

11. However, the said statement of RW3 was discarded by the Tribunal as, on the ground that in the criminal trial, Ram Niwas had deposed against the driver of the offending vehicle i.e. TATA Sumo alleging that the accident had occurred as it was respondent no.3 who was driving in a rash and negligent manner; whereas in the proceedings before the learned Tribunal, Ram Niwas had deposed against the driver of the Military vehicle. As such, no truth could be attached to the statement of RW3 before the Tribunal.

12. Moreover, the respondents No. 1 and 2/driver and owner of the Military vehicle, had examined Hawaldar Narender Paul, driver of the Military vehicle as RW1 who had deposed that he was driving the military



truck at the speed of only 30-40 k.m. per hour when 9 km short of Bhiwani, the TATA Sumo came out of nowhere from the opposite direction, which was driven in a rash and negligent manner. RW-1 deposed that there was no other traffic on the road and the Army vehicle literally came on a stationary position when TATA Sumo crashed into it after coming on the wrong side of the road. The testimony of RW1 was supported by the testimony of Naib Subedar Atma Ram RW-4.

13. The learned Tribunal further summoned the criminal case record Mark-A to Mark-E from which the Tribunal concluded that at the time of accident, the Military vehicle was in the correct extreme left hand side of the road and it was the offending vehicle which went from its left side to the incorrect extreme right side and hit it into the Military truck head-on. Accordingly, liability of the accident was imposed upon respondent No.3 and 4-driver and owner of the offending vehicle respectively.

14. The learned Tribunal also took into account the fact that no protest was filed by respondent No.3 from the date of accident i.e. 16.09.1999 till the filing of the written statement on 06.12.2005 in the claim petition.

15. In view of the above facts, the learned Tribunal had granted the compensation to the appellants/claimants against respondents No.3 and 4/driver and owner of the offending vehicle respectively; and not against the respondents No.1 and 2/driver and owner of the Military truck.

16. As regards, the quantum of compensation, the learned Tribunal



noted that it was the pleaded case of the claimants that the deceased was the partner in the firm by the name of M/s. National Steel Tubes, Bhiwani. However, the said claim of the appellants was rejected on account of the fact that no evidence, documentary or otherwise, was produced by the claimants to support the said contention. Even no documentary evidence regarding the income of the deceased was produced by the appellants. As such, the learned Tribunal assessed the income of the deceased as Rs.3,000/-p.m. under the Minimum Wages Act. As there were 3 dependents (2 claimants and wife of the deceased as perma respondent No.5), deduction of 1/3rd was made towards personal expenses. Thus, income of the deceased was taken to be Rs.2,000/-p.m.; and annual income of Rs.24,000/-. As the deceased was found to be 38 years of age on the basis of the post mortem report (Ex.P-1), therefore, multiplier of 13 was applied as per the prevalent law at that time. Thus taking, the annual dependency to be Rs.24,000 X 13=Rs.3,12,000/-.

17. Further, as already noted above, the above said compensation was awarded along with interest @ 7% per annum from the date of petition till realization; and the respondents No. 3 and 4 were held jointly and severally liable to pay the said compensation. Even otherwise, it is the own case of the claimants/appellants that it was the military vehicle that was rash and negligent. No claim was made by the appellant against the Tata sumo/offending vehicle. For this reason as well, no ground is made out to enhance the compensation.

18. From the above facts, it is clear that a very just and fair compensation has been awarded to the claimants. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. The 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 windfall or a bonanza nor a source of profit but at the same time it should not be a pittance. Thus, all that has to be determined in the facts of a given case is, that the compensation accorded is ‘just’. In my considered view, in the present case, the learned Tribunal has awarded a very ‘just’ compensation, which is in accordance with the law laid down by the Hon’ble Supreme Court and therefore, does not warrant the interference of this Court.

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

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

04.02.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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