IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

245 **FAO-3694-2015 (O&M)**
Date of decision: 12.08.2025

Tilak Raj and others **...Appellant(s)**

Vs.

Harjinder Singh and others **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Nilakshi Joseph, Advocate
for the appellants.

Mr. Keshav Pratap Singh, Advocate
for respondent No.2.

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NIDHI GUPTA, J.

CM-11110-CII-2015

Prayer in this application filed under Section 151 CPC is for condonation of delay of 297 days in refiling the accompanying appeal.

2. For the reasons mentioned in the application which is supported by an affidavit of the Clerk of the counsel, the same is allowed and delay of 297 days in refiling the accompanying appeal is condoned.

FAO-3694-2015 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.5,54,400/- awarded by the learned Motor Accident Claims Tribunal, Shaheed Bhagat Singh Nagar (hereinafter "the Tribunal") vide Award dated 07.02.2014 passed in MAC Petition No. 48 dated 06.09.2012 filed under Section 166 of the Motor Vehicles Act, 1988.

The 3 claimants are the husband; and 2 minor children of the deceased Veena Devi.

2. Brief facts of the case are that the Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Veena Devi had died due to the injuries suffered by her in a motor vehicular accident that took place on 04.08.2012 due to the rash and negligent driving of a Tanker bearing registration No.RJ-31-GA-2079 (hereinafter "the offending vehicle") being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The above said compensation has been awarded along with interest @ 7.5% p.a. Respondents No. 1 and 2 are held liable to pay compensation jointly and severally. No liability was fixed upon respondent No.3-Insurance Company in view of the fact that on the date of accident, respondent No.1 was not holding a valid driving license. Copy of driving license Ex.R2 produced by respondent No.1 showed that he was holding driving license dated 17.03.2011 which authorised him to drive scooter/LTV only and not HTV/tanker.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased has been taken on the lower side as only Rs.5,000/- p.m. and after making necessary deductions, the net income has been assessed as Rs.3,300/- p.m. Learned counsel relies upon judgment of Hon'ble Supreme Court in ***Shiv Kumar and others vs. Gainda Lal and others, Law Finder Doc Id # 2052508*** to submit that income of the deceased housewife therein was taken as Rs.7,500/- p.m.; and therefore, income of the deceased in the present case

also ought to have been assessed as Rs.7,500/- p.m. Learned counsel further submits that nothing has been awarded towards future prospects. It is contended that the deceased was 40 years old at the time of accident, addition of 40% ought to have been made towards future prospects. It is accordingly prayed that the present appeal be allowed; and the impugned Award be modified.

4. Learned counsel for respondent No.2/owner of the offending vehicle vehemently opposes submissions made on behalf of the appellants/claimants and submits that income of the deceased has been correctly assessed as Rs.5,000/- and net income as Rs.3,300/-p.m. It is pointed out that in case of ***Shiv Kumar (supra)*** relied upon by the claimants, date of accident is not mentioned. Whereas, as accident in the present case has taken place on 04.08.2012, income has been correctly assessed as per the year of accident. As regards future prospects, it is not denied that in terms of judgment of the Hon'ble Supreme Court in "***Sarla Verma Vs. Delhi Transport Corporation" Law Finder Doc ID # 188882,*** addition of future prospects is required to be made.

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

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

7. As regards income of the deceased, the appellants can derive no benefit from the relied-upon judgment in ***Shiv Kumar (supra)*** as in the said case, the 25 year old deceased housewife was also doing tuition work. It was in this circumstance, income of the said deceased was held to be Rs.7,500/- p.m. Same is not so in the present case. It was the pleaded case

of the appellants in the claim petition that deceased herein, namely, Veena Devi was doing dairy farming work from which she was earning Rs.15,000/- p.m. However, no proof of income was produced by the claimants. As such, the Tribunal assessed income of the deceased by relying upon judgments of the Hon'ble Supreme Court in ***Dr.Balram Saha vs. Kunal CA No. 2867 of 2012, d/d 24.10.2013*** and ***Lata Wadhwa vs. State of Bihar 2008(1) SCC 197*** wherein income of the deceased housewife had been taken as Rs.3,000/-p.m. However, as the accidents in the said cases were at earlier point of time and the present accident is of the year 2012, hence, learned Tribunal in the present case held the income of the deceased as Rs.5,000/-p.m. Thus, I find no error in the income as assessed by the Tribunal.

8. Further, it has been laid down by the Hon'ble Supreme Court in ***Sarla Verma (supra),*** that where job is not permanent, an addition of 40% is to be made towards future prospects when age of deceased is below 40 years; 25% where deceased is aged between 40-50 years; and 10% addition where deceased was aged between 50 to 60 years. In the present case, the learned Tribunal has determined age of the deceased to be between 40-45 years on the basis of her Post Mortem Report. This has not been disputed by learned counsel for the appellant. Accordingly, an addition of 25% should be made towards future prospects.

9. Further as there were 3 claimants, deduction of 1/3rd has been correctly made towards personal expenses. Multiplier of 14 has also been correct made given the fact that age of the deceased is between 40-45 years.

10. Although neither in the Grounds of Appeal nor at the time of arguments, ld. counsel for the appellants has made any prayer for grant of compensation under the conventional heads, however, in the interest of justice, and in conformity with the structured formula, as laid down by the Hon'ble Supreme Court in numerous landmark judgments, the appellants are held entitled for compensation under the conventional heads.

11. In view of the above discussion, present appeal is **partly allowed;** and compensation awarded to the appellants is modified in the following manner: -

Sr.No.	Details	Before the Tribunal	Revised compensation
1.	Income	Monthly: Rs.5,000/- Annually:Rs.60,000/-	Monthly: Rs.5,000/- Annually:Rs.60,000/-
	Deduction	1/3rd	Rs.40,000/-(60,000-20,000)
2.	Future prospects	Nil	25% (Rs.40,000+10,000) =Rs.50,000/-
4.	Multiplier	14	50,000 x 14 =Rs.7,00,000/-
6.	Loss of estate	nil	Rs.16,500/-
7.	Funeral expenses	nil	Rs.16,500/-
8.	Loss of consortium	Filial-Nil Spousal-Nil	Filial-48400 x 2 = Rs.96,800/- Spousal= Rs.48,400/-
10.	Total compensation	Rs.5,54,400/-	Rs.8,78,200/-
11.	Enhanced compensation	Rs.8,78,200-5,54,400/- =	**Rs.3,23,800/-**
12.	Interest	7.5% per annum	6% per annum

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

12.08.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

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