

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****109****FAO-6208-2016(O&M)****Date of decision: 11.02.2025****Poonam and others****...Appellant(s)****Vs.****Bant Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Himanshu Setia, Advocate for
Mr. Parvez Chugh, Advocate for the appellants.

NIDHI GUPTA, J.**CM-21118-CII-2016**

Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 57 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is supported by an affidavit of the applicant/appellant, the same is allowed and delay of 57 days in filing the accompanying appeal is condoned.

FAO-6208-2016 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.14,24,000/- awarded by the Motor Accident Claims Tribunal, Ferozepur (hereinafter referred to as 'the Tribunal') vide Award dated 04.01.2016 passed in MACT case No. 31 dated 15.11.2014 filed under Section 166 of the Motor Vehicles Act, 1988



(hereinafter referred to as 'the Act'). The 3 claimants before the learned Tribunal are the widow and parents of the deceased Pappu Kumar, who was stated to have been about 24 years old at the time of accident.

2. At the very outset, it may be pointed out that the present appeal is of the year 2016. However, notice has not yet been issued in the same as the matter has been adjourned due to non-appearance of learned counsel for the appellants on 29.05.2018; and at request of learned counsel for the appellants on 17.10.2019, 15.02.2023 and 13.01.2025.

3. 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 Pappu Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 04.10.2014 at 01:30 p.m. due to the rash and negligent driving of a Truck bearing registration No. PB 03H-7093 (hereinafter referred to as 'the offending vehicle') being driven by respondent No.1; owned by respondent No.2 and insured by respondent No.3 herein. The learned Tribunal awarded the compensation as above alongwith interest @ 6% per annum from the date of filing of the petition till realization of the amount. The respondents No. 1 to 3 were held liable to pay the said compensation jointly and severally.

4. Learned counsel for the appellants seeks enhancement of compensation only on the ground that the income of the deceased has been taken on the lower side as only Rs.6,000/- p.m. as that of unskilled labourer. It is contended that the deceased was working as POP Contractor



and was earning Rs.20,000/- p.m. As such, income of the deceased ought to have been at least as that of a skilled labourer. As per the relevant Minimum Wage Notification, the monthly income of the deceased should have been taken as Rs.8,337/-p.m. It is argued that even if wage is taken as that of an unskilled labourer as per the relevant Notification, it was Rs.6,660/- p.m. Yet, the income has been taken as only Rs.6,000/-p.m. As such, the amount awarded deserves to be modified.

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. I find no merit in the sole contention advanced on behalf of the appellants. It is the case of the appellants that the deceased was POP Contractor and he was earning Rs.6,000/- p.m. There is no smidgen of evidence on record to remotely indicate that the deceased was POP Contractor/skilled labourer. The avocation of the deceased was not proven. Even before this Court, appellant has produced nothing to show that the deceased was working as POP Contractor. In this background, I find no error in the income as assessed by learned Tribunal as Rs. 6,000/- p.m.

8. It is also pertinent that it is the own case of the appellants that the deceased was 24 years old at the time of accident (as is also evident from the post mortem report; copy of his high school examination Ex.P4; and copy of Aadhar Card Ex.P5). In this situation, learned Tribunal should have applied future prospects @ 40%; however, future prospects have been added @ 50%.



9. From the above, it is clear that the compensation has been granted in excess of the admissible amount. Learned Tribunal has further correctly made deduction of 1/3rd as there are 3 claimants; multiplier of 18 has been correctly applied as the deceased being between 21 to 24 years of age. An amount of Rs.1,25,000/- has been granted under the conventional heads. As per 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, it has been held that maximum sum of Rs.77,000/- can be granted under the conventional heads.

10. Learned counsel for the appellants are unable to controvert or dispute the above said facts and/or the legal position as noted above.

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

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

11.02.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No