IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 22.09.2025

FAO-6428-2017(O&M)

Nirmala Devi & Others

...Appellant(s)

Vs.

Sunil Kumar & Others

...Respondent(s)

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FAO-2845-2017(O&M)

Reliance General Insurance Company Ltd.

...Appellant(s)

Vs.

Nirmala Devi & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rishabh Chaudhary, Advocate for
Mr. Aman Pal, Advocate
for the appellants/claimants
in FAO-6428-2017.

Mr. Sanjeev Kodan, Advocate
for the appellant/Insurance Company
in FAO-2845-2017.

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NIDHI GUPTA, J.

CM-20496-CII-2017

This is an application under Section 5 of Limitation Act for condonation of delay of 21 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the applicant, the same is allowed subject to all just exceptions and delay of 21 days in filing the present appeal is condoned.

MAIN CASE

FAO-6428-2017

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.7,53,544/- awarded by the Motor Accident Claims Tribunal, Patiala (hereinafter referred to as 'the learned Tribunal') vide Award dated 15.03.2017 passed in MACP/430/2015 dated 18.07.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter referred to as "the Act"). The 3 claimants are the 55-year-old widow, 30-year-old married daughter, and 28-year-old married daughter of deceased Vas Dev @ Vasu Dev, who was 57-58 years old at the time of accident.

FAO-2845-2017

Present appeal has been filed by the Insurance Company seeking setting aside of the Award dated 15.03.2017 passed by the learned Tribunal whereby MACP/430/2015 dated 18.07.2016 filed under Section 166 of the Act, by the claimants/respondents No.1 to 3 herein, has been allowed and compensation of Rs.7,53,544/- has been awarded to them.

Both the above said appeals are being disposed of by this common order as both appeals arise out of the same Award dated 15.03.2017; accident dated 11.06.2015 at about 9:30 pm; and, parties, facts and offending vehicle in both cases, are same. For the sake of brevity, the

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parties are being referred to and the facts are being drawn from FAO-6428-2017 titled as "Nirmala Devi & Others Vs. Sunil Kumar & Others".

2. Learned Tribunal upon appraisal of pleadings and oral & documentary evidence adduced by the parties concluded that the deceased Vas Dev @ Vasu Dev had died due to the injuries suffered by him in a motor vehicular accident that took place on 11.06.2015 a at about 9:30 pm due to the rash and negligent driving of motorcycle bearing registration No.HR-32H-6151 (referred to herein as "the offending vehicle") by respondent No.1. The offending vehicle was owned by respondent No.2 and insured by respondent No.3.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that the deceased was doing the fruit business and was earning Rs.40,000/- per month yet the learned Tribunal has wrongly assessed income of the deceased as only Rs.6,900/- per month. It is contended that the Tribunal lost sight of the fact that the deceased was the sole breadwinner of the family. Even very less has been awarded for future prospects and under the conventional heads. The Tribunal has wrongly deducted 50% towards personal expenses as there were three claimants. Even interest is on the lower side. Ld. counsel accordingly prays for enhancement of compensation.

4. Learned counsel for Insurance Company vehemently opposes the submissions made on behalf of the appellants and firstly submits that

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challenge to the impugned Award in FAO-2845-2017 is only in respect of the quantum of compensation. Ld. counsel submits that compensation is already awarded in excess of what is payable to the claimants as per law, as an amount of Rs.2,25,000/- has been awarded under the conventional heads. Moreover, future prospects have been added @ 15%; whereas the same should be 10%, keeping in view the age of the deceased. Ld. counsel accordingly prays that the impugned Award be modified.

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

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

7. Perusal of record of the case shows that it was the pleaded case of the claimants before the learned Tribunal that deceased was about 58 years old at the time of accident and was doing fruit business and earning Rs.40,000/- per month. It was further pleaded that the claimants had spent Rs.2 lakh on his treatment and last rites and accordingly compensation of Rs.40 lakh was claimed. However, except for the bald statement of the claimants, no evidence was adduced by them to prove the income of the deceased. On the contrary, it was admitted by claimant No.1 widow/PW1 during her deposition that deceased used to sell fruits on Rehri; and was not having any bank account; and that there was no other evidence in the form of Income Tax Returns, etc. To substantiate the contentions of the claimants. In these circumstances, the learned Tribunal had rightly taken income of the deceased as Rs.6,935.62/- per month rounded off to

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Rs.6,900/- per month as per minimum wages admissible to an unskilled labourer as per Letter dated 12.04.2016 issued by the Department of Labour, Punjab effective from 01.03.2016.

8. Further, it was the pleaded case of the claimants that deceased was 58 years old at the time of accident, however, as per Post-Mortem Report, his age is mentioned as 65 years. Learned Tribunal had therefore, taken age of the deceased between 50-60 years and had made an addition of 15% towards future prospects. Clearly, the same should have been 10%, keeping in view the fact that the deceased was self-employed and was not in a permanent employment. The learned Tribunal has correctly applied multiplier of 9. The learned Tribunal further granted Rs.1 lakh towards loss of consortium to claimant No.1; Rs.1 lakh towards loss of love and affection to claimants No.2 and 3; and Rs.25,000/- towards funeral expenses. Accordingly, the said compensation is reassessed as follows in conformity with the structured formula laid down by the Hon'ble Supreme Court: -

Head	**Amount as per Tribunal**	**Reassessed as per this Court**
Income	Rs.6,900/- per month	Rs.6900/- pm
Future Prospects	@15% = Rs.6,900/- + Rs.1,035/- = Rs.7,935/-	@10% = Rs.6900 + 690 = Rs.7590/-
1/2 deduction as personal expenses	Rs.6,900/- - Rs.3,967.5/- = Rs.3,967.5/- (rounded off to Rs.3,968/- per month)	Rs. 3795/-
Multiplier of 9	Rs.3,968/- x 9 x 12 = Rs.4,28,544/-	Rs.3795 x 9 = 34,155/- x 12 = Rs.4,09,860/-
Loss of consortium to claimant No.1	Rs.1 lakh	Rs.48,000/-

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Loss of love and affection to claimants No.2 and 3	Rs.1 lakh each	Nil
Funeral expenses	Rs.25,000/-	Rs.18,000/-
Loss of Estate	Nil	Rs.18,000/-
Total	**Rs.4,28,544/- + Rs.3 lakh + Rs.25,000/- = Rs.7,53,544/-**	**Rs.4,93,860/-**

9. Deduction of 50% was correctly made as claimants No.2 and 3 being the major married daughters of the deceased are not entitled to compensation in view of judgment of Hon'ble Supreme Court in **Deep Shikha v. National Insurance Company Ltd., (SC) : Law Finder Doc ID # 2729764**; wherein it is held that married daughter of the deceased is not entitled to compensation, unless financial dependency is proved.

10. In view of the above, FAO-2845-2017 titled as "Reliance General Insurance Company Ltd. Vs. Nirmala Devi & Others" is **partly allowed;** and FAO-6428-2017 titled as "Nirmala Devi & Others Vs. Sunil Kumar & Others" is **dismissed.**

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

22.09.2025 **(Nidhi Gupta)**
Sunena **Judge**

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

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