IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 19.11.2025

FAO-8156-2017(O&M)

Suman & Others

...Appellant(s)

Vs.

Sunny Ahlawat & Others

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. S.S. Shekhawat, Advocate
for the appellants.

Ms. Monika Thakur, Advocate
for respondents No.1 and 2.

Mr. Gandharv Malhotra, Advocate
Ms. Veena Ashwani Talwar, Advocate
for respondent No.3.

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NIDHI GUPTA, J.

CM-26890-CII-2017

This is an application under Section 5 of Limitation Act for condonation of delay of 114 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 114 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.85,67,000/- awarded by the Motor Accident Claims Tribunal, Rohtak (hereinafter 'the learned Tribunal') vide Award dated 04.01.2017 passed in MACT Case No.54 dated 16.08.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 5 claimants are the 38-year-old widow, 21-year-old daughter, 16-year-old son, 60-year-old mother and 62-year-old father of deceased Rajesh Dahiya, who was 48 years old at the time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Rajesh Dahiya had died due to the injuries suffered by him in a motor vehicular accident that took place on 25.07.2016 due to the rash and negligent driving of motorcycle bearing registration No.HR-12-M-4972 (hereinafter "the offending vehicle") being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3. The said compensation has been awarded along with interest @ 7.5% per annum. Respondents were held jointly and severally liable for payment of compensation.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that very little has been awarded to the appellants under the conventional heads. Only Rs.1 lakh has been awarded

as consortium; whereas there are 5 claimants. It is contended that even under the other conventional heads, such as transportation, etc. nothing has been awarded. Less amount has been awarded towards funeral expenses, which should be Rs.50,000/-. Moreover, deduction of 1/4th has been wrongly made. Wrong multiplier has been applied. Interest should be 24%. Future prospects should be awarded @ 50%. Learned counsel accordingly prays for modification and enhancement of the compensation.

4. Ld. counsel for respondent No.3 vehemently opposes the submissions made on behalf of the appellants and submits that the impugned Award suffers from no error; and prays for dismissal of the appeal.

5. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submission advanced on behalf of the appellants.

6. Perusal of record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that prior to the accident, the deceased was working as a Loco Pilot with the Northern Railways and was earning Rs.90,000/- per month + other benefits. The Salary Slips and Certificates of the deceased for the months of June and July 2016 (Ex.P1 to Ex.P3) were duly proved from the evidence of PW1 Clerk, Indian Railways Department, Rohtak Junction, who had brought the summoned record. On the basis of the said evidence, the learned Tribunal had correctly taken

income of the deceased as Rs.60,400/- per month as admissible to the deceased after implementation of 7th Pay Scale.

7. Further, age of the deceased was proved to be 48 years on the basis of his Matriculation Certificate (Ex.P7), wherein date of birth of the deceased was mentioned as 15.12.1968. Learned Tribunal had accordingly correctly made an addition of 30% towards future prospects; thereby calculating monthly income to be Rs.78,520/- (Rs.60,400/- + Rs.18,120/-). As there were 5 claimants, learned Tribunal had correctly made deduction of 1/4th towards personal expenses; calculating monthly dependency to be Rs.58,890/- (Rs.78,520/- - Rs.19,630/-). Accordingly, annual income of the deceased was calculated to be Rs.7,06,680/-. Learned Tribunal had further made a deduction of Rs.65,000/- towards Income Tax and calculated annual dependency to be Rs.6,41,680/-. As deceased was 48 years old, multiplier of 13 was correctly applied; thereby calculating total dependency to be Rs.83,41,840/- (Rs.6,41,680/- x 13). Learned Tribunal had further awarded Rs.1 lakh as loss of consortium to claimant No.1/widow; and Rs.1 lakh on account of loss of love and affection to claimants No.2 to 4; and Rs.25,000/- as funeral expenses; thereby awarding Rs.2,25,000/- under the conventional heads; and total compensation of Rs.85,67,000/-. Needless to say, as per the established proposition of law, an amount of Rs.40,000/- each was liable to be awarded to the claimants towards loss of consortium i.e. Rs.2 lakh; and a sum of Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral

expenses. Thus, there is shortfall of only ₹5000/– in the amount payable to the appellant.

8. The Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others" Law Finder Doc ID # 977386,** has held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

9. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in "**The Managing Director, Divisional Controller Versus Alikutty and Others" Law Finder Doc Id # 1885188**. Relevant para 18 of the said judgment is reproduced below:-

> *"18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619],** the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards".*

10. Above said view has been reiterated by the Kerala High Court in "**Reliance General Insurance Company Limited Vs. Adila and Others", Law Finder Doc ID # 1921609,** paras 16 and 17 of which read as under:-

> *"16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.*
> *17. In New India Assurance Co., Ltd v. Vineesh.J[2018 (3) SCC 619], the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent."*

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

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

19.11.2025 **(Nidhi Gupta)**
Sunena **Judge**

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