IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226

Date of decision: 11.12.2025

FAO-5619-2018(O&M)

Smt. Murti & Others

...Appellant(s)

Vs.

Mahaveer & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Ajit Sihag, Advocate
for the appellants.

Mr. Vinod Chaudhri, Advocate
Mr. Jayanat Singh Chauhan, Advocate
for respondent No.3.

***

NIDHI GUPTA, J.

CM-18924-CII-2018

This is an application under Section 5 of Limitation Act read with Section 151 CPC for condonation of delay of 174 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of appellant No.1, the same is allowed subject to all just exceptions and delay of 174 days in filing the present appeal is condoned.

FAO-5619-2018

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.7,77,050/- awarded by the Motor

Accident Claims Tribunal, Bhiwani (hereinafter 'the learned Tribunal') vide Award dated 29.07.2017 passed in MAC Petition No.26 dated 30.03.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act") *"for grant of compensation to the tune of Rs.75,00,000/- in respect of death of Parkash son of Shri Ram Kumar, in a motor vehicular accident."*. The 5 claimants are the 50-year-old widow, 33-year-old son, 30-year-old son, 28-year-old daughter, and father of deceased Parkash, who was 56 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 Parkash had died due to the injuries suffered by him in a motor vehicular accident that took place on 17.12.2015 at about 4:30 am due to the rash and negligent driving of trolla/trailer bearing registration No.MP-14-HB-0167 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The aforesaid compensation has been awarded along with interest @ 7.5% per annum. The respondents were held jointly and severally liable for payment of compensation amount.

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.7,000/- per month. It is submitted that deceased was earning Rs.40,000/- per month from agriculture and dairy

farming. The appellants had duly proved the said income of the deceased; yet the learned Tribunal has wrongly assessed income of the deceased as only Rs.7,000/- per month. It is further submitted that interest should be granted @ 12% per annum. Less amount has been awarded towards consortium; and loss of estate should be Rs.1 lakh each. Further, multiplier has been wrongly applied. Learned counsel accordingly prays for enhancement of compensation in the above manner.

4. Per contra, learned counsel for the respondent No.3/Insurance Company opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeal accordingly deserves to be dismissed.

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. Although it is the pleaded case of the appellants that the deceased was earning Rs.40,000/- per month from agriculture and dairy farming, however, the appellants had failed to adduce any evidence whatsoever to substantiate their said contention. No documentary evidence such as J forms, Income Tax Returns, or any other specific documentary proof or other reliable evidence, was produced by the appellant. Thus, in the absence of any cogent proof, learned Tribunal has

correctly assessed notional income of the deceased as Rs.7,000/- per month on the basis of Minimum Wages prevalent in the area.

7. Age of the deceased was determined to be 56 to 60 years, on the basis of Ration Card. Therefore, multiplier of 9 was correctly applied. However, the Tribunal has erroneously made an addition of 15% towards future prospects; whereas given the age of the deceased, future prospects were liable to be added @ 10% in conformity with the judgment of Hon'ble Supreme Court in "**Sarla Verma Vs. Delhi Transport Corporation" (2009) AIR (SC) 3104 Law Finder Doc ID # 188882.** Furthermore, the learned Tribunal has made a deduction of 1/4th towards personal expenses. It is my view that given the fact that the claimants No.2 to 4 were major sons and daughter of the deceased, a deduction of 1/3rd was required to be made.

8. Under the conventional heads, the learned Tribunal has awarded Rs.1 lakh towards loss of consortium and loss of estate; and Rs.25,000/- towards funeral and transportation expenses; thereby granting total compensation of Rs.7,77,050/- in the following manner:-

Head	**Amount**
Income	Rs.7,000/- per month
Addition of 15%	Rs.7,000/- + Rs.1,050/- = Rs.8,050/-
Deduction of 1/4th	Rs.8,050/- x ¾ = Rs.6,037.5/- per month i.e. Rs.6,037.5/- x 12 = Rs.72,450/- annually
Multiplier of 9	Rs.72,450/- x 9 = Rs.6,52,050/-
Loss of consortium, loss of love and affection, loss of estate etc.	Rs.1,00,000/-
Funeral and transportation expenses	Rs.25,000/-

Total	**Rs.7,77,050/-**

9. From the above facts, it is clear that the compensation granted is already in excess of what is admissible to the appellants as per law. Therefore, no ground is made out to enhance the compensation amount.

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

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

11.12.2025 **(Nidhi Gupta)**
Sunena **Judge**

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