IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 03.12.2025

FAO-383-2025(O&M)

Rajender Kumar & Others

...Appellant(s)

Vs.

Dhola Ram Gurjar & Another

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Shashikant Gupta, Advocate
for the appellants.

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NIDHI GUPTA, J.

CM-1170-CII-2025

This is an application under Section 151 CPC for condonation of delay of 20 days in re-filing the appeal.

After going through the contents of the application, which is supported by affidavit of Clerk to learned counsel for the appellants, the same is allowed subject to all just exceptions and delay of 20 days in re-filing the present appeal is condoned.

CM-1171-CII-2025

This is an application under Section 5 of Limitation Act for condonation of delay of 121 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 121 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.17,18,929/- awarded by the Motor Accident Claims Tribunal, Gurugram (hereinafter 'the learned Tribunal') vide Award dated 09.04.2024 passed in MACP Case No.315 dated 22.04.2021 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 3 claimants are the 47-year-old husband, 26-year-old daughter and 23-year-old son of deceased Savita Devi, who was 43 years old at the time of accident.

2. 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.9,703/- per month as that of an unskilled labourer. It is submitted that the deceased was a housewife. The deceased was also doing tailoring work and selling milk from which she was earning Rs.40,000/- per month. As such, her income ought to have been taken as Rs.40,000/- per month. In any event, as per Notification dated 01.09.2021 issued by the State of Haryana, income of the deceased ought to have been taken at least as that of a skilled labourer as Rs.10,293.36/- per month. Learned counsel further submits that interest has been awarded only @ 6%

per annum, which is on the lower side and should have been awarded @ 12% per annum at least. Learned counsel accordingly prays for enhancement of compensation.

3. No other argument is made on behalf of the appellants. 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.

4. It has been contended on behalf of the appellants that the deceased was doing tailoring work and was also selling milk from which he was earning Rs.40,000/- per month. However, there is not a smidgen of evidence on record to prove the avocation let alone the alleged income of the deceased. Accordingly, the learned Tribunal had correctly taken income of the deceased as Rs.9,703/- per month as the Minimum Wages admissible to an unskilled labourer in the year 2021. Reliance placed by the appellants upon the Notification dated 01.09.2021, is misconceived as the said Minimum Wages are applicable with effect from 01.07.2021 i.e. after the date of accident in the present which is 08.03.2021. Accordingly, said rates were not applicable on the date of accident, in the present case.

5. Further, the learned Tribunal had determined the age of the deceased to be 43 years at the time of accident, on the basis of her School Leaving Certificate (Ex.P114), wherein her date of birth is recorded as 20.04.1978. Accordingly, the learned Tribunal had made an addition of 25% towards future prospects and applied multiplier of 14. As the claimants

were 3 in number, Tribunal had made a deduction of 1/3rd towards personal expenses. On the basis of the Medical Bills (Ex.P9, Ex.P10, Ex.P16 to Ex.P110, Ex.P112 to Ex.P120), the Tribunal had awarded a sum of Rs.2,10,509/- towards medical expenses as deceased had remained admitted in hospital from 08.03.2021 to 20.03.2021. Under the conventional heads, the learned Tribunal had awarded Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate and Rs.40,000/- each towards consortium. Learned Tribunal awarded compensation in the following manner:-

Head	**Amount**
Monthly income	Rs.9,703/-
Annual income	Rs.9,703/- x 12 = Rs.1,16,436/-
Multiplier	Rs.1,16,436/- x 14 = Rs.16,30,104/-
Deduction	(1/3rd) Rs.10,86,736/-
Future prospects	(25%) Rs.13,58,420/-
Medical expenses	Rs.2,10,509/-
Funeral expenses	Rs.15,000/-
Loss of consortium	Rs.40,000/- x 3 = Rs.1,20,000/-
Loss of estate	Rs.15,000/-
Total	**Rs.17,18,929/-**

6. From the above facts, it is clear that a very just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellants. No doubt Chapter-12 of the Act is a beneficial legislation yet, as cautioned by the Hon'ble Supreme Court, the same cannot be allowed to be treated as a windfall or a source of profit. Hon'ble Supreme Court in **'State of Haryana & Another Vs. Jasbir Kaur & Others' Law Finder Doc ID # 64043** and **'Divisional Controller K.S.R.T.C. Vs.**

Mahadev Shetty', (2003) 7 SCC 197, has held that the amount of compensation should be just and reasonable, it should neither be a bonanza nor a source of profit but at the same time it should not be a pittance. In the case of **"General Manager, KSRTC Vs. Susamma Thomas & Others" 1994 Volume-II SCC 176,** the Hon'ble Supreme Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining the compensation.

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

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

03.12.2025 **(Nidhi Gupta)**
Sunena **Judge**

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