IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 11.12.2025

FAO-942-2020(O&M)

Joginder Kaur & Others

...Appellant(s)

Vs.

The IFFCO Tokio Insurance Company & Others

...Respondent(s)

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CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Umesh Kumar Kanwar, Advocate
for the appellants.

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NIDHI GUPTA, J.

CM-2330-CII-2020

This is an application under Section 5 of Limitation Act for condonation of delay of 58 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 58 days in filing the present appeal is condoned.

FAO-942-2020

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.10,93,500/- awarded by the Motor Accident Claims Tribunal, Jalandhar (hereinafter 'the learned Tribunal') vide Award dated 08.07.2019 passed in MACP Case No.57 dated 06.03.2017 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act"). The 4 claimants are the 61-year-old widow, 34-year-old son, 31-year-old son and 28-year-old daughter of deceased Mukhtiar Singh, who was 65 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 Mukhtiar Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 18.01.2017 due to the rash and negligent driving of Honda Amaze Car bearing registration No.PB-35-T-5457 (hereinafter referred to as "the offending vehicle") being driven by respondent No.3, owned by respondent No.2 and insured by respondent No.1. Present appeal has been filed by the widow; two sons and claimant No.4 married daughter of the deceased, who is impleaded as pro-forma respondent No.4 herein. 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 claimants/appellants are entitled to compensation of Rs.85 lakh as, in addition to the pension of Rs.34,111/- being received by the deceased, the deceased was also earning Rs.27,000/- per month from agricultural work. However, the said income has not been

taken into account by the learned Tribunal while assessing income of the deceased. Moreover, the learned Tribunal is in error in making deduction of 50% towards personal expenses. Even interest is on the lower side; and amounts awarded under the conventional heads are also liable to be enhanced. Ld. counsel accordingly prays for modification of the Award.

4. 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.

5. Perusal of record shows that it was pleaded case of the appellants that at the time of accident, the deceased was 71 years old healthy and hardworking and not suffering from any ailment. It was pleaded that he had retired as Ex-serviceman from Army; whereafter he had taken job in the Defence Security Crops (DSC). As such, the deceased was drawing two pensions i.e. Rs.16,830/- from the Army and Rs.17,281/- from the DSC. Record reveals that the said pensions were duly proved by the claimants by producing sufficient oral and documentary evidence. However, claimants were unable to prove agricultural income of Rs.27,000/- per month. Claimant No.3/PW1/31-year-old son of the deceased had admitted in his cross-examination that no proof was placed on record by the claimants to show that land had been taken on lease by his father. Even no Income Tax Returns were produced reflecting any agricultural income of the deceased. Accordingly, learned Tribunal had taken income of the deceased as

Rs.34,111/- per month (Rs.16,830/- + Rs.17,281/-), which stood proved from Passbook of Punjab National Bank (Ex.P7) and Passbook of Uco Bank (Ex.P8) of the deceased. Further, age of the deceased was determined to be 65 years at the time of death from the Post-Mortem Report (Ex.P14). As deceased was over 60 years of age, no future prospects were required to be added; and Multiplier of 5 was correctly applied. As the claimants No.2, 3 and 4 were the major married children of the deceased, Tribunal has correctly made a deduction of 50% towards personal expenses. Under the conventional heads, Tribunal has awarded Rs.40,000/- towards loss of consortium to claimant No.1/widow; Rs.15,000/- towards loss of estate; and Rs.15,000/- towards funeral expenses. Tribunal awarded compensation in the following manner:-

Head	**Amount**
Total income (pension)	Rs.4,09,332/- per annum
Deduction of 50%	Rs.2,04,666/- per annum
Multiplier of 5	Rs.2,04,666/- x 5 = Rs.10,23,330/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Consortium to widow	Rs.40,000/-
Total	**Rs.10,93,330/- rounded off to Rs.10,93,500/-**

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. Mahadeva 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.

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

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