

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****245****FAO-2239-2025 (O&M)****Date of decision: 15.07.2025****Sarwan Singh and another****...Appellant(s)****Vs.****Amit Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Vijay Kumar Garg, Advocate for the appellants.***********NIDHI GUPTA, J.****CM-7129-CII-2025**

Prayer in this application filed under Section 151 CPC is for condonation of delay of 104 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application, the same is allowed and delay of 104 days in refiling the appeal is condoned.

CM-7130-CII-2025

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 2 days in filing the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application, the same is allowed and delay of 2 days in filing the accompanying appeal is condoned.

FAO-2239-2025 (O&M)



The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.9,58,600/- awarded by the learned Motor Accident Claims Tribunal, Hoshiarpur (hereinafter referred to as “the learned Tribunal”) vide Award dated 03.08.2024 passed in MACP Case No. 150 dated 13.11.2020 filed by the appellants under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as “the Act”). The 2 claimants are the husband and married daughter of the deceased Davinder Kaur, who was stated to be about 59 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-Davinder Kaur had died due to the injuries suffered by her in a motor vehicular accident that took place on 23.07.2020 due to the rash and negligent driving of a Bus bearing registration No.PB-13AL-1637 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; and owned by respondent No.2. Respondents No.1 and 2 were held jointly and severally liable to pay the amount of compensation.

3. Ld. counsel for the appellants primarily seeks enhancement of compensation on the ground that no interest has been awarded. It is submitted that claimants are entitled to interest. The second/and only other submission made on behalf of the appellants is that income of the deceased has been taken on the lower side. It is accordingly prayed that the present appeal be allowed; and the impugned Award be modified.



4. No other argument is raised on behalf of the appellants.
5. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the appellants.
6. It was the case of the appellants that the deceased was having good health at the time of accident, and she was doing all household work including cooking, cleaning etc. It is further stated that the deceased was running a boutique in her residential house and was earning Rs.30,000/- per month. However, a perusal of the record shows that no evidence was led by the appellants in support of the above said assertions. No proof of income of the deceased was produced by the appellants. Even no proof of income of the deceased had been produced by the appellants before this Court. As such, the learned Tribunal had taken the income of the deceased to be Rs.9,000/- per month as her contribution towards the household chores/family in conformity with the judgments passed by Hon'ble Supreme Court in ***"Arun Kumar Aggarwal vs. National Insurance Company Ltd."*** (2010) 9 SCC 218; ***"Rajinder Singh vs. National Insurance Company Ltd."*** 2020 SCC Online SC 521; and ***"Kirti vs. Oriental Insurance Company Limited"*** 2021 AIR (Supreme Court) 353. I find no error in the same.
7. Age of the deceased was proven to be 60 years from her postmortem report Ex.A5. As such, no future prospects were required to be added in conformity with judgment of Hon'ble Supreme Court in ***"National Insurance Company Limited vs. Pranay Sethi and others"***,

Special Leave Petition (Civil) No. 25590 of 2014. Thus, annual income of the deceased was taken to be Rs.1,08,000/- (Rs.9,000 X 12). Further, learned Tribunal made deduction of 1/4th towards personal expenses in view of the fact that besides the 2 claimants, the deceased also had 2 sons. Accordingly, the learned Tribunal awarded compensation in the following manner: -

Sr. No.	Heads	Calculation
1.	Monthly income	Rs.9,000/-
2.	Annual income	Rs.9,000 x 12 = Rs.1,08,000/-
3.	Loss of annual dependency after deducting 1/4th towards personal and living expenses	Rs.1,08,000-Rs.27,000/- =Rs.81,000/-
4.	Compensation after applying multiplier of 7	Rs.81,000/- x 9 =Rs.7,29,000/-
5.	For loss of company, society, affection as a spousal consortium to claimant no.1	Rs.48,400/-
6.	Loss of parental consortium payable to claimant no. 2 and respondents no. 4 and 5	Rs.48,400/- x 3 = Rs.1,45,200/-
7.	Funeral expenses	Rs.18,000/-
8.	Loss of estate	Rs.18,000/-
9.	Total	Rs.9,58,600/-

8. As far as argument of the appellant that they are entitled to interest, is concerned, grant of interest is discretionary. The appellant cannot claim interest as a matter of right. Moreover, compensation in excess to what admissible to the claimants as per law, has already been awarded in as much as deduction of 1/3rd ought to have been made towards personal expenses as there were two claimants - being claimant no.1/ husband of the deceased; and claimant no.2/married daughter of the deceased who was estranged from her husband, and who was living with the deceased. However, learned Tribunal has made a deduction of



1/4th as deceased also had two sons; even though it was admitted fact on record that the said sons were married and residing abroad; and as such were in no manner dependent upon the deceased.

9. From the above facts, it is clear that a more than just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the said compensation. 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 Vs. Jasbir Kaur"*** **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 case of ***"KSRTC Vs. Susamma Thomas"*** **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.

10. In view of the above, no ground is made out to interfere in the Award dated 03.08.2024. The present appeal is hereby **dismissed**.

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

15.07.2025

Divyanshi

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No