

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****116****FAO-723-2025(O&M)****Date of decision: 16.01.2026****Ritu & Others****...Appellant(s)****Vs.****Kamil & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Ram Pal Verma, Advocate
for the appellants.

NIDHI GUPTA, J.
CM-2268-CII-2025

This is an application under Section 5 of Limitation Act for condonation of delay of 45 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 45 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.25,71,360/- awarded by the Motor Accident Claims Tribunal, Jhajjar (hereinafter 'the learned Tribunal') vide Award dated 21.08.2024 passed in MACP Case No.248 dated 20.11.2020 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act").



The 4 claimants are the widow, minor daughter, and parents of deceased Sandeep Kumar, who was 33 years old at the time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Sandeep Kumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 22.09.2020 due to the rash and negligent driving of the offending vehicle bearing registration No.HR-69C-0010 (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 @ 6% per annum. 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 wrong compensation has been awarded to the appellants by ignoring the future of the claimants and the dependency of the parents upon the deceased. It is submitted that deceased was a heavy vehicle driver and was earning Rs.1,25,000/- from all sources i.e. Rs.25,000/- per month from heavy vehicle driving and Rs.30,000/-per month from trips as he charged Rs. 1,000/- per trip and he was also earning Rs.20,000/- per month from agriculture and milk dairy business. But the Id. Tribunal wrongly and illegally taken his income Rs. 12,100/-per month and awarded very less amount. In view of the above facts and evidence, the income of the deceased



should have been assessed Rs.1,20,000/- per month minimum at least by the Ld. Tribunal. It is submitted that even nothing has been awarded by the learned Tribunal by way of consortium to the claimants No.3 and 4, who are the parents of the deceased. Even compensation awarded under the other heads is on the lower side; and the same be enhanced.

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 submissions advanced on behalf of the appellants.

5. As noticed above, it is the pleaded case of the appellants that the deceased was a Driver of a heavy vehicle and was earning Rs.1,25,000/- from all sources. The fact that deceased was a Driver of heavy vehicle/ truck bearing registration No.NL-02N-9563, was proved from the testimony of PW2 Vikram and the FIR (Ex.P9). However, the appellants had failed to lead any documentary evidence to prove the alleged income. Only self-serving statement of the claimants was there. Even no Income Tax Return was brought on record by the claimants. In fact, claimant No.1/Ritu as PW1 has admitted during her cross-examination that she has no proof regarding the income of her husband. Accordingly, learned Tribunal had relied upon judgment of this Court in **“Shri Ram General Insurance Company Ltd. Vs. Beant Kaur & Others” (2019) 3 Law Herald (P&H) 2486**, to hold that in the absence of evidence regarding monthly income, income has to be assessed as per the Minimum Wages. Accordingly, learned Tribunal had taken income



of the deceased as per the Minimum Wages Act as Rs.12,071/- per month admissible to a Driver of the heavy vehicle rounded off to Rs.12,100/-.

6. Age of the deceased was proved to be 33 years at the time of accident, on the basis of his Aadhaar Card (Ex.P7) wherein his date of birth is mentioned as 01.07.1987. Learned Tribunal had further correctly made an addition of 40% towards future prospects; and correctly applied multiplier of 16. As there were 4 claimants, Tribunal correctly made a deduction of 1/4th towards personal expenses. Under the conventional heads, Tribunal has awarded Rs.18,000/- towards loss of estate; and Rs.18,000/- towards funeral expenses; Rs.48,000/- towards loss of spousal consortium; and Rs.48,000/- towards parental consortium and awarded compensation as follows: -

Head	Amount
Income	Rs.12,100/- per month
Addition of 40% towards future prospects	Rs.4,840/- total Rs.16,940/- (Rs.12,100/- + Rs.4,840/-) per month
Deduction of 1/4 th towards personal expenses	Rs.4,325/- balance (Rs.16,940/- - Rs.4,235/-) = Rs.12,705/-
Annual dependency	Rs.1,52,460/- (Rs.12,705/- x 12)
Multiplier	16
Loss of dependency	Rs.24,39,360/- (Rs.1,52,460/- x 16)
Loss of estate	Rs.18,000/-
Funeral expenses	Rs.18,000/-
Loss of consortium	Rs.48,000/-
Parental consortium	Rs.48,000/-
Total	Rs.25,71,360/-

7. No doubt, learned Tribunal has not awarded consortium to the claimants No.3 and 4/parents of the deceased. However, as per latest judgment of the Hon’ble Supreme Court in **Hasina Yasmin v. National**



Insurance Co. Ltd., (SC) ; law Finder Doc ID # 2826989; while referring the matter to Larger Bench, it has been directed that only a sum of Rs.40,000/- is to be awarded as consortium and Rs.15,000/- each towards funeral expenses and loss of estate - without 10% increase.

8. The 3-Judge Bench of the Hon'ble Supreme Court in "**Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379; Civil Appeal No.4646 and 4647 of 2009 decided on 02.04.2013**, has further held that *"Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case."*

9. In view of the above, present appeal stands **dismissed**.

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

16.01.2026

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No