

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****115****FAO-1306-2023 (O&M)
Date of decision: 17.03.2026****Kamlesh and others****...Appellant(s)****Vs.****M/s. S.N. Enterprises and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Kiran Bala Jain, Advocate and
Ms. Uzra Khan, Advocate
for the appellants.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.5,66,000/- awarded by the learned Motor Accidents Claims Tribunal, Ambala (hereinafter referred to as "the learned Tribunal") vide Award dated 03.10.2022 passed in MACP Case No. 252 dated 16.09.2020 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as "the Act"). The 4 claimants before the learned Tribunal are the 58-year-old widow; 40-year-old son; 38-year-old son; 31-year-old widowed daughter; and 33-year-old married daughter of the deceased Rajkumar, who was 62 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-Rajkumar had died due to the injuries suffered by him in a motor vehicular accident that took place on 17.08.2020 due to the rash and negligent driving



of Honda City Car bearing registration No. HR-51E-0018 (hereinafter “the offending vehicle”) being owned by respondent No.1; driven by respondent No.2; and insured by respondent No.3. The above said compensation was awarded along with interest @ 7.5% per annum. All the respondents were held jointly and severally liable to pay the amount of compensation.

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.6,000/- p.m. It is submitted that appellants had categorically pleaded that deceased was agriculturist and was also running milk dairy from which he was earning Rs.50,000/- p.m. Therefore, income should have been assessed as Rs.50,000/- p.m. Moreover, the deceased was 60 years old at the time of accident; however, Tribunal had wrongly taken age of the deceased as 62 years; and therefore, incorrectly applied multiplier of 7; whereas the multiplier of 19 was required to be applied. Thus, it also follows that future prospects were to be added @ 15%. Further, Tribunal has wrongly made deduction of 1/3rd; whereas given the fact that there are 5 claimants, deduction of 1/5th ought to have been made. Interest ought to have been granted @ 18% p.a.; whereas learned Tribunal has only awarded 7.5% p.a.

4. It is accordingly prayed that the present Appeal be allowed; and compensation of Rs.50 lacs be awarded to the appellants alongwith interest @ 18% p.a. as originally prayed for.



5. No other argument is raised on behalf of learned counsel for 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.

6. Perusal of the record of the case shows that the pleaded case of the appellants before the learned Tribunal that prior to the accident, deceased was an agriculturist and running a milk dairy; and was earning Rs.50,000/- p.m. However, claimant No.2/40-year-old son of the deceased while appearing as PW1, who was also alleged eyewitness of the accident in question, has admitted during his deposition that he has no proof of the alleged agricultural income of the deceased. Appellants had however brought on record Jamabandi for the year 2016-2017, as per which, deceased was shown to be co-sharer in the land measuring 6K 13M. However, no J-Forms were produced by the appellants to prove any agricultural income. In this circumstance, learned Tribunal had correctly taken monthly income of the deceased as Rs.6,000/- p.m. It needs not to be pointed that agricultural land of the deceased, if any, will devolve upon the claimants. As such, income of the deceased was only required to be assessed as per the managerial/supervisory wages for managing the said land; which has been correctly assessed by the learned Tribunal at Rs.6,000/- p.m.

7. Further, age of the deceased was determined to be 62 years on the basis of his Postmortem Report Ex.P2. It is not clear as to on what basis appellants are claiming age of the deceased to be 60 years at the time of accident. Even on a direct Court query, learned counsel for the appellants is unable to give any information in this regard. Therefore, learned Tribunal has

correctly taken age of the deceased to be 62 years on the basis of Postmortem Report Ex.P2. Accordingly, as deceased was more than 60 years of age, future prospects were not required to be added; and multiplier of 7 has been correctly applied.

8. Contention of the appellants that claimants being 5 in number, deduction of 1/5th ought to have been made, is misplaced as admittedly, claimant No.5 is a married daughter of the deceased. In this regard, position in law is well settled vide the judgment passed by Hon’ble Supreme Court in **Deep Shikha v. National Insurance Company Ltd., (SC) : Law Finder Doc Id # 2729764** wherein it is held that *“Compensation under the Motor Vehicles Act, 1988 - Married daughter of deceased not entitled to compensation for loss of dependency unless proven financial dependency.”*.

9. Further, even claimants No. 2, and 3 are major married children of the deceased being 40 and 38-year-old respectively are not entitled to compensation. Thus, I find no error in the deduction of 1/3rd as made by learned Tribunal towards personal expenses.

10. Under the conventional heads, learned Tribunal has awarded Rs.15,000/- towards last rites and transportation; Rs.15,000/- towards loss of estate; and Rs.40,000/- to each claimant for loss of spousal and parental consortium. Accordingly, learned Tribunal has calculated the compensation in the following manner: -

Head	Compensation awarded
i) Loss of dependency, last rites and transportation of dead body of deceased and loss of estate	Rs.3,66,000/-



ii. Loss of Consortium: a) Spousal Consortium to claimant No.1 being wife of deceased b) Parental Consortium to claimant No.2 to 5 being children of deceased	Rs.40,000/- Rs.40,000/- each i.e. 1,60,000/- Total Rs.2,00,000/-
Total compensation awarded:	Rs.5,66,000/- alongwith Interest @7.5% p.a. from the date of filing of the Claim petition till payment.

11. From the above facts, it is clear that 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 Vs. Jasbir Kaur” Law Finder Doc ID # 64043** and **“Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty and another” (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.

12. Keeping in view the above factual and legal position, no ground is made out to interfere in the impugned Award. The present appeal is accordingly **dismissed**.

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

17.03.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE