

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****127****Date of decision: 14.01.2026****FAO-996-2024(O&M)****Babbu @ Varas Masih & Another****...Appellant(s)****Vs.****Jaspreet Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Daman Jeet Bhoriwal, Advocate
for the appellants.

NIDHI GUPTA, J.
CM-3955-CII-2024

This is an application under Section 5 of Limitation Act for condonation of delay of 77 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 77 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by claimants seeking enhancement of compensation of Rs.10,29,560/- awarded by the Motor Accident Claims Tribunal, Ferozepur (hereinafter 'the learned Tribunal') vide Award dated 06.09.2023 passed in MACP Case No.67 dated 31.08.2022



filed under Sections 166 and 140 of the Motor Vehicles Act (hereinafter “the Act”). The 2 claimants are the 52-year-old father and 46-year-old mother of deceased Sajan, who was 24 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 Sajan had died due to the injuries suffered by him in a motor vehicular accident that took place on 11.02.2022 due to the rash and negligent driving of Bolero Camper bearing registration No.PB-65-AW-2252 (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 @ 7% per annum. Respondent 3/Insurance Company was held liable for payment of compensation amount. Learned Tribunal had held the deceased liable for 30% contributory negligence as the deceased was not wearing helmet at the time of accident.

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.9,000/- per month. It is submitted that it was the clear pleaded case of the appellants before the learned Tribunal that the deceased was working as a Welder and earning Rs.30,000/- per month. It is submitted that therefore, income of the deceased has been taken by the learned Tribunal on the lower side. It is further submitted that the learned



Tribunal was also in gross error in making a deduction of 30% towards contributory negligence merely on the ground that the deceased was not wearing a helmet at the time of accident. It is submitted that the above-said findings of the learned Tribunal are totally incorrect and against the settled position of law. It is further submitted that the learned Tribunal has failed to grant any compensation under the head of loss of consortium in favour of each of the appellants. It is further submitted that inadequate compensation has been granted under the other heads; and 50% ought to have been added towards future prospects. It is accordingly prayed that the present appeal be allowed, and the impugned Award be modified.

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. It was the pleaded case of the appellants in the Claim Petition before the Tribunal as recorded in Para 2 of the impugned Award that:-

“2. Briefly stated, Sajan aged about 24 years working as Welder earning ₹.30,000/-per month was bachelor and was looking after claimants, who are parents of Sajan. On 11.02.2022 Sajan alongwith Major Singh had gone to Kotkapura on motorcycle bearing no.PB- 02DS-1582, driven by Major Singh. Sajan was pillion rider. At about 7.30 PM when they reached near village Behak Pachharrian, Balero bearing registration no.PB-65-AW-2252, driven by respondent no.1 in rash and negligent manner struck in the motorcycle from



behind. They received multiple grievous injuries. They were brought to civil hospital, Zira. Sajan was referred to GGS Medical College, Faridkot, where he died. FIR no.14 of 15.02.2022, under section 304A,279,427 IPC was registered on the statement of Vishal against respondent no.1 at police station, Sadar Zira. Respondent no.1 is driver of the offending vehicle, owned by respondent no.2 Singla Spirit, as such, both respondents are liable to pay compensation to the claimants to the tune of ₹.1.5 crores @ 12% interest per annum. Hence, this petition."

6. As per the Post-Mortem Report (Ex.C4), deceased Sajan had died on account of head injury. Accordingly, the learned Tribunal has correctly concluded that in case the deceased would have been wearing helmet at the time of accident, the impact of injury would have been reduced to substantial extent; and therefore, the respondent No.1 cannot be held entirely responsible in causing the the death of Sajan. It was for this reason that the learned Tribunal had made a deduction of 30% towards contributory negligence on part of the deceased. I find no error in the same.

7. It is further contended on behalf of the appellants that deceased was a Welder and earning Rs.30,000/- per month. However, not a smidgen of evidence has been brought on record by the appellants to prove either the said avocation or the said alleged income. Accordingly, the learned Tribunal had assessed notional income of the deceased as Rs.9,000/- per month on the basis of DC Rates. I find no error in the same.



8. In the absence of any proof of age produced by the claimants Age of the deceased was determined to be 24 years at the time of accident, on the basis of his Post-Mortem Report (Ex.C4). Learned Tribunal had therefore correctly made addition of 40% towards future prospects; and correctly applied multiplier of 18. As deceased was a Bachelor at the time of accident, deduction of 50% was correctly made towards personal expenses. Under the conventional heads, learned Tribunal had further awarded Rs.16,500/- towards loss of estate; Rs.16,500/- towards funeral expenses; and Rs.44,000/- as consortium. 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 in the interregnum 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.

9. Even otherwise, as per judgment of the Hon'ble Supreme Court in **(SC) SLP No.13931 of 2017** titled as "**New India Assurance Co. Ltd. Vs. Vinish Jain & Others**" **Law Finder Doc ID # 977386**, it has been held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

10. This above-said judgment of the Hon'ble Supreme Court has been followed by the Kerala High Court in "**The Managing Director,**

**Divisional Controller Versus Alikutty and Others” Law Finder Doc Id #**

1885188. Relevant para 18 of the said judgment is reproduced below:-

*“18. It is to be borne in mind, the accident occurred on 23,2,2019. It is more than 2 ½ years since the respondents 1 to 4 have been knocking at the doors of the Courts seeking compensation on account of the death of the bread-winner. It is trite law that the Tribunal is permitted to do some guess work and also exercise its discretion to fix the reasonable and just compensation, for which there cannot be any straightjacket formula based on mathematical precision. In **New India Assurance Company Vs. Vinish Jain and Others [(2018) 3 SCC 619]**, the Hon'ble Supreme Court has held that if the fixation of compensation is within permissible limits, the courts should normally not interfere with such awards”.*

11. Above said view has been reiterated by the Kerala High Court

in “**Reliance General Insurance Company Limited Vs. Adila and Others**”,

Law Finder Doc ID # 1921609, paras 16 and 17 of which read as under:-

“16. The other area of dispute is that the Tribunal after awarding compensation under the conventional heads has awarded Rs.75,000/- towards loss of love and affection and Rs.10,000/- awarded towards pain and sufferings.

*17. In **New India Assurance Co., Ltd v. Vineesh.J[2018 (3) SCC 619]**, the Hon'ble Supreme Court has held that the Appellate Court can permit variation of plus or minus 4 to 5 percent.”*

12. 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.

13. In view of the above noted factual and legal position, the present appeal accordingly stands **dismissed**.

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

14.01.2026
Sunena

(Nidhi Gupta)
Judge

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