

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****297****FAO-2193-2023(O&M)****Date of decision: 17.02.2026****Bnita Devi & Others****...Appellant(s)****Vs.****Davinder Singh & Another****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Prashant Bansal, Advocate
for the appellants.

NIDHI GUPTA, J.
CM-8019-CII-2023

This is an application under Section 5 of Indian Limitation Act read with Section 151 CPC for condonation of delay of 193 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 193 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.19,11,850/- awarded by the Motor Accident Claims Tribunal, Patiala (hereinafter 'the learned Tribunal') vide Award dated 27.05.2022 passed in MACP Case No.175 of 2020 filed under



Section 166 of the Motor Vehicles Act (hereinafter “the Act”). The five claimants are the widow, two minor children and parents of deceased Seo Pal Gir, who was 35 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 Seo Pal Gir had died due to the injuries suffered by him in a motor vehicular accident that took place on 12.05.2020 at about 8 pm due to the rash and negligent driving of Toyota Etios bearing registration No.CH-01-BD-1937 (hereinafter “the offending vehicle”) being owned and driven by respondent No.1 and insured by respondent No.2. The said compensation has been awarded along with interest @ 7.5% 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 income of the deceased has been taken on the lower side as Rs.8,777/- per month. It is submitted that the appellants had duly proved on record that prior to the accident, the deceased was a mason Contractor and was also doing business of dairy farming and earning Rs.25,000/- per month. However, despite ample evidence led by the appellants, learned Tribunal has assessed income of the deceased as Rs.8,777/- per month as that of a daily wager. Learned counsel contends that even if income of the deceased was to be assessed as a daily



wager, then as per the relevant Notification applicable with effect from 01.03.2020, the minimum wage payable was Rs.9178.50/-. It is accordingly contended that income of the deceased has been taken on the lower side.

4. Learned counsel further submits that age of deceased was determined to be 35 years on the date of accident, on the basis of Post-Mortem Report. As such, multiplier of 16 was applicable; whereas the learned Tribunal has applied multiplier of 15.

5. Heard.

6. Notice of motion.

7. Mr. Hardeep Singh Saini, Advocate accepts notice on behalf of respondent No.1 and files Memorandum of Appearance, which is taken on record.

8. Mr. Anil Mehra, Advocate accepts notice on behalf of respondent No.2; and files Power of Attorney, which is taken on record.

9. Learned counsel for the respondents oppose the submissions advanced on behalf of the appellants and submit that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

10. I have heard learned counsel for the parties and examined the case file in detail. I find merit in the submissions advanced on behalf of the appellants.

11. Perusal of impugned Award shows that the appellants were unable to prove the alleged avocation of the deceased as a Mason



Contractor or dairy farmer; and were also unable to prove the alleged income of the deceased as Rs.25,000/- per month. No documentary evidence whatsoever was adduced by the appellants to prove the said avocation or income. Accordingly, learned Tribunal had taken the deceased to be an ordinary labourer and assessed his income as Rs.8,777/- per month. However, as per the Minimum Wage Notification produced by the appellants, which is not disputed by learned counsel for the respondents, minimum wage payable to an unskilled worker with effect from 01.03.2020 is Rs.9178.50/- rounded off to Rs.9180/- per month; whereas the learned Tribunal has taken monthly wage of the deceased as per the Notification applicable from 01.09.2019. However, as date of accident was 12.05.2020, minimum wage payable from 01.03.2020 will be applicable. Thus, income of the deceased is assessed as Rs.9180/- per month.

12. Further, as noted above, age of the deceased was determined to be 35 years at the time of accident, on the basis of his Post-Mortem Report. Accordingly, the learned Tribunal had correctly made an additional of 40% towards personal expenses. However, the learned Tribunal has incorrectly applied multiplier of 15; whereas as per judgment of Hon'ble Supreme Court in "**Sarla Verma Vs. Delhi Transport Corporation**" (2009) **AIR (SC) 3104 Law Finder Doc ID # 188882**, multiplier of 16 is applicable. As there were five claimants, deduction of 1/4th has been correctly made. Learned Tribunal has awarded Rs.16,500/- towards loss of estate;



Rs.16,500/- towards funeral expenses; and Rs.44,000/- x 5 i.e. total sum of Rs.2,20,000/- by way of consortium; thereby granting total compensation of Rs.19,11,850/-. In view of the above, present appeal is **allowed**; and compensation payable to the claimants is re-assessed as follows:-

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.8777/- per month Rs.1,05,324/- per annum	Rs.9180/- per month
Future prospects	(40%) Rs.1,47,454/-	(40%) Rs.3652/- + Rs.9180/- = Rs.12852/-
Deduction	1/4 th	(1/4 th) Rs.12852/- - Rs.3213/- = Rs.9639/-
Annual dependency		Rs.9639/- x 12 = Rs.1,15,668/-
Multiplier	15	(16) Rs.18,50,688/-
Loss of estate	Rs.16,500/-	Rs.16,500/-
Funeral expenses	Rs.16,500/-	Rs.16,500/-
Consortium	Rs.44,000/- x 5 = Rs.2,20,000/-	Rs.44,000/- x 5 = Rs.2,20,000/-
Total	Rs.19,11,850/-	Rs.21,03,688/-

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

17.02.2026
Sunena

(Nidhi Gupta)
Judge

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