

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****221****FAO-3935-2019(O&M)****Date of decision: 23.04.2026****Mamta Goswami & Others****...Appellant(s)****Vs.****Jagbir Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rohit Duggal, Advocate for
Mr. Kamal Mor, Advocate
for the appellants.

*********NIDHI GUPTA, J.****CM-13278-CII-2019**

This is an application under Section 5 of Limitation Act for condonation of delay of 61 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.1, the same is allowed subject to all just exceptions and delay of 61 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.17,43,352/- awarded by the Motor Accident Claims Tribunal, Karnal (hereinafter 'the learned Tribunal') vide Award dated 04.10.2018 passed in MACT Case No.106 dated 26.07.2017



filed under Sections 166 and 140 of Motor Vehicles Act (hereinafter “the Act”). The 4 claimants are the widow, minor son, and parents of deceased Ramkesh, who was 25 years old at 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 the deceased Ramkesh had died due to the injuries suffered by him in a motor vehicular accident that took place on 21.03.2017 due to the rash and negligent driving of Canter bearing registration No.PB-65P-8004 (hereinafter “the offending vehicle”) being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.4. The said compensation has been awarded along with interest @ 6% per annum. Respondents No.1, 2 and 4 were held jointly and severally liable for payment of compensation amount.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that while computing compensation payable to the appellants, the learned Tribunal has taken income of the deceased on the lower side. It is submitted that the appellants had led cogent evidence to prove that deceased was an agriculturist and earning Rs.50,000/- per month and was also an LIC Agent. However, learned Tribunal has failed to appreciate the said evidence and has wrongly calculated income of the deceased as only Rs.8300/- per month.



4. It is further submitted that nothing has been awarded by the learned Tribunal towards loss of love and affection. Moreover, nothing has been awarded by way of consortium. Interest is also on the lower side. It is accordingly prayed that the present appeal be allowed and compensation of Rs.1 crore be granted to the appellants.

5. 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.

6. Perusal of record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that prior to the accident, deceased was an agriculturist and was also working as an LIC Agent and was earning Rs.50,000/- per month. To prove the said alleged income of the deceased, the claimants had produced J-Forms (Ex.P7 to Ex.P10) for the period 2015-16. The appellant had sought to prove the said documentary evidence by examining PW4 Ramesh Kumar. However, the above-said documentary and oral evidence was rightly rejected by the learned Tribunal as PW4 had admitted in his cross-examination that he had brought no record pertaining to the said J-Forms (Ex.P7 to Ex.P10); and had further admitted that there is no evidence to show that deceased was owning any agricultural land; or that he was cultivating any land on lease. Therefore, it could not be established that the J-Forms produced by the appellant were in any manner connected with the purported agricultural income of deceased.



7. The contention of the appellants that deceased was also working as LIC Agent as evident from alleged Certificate (Mark A), was also rejected by the Tribunal as the same was not proved in accordance with law. Consequentially, the learned Tribunal had assessed income of the deceased as Rs.8300/- per month as a casual labourer on the basis of Minimum Wage Notification issued by the Labour Commissioner. I find no error in the same.

8. Further, even though age of the deceased is mentioned in the Claim Petition as 29 years, the learned Tribunal had determined age of the deceased to be 25 years on the basis of his Post-Mortem Report (Ex.P19). Accordingly, the learned Tribunal had made an addition of 40% towards future prospects; and correctly applied multiplier of 18. Of the four claimants, the learned Tribunal had held that only claimant No.1/widow and claimant No.2/minor child were dependent upon the deceased. Accordingly, learned Tribunal made a deduction of 1/3rd towards personal expenses. Under the conventional heads, the learned Tribunal has awarded an amount of Rs.40,000/- to the claimant No.1 by way of consortium; Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses; thereby granting total compensation of Rs.17,43,352/-.

9. It is my view that the aforesaid compensation is just and fair in the facts and circumstances of the case. 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 Apex Court has held that misplaced sympathy, generosity and benevolence cannot be the guiding factor for determining compensation.

10. It may further be pointed out that in respect of the accident dated 21.03.2017, FIR No.146 dated 22.03.2017 under Sections 279, 304A and 337 IPC was registered at Police Station Gharaunda, Karnal on the statement made by eyewitness Vishnu, who, in the FIR had reiterated the stand of the claimants in the Claim Petition. The pleaded case of the claimants before the Tribunal as mentioned in Para 2 of the Award is that: -

"2. Brief facts of the claim petition are that in the evening of 21.03.2017, Ramkesh, alongwith Vishnu, Sachin, Suresh, Amit, Harish, Rajesh Kumar, was coming from village Kohand to their village after attending a marriage in a Scorpio, which was being driven by its driver Rajesh on a moderate speed, by observing the traffic rules and when at about 6:00 PM, they reached near Daana Factory, situated on Kohand-Assandh road, then, a canter bearing registration No. PB-65P-8004, which was being driven by its driver i.e. respondent No.1 in a rash and negligent manner without observing the traffic rules, came from opposite side and



struck into the Scorpio. Due to which, all the occupants received multiple serious and grievous injuries on the vital parts of their bodies. Thereafter, they were shifted to Prem Hospital, Panipat, but on the way, Ramkesh succumbed to the injuries. Thus, the present accident took place due to rash and negligent driving of respondent No.1 while driving the canter bearing registration No. PB-65P-8004. Respondent No.1 being driver, respondent No.2 being owner, respondent No.3 being superdar and respondent No.4 being insurer of the offending vehicle are jointly and severally liable to pay the compensation to the claimants.”

11. To prove their case before the Tribunal, the claimants have examined aforementioned eyewitness and injured-claimant Suresh as PW1, Amit as PW2, and claimant No.1 herself appeared as PW3 before the learned Tribunal. All of the above-said three eyewitnesses have deposed that the accident in question had taken place due to the rash and negligent driving of the offending vehicle by respondent No.1. On the basis of testimony of Suresh as PW1 and Amit as PW2, who are the alleged eyewitnesses as well as the injured; and have tendered their affidavits Ex.PW1/A and Ex.PW2/A respectively, the learned Tribunal had decided issue No.1 in favour of the claimants; and had held that the accident dated 21.03.2017 had been caused due to the rash and negligent driving of the offending vehicle by respondent No.1; and had therefore held the claimants entitled to compensation.

12. It may however be pointed out that in the FIR No.146 dated 22.03.2017, respondent No.1 has been acquitted by the learned Judicial



Magistrate, 1st Class, Karnal vide judgment dated 07.07.2023 as the said Suresh and Amit while appearing in the criminal trial as PW3 and PW4 respectively, along with other eyewitnesses, have turned hostile. Relevant findings of the learned JMIC are in Para 9 of the judgment dated 07.07.2023, which are as under: -

“9. In the present case FIR has been registered on the basis of complaint of complainant who has been examined by the prosecution as PW-8. The other witnesses of the alleged occurrence are Sachin s/o Rajkumar, Suresh So Sh. Ram Kumar, Amit S/o Sh. Ram Mehar, Harish S/o Sh. Ramphal, Rajesh s/o Sh. Ramchander and Ramesh So Sh. Hardyal and they have been also examined. They all have not identified the accused. Learned APP for the State sought permission to cross-examine them and they were all cross-examined at length but nothing incriminating to the present accused has come on record. The identity of the accused to the alleged incident is not established.”

13. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, no credence can be attributed to the contrary statements made by the claimant side before the learned Tribunal. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. In such a situation, reference may be made to a judgment of this Court in **“United India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law Finder Doc Id # 251230** wherein it has been held that:



"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering falsehood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."

14. The above said view has been reiterated by this Court in “**Shri**

Ram General Insurance Company Limited Vs. Jeeto Devi & Others” FAO-

2231-2014 decided on 03.12.2019, wherein it is held as under:-



*“(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury.”*

15. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings. Thus, no ground is made out for enhancement of compensation.

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

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

23.04.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No