

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****215****FAO-1523-2024(O&M)****Date of decision: 30.01.2026****Shyambati & Others****...Appellant(s)****Vs.****Hasim & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Yash Goyal, Advocate for
Mr. Tanmoy Gupta, Advocate
for the appellants.

Mr. D.K. Prajapati, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.****CM-5806-CII-2024**

This is an application under Section 5 of Limitation Act for
condonation of delay of 78 days in filing the appeal.

After going through the contents of the application, which is
supported by affidavit of appellant No.2, the same is allowed subject to all
just exceptions and delay of 78 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking
enhancement of compensation of Rs.12,82,990/- awarded by the Motor
Accident Claims Tribunal, Palwal (hereinafter 'the learned Tribunal') vide



Award dated 03.10.2023 passed in MACP Case No.133 dated 11.09.2019 filed under Section 166 of the Motor Vehicles Act (hereinafter “the Act”). The 3 claimants are the 42-year-old widow, 20-year-old son and 24-year-old married daughter of deceased Sukhbir Singh, who was 46 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 Sukhbir Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 07.01.2019 due to the rash and negligent driving of Honda City Car bearing registration No.DL-4C-AB-8812 (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 @ 7.5% 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 only Rs.9,023/- per month. It is submitted that the appellants had duly proved on record that the deceased was a Helper in a Private Company and also an agriculturist. From the evidence of PW3, it was established that deceased was getting salary of Rs.10,265/- per month. However, Tribunal has erroneously deducted the Provident Fund amount



and assessed income of the deceased as only Rs.9,023/- per month. Ld. counsel contends that the said deduction could not have been made.

4. It is further submitted that age of the deceased has been wrongly taken as 46 years and therefore, multiplier of 13 has been wrongly applied. Learned counsel submits that it was the clear case of the appellants that deceased was 45 years old at the time of death as was also proved from his Death Certificate (Ex.P13). Thus, multiplier of 14 was applicable. It is further submitted that consortium of Rs.50,000/- each ought to have been awarded to the claimants. Interest is also on the lower side. It is accordingly prayed that compensation be enhanced to Rs.50 lakh.

5. Per contra, learned counsel for the respondent No.3/Insurance Company opposes 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.

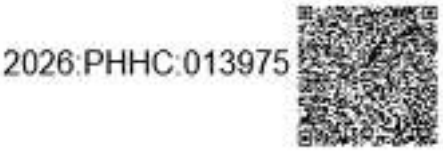
6. No other argument is made on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find some merit in the submissions made on behalf of the appellants.

7. Perusal of record shows that it is pleaded case of the appellants before the learned Tribunal that deceased was a Helper with M/s Thermolite Jointings Pvt. Ltd., Hathin and was getting salary of Rs.15,000/- per month; besides having agricultural income of Rs.10,000/- per month. The appellants had examined PW3 Lachhi Ram Sharma, Accountant of the said firm, who



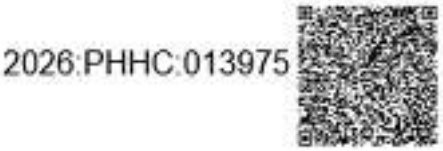
had produced Wage Register for the months of December 2018 and January 2019 (Ex.P2 and Ex.P3 respectively) from which it was clear that deceased was drawing salary of Rs.10,265/-. An amount of Rs.1232/- was deducted towards the Employee Provident Fund. It is the contention of the appellants that the said amount should not have been deducted while assessing income of the deceased. However, I find no merit in the said argument as it is not disputed by learned counsel for the appellants that the said amount is to be received by the appellants. The appellants had failed to lead any evidence in respect of the agricultural income of the deceased. As such, the learned Tribunal had correctly assessed income of the deceased as Rs.9023/- per month; and annual income to be Rs.1,08,276/-.

8. Learned Tribunal had determined age of the deceased as 46 years on the basis of his Inquest Report; wherein age of the deceased is mentioned as 45-46 years. However, in doing so, the learned Tribunal has ignored the evidence of widow/claimant No.1 as PW1, who has clearly stated that deceased was 45 years old at the time of accident. The claimants had also produced Death Certificate of the deceased as Ex.P13 from which it is clear that deceased was 45 years old at the time of accident. The Inquest Report is merely an approximation of the age of the deceased; whereas the above said oral and documentary evidence is convincing in respect of the age of the deceased. As such, age of the deceased is taken to be 45 years. Therefore, addition of 25% towards future prospects is correct. However,



multiplier of 14 is liable to be applied. Further, no doubt the claimant No.2 is the 20-year-old major son of the deceased. However, as rightly pointed out by learned counsel for the appellants that at the time of accident, he was only 19 years old and still a student and should therefore, be taken as a dependent upon the deceased. I find merit in the said argument. However, the claimant No.3 being married daughter of the deceased is not entitled to compensation in terms of judgment of the Hon’ble Supreme Court in **Deep Shikha v. National Insurance Company Ltd., (SC) : Law Finder Doc ID # 2729764**, wherein it is held that married daughter of the deceased is not entitled to compensation, unless financial dependency is proved. Thus, as there were two dependents, deduction of 1/3rd has been correctly made. Under the conventional heads, the Tribunal has awarded Rs.15,000/- towards loss of funeral expenses; Rs.15,000/- towards loss of estate; and Rs.40,000/- each towards loss of consortium. The Tribunal has failed to apply the 10% increase to the amounts granted under the conventional heads. In view of the above discussion, the compensation payable to the appellants is re-assessed as follows: -

Head	Awarded by learned Tribunal	Re-assessed compensation
Income	Rs.9023/- per month	Rs.9023/- per month
Annual income	Rs.9023/- x 12 = Rs.1,08,276/-	Rs.9023/- x 12 = Rs.1,08,276/-
Deduction	1/3 rd	1/3 rd
Future prospects	25%	25%
Multiplier	13	14



Consortium	Rs.40,000/- x 2 = Rs.80,000/-	Rs.48,000/- x 3 = Rs.1,44,000/-
Loss of estate	Rs.15,000/-	Rs.18,000/-
Funeral expenses	Rs.15,000/-	Rs.18,000/-
Total	Rs.12,82,990/-	Rs.14,43,220/-

9. Present appeal stands **partly allowed** as above.
10. Pending application(s) if any also stand(s) disposed of.

30.01.2026
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No