

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****106****FAO-2522-2021 (O&M)****Date of decision: 16.01.2026****Rambati and others****...Appellant(s)****Vs.****Junish and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. Tushar Gera, Advocate for the appellants.***********NIDHI GUPTA, J.**

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.10,22,215/- awarded by Motor Accident Claims Tribunal, Palwal (hereinafter "the learned Tribunal") vide Award dated 22.02.2021 passed in MACT Case No. 131 dated 20.09.2018 filed u/s 166 of Motor Vehicles Act, (hereinafter "the Act"). The 3 claimants are the 52-year-old widow; 26-yr-old son; and 31-year-old son of deceased Prakash alias Om Parkash, who was 55 years old at time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and evidence adduced before it, concluded that the deceased-Prakash had died due to the injuries suffered by him in a motor vehicular accident that took place on 20.06.2018 at about 4 p.m. due to the rash and negligent driving of a Truck bearing registration No. HR-73-8257 (hereinafter "the offending vehicle") being driven by respondent No.1;



owned by respondent No.2; and insured by respondent No.3. The Tribunal awarded above said compensation 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 submits that the impugned Award deserves to be modified as the learned Tribunal was in error in dismissing Claim Petition qua claimants No. 2 and 3 who are sons of the deceased. It is submitted that therefore, deduction of 1/4th ought to have been made instead of 1/3rd. Even consortium has not been awarded to claimants No.2 and 3. Even income of the deceased has been wrongly assessed as only Rs.9,837/- p.m. Learned counsel contends that it was proved on record that deceased was a milk vendor and agriculturist. As such, his income ought to have been assessed as that of a highly skilled labour. It is accordingly prayed that the present Appeal be allowed; and the impugned Award be modified/enhanced.

4. No other argument is raised on behalf of learned counsel for the appellants. I have heard Id. counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the appellants.

5. Perusal of the record of the case shows that the pleaded case of the appellants was that the deceased was an agriculturist and also a milk vendor. It was further pleaded that deceased was owner of 4 acres of land as per Jamabandi Ex.P14 to Ex.P21. It is admitted fact on record that the said land holding of the deceased has devolved 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. Accordingly, learned Tribunal had taken income of the deceased as Rs.9,837/- p.m. as that of a skilled labourer as per relevant DC rate. Contention of the appellants that the same ought to have been assessed as that of a highly skilled labourer is without merit and is accordingly rejected. In any event, appellants have been unable to produce any Notification to show the wages payable to a highly skilled worker. Accordingly, I find no error in the income of Rs.9,837/- p.m. as assessed by the learned Tribunal.

6. It has next been contended that Claim Petition qua claimants No. 2 and 3, who are major sons of the deceased, could not be dismissed. I find no merit in the said argument either. On the contrary, deceased being a fairly aged man of 55 years, should be held to be dependent upon his young and able sons, who were aged 26 and 31 years respectively. It has been held by Hon'ble Supreme Court that no doubt major married children of the deceased are his Legal Representatives, however, grant of compensation is to be assessed in the facts and circumstances of each case. Reference is made to a judgment passed by Hon'ble Supreme Court in **National Insurance Company Limited v. Birender (SC)** : Law Finder Doc Id # **1665184**, wherein it is clearly held that Legal Representatives of the deceased only have a "*...right to apply for compensation and it would be the bounden duty of the Tribunal to consider the application irrespective of the fact whether the concerned legal representative was fully dependent on the deceased and not to limit the claim towards conventional heads only...*". Accordingly, as per the said pronouncement,



the Legal Representatives/appellants only have a "right to apply" for compensation and it is for the learned Tribunal to consider whether the said Legal Representatives were "fully dependent" on the deceased. In the present case, nothing has been shown to this Court to prove that the claimants No.2 and 3 were "fully dependent" on the deceased. Nothing has been shown to this Court to prove the financial dependence of the said claimants upon the deceased. On the contrary, in the present case, the land holding of the deceased has been inherited by the claimants; and claimants No.2 and 3 are admitted to be young and able sons of the deceased; and nothing has been brought on record to show the financial dependence of the claimants no.2 and 3 upon the deceased. As such, I find no error in the Award.

7. Age of the deceased was proved to be 55 years on the basis of his Postmortem Report Ex.P6. Learned Tribunal had therefore, correctly made addition of 10% towards future prospects; thereby calculating annual income of the deceased as Rs.1,29,848 (Rs.9,837 x 12 = Rs.1,18,044 + Rs.11,804 (10%)). The Tribunal had made a deduction of 1/3rd in the income of the deceased towards personal expenses; thereby calculating dependency to be Rs.86,565/- p.a. (Rs.1,29,848-Rs.43,283). Learned Tribunal had correctly applied multiplier of 11; thereby calculating compensation to be Rs.9,52,215/- (Rs.86,565 x 11).

8. Under the conventional heads, learned Tribunal had awarded Rs.40,000/- to claimant No.1 as spousal consortium; Rs.15,000/- towards



loss of estate; and Rs.15,000/- towards loss of funeral expenses; thereby granting total compensation of Rs.10,22,215/-.

9. It has been argued on behalf of the appellants that nothing has been awarded by way of consortium to claimants no.2 and 3. 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**, has 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 strait-jacket 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. The Apex Court in the case of **Reshma Kumari supra** has further gone on to hold that: *“Motor Vehicles Act, 1988, Section 168 - Section 168 provides that amount of compensation awarded by the Claims Tribunal which appears to it to be just - The expression, 'just' means that the amount so determined is fair, reasonable and equitable by accepted legal standards and not a forensic lottery - Obviously 'just compensation' does not mean 'perfect' or 'absolute' compensation - The just compensation principle requires examination of the particular situation obtaining uniquely in an individual case.”*

13. Learned counsel for the appellants is unable to controvert or dispute the above said facts and findings, and legal position.

14. 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**.

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

16.01.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No