

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****118****FAO-5450-2023 (O&M)****Date of decision: 11.05.2026****Amarjit Kaur and others****...Appellant(s)****Vs.****Prem Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Hardeep Singh, Advocate
for the appellants. (on V.C.)

NIDHI GUPTA, J.**CM-18422-CII-2023**

Prayer in this application filed under Section 151 CPC is for
condonation of delay of 60 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly
supported by an affidavit of the learned counsel for the applicant/appellants,
the same is allowed and delay of 60 days in refiling the accompanying appeal
is condoned.

CM-18423-CII-2023

Prayer in this application filed under Section 5 of the Limitation
Act is for condonation of delay of 19 days in filing the accompanying appeal.

2. Heard.



3. For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant No.2, the same is allowed and delay of 19 days in filing the accompanying appeal is condoned.

FAO-5450-2023 (O&M)

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.8,38,339/- awarded by the learned Motor Accidents Claims Tribunal, Patiala (hereinafter referred to as “the learned Tribunal”) vide Award dated 02.02.2023 passed in MACP Case No. 128 dated 15.04.2021 filed under Section 166 of the Motor Vehicles Act, (hereinafter referred to as “the Act”). The 3 claimants are the 55-year-old widow; 25-year-old son; and 83-year-old mother of the deceased Gurmel Singh, who was 58 years old at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased- Gurmel Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 07.02.2021 at about 04:30 p.m. due to the rash and negligent driving of a Truck bearing registration No. PB-03-AZ/4097 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.2; owned by respondent No.1; and insured by respondent No.3. The above said compensation was awarded along with interest @ 7% per annum. All the respondents were held jointly and severally liable to pay the amount of compensation.

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.9,192/- p.m. It is submitted that in taking income of the deceased as above, learned Tribunal has failed to appreciate that appellants had duly proved on record that deceased although working as labourer and was earning Rs.25,000/- p.m. Furthermore, nothing has been awarded towards filial and parental consortium.

4. It is accordingly prayed that the present Appeal be allowed; and the impugned Award be modified; and compensation be enhanced.

5. No other argument is raised on behalf of learned counsel for 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 the record of the case shows that it was the pleaded case of the appellants that prior to the accident, deceased was working as labourer and earning Rs.25,000/- p.m. However, no evidence whatsoever was produced by the claimants to support their said contention. In the absence of evidence, learned Tribunal had assessed income of the deceased as that of a labourer as Rs.9,192/- p.m. on the basis of relevant Minimum Wage Notification issued by State of Punjab. I find no error in the same.

7. Further, age of the deceased was determined to be 58 years old at the time of accident on the basis of the pleadings. Accordingly, future prospects of 10% were correctly added; and multiplier of 9 was correctly applied. Learned Tribunal has made a deduction of 1/3rd towards personal expenses on the ground that there were 3 claimants. However, in doing so, learned Tribunal has ignored the fact that claimant No.2 is the 25-year-old

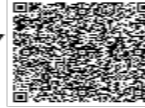
son of the deceased; and there is no evidence on record to show that he was financially dependent upon the deceased.

8. Further, under the conventional heads, learned Tribunal had awarded total amount of Rs.77,000/- i.e. Rs.16,500/- towards funeral expenses; Rs.16,500/- towards loss of estate; and Rs.44,000/- towards loss of consortium. Learned Tribunal had further awarded an amount of Rs.33,311/- as medical expenses incurred by the claimants towards treatment of the deceased; thereby granting total compensation of Rs.8,38,339/- as follows: -

Sr. No.	Heads	Calculation (in Rs.)
(i)	Income	Rs.9,192/- per month
(ii)	10% future prospects	Rs.10,111/- (Rs.9,192 + Rs.919)
(iii)	1/3rd deduction towards personal expenses of the deceased	Rs.10,111-Rs.3,370 = Rs.6,741/- or Rs.80,892/- p.a. (6,741 x 12)
(iv)	Compensation after multiplier of '9' is applied	Rs.80,892 x 9 = Rs.7,28,028/-
(v)	Loss of estate	Rs.16,500/-
(vi)	Funeral expenses	Rs.16,500/-
(vii)	Loss of consortium to claimant No.1	Rs.44,000/-
(viii)	Medical treatment	Rs.33,311/-
	Total compensation awarded	Rs.8,38,339/-

9. I find no error in the compensation awarded by learned Tribunal.

10. As regards contention of the appellants that Rs.40,000/- each ought to have been awarded as consortium to the claimants No.2 and 3 as well, it may be pointed out that on a Court query, learned counsel for the appellants has been unable to inform as to whether claimant No.3 i.e. 83-



year-old mother of the deceased, is still alive. Even otherwise, 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.

11. The Apex Court in the case of **Reshma Kumari v. Madan Mohan (SC) 2013(5) Scale 160; Law Finder Doc ID # 421379;** 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."*

12. From the above noted factual and legal position, it is clear that just and fair compensation has been awarded 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 Vs. Jasbir Kaur"** Law Finder Doc ID # 64043 and **"Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty and another" (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. Thus, no ground is made out to interfere in the Award dated 02.02.2023. The present Appeal is accordingly **dismissed**.

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

11.05.2026

Divyanshi

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No

(NIDHI GUPTA)

JUDGE