IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

221(2)

Date of decision: 05.05.2026

FAO-1498-2008 (O&M)

Surti Devi & Another

...Appellant(s)

Vs.

Sushil Kumar & Others

...Respondent(s)

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FAO-2406-2008 (O&M)

Reena Rani

...Appellant(s)

Vs.

Sushil Kumar & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Ms. Lipika, Advocate
for the appellants in FAO-1498-2008.

Mr. Robin Dutt, Advocate
for the appellant in FAO-2406-2008.

Mr. Vipul Sharma, Advocate
for respondent No.3/Insurance Company.

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NIDHI GUPTA, J.

Registry has listed both these appeals under IOIN category.

FAO-1498-2008

The present appeal has been filed by the claimants no.2 and 3 seeking enhancement of compensation of Rs.4,40,000/- awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri vide Award dated

31.03.2008 passed in MACT Case No.131 dated 14.08.2005 filed under Sections 166, 140 and 141 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 3 claimants are the widow and parents of deceased. Present appeal has been filed by the parents of the deceased i.e. claimants No.2 and 3. Claimant No.1/widow of the deceased has been impleaded as pro-forma respondent No.4 herein.

FAO-2406-2008

The present appeal has been filed by the claimant no.1 seeking enhancement of compensation of Rs.4,40,000/- awarded by Motor Accident Claims Tribunal, Yamuna Nagar at Jagadhri vide Award dated 31.03.2008 passed in MACT Case No.131 dated 14.08.2005 filed under Sections 166, 140 and 141 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 3 claimants are the widow and parents of deceased. Present appeal has been filed by the widow of the deceased i.e. claimant No.1.

Both the above appeals are being disposed of by this common order as they are filed by the claimants separately; the same arise out of common Award dated 31.03.2008; both emanate from the accident dated 21.08.2005; and both appeals are between the same parties; and facts and issues involved in both appeals are identical. For the sake of facility, the facts are being drawn from, and parties are being referred to as per their status in FAO-1498-2008 filed by the claimants No.2 and 3.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties concluded that deceased had died due to the injuries suffered by him in a motor vehicular accident that took place on 21.08.2005 due to the rash and negligent driving of Tractor Trolley make Famtrac bearing Chassis No.T20113774 Engine No.E2013866 (hereinafter referred to as "the offending vehicle") being driven by respondent No.1, owned by respondent No.2, and insured by respondent No.3.

3. In FAO-2406-2008, at the very outset, it is admitted by learned counsel for the claimant No.1/appellant/widow of the deceased that the appellant has re-married. Accordingly, in terms of judgment of Hon'ble Supreme Court in **Anju Mukhi v. Satish K. Bhatia (SC) : Law Finder Doc Id # 548157**, the appellant is not entitled to enhancement of compensation. The said FAO-2406-2008, accordingly stands **dismissed**.

4. In FAO-1498-2008, learned counsel for the appellants seeks enhancement of compensation by submitting that income of the deceased ought to have been taken as Rs.10,000/- per month. It is submitted that while assessing income of the deceased as merely Rs.3000/- per month, the learned Tribunal has ignored vital evidence in the form of Ex.P1. Moreover, multiplier of 20 should have been applied. It is further submitted that pro-forma respondent No.4/widow of the deceased has remarried; and therefore, she is not entitled to enhancement of compensation. This fact has not been disputed by learned counsel for the appellant in FAO-2406-2008.

5. Per contra, learned counsel for the respondent No.3/Insurance Company opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeals deserve to be dismissed.

6. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail. I find some merit in the submissions advanced on behalf of the claimants No.2 and 3.

7. Perusal of record of the case shows that it was the pleaded case of the claimants before the learned Tribunal that prior to the accident, the deceased was doing the work TV repair and was capable of earning Rs.8000/- to Rs.9000/- per month. To prove their above-said assertion, the claimants had examined PW2 Gurdev Singh who had tried to prove the profession and income of the deceased by stating that he along with deceased was having 50% share each in the business of TV repair. However, during his cross-examination, PW2 had admitted that he had no documentary proof in this regard. Thus, income and avocation of the deceased was not proved by the claimants.

8. Furthermore, there was discrepancy in the evidence of the claimants themselves inasmuch as claimant No.1 while appearing as PW1 has deposed that deceased was earning Rs.8000/- to Rs.10,000/- per month; whereas PW2 has deposed that deceased was earning Rs.15000/- to Rs.20,000/- per month. Thus, keeping in view the above contradiction and lack of evidence, learned Tribunal has assessed income of the deceased

as Rs.3000/- per month as that of a labourer on the basis of the relevant Minimum Wage Notification issued by the State of Haryana, as per which daily wage for a labourer was Rs.100/- only. I find no error in the income as assessed by the learned Tribunal.

9. Further, age of the deceased was determined to be 25 years at the time of accident on the basis of pleadings. Accordingly, future prospects were to be added @ 40%. However, the same has not been done. The Tribunal has applied multiplier of 18. However, keeping in view the age of the deceased, multiplier of 17 is applicable. As there were 3 claimants, deduction of 1/3rd has been correctly made. Under the conventional heads, the Tribunal has only awarded an amount of Rs.8000/- towards funeral expenses. The said amount is also liable to be enhanced. Accordingly, the compensation payable to the appellants is re-assessed as follows:-

Head	**Awarded by learned Tribunal**	**Re-assessed compensation**
Monthly Income	Rs.3000/-	₹3000/–
Annual income	Rs.36,000/-	₹36,000/–
Future prospects	--	(40%) Rs.36,000/- + Rs.14,400/- = Rs.50,400/-
Deduction	1/3rd	(1/ 3rd) Rs.50,400/- - RS.16,800/- = Rs.33,600/-
Multiplier	18	(17) Rs.33,600/- x 17 = Rs.5,71,200/-
Funeral expenses	Rs.8000/-	Rs.15,000/-
Consortium	Nil	₹40,000/-x 2 = Rs.80,000/-
Total	Rs.4,40,000/-	₹6,66,200/–
Interest	7.5% p.a.	7.5%

10. In view of the above, **FAO-2406-2008** filed by claimant No.1/widow is **dismissed;** and **FAO-1498-2008** filed by the claimants No.2 and 3/parents of the deceased is **partly allowed**, as above.

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

05.05.2026 **(NIDHI GUPTA)**
Sunena **JUDGE**

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