IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-6355-2012(O&M)
Date of decision: 30.04.2026

Pooja & Others

...Appellant(s)

Vs.

Mubin & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Rakesh Dhiman, Advocate
for the appellants.

Ms. Vandana Malhotra, Advocate (through VC)
Ms. Manvi Verma, Advocate
for respondent No.3/Insurance Company.
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NIDHI GUPTA, J.

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.11,77,500/- awarded by the Motor Accident Claims Tribunal, Gurgaon (hereinafter 'the learned Tribunal') vide Award dated 30.08.2012 passed in MACT Petition No.2 dated 04.01.2011 filed under Section 166 of Motor Vehicles Act (hereinafter "the Act"). The 4 claimants are the 25-year-old widow, 3-year-old minor son, 60-year-old father and 55-year-old mother of deceased Manbir, who was 28 years old at time of accident.

2. Brief facts of the case are that the ld. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that the deceased Manbir had died due to the injuries suffered by him in a motor vehicular accident that took place on 28.11.2010 due to the rash and negligent driving of Truck bearing registration No.HR-27-J-0608 (hereinafter "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3.

3. It may also be pointed out that vide the impugned Award, the appellants were held liable for contributory negligence for 50% as it was found that the deceased had hit into the rear of the stationary offending truck, which was parked on the side of the road. Accordingly, claimants were held entitled to compensation of Rs.5,88,750/- along with interest @ 6% per annum. Respondents were held jointly and severally liable for payment of compensation amount.

4. It may also be pointed out that vide the Award dated 30.08.2012, recovery rights have been granted to the respondent No.3 against respondents No.1 and 2 as the respondent No.1 did not have a valid Driving Licence on the date of accident. The learned Tribunal had called for Verification Report (Ex.P2), as per which the Driving Licence on the file had not been issued in the name of respondent No.1. Accordingly, respondent No.3/Insurance Company had been granted recovery rights against

respondents No.1 and 2 in respect of the 50% compensation payable to the claimants.

5. Perusal of record of the present case shows that vide order dated 29.01.2019, the appellants were permitted to serve the respondents No.1 and 2 through publication. Office Report dated 08.04.2020 indicates that respondents No.1 and 2 have been served through Publication. Yet, none has appeared on behalf of the respondents no.1 and 2. As such, the present appeal is being heard and decided in the absence of the said respondents; especially as the appeal is an old matter of the year 2012.

6. At the very outset, learned counsel for the appellants submits that he is laying no challenge to the findings of the learned Tribunal in respect of contributory negligence attributed to the deceased in causing the accident dated 28.11.2010.

7. It is submitted that however, interference of this Court is called for in respect of the quantum of compensation payable to the appellants. It is submitted that age of the deceased was determined to be 28 years at the time of accident on the basis of his Post-Mortem Report (Ex.P1). Therefore, multiplier of 17 ought to have been applied; whereas the learned Tribunal has applied multiplier of 15. Moreover, nothing has been awarded by way of future prospects. Even under the conventional heads, a meagre amount of only Rs.30,000/- has been awarded.

8. It is further submitted that income of the deceased has also been taken on the lower side as only Rs.8500/- per month; whereas the appellants had proved that deceased was earning Rs.1,50,000/- per month from the evidence of PW6, PW7 and PW8. The appellants had also produced sufficient documentary evidence in the form of bank statements of the deceased has also his income tax return to prove his aforesaid income. It is accordingly prayed that the present appeal be allowed and the impugned Award be modified.

9. Per contra, learned counsel for the respondent No.3 opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

10. 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 advanced on behalf of the appellants.

11. As noted above, no challenge has been made by the appellants to the findings of the learned Tribunal to the effect that the accident in question was caused due to the contributory negligence by the drivers of both the vehicles i.e. respondent No.1 while driving the offending truck; as also the deceased while driving the Car bearing registration No.HR-26-F-8031; as deceased had struck into the rear of the stationary offending vehicle.

12. As regards quantum of compensation, age of the deceased was determined to be 28 years on the basis of Post-Mortem Report (Ex.P1). The contention of the appellants that income of the deceased was proved to be Rs.1,50,000/- per month from the evidence of PW6 to PW8 is misleading. Record reveals that PW6 Punya Pal Manager, had brought the statement of account of deceased in Gramin Bank, Ghamroj and proved the same as Ex.P6. However, perusal of Ex.P6 shows the said account statement is pertaining to the year 2008 till September 2010.

13. Similarly, PW7 Junior Officer, ICICI Bank, Sector 14, Gurgaon had brought Statement of Account of the deceased and proved the same as Ex.P7; which was with regard to the period April 2007 till September 2011.

14. PW8 Assistant Manager, IndusInd Bank had proved Statement of Account of deceased as Ex.P8, pertaining to the year January 2006 to March 2007. Whereas the accident has taken place on 28.11.2010. The said statements, therefore, have no relevance. Moreover, credit entries borne in the above-said Statements of Account are not proved to be ‘income’ of the deceased. Despite Court query learned counsel for the appellants is unable to inform as to for what purpose the said amounts were shown to be deposited in the Account of the deceased.

15. Even no reliance can be placed upon the Income Tax Return (Ex.P5) produced by the appellants as the same pertains to the year 2006-07. In this situation, the learned Tribunal has correctly assessed income of the

deceased as Rs.8500/- per month as the appellants had failed to prove the income as alleged.

16. Further, the learned Tribunal has made a deduction of 1/4th towards personal expenses. I find no error in the same. As age of the deceased was determined to be 28 years, addition of 40% was liable to be made towards future prospects. The same has not been done. Moreover, multiplier of 17 was liable to be applied. However, the learned Tribunal has mistakenly applied multiplier of 15.

17. Under the conventional heads, the learned Tribunal has awarded an amount of Rs.20,000/- towards funeral expenses and Rs.10,000/- towards consortium. The said amount is also liable to be enhanced as per law laid down by the Hon'ble Supreme Court; that an amount of Rs.15,000/- is liable to be paid as funeral expenses; Rs.15,000/- towards loss of estate; Rs.40,000/- to each of the claimants towards consortium.

18. In view of the above, present appeal stands **allowed;** and compensation payable to the appellants is re-assessed as follows:

Head	**Awarded by learned Tribunal**	**Re-assessed compensation**
Income	Rs.8500/- per month	Rs.8500/- per month
Addition towards future prospects	--	(40%) Rs.8500/- + Rs.3400/- = Rs.11,900/-
Deduction	(1/4th) Rs.8500/- - Rs.2125/- = Rs.6325/-	(1/4th) Rs.11,900/- - Rs.2975/- = Rs.8925/-
Annual dependency	Rs.6325/- x 12 = Rs.76,500/-	Rs.8925/- x 12 = Rs.1,07,100/-
Multiplier	(15) Rs.76,500/- x 15 = Rs.11,47,500/-	(17) Rs.1,07,100/- = Rs.18,20,700/-

Funeral expenses	Rs.20,000/-	Rs.15,000/-
Loss of estate	--	Rs.15,000/-
Consortium	Rs.10,000/-	Rs.40,000/- x 4 = Rs.1,60,000/-
Total	**Rs.11,77,500/-**	**Rs.20,10,700/-**
interest	6% p.a.	6% p.a.

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

30.04.2026 **(Nidhi Gupta)**
Sunena **Judge**

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