

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****232****FAO-3216-2013 (O&M)****Date of decision: 27.05.2026****Ashok Kumar and others****...Appellant(s)****Vs.****Darshan Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. K.K.Korla, Advocate
for the appellants.

Ms. Tanvi Aggarwal and
Mr. Vineet Jain, Advocates for
Mr. Vikas Mohan Gupta, Advocate
for respondent No.3-Insurance Co.

NIDHI GUPTA, J.

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,00,000/- awarded by the learned Motor Accidents Claims Tribunal, Pathankot (hereinafter referred to as "the learned Tribunal") vide Award dated 05.02.2013 passed in MACT Case No. 47 dated 21.09.2011 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as "the Act"). The 3 claimants are the two brothers; and one married sister of the deceased Umesh Sharma, who was 30 years old at the time of accident.

2. Vakalatnama filed on behalf of respondent No.3/Insurance Company in Court today is taken on record.

3. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that the deceased-



Umesh Sharma had died due to the injuries suffered by him in a motor vehicular accident that took place on 23.03.2011 at about 6:15 p.m. due to the rash and negligent driving of a Bus bearing registration No. PB-02-BH-9812 (hereinafter referred to as “the offending vehicle”) being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The above said compensation was awarded along with interest @ 9% per annum which is payable in case the respondents fail to make payment within 2 months from the date of the Award. All the respondents were held jointly and severally liable to pay the compensation.

4. Learned counsel for the appellants seeks enhancement of compensation by submitting that the Ld. Tribunal has failed to consider the evidence produced on record by the appellants regarding the income of the deceased and it was also proved that the appellants were dependent on the deceased. It is submitted that learned Tribunal was in error in holding that appellants were not financially dependent upon the deceased as it failed to appreciate that one brother of the deceased is handicapped; one brother is unemployed; and one sister is married. As such, all 3 claimants were dependent upon the deceased for their sustenance.

5. It is further submitted by learned counsel for the appellants that the Ld. Tribunal has failed to grant any thing on the score of other expenses incurred by the appellants on the deceased.

6. It is, therefore, prayed that this first appeal, may be accepted and the impugned Award may kindly be modified by enhancing the



compensation at least to the tune of Rs.1,52,50,000/-with interest as claimed in the original claim petition, in the interest of justice.

7. *Per contra*, learned counsel for respondent No.3 opposes submissions made on behalf of the appellants and submits that the impugned Award suffers from no infirmity as the compensation awarded to the appellants is just and fair. It is pointed out that the appellant is making new submissions before this Court, which have neither been pleaded nor raised heretofore by the Claimants. Hence, present appeal deserves to be dismissed.

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

9. The pleaded case of the appellants before the Tribunal as recorded in para 2 and 3 of the impugned Award is as follows:-

“2. The claimants raised averments that on 23.03.2011 the deceased Umesh Sharma was coming from Jaswali to Sarna on his bicycle and his brother Ashok Kumar was following him on separate bicycle. At about 06.15 PM, when the deceased reached near Adda Barth Sahib, a bus bearing registration No.PB-02-BH-9812 being driven by respondent No.1 Darshan Singh came from Dina Nagar side. The offending bus was driven rashly and negligently at high speed by respondent No.1 and it dashed into the bicycle of deceased Umesh Sharma by coming on wrong side of the road. As a result of accident, Umesh Sharma fell on the road and received multiple serious injuries on his person. He was taken to Chouhan edacity Hospital, Mamoon from where he was referred to Raavi Hospital, Pathankot and

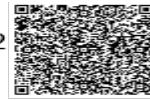


later on he died on 16.07.2011 while undergoing treatment. The formal FIR was registered with PS Kanwan. The postmortem examination of Umesh Sharma was got conducted at Civil Hospital, Pathankot.

3. *As per further averments raised by the claimants, the deceased was working as sales representative with wholesale shop of agriculture medicine at Sarna. His monthly income was Rs.6,000/- and all the claimants were totally dependent upon the income of deceased. It has been averred that all the respondents being drivers, owners and insurer are jointly liable to pay the compensation to them."*

10. Learned Tribunal had relied upon judgment of the Hon'ble Supreme Court passed in **"Sarla Verma Vs. Delhi Transport Corporation" (2009) AIR (SC) 3104 Law Finder Doc ID # 188882**, wherein it is held that: *".....the mother alone will be considered as a dependent. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependents, because they will either be independent and earning, or married, or be dependent on the father. Thus, even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependent and 50% would be treated as the personal and living expense of the bachelor and 50% as the contribution to the family....."*. Learned Tribunal had accordingly held that the appellants had failed to prove their financial dependency upon the deceased and were, therefore, not entitled to grant of compensation.

11. Contentions of learned counsel for the appellants before this Court that one brother of the deceased is handicapped and one brother is



unemployed remain utterly unsubstantiated as, on a Court query, learned counsel has even unable to specify as to which claimant is unemployed and which claimant is handicapped. Further even no details are given as to what sort of handicap, the one brother is suffering from. There is absolutely no proof on record in support of the bald assertion made by the learned counsel for the appellants. It is my clear view that the claimants being brothers and married sister of the deceased, they were not entitled to compensation. In support, I rely upon judgment of Hon'ble Supreme Court in **Deep Shikha v. National Insurance Company Ltd., (SC) : Law Finder Doc Id # 2729764** wherein it is held that "*Compensation under the Motor Vehicles Act, 1988 - Married daughter of deceased not entitled to compensation for loss of dependency unless proven financial dependency.*". Needless to say, to maintain gender equality, the same rule of Law would apply to married brothers as well.

12. Thus, keeping in view the above said facts, I find no error in the impugned Award. Claimants had produced medical bills Ex.A1 to Ex.A13 for a total amount of Rs.3,80,000/-of the medical expenses incurred by the appellants on the treatment of the deceased; which were duly reimbursed by learned Tribunal. In addition to the same, learned Tribunal has also awarded an amount of Rs.20,000/- towards loss of love and affection.

13. It is my view that the aforesaid compensation is just and fair in the facts and circumstances of the case. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted 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 “**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.

14. Learned counsel for the appellants is unable to controvert or dispute the aforesaid facts, findings, and legal position. Thus, no ground is made out for enhancement of compensation.

15. In view of the above, present Appeal stands **dismissed**.

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

27.05.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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