**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****214****FAO-4151-2024 (O&M)****Date of decision: 10.04.2026****Gurdeep Kaur alias Gurdip Kaur and another****...Appellant(s)****Vs.****Ram Kumar and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Kritika Mandhan, Advocate for
Mr. Kulwant Singh Dhanora, Advocate
for the appellants.

NIDHI GUPTA, J.**CM-15186-CII-2024**

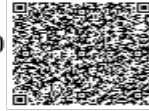
Prayer in this application filed under Section 5 of the Limitation Act is for condonation of delay of 261 days in filing the accompanying appeal.

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 261 days in filing the appeal is condoned.

FAO-4151-2024 (O&M)

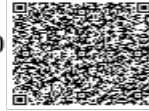
The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,06,000/- granted by the learned MACT, Kurukshetra vide Award dated 23.08.2023 passed in MACP Case No. 521 dated 22.12.2020 filed under Sections 166 and 140 of the Motor



Vehicles Act. The 2 claimants are the 60-year-old widow, and 37-year-old son of the deceased Mohan Singh, who was 65 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-Mohan Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 14.11.2020 at about 2:15 p.m. due to the rash and negligent driving of a Motorcycle bearing registration No. HR-78C-6201 (hereinafter "the offending vehicle") being driven by respondent No.1; owned by respondent No.2; and insured by respondent No.3. The rash and negligent driving of offending vehicle by respondent No.1 was proved before the learned Tribunal from the evidence of alleged eyewitness Sh. Bagicha Singh son of Banta Singh, who, while appearing as PW2 and through his Affidavit Ex.PW2/A had deposed regarding the rash and negligent driving of the offending vehicle of respondent No.1. The above said compensation was awarded 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 seeks enhancement of compensation by submitting that multiplier has been wrongly added. Income of the deceased has been taken on the lower side by the learned Tribunal as only Rs.8,000/- per month. It is submitted that less future prospects have been added. Interest should be granted @ 18% p.a. instead of 7.5% p.a.

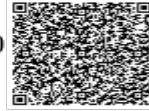


4. It is accordingly prayed that the present appeal be allowed and compensation be enhanced.

5. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions made by learned counsel for the appellants.

6. Perusal of the record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that prior to the accident, deceased Mohan Singh was an agriculturist. To support the claim, claimants had produced Jamabandi Ex.P19 for the year 2015-2016, as per which, deceased was joint owner in agricultural land. Appellant had also produced J-Forms Ex.P12 to Ex.P18 to prove that the deceased used to sell agricultural produce. However, claimant No.1/widow of the deceased while appearing as PW1 has deposed that after the death of her husband, the said agricultural land has been inherited by his son i.e. claimant No.2, who is presently cultivating the same. Thus, no loss of income has been caused to the appellant and, therefore, only managerial loss is to be given.

7. Appellants had also produced Income Tax Returns Verification Forms along with Income Tax Returns for the assessment years 2016-2017, 2017-2018. 2018-2019 and 2019-2020 (Ex. P29 to Ex. P32). However, the same have been correctly rejected by the learned Tribunal, *"there are inconsistencies/contradictions therein with regard to source of income of deceased, for in some of ITR, income has been shown from salary whereas in other returns income has been shown from pension etc.*

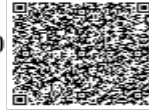


It is not the case of the claimants that deceased was employed and had income from Salary. When questioned no plausible explanation could be tendered by counsel for claimants. Therefore, it would not be appropriate to rely upon ITRs (Ex.P29 to Ex.P32) to assess the income of the deceased."

Accordingly, Tribunal has correctly assessed income of the deceased as Rs.8,000/- per month. I find no error in the same.

8. Further, age of the deceased was determined to be 65 years at the time of death, on the basis of his Post Mortem Report (Ex.P27). As the deceased was over 65 years of age, no future prospects were liable to be added. Keeping in view the age of the deceased, learned Tribunal had correctly applied multiplier of 7. Learned Tribunal has further correctly made a deduction of 50% towards personal expenses as claimant No.1/widow was the only dependent upon the deceased. It is admitted fact on record that claimant No.2 is a married son of the deceased and was earning his own livelihood. Under the conventional heads, the Tribunal has awarded an amount of Rs.40,000/- to claimant No.1/widow towards consortium; Rs.15,000/- towards funeral expenses; and Rs.15,000/- towards loss of estate; thereby granting total compensation of Rs.4,06,000/-.

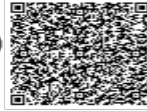
9. From the above, it is clear that in the facts and circumstances of the case, a very just and fair compensation has been awarded to the appellants. Nothing whatsoever has been shown to this Court that would merit enhancement of the compensation granted to the appellants. No doubt Chapter-12 of the 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 & Another Vs. Jasbir Kaur & Others**' Law Finder Doc ID # 64043 and '**Divisional Controller K.S.R.T.C. Vs. Mahadeva Shetty**', (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.

10. Before parting, it may also be pointed out that in respect of the accident in question dated 14.11.2020 at about 2:15 p.m., an FIR No.229 dated 15.11.2020 was registered under Sections 279, 337 and 304-A IPC at Police Station Babain against respondent No.1, on the basis of statement made by complainant/eyewitness Bagicha Singh son of Banta Singh. As pointed out above, said Bagicha Singh had appeared before the learned Tribunal as PW2 and had deposed through his Affidavit Ex.PW2/A regarding the rash and negligent driving of the offending vehicle of respondent No.1. Consequentially, the learned Tribunal had held the claimants entitled to compensation as the rash and negligent driving of the offending vehicle by respondent no.1 was proved from the evidence of eyewitness, Bagicha Singh.

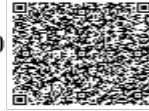
11. Said Bagicha Singh had also appeared before the Criminal Court as PW1. However, in the said criminal trial, the respondent No.1 has



been acquitted by the learned Judicial Magistrate, 1st Class, Shahabad, vide judgment dated 31.01.2024 as the complainant/eyewitness Bagicha Singh, PW1 has turned hostile. Even claimant No.2 Jaspal Singh, while appearing as PW2 before the JMJC, Shahabad has also turned hostile. Relevant findings of learned learned Judicial Magistrate, 1st Class, Shahabad are contained in judgment dated 31.01.2024, which read as under: -

“9. PW1 Bageecha Singh (complainant) has stepped into witness box and has turned hostile. He stated that by the time, he has reached at the place of accident, the offending vehicle was not there and he could not see it. On his this statement and on the request of learned APP for State, he was declared hostile and in his cross examination conducted by Ld. APP, he was confronted with his previous statements i.e. Ex.PW1/A and Ex.PW1/B made before the police but he has stated that he did not suffer the said statements. His credit remained unimpeached even in cross-examination conducted by Id. APP for the state. With respect to accused, he has stated that he does not know him nor he has seen him.

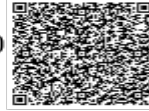
10. PW2 Jaspal Singh has stepped into witness box and he also turned hostile and stated that he has received telephonic information about the accident in question. Neither he was present at the spot nor he has seen the accused. On his this statement and on the request of learned APP for State, he was declared hostile and in his cross examination conducted by Ld. APP he was confronted with his previous statements i.e. Ex.PW2/A to Ex.PW2/D made before the police but he has stated that police has taken his signatures on the blank papers. His credit remained unimpeached even in cross-examination conducted by Id. APP for the state.”



12. A bare reading of the above facts shows that before the learned JMIC, the claimant side has turned turtle on its previous statement made before the Tribunal. No doubt, proceedings under the Act have to be decided on the preponderance of probabilities. However, this Court cannot shut its eyes in an ostrich like manner to the starkly diametrically opposite stance taken by the claimants' side in the criminal trial. Thus, no credence can be attributed to the contrary statements made by the claimant side before the learned Tribunal. It would therefore appear that the claimant had deposed falsely before the Tribunal only to get the compensation. It is my view that he said act of the claimant side amounts to perjury.

13. I am supported in my view by a judgment of this Court in **“Shri Ram General Insurance Company Limited Vs. Jeeto Devi & Others”** FAO-2231-2014 decided on 03.12.2019, wherein it is held that: -

*“(6) This Court cannot loose sight of the judgment rendered by this Court in the case of **United India Insurance Company Limited versus Kamla Devi and others 2010(53) RCR (Civil) 651**, wherein it was specifically held that in case an eye witness gives totally different version before the Court conducting trial in criminal case from the statement made by the said eye witness before the Tribunal, the testimony of such a witness is unworthy of being accepted and the evidence should be simply rejected. In fact, the learned Single Bench came down heavily on such witness and held that the said witness is also liable for perjury.”*



14. This Court in abovesaid judgment in “**United India Insurance Company Limited Vs. Kamla Devi & Others**” (P&H) : Law Finder Doc Id # **251230** has held that:

"5. It should still have been possible for the Tribunal to take a decision uninfluenced by any decision that may have come before the criminal court. The several decisions which have come about on this issue are to the effect that a judgment in a criminal court is not binding on the Tribunal; the non-filing of a FIR is not material; even the fact of involvement of the vehicle as found by the criminal court is not binding. While the Tribunal is competent to assess the evidence which is brought before it and take an independent decision, then the point that has to be seen is whether there was any evidence worth its name before the Tribunal to come a finding that the particular vehicle was involved in the accident. It can be either that the version of Sitar Mohd. cannot be relied for he has contradicted himself wholesale with the version given before the criminal court or looked for other evidence which was placed before the Court. Alternatively if any explanation had been given by the witness as to why he deposed falsehood before the criminal court, even such an explanation could have been accepted to enter a finding that the accident took place only involving the particular insured's vehicle. In this case, no explanation has been given by the witness as to why he stated before the criminal court that he did not know which vehicle was involved in the accident. He would, on the other hand, defy that he ever made any such statement before the criminal court, necessitating the statement made before the criminal court to be exhibited for contradiction before the Tribunal. It must be remembered a statement in criminal court case by a witness is also on oath. If he was uttering false-

hood, he was liable for perjury. If there was contradiction between the version elicited before the Tribunal to the statement made before the criminal court then such a witness will be unworthy of acceptance. The Tribunal could have simply rejected the whole evidence. If it was going to pick out one line from chief examination to say that the insured's vehicle was involved in the accident, the Tribunal was doing something which is not a judicial function but a travesty of justice."

15. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings. Therefore, in actual fact, appellants ought to have been held liable for perjury, and no compensation was payable to them. Definitely, no case is made out for enhancement of compensation.
16. In view of the above, present appeal stands **dismissed**.
17. Pending application(s) if any also stand(s) disposed of.

10.04.2026
Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No