

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****228****FAO-4540-2018(O&M)****Date of decision: 12.03.2026****Shamsher Kaur & Others****...Appellant(s)****Vs.****Raj Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Rishav Jain, Advocate
Ms. Shivaly Singla, Advocate
for the appellants.

Mr. Rishi Pal Chaudhary, Advocate
for the respondent No.1.

*********NIDHI GUPTA, J.****CM-15312-CII-2018**

This is an application under Section 5 of Limitation Act for condonation of delay of 50 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of the appellant No.1, the same is allowed subject to all just exceptions and delay of 50 days in filing present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,06,000/- awarded by the Motor Accident Claims Tribunal, Jind (hereinafter 'the learned Tribunal') vide



Award dated 08.11.2017 passed in MACT Case No.29 dated 01.04.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter “the Act”). The 3 claimants are the 62-year-old widow, 32-year-old son and 30-year-old son of deceased Balbir Singh, who was 61 years old at the time of accident.

2. Brief facts of the case are that the Id. Tribunal on the basis of pleadings and oral & documentary evidence adduced by the parties, concluded that deceased Balbir Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 26.11.2015 at about 3 pm due to the rash and negligent driving of Haryana Roadways Bus bearing registration No.HR-64-7632 (hereinafter “the offending vehicle”) being driven by respondent No.1 and owned by respondent No.3. The said compensation has been awarded along with interest @ 7.5% per annum. It was directed that respondent No.4/insurer shall indemnify the insured.

3. Ld. 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.6000/- per month. It is submitted that it was clear pleaded and proved case of the appellants that the deceased was an agriculturist and was doing dairy farming. Even as per the Minimum Wages applicable at the time, income ought to have been taken as Rs.7,000/- per month. Furthermore, no future prospects have been awarded. Conventional heads have been awarded on the lower side. Nothing has been awarded for transportation. Even interest is liable to be enhanced.



4. In support of his contentions, learned counsel for the appellants relies upon judgment of this Court in **Smt. Gurdev Kaur v. Jharmal Singh, (Punjab and Haryana) : Law Finder Doc ID # 875725**, wherein it has been held that claimants No.2 and 3 being major sons of the deceased are entitled to compensation.

5. Per contra, Ld. counsel for respondent No.1 opposes submissions made on behalf of the appellants and submits that the impugned Award suffers from no error; and present appeal be dismissed.

6. No other argument is made on behalf of the parties. 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.

7. Perusal of record of the case shows that it was the pleaded case of the appellants before the learned Tribunal that deceased was an agriculturist and doing work of dairy farming from which he was earning Rs.20,000/- per month. However, the appellants produced no proof whatsoever of the afore-stated assertions made by them. Except for the oral testimony of the claimants as PW1 and PW2, no documentary evidence was produced to prove the said alleged avocation or income. Accordingly, the learned Tribunal had assessed income of the deceased as Rs.6000/- per month on the basis of Minimum Wage payable to a labourer in the year 2015-16. I find no error in the same.



8. Further, age of the deceased was determined to be 61-62 years at the time of accident, on the basis of his Post-Mortem Report. As deceased was over 60 years of age, no future prospects were liable to be added. Multiplier of 7 has been correctly applied, keeping in view the age of the deceased. Further, the learned Tribunal has made a deduction of 1/3rd towards personal expenses. It is my clear view that the claimants No.2 and 3 being major sons of the deceased, deduction of 50% was liable to be made as the major sons could not have been held to be dependent upon the deceased and therefore, were not eligible for compensation. In this regard, learned counsel for the appellants has relied upon judgment of this Court in **Gurdev Kaur (supra)**, however, the said judgment is of the year 2016; whereas Hon'ble Supreme Court in **Jitender Kumar & Another v. Sanjay Prasad & Ors. Law Finder Doc ID # 2746903**, wherein deceased was 64 years old and it was held that claimants being LR's of deceased are entitled to apply. However, as their dependency upon deceased was not proved, deduction of 50% was to be made. s

9. Under the conventional heads, the learned Tribunal has awarded an amount of Rs.15,000/- towards loss of estate; Rs.15,000/- towards funeral expenses; and Rs.40,000/- towards consortium; thereby granting total compensation of Rs.4,06,000/-.

10. From the above, it is clear that a more than 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. 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. 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.

11. In view of the above, no ground whatsoever is made out for enhancement of the compensation awarded to the appellants. Resultantly, present appeal stands **dismissed**.

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

12.03.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No