



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

238(2)

Date of decision: 04.05.2026

FAO-7977-2017 (O&M)

Jyoti Devi & Others

...Appellant(s)

Vs.

Ashok Kumar & Others

...Respondent(s)

FAO-5337-2017 (O&M)

New India Assurance Co. Ltd.

...Appellant(s)

Vs.

Jyoti Devi & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sukhdeep Singh, Advocate
for the claimants/appellants in FAO-7977-2017
and respondents No.1 to 3 in FAO-5337-2017.

Mr. Pranab Handa, Advocate for
Mr. Paul S. Saini, Advocate
for appellant/Insurance Company in FAO-5337-2017
and respondent No.3 in FAO-7977-2017.

NIDHI GUPTA, J.

CM-26373-CII-2017 IN FAO-7977-2017

This is an application under Section 5 of Limitation Act for
condonation of delay of 145 days in filing the appeal.



After going through the contents of the application, which is supported by affidavit of appellant No.1, the same is allowed subject to all just exceptions and delay of 145 days in filing the present appeal is condoned.

CM-16705-CII-2017 IN FAO-5337-2017

This is an application under Section 5 of Limitation Act read with Section 151 CPC for condonation of delay of 61 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit on behalf of appellant, the same is allowed subject to all just exceptions and delay of 61 days in filing the present appeal is condoned.

FAO-7977-2017

The present appeal has been filed by the claimants seeking enhancement of compensation of Rs.19,03,000/- awarded by Motor Accident Claims Tribunal, Hoshiarpur vide Award dated 07.01.2017 passed in MACT Case No.43 dated 03.11.2015 filed under Section 166 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the Act'). The 3 claimants are the 33-year-old widow, 7-year-old son and 65-year-old mother of deceased Varinder Singh, who was 35 years old at the time of accident.

FAO-5337-2017

The present appeal has been filed by the Insurance Company laying challenge to the Award dated 07.01.2017 passed by learned Tribunal in MACT Case No.43 dated 03.11.2015 filed under Section 166 of the Act by the claimants/respondents No.1 to 3 herein, whereby claimants have been awarded compensation of Rs.19,03,000/-.



Both the above cross-appeals are being disposed of by this common order as they arise from Award dated 07.01.2017; both emanate from the accident dated 05.09.2015; 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-7977-2017 filed by the claimants.

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 Varinder Singh had died due to the injuries suffered by him in a motor vehicular accident that took place on 05.09.2015 due to the rash and negligent driving of Bus bearing registration No.PB-07-Q-9777 (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 compensation has been awarded along with interest @ 7.5% per annum. Respondent No.3/Insurance Company was held liable for payment of compensation amount.

3. Learned counsel for the appellants/claimants seeks enhancement of compensation by submitting that the claimants had proved on record that the deceased was running a Transport Business. The claimants had also examined AW4 who had proved the Transport Business as also income of the deceased. As per Affidavit (Mark A6), it was proved that deceased was owner of TATA Sumo. Therefore, it was proved that deceased was running a Transport Business. Thus, income of the deceased has been



taken on the lower side as only Rs.9000/- per month. Moreover, considering the fact that deceased was paying installment of vehicle loan and looking after the entire family, the income of the deceased ought to have been assessed as Rs.50,000/- per month.

4. It is further submitted that deduction of 1/3rd towards personal expenses is on the higher side and deduction of 1/10th should be made. Less amount has been awarded under the conventional heads. It is accordingly prayed that present appeal be allowed and compensation be enhanced.

5. Per contra, learned counsel for the Insurance Company (appellant in connected FAO-5337-2017) vehemently opposes the submissions advanced on behalf of the claimants and submits that income of the deceased has already been taken on the higher side as Rs.9000/- per month. It is submitted that the claimants had produced no evidence to show that deceased was running a Transport Business. As such, as per the relevant Minimum Wage Notification dated 05.04.2017 applicable with effect from 01.03.2017, minimum wage payable as on 01.09.2015 to a skilled labourer is Rs.8612.62/- per month. Thus, income of the deceased has already been taken on the higher side.

6. It is further submitted that future prospects were to be added @ 40%; whereas the Tribunal has made an addition of 50% towards future prospects. Even amounts under the conventional heads have already been granted on the higher side and deserve to be adjusted in accordance with



law. It is accordingly prayed that the appeal filed by the Insurance Company be allowed; and that filed by the claimants be dismissed.

7. 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 Insurance Company.

8. 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 an expert Driver and was having Transport Business. It was stated that he had one school bus and one TATA Sumo which were attached with Saint Augustine School at village Pandori. It was averred by the claimants that deceased was earning more than Rs.50,000/- per month by carrying school children from their respective homes to the School. To prove their case, the claimants had examined AW4 Mahesh Sharma, Principal, Saint Augustine School who had deposed in respect of the above facts. However, AW4 has admitted in his cross-examination that he has no documentary evidence to prove the above-said business or income of the deceased. Claimant No.1 had also appeared as AW3 and had in fact, stated to the contrary by submitting that the deceased had been employed with the School which was paying Rs.50,000/- per month to her deceased husband. However, she had admitted that she did not have any record from the School to prove the said payment. AW3 has also admitted that deceased was not an Income Tax Assessee nor was he maintaining any record of his income and expenditure. AW3 has also admitted that she had



no proof regarding payment of salary to her deceased husband by the School. Thus, from the above facts, it is clear that the claimants were unable to prove the alleged business and income of the deceased. It was keeping in view the above lack of evidence that the learned Tribunal has assessed income of the deceased as Rs.9000/- per month. I find no credible ground is made out to interfere in the income as assessed by the learned Tribunal.

9. Age of deceased was determined to be 35 years at the time of accident on the basis of pleadings and as deposed by AW3 Jyoti Devi. As such, future prospects were liable to be added @ 40%. However, learned Tribunal has made an addition of 50% towards future prospects, which is on the higher side and liable to be corrected. As there were three dependents, deduction of 1/3rd has been correctly made towards personal expenses. Keeping in view, the age of the deceased, Multiplier of 16 has also been correctly applied. Under the conventional heads, the learned Tribunal has awarded an amount of Rs.1,00,000/- towards loss of consortium to claimant No.1/widow; Rs.50,000/- towards loss of love and affection to claimant No.2/minor son and Rs.25,000/- towards funeral expenses. The said amounts are liable to be re-assessed as follows: –

Head	Awarded by learned Tribunal	Re-assessed compensation
Monthly income	Rs.9000/-	Rs.9000/-
Annual income	Rs.1,08,000/-	Rs.1,08,000/-
Future prospects	(50%) Rs.54,000/-	(40%) Rs.43,200/-
Total annual income	Rs.1,62,000/-	Rs.1,51,200/-
Deduction	(1/3 rd) Rs.54,000/-	(1/3 rd) Rs.50,400/-
Annual dependency	Rs.1,08,000/-	Rs.1,00,800/-



Multiplier	16	16
Total dependency	Rs.17,28,000/-	Rs.16,12,800/-
Loss of love and affection	Rs.50,000/-	--
Filial/parental consortium @ Rs.40,000/- each	Rs.1,00,000/-	Rs.80,000/-
Spousal consortium		Rs.40,000/-
Loss of estate	--	Rs.15,000/-
Funeral expenses	Rs.25,000/-	Rs.15,000/-
Total	Rs.19,03,000/-	Rs.17,62,800/-
Interest	7.5% p.a.	7.5% p.a.

10. In view of the above, **FAO-7977-2017** filed by the claimants is **dismissed**; and **FAO-5337-2017** filed by the Insurance Company is **partly allowed**, as above.

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

04.05.2026
Sunena

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No