IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

112

FAO-6321-2018(O&M)
Date of decision: 12.03.2026

Rama Nayyar & Another

...Appellant(s)

Vs.

Rajesh Kumar Sharma & Others

...Respondent(s)

****

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sandeep Arora, Advocate
for the appellants.

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<u>NIDHI GUPTA, J.</u>

<u>CM-22061-CII-2018</u>

This is an application under Section 5 of Limitation Act for condonation of delay of 97 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 97 days in filing present appeal is condoned.

<u>MAIN CASE</u>

Present appeal has been filed by the LRs of the injured-claimant seeking enhancement of compensation of Rs.31,10,234/- awarded by the Motor Accident Claims Tribunal, Jalandhar (hereinafter 'the learned Tribunal') vide Award dated 17.01.2018 passed in MACP Case

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No.120 dated 29.05.2015 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act").

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 claimant had suffered injuries in a motor vehicular accident that took place on 12.12.2014 at about 8:30 pm due to the rash and negligent driving of Scorpio bearing registration No.PB-07-S-5198 (hereinafter "the offending vehicle") being driven by respondent No.1, owned by respondent No.2 and insured by respondent No.3. The said compensation has been awarded along with interest @ 8% per annum. Respondents No.1, 2 and 3 were held jointly and severally liable for payment of compensation.

3. Ld. counsel for the appellants seeks enhancement of compensation by submitting that the learned Tribunal has failed to award anything by way of attendant charges. The claimant had duly pleaded and proved that the claimant had utilised services of an attendant at the rate of Rs.9000/- per month. Moreover, only Rs.1 lakh has been awarded towards pain and suffering; whereas it is evident on record that for years together, the claimant had remained under treatment. The claimant had also suffered permanent disability of 75%. Moreover, claimant had placed on record medical bills to the tune of Rs.21,88,234/-; whereas the learned Tribunal has awarded only an amount of Rs.19,90,234/-. Even interest is on

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the lower side. It is accordingly prayed that the impugned Award be modified and compensation to the tune of Rs.50 lakh be awarded to the appellants along with interest @ 12% per annum.

4. No other argument is made on behalf of the appellants. 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.

5. It may first be pointed out that the claimant expired on 31.01.2018. Perusal of record of the case shows that it was the pleaded case of the claimant before the Tribunal that prior to the accident in question, the claimant was self-employed and earning Rs.30,000/- per month. To prove the said income, the claimant had brought on file Income Tax Returns (Ex.P6 to Ex.P9). As per Ex.P7, which was Income Tax Return for the assessment year 2012-13, annual income of the claimant was shown to be Rs.2,69,640/-; and after deduction of tax of Rs.90,000/-, total income came to be Rs.1,79,640/-. After deduction of 1/3rd towards personal and living expenses, annual income of the claimant was assessed to be Rs.1,19,760/- rounded off to Rs.1,20,000/-. Thus, income of the claimant was correctly assessed.

6. Age of the claimant was determined to be 34-36 years at the time of accident as pleaded. Although learned Tribunal has applied multiplier of 17, however, as per prevailing law, multiplier of 15 or 16 was applicable. Further, in the accident in question, the claimant was found to have suffered 75% permanent disability, as per the Disability Certificate (Ex.PW5/A);

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however, only qua the right lower limb. Learned Tribunal had therefore correctly assessed functional disability of the claimant as 50%. Accordingly, the learned Tribunal had calculated loss of future income of the claimant to be Rs.1,20,000/- x 17 x 50% = Rs.10,20,000/-.

7. Further, the learned Tribunal had granted an amount of Rs.19,90,234/- towards medical expenses. The claimant had produced medical bills (Ex.P1 to Ex.P100) and Mark A2 to Mark A58 for total amount of Rs.21,88,234/-. The claimant had stated that he had employed an attendant to whom he was paying Rs.9000/- per month. However, learned Tribunal had discarded the bills (Mark A29 to Mark A50) on the ground that the said documents were not proved on file and also because no permission was sought to produce these documents and neither were these documents referred to in the application filed for additional evidence; and the same were not medicine bills, rather these were receipts issued by Atul Kumar, alleged attendant. Contention of the claimants that services of attendant had been employed, has been correctly rejected by the learned Tribunal as bills (Mark A29 to Mark A50) produced by the claimant were actually receipts of Rs.9000/- each which were issued towards providing domestic help and massage to the claimant; which were being claimed as Attendant charges. The said receipts had been issued by one Atul Kumar, who had not been examined. Moreover, as noted above, no permission was granted by the learned Tribunal to produce the said documents, and neither were these

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referred to in the application filed for additional evidence. In this manner, the claimant was unable to prove that services of an attendant were utilised. Accordingly, Tribunal had discarded receipts (Mark A29 to Mark A50) for Rs.1,98,000/- and had awarded an amount of Rs.19,90,234/- (Rs.21,88,234/- - Rs.1,98,000/-) as actual medical expenses. I find no error in the same.

8. Tribunal has awarded compensation in the following manner:-

Head	**Amount**
Actual medical expenses incurred on treatment	Rs.19,90,234/-
Loss of future income	Rs.10,20,000/-
Pain and suffering and loss of enjoyment of amenities of life	Rs.1,00,000/-
Total	**Rs.31,10,234/-**

9. 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**

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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. 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.**

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

12.03.2026 **(Nidhi Gupta)**
Sunena **Judge**

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

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