

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****223****FAO-6477-2019(O&M)****Date of decision: 23.04.2026****Devi Lal & Others****...Appellant(s)****Vs.****Lakhwinder Singh & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Gaurav Aggarwal, Advocate
for the appellants.

Mr. R.C. Gupta, Advocate
for respondent No.3.

*********NIDHI GUPTA, J.****CM-22003-CII-2019**

This is an application under Section 5 of Limitation Act for condonation of delay of 90 days in filing the appeal.

After going through the contents of the application, which is supported by affidavit of appellant No.5, the same is allowed subject to all just exceptions and delay of 90 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.4,15,000/- awarded by the Motor Accident Claims Tribunal, Sirsa (hereinafter 'the learned Tribunal') vide Award dated 29.03.2019 passed in CIS No.MACP/110 dated 28.05.2018



filed under Section 166 of Motor Vehicles Act (hereinafter “the Act”). The 7 claimants are the 76-year-old husband, 35-year-old son, 41-year-old married daughter, 39-year-old married daughter, 37-year-old married daughter, 33-year-old married daughter and 31-year-old married daughter of deceased Savitri Devi, who was 70 years old at 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 the deceased Savitri Devi had died due to the injuries suffered by her in a motor vehicular accident that took place on 22.03.2018 due to the rash and negligent driving of XUV Car bearing registration No.PB-13-AV-2929 (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 @ 7.5% per annum. Respondents were held jointly and severally liable for payment of compensation amount.

3. Learned 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.6,000/- per month. It is submitted that the learned Tribunal in the impugned Award has acknowledged that in similar cases income of the deceased housewife has been assessed on the higher side as Rs.9,000/- per month. Therefore, no ground was made out to specifically assess notional income of the deceased as only Rs.6,000/- per month.



4. It is further submitted that the learned Tribunal erred in not awarding suitable compensation on account of mental pain and suffering, loss of the estate, the same being on a lower side. The untimely death of the deceased left the claimants in a state of deep shock and mental pain. In these facts and circumstances of the case, the appellants deserve to be allowed much more than what has been allowed by the learned Tribunal on these accounts as well. Therefore, the amount assessed by the learned Tribunal is liable to be enhanced on these accounts as well.

5. Even under the other heads, suitable compensation has not been awarded. Nothing has been awarded by way of litigation costs, which have been erroneously ignored and liable to be suitably awarded. It is accordingly prayed that the present appeal be allowed and impugned Award be modified.

6. Per contra, learned counsel for the respondent no.3 opposes the submissions advanced on behalf of the appellants and submits that the impugned Award suffers from no error; and the present appeal deserves to be dismissed.

7. 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.

8. Perusal of record of the case shows that deceased Savitri Devi was a 70-year-old housewife. Although in the Claim Petition, it was pleaded



that deceased was 63 years old at the time of death and in the Post-Mortem Report (Ex.P3), her age is mentioned as 65 years, however, as per the Aadhaar Card (Ex.R1), date of birth of the deceased was shown to be 01.01.1945. In the Voter List for the year 2019 (Ex.RW3/A), age of the deceased was mentioned to be 71 years. Therefore, age of the deceased was correctly determined by the Tribunal to be 70 years at the time of accident.

9. A perusal of the Award reveals that the learned Tribunal has considered in detail the relevant case law while determining the value to be attributed to the gratuitous services rendered by a housewife. After examining every aspect of the matter and keeping in view the age of the deceased, the Tribunal had assessed value of services of the deceased as a housewife to be Rs.6000/- per month. I find no error in the same.

10. Learned counsel for the appellants has argued that in other similar matters, value of services of a deceased housewife have been taken to be Rs.9000/-. However, as distinguished by the learned Tribunal in Para 28 of the impugned Award; in other cases, the deceased housewives were of younger ages; whereas in the present case, the deceased housewife is a geriatric of 70 years. Therefore, services rendered by her would be of limited nature. In fact, in a typical Indian household, where the children are married, women such as the deceased would retire and allow the daughters-in-law to take over the household. As such, I find no error in the notional income as assessed by the learned Tribunal as Rs.6000/- per month.



11. No deduction was made towards personal expenses. Multiplier of 5 has been correctly applied in keeping with the law laid down by the Hon’ble Supreme Court in “**Sarla Verma Vs. Delhi Transport Corporation**” (2009) AIR (SC) 3104 Law Finder Doc ID # 188882. Learned Tribunal has further awarded an amount of Rs.40,000/- for loss of consortium; Rs.15,000/- towards funeral expenses; thereby granting total compensation of Rs.4,15,000/-, which was to be apportioned as follows: -

Devi Lal (Husband)	Rs.1,15,000/- (including consortium)
Prahlad (Son)	Rs.50,000/-
Santosh (Daughter	Rs.50,000/-
Maya Devi (Daughter)	Rs.50,000/-
Menu Devi (Daughter)	Rs.50,000/-
Indra (Daughter)	Rs.50,000/-
Manju (Daughter)	Rs.50,000/-

12. It is my view that claimants No.3 to 7 being married daughters of the deceased were not entitled to compensation in view of judgment of the Hon’ble Supreme Court in **Deep Shikha v. National Insurance Company Ltd., (SC) : Law Finder Doc ID # 2729764**; wherein it is held that married daughter of the deceased is not entitled to compensation, unless financial dependency is proved. In the present case, no such financial dependence of the daughters upon the deceased has been proved by the appellants.

13. Consequentially, in the fact and circumstances of the case, I find the compensation as awarded by the learned Tribunal to be just and fair. 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.

14. It may further be pointed out that in respect of the accident dated 22.03.2018, an FIR No.33 dated 22.03.2018 under Sections 279 and 304-A IPC was registered at Police Station Ding on the basis of statement made by eyewitness Devi Lal/claimant No.1/husband of the deceased. In the FIR Devi Lal had reiterated the stand of the claimants in the Claim Petition. The pleaded case of the claimants before the Tribunal as mentioned in Para 2 of the Award is that:

"2. It is case of claimants that on 22.03.2018, claimant Devi Lal and his wife Savitri Devi (now deceased) had gone to village Kanwarpura to meet their daughter Manju Bala. They were returning home on foot. Respondent No.1 came there driving XUV car bearing registration No.PB-13AV-2929 in a rash and



negligent manner near Sangar Sadha and hit Savitri Devi. She sustained injuries. Devi Lal and his son-in-law Sandeep Kumar who had come to see off them shifted her to Civil Hospital, Sirsa. She died of injuries there.”

15. Eyewitness Devi Lal/claimant No.1/complainant has appeared before the learned Tribunal as PW1 and has tendered in evidence his affidavit (Ex.PW1/A), wherein he has reiterated the afore-noted contents of the Claim Petition. PW1 has further deposed before the Tribunal that the accident in question had been caused due to the rash and negligent driving of the offending vehicle by respondent no.1. Accordingly, on the basis of the testimony of alleged eyewitness, PW1/claimant no.1, the Tribunal had decided issue No.1 in favour of the claimants; and had held that the accident dated 22.03.2018 had been caused due to the rash and negligent driving of the offending vehicle by respondent No.1; and had therefore held the claimants entitled to compensation.

16. It may, however, be pointed out that in the above said FIR, the respondent No.1 has been acquitted by the learned Judicial Magistrate, 1st Class, Sirsa vide judgment dated 08.08.2024 as eyewitness/complainant/claimant No.1/Devi Lal while appearing in the criminal trial as PW2 has turned hostile. Evidence of PW2 Devi Lal is recorded in Para 7 of the judgment dated 08.08.2024, which reads as follows:-



"7. PW-2 / Devi Lal deposed that he and his wife Savitri Devi had came to village Kawarpura to meet their younger daughter Manju. After meeting their daughter they started for village Mangalia and were crossing the road at NH-9 when a car hit in his wife due to which she received injuries and was declared dead. He could not recollect the registration number of the offending car. He proved his statement Ex.PW1/A. In the cross-examination he could not tell the time of the accident. He further could not tell from which side the offending car came. He stated that the car was being driven by owner but police had falsely implicated driver. The police had shown him the driver and owner of the car in the police station. He denied the suggestion that he is deposing falsely.

XXX XXX XXX

19. In the examination in chief the complainant deposed that he had crossed the road and his wife was behind whereas in the complaint Ex.PW1/A, he had stated that his wife ahead of him. Further, the complainant did not deposed about the registration number of the offending vehicle and also did not identified the accused person as the driver of the offending vehicle. In the cross-examination he has specifically stated that the offending vehicle was being driving by owner whereas police has falsely implicated the driver of the vehicle. PW6 Sandeep has deposed that he reached the place of accident immediately as he had just dropped his mother in law and found number plate PB13AV2929 at the spot. In the cross- examination he stated that he did not saw the accident and the number plate allegedly found at the spot was also not complete. Otherwise also, the accused person is not the owner of the vehicle no.PW13AV2929. So, in view of



the testimony of complainant and PW6 prosecution has failed to prove that on 22.03.2018 accused person was driving the vehicle no.PB13AV2929, and that too in rash and negligent manner and caused accident of wife of complainant due to which she died.”

17. A bare reading of the above facts shows that the claimant side has turned turtle on its previous statement. 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 claimants had deposed falsely before the Tribunal only to get the compensation. In such a situation, reference may be made to a judgment of this Court in **“United India Insurance Company Limited Vs. Kamla Devi & Others” (P&H) : Law Finder Doc Id # 251230** wherein it has been 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 falsehood, 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."

18. The above said view has been reiterated by 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 as under:-

*“(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**, 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.”*



19. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings. Thus, in view of the above discussion, no ground is made out for enhancement of compensation.
20. The present appeal accordingly, stands **dismissed**.
21. Pending application(s) if any also stand(s) disposed of.

23.04.2026

Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No