IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

124

FAO-4498-2024(O&M)
Date of decision: 12.02.2026

Sita Devi & Others

...Appellant(s)

Vs.

Dhan Singh & Others

...Respondent(s)

***

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pradeep Duhan, Advocate
for the appellants.

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NIDHI GUPTA, J.

CM-16625-CII-2024

This is an application under Section 5 of Limitation Act read with Section 151 CPC for condonation of delay of 31 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 31 days in filing the present appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.10,11,506.8/- awarded by the Motor Accident Claims Tribunal, Bhiwani (hereinafter 'the learned Tribunal') vide Award dated 07.05.2024 passed in MACP Case No.330 dated 29.08.2016 filed under Section 166 of the Motor Vehicles Act (hereinafter "the Act").

The 4 claimants are the 41-year-old widow, 22-year-old daughter, 19-and-a-half year-old daughter and 18-year-old son of deceased Atma Ram, who was 45 years old at the time of accident.

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 deceased Atma Ram had died due to the injuries suffered by him in a motor vehicular accident that took place on 15.06.2016 due to the rash and negligent driving of JCB bearing registration No.HR-61-B-7497 (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. The learned Tribunal on the basis of the facts before it had held the respondent No.2 liable to pay the compensation amount as the offending vehicle was not holding valid permit. However, it was further directed that in the first instance, respondent No.3-Insurance Company shall indemnify the compensation to the claimants; and respondent No.3 was granted right to recover 50% of the awarded compensation from the respondent No.2.

3. Learned counsel for the appellants seeks enhancement of compensation by submitting that the learned Tribunal was in error in deducting the Family Pension being received by the claimant No.1. It is submitted that after applying multiplier of 14, net compensation amount was Rs.57,30,706.8/- was payable; but the learned Tribunal made a wrong

deduction of Rs.49,39,200/- on the ground that the widow of deceased/claimant no.1 was getting family pension as per the last drawn basic salary of the deceased and it will continue for 12 years. It is submitted that in doing so, the learned Tribunal failed to appreciate the fact that the deceased was a sole breadwinner of the family. It is contended that therefore, the said amount was not liable to be deducted.

4. It is further submitted by learned counsel for the appellants that as per the impugned Award, the learned Tribunal specifically admitted, that the last drawn salary of deceased in May 2016 was Rs. 41,930/- (after application of seventh pay scale) but at the time of computing compensation the salary of deceased was only considered as about Rs. 35,000/-. Moreover, the Learned Tribunal did not take into consideration that the deceased was also doing agriculture work and was earning a substantial amount from agriculture, whereby the learned Tribunal did not accept the same due to the non-availability of any proof. The appellants at that time of the proceedings were unable to produce the documents of agricultural land due to the fact that they were going through trauma due to the untimely death of the deceased. It is further submitted that even the amounts awarded under the other heads are on the lower side. Even interest should have been awarded at least @ 9% per annum. It is accordingly prayed that the impugned Award be modified.

5. 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.

6. It is admitted fact on record that prior to the accident, the deceased was working as a Head Constable of Haryana Police and was getting a salary of about Rs.37,000/- per month. It was the contention of the appellants before the learned Tribunal that in addition thereto, the deceased was doing agricultural work from which he was earning Rs.1 lakh per annum. However, no proof whatsoever was produced by the appellant to prove any agricultural income. Accordingly, on the basis of Service Record of the deceased, the Tribunal had assessed basic pay of the deceased as ₹34,300/- per month; and including DA of Rs.686/-, his total salary was Rs.34,986/-.

7. Age of the deceased was determined to be 45 years at the time of accident, on the basis of his Service Record wherein his date of birth is mentioned as 07.02.1971. Accordingly, the learned Tribunal had correctly made an addition of 30% towards future prospects; thereby calculating his monthly income to be Rs.45,481.8/-; and annual income to be Rs.5,45,781.8/-. As the claimants were 4 in number, the learned Tribunal had made a deduction of 1/4th towards personal expenses; thereby calculating annual income to be Rs.4,09,336.2/-. Keeping in view the age of

the deceased, learned Tribunal had correctly applied multiplier of 14; thereby calculating annual income to be Rs.55,37,706.8/-.

8. It is admitted fact on record that the last drawn basic salary of the deceased was Rs.34,300/- which the deceased would have drawn for a period of 12 years and which is now being paid to the claimant No.1. Therefore, over a period of 12 years, the claimant No.1 would receive a total amount of Rs.49,39,200/- (Rs.34,300/- x 12 x 12).

9. It is the contention of the appellants that the said amount could not have been deducted by the learned Tribunal. The said argument is meritless in view of judgment of ……… in **"National Insurance Co. Ltd. Vs. Mohan M.S. 2009 (3) ACJ 581,** wherein it has been held that:

> *"Claimant received expenses incurred towards repair of car from his insurance company – Claimant also claimed damages from owner of jeep and his insurance company – Held, claimant cannot be allowed to make any double benefit".*

10. Reliance may also be placed upon judgment of Hon'ble Supreme Court in **Krishna v. Tek Chand, (SC) : Law Finder Doc ID # 2531576,** wherein it is held that the family of a deceased in a motor accident cannot seek "double benefits". If the family has received benefits from the State Government on account of the death of the deceased, then such benefits are liable to be deducted from the compensation payable under the Motor Vehicles Act. Accordingly, the learned Tribunal had correctly deducted the said amount of Rs.49,39,200/- from the total compensation and determined

loss of dependency to be Rs.7,91,506.8/- (Rs.57,30,706.8/- - Rs.49,39,200/-). I find no error in the same.

11. Besides the above, under the conventional heads, the learned Tribunal has awarded Rs.16,500/- towards funeral expenses; Rs.16,500/- towards loss of estate; and Rs.44,000/- towards consortium; along with medical bills of Rs.1,43,000/-; thereby granting total compensation of Rs.10,11,506.8/-.

12. 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.

13. In view of the above, present appeal stands **dismissed.**

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

12.02.2026 **(Nidhi Gupta)**
Sunena **Judge**

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