

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****114****FAO-5744-2024(O&M)****Date of decision: 10.04.2026****Sudesh & Another****...Appellant(s)****Vs.****Sunil Kumar & Others****...Respondent(s)***********CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Pawan Attri, Advocate
Mr. Nitin K. Sharma, Advocate
for the appellants.

*********NIDHI GUPTA, J.****CM-21878-CII-2024**

This is an application under Section 5 of Limitation Act for condonation of delay of 26 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 26 days in filing the appeal is condoned.

MAIN CASE

Present appeal has been filed by the claimants seeking enhancement of compensation of Rs.17,33,000/- awarded by the Motor Accident Claims Tribunal, Jind (hereinafter 'the learned Tribunal') vide Award dated 01.08.2024 passed in MACP/249 dated 07.10.2023 filed under



Section 166 of Motor Vehicles Act (hereinafter “the Act”). The 2 claimants are the parents of deceased Anil, who was 24 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 Anil had died due to the injuries suffered by him in a motor vehicular accident that took place on 03.09.2023 due to the rash and negligent driving of Car bearing registration No.HR-06R-6656 (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 @ 9% per annum. Respondents were held jointly and severally liable for payment of compensation.

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.10,661/- per month. It is submitted that the deceased was working as a Cook and was earning Rs.25,000/- per month. Further, amounts under the conventional heads are on the lower side. Nothing has been granted towards love and affection. Rate of interest should have been 12%. It is accordingly prayed that the present appeal be allowed and the impugned Award be modified.



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. No doubt, the appellants in their Claim Petition had stated that deceased was working as a Cook and earning Rs.25,000/- per month. However, except for the self-serving statement of the claimant No.2/father of the deceased, who appeared as PW1, no evidence whatsoever was brought on record to prove the above-said contention of the appellants. No contractor with whom the deceased used to work as Cook in marriage and other functions as alleged, was examined. Even no employer record, or bank account statement to reflect earning of Rs.25,000/- per month was brought on record. In this view of the matter, learned Tribunal has correctly assessed income of the deceased as a labourer as Rs.10,661/- per month, on the basis of Minimum Wages fixed by the Labour Commissioner, Haryana vide letter dated 28.08.2023. I find no error in the same.

6. Age of the deceased was determined to be 24 years on the basis of his Post-Mortem Report (Mark A). Learned Tribunal had therefore, correctly made an addition of 40% towards future prospects; and correctly applied multiplier of 18. As deceased was a bachelor, deduction of 50% was also correctly made. Under the conventional heads, the learned Tribunal has awarded a total amount of Rs.77,000/-.



7. As regards conventional heads, as per recent judgments of the Hon'ble Supreme Court in **"Shri Ram General Insurance Co. Ltd. Vs. Bhagat Singh Rawat & Others"** Civil Appeal Nos.2410-2412/2023 Law Finder Doc ID # 2251622 and **"Mehmooda Bee & Others Vs. National Insurance Co. Ltd."** (@ SLP (C) No.16767 of 2022) Law Finder Doc ID # 2070774 and **"Bebi Giri Vs. National Insurance Co. Ltd."** Civil Appeal No.6551 of 2022 Law Finder Doc ID # 2070826, a total sum of Rs.70,000/- is to be granted under the conventional heads. Whereas in the present case ₹77,000/- has been awarded by way of conventional heads.

8. Even otherwise, the Hon'ble Supreme Court in (SC) SLP No.13931 of 2017 titled as **"New India Assurance Co. Ltd. Vs. Vinish Jain & Others"**, has held that where difference in compensation is about 4 to 5 per cent only, it does not warrant interference by this Court as, such variation in compensation is within permissible limits.

9. 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.

10. Learned counsel for the appellants is unable to dispute or controvert the aforesaid facts and findings.

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

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

10.04.2026
Sunena

(Nidhi Gupta)
Judge

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