



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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FAO-3124-2019 (O&M)

Date of Decision: 04.04.2025

Geeta Devi and others

....Appellants

Versus

Balram and others

....Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Raghav Shrama and Mr. Chanakya Pandit, Advocates
for the appellant-claimants.

NIDHI GUPTA, J.

CM-10667-CII-2019

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 23 days in filing the accompanying appeal.

Heard.

For the reasons stated in the application which is supported by an affidavit, the same is **allowed**; and delay of 23 days in filing the accompanying appeal is condoned.

CM-10666-CII-2019

Prayer in this application filed under Section 5 of the Limitation Act, 1963 is for condonation of delay of 103 days in re-filing the accompanying appeal.

Heard.

For the reasons stated in the application which is supported by an affidavit, the same is **allowed**; and delay of 103 days in re-filing the accompanying appeal is condoned.



FAO-3124-2019 (O&M)

1. The present appeal has been filed by the claimants seeking enhancement of compensation of ₹16,45,000/- awarded by the learned Motor Accident Claims Tribunal, Sonipat (hereinafter referred to as 'the learned Tribunal') vide Awarded dated 08.02.2018 passed in claim petition bearing MACP No. 224/2017 dated 24.04.2017 filed under Section 166 of the Motor Vehicles Act, 1988. The 05 claimants are the: i) widow; ii) 03 minor children of the deceased; and iii) mother of deceased-Dharambir Singh, who was stated to be about 44 years of age at the time of accident.

2. Brief facts of the case are that the learned Tribunal on the basis of pleadings and evidence adduced before it concluded that deceased-Dharambir Singh, had died in a motor vehicular accident that took place on 02.03.2017 due to rash and negligent driving of car bearing registration No. HR-10-T-1646 (hereinafter referred to as 'the offending vehicle') by respondent No.1; owned by respondent No. 2; and insured by respondent No. 3-Insurance Company. Learned Tribunal awarded compensation as above along with interest @ 7.5% per annum from the date of filing the claim petition till actual realization. The amount of compensation is apportioned amongst the claimants as under:-

1.Smt. Geeta Devi wife	₹6,00,000/-
2. 03 minor children	₹3,00,000/- each (in total ₹9,00,000/-)
3.Angoori mother	₹1,45,000/-

3. Learned counsel for the appellant-claimants seeks enhancement of compensation on the ground that income of the deceased



has been assessed on the lower side as only ₹10,000/- per month. It is submitted that the deceased was an agriculturist and was also a driver by profession, and he was earning ₹30,000/- per month. The learned Tribunal has not considered the evidence on record while assessing the notional income of the deceased. Moreover, nothing has been granted by the learned Tribunal towards loss of estate. It is accordingly, prayed that the impugned Award be modified and the compensation so awarded by the learned Tribunal be enhanced.

4. No other argument is raised on behalf of the appellant.
5. I have heard learned counsel for the appellant and perused the case file in great detail.
6. I find no merit in the submissions advanced on behalf of the appellants. It has been contended by the appellant that the deceased was a professional driver; and was also working as farmer; and earning ₹30,000/- per month. This was so stated by claimant No. 1/widow of the deceased/PW-3 in her deposition. However, admittedly, no documentary proof whatsoever was produced by the claimants in support of the said assertion. The learned Tribunal has accordingly observed that *'No person has been examined by the claimants, who could depose that the deceased was employed with him as a driver. No ledger book, account book or any account statements etc. or bank pass-book etc. has been produced by the claimants to prove the alleged occupation and income of the deceased. No income tax return of the deceased has been produced by the claimants to prove his income. In the absence of such supporting evidence, the sole self-serving testimony of PW-3, with regard to alleged occupation and*



income of the deceased, cannot be believed'. Accordingly, the learned Tribunal had assessed the notional income of the deceased as per Notification No. IR-2/7083-7193 dated 02.03.2017 (effective from 01.01.2017) issued by the Labour Commissioner as per which the prevailing rate of a Daily Waged Skilled Labourer is ₹9,585/- per month rounded off to ₹10,000/- per month.

7. As regards age of the deceased is concerned, it is claimed by the claimants that the deceased was 41 years at the time of his death. In the Post-mortem Report Ex. P-4 also, the age of the deceased was mentioned as 41 years. However, as per driving licence of the deceased Ex. P-12, the date of birth of the deceased was mentioned as 04.02.1973. As such, the age of the deceased was taken to be 44 years. Accordingly, in conformity with the law as laid down by the Hon'ble Supreme Court in *National Insurance Company Limited vs. Pranay Sethi and others, (2017) 16 SCC 680*, addition of 25% towards future prospects was made by the learned Tribunal. As there are 05 claimants, deduction of 1/4th has rightly been made; and multiplier of 14 was correctly applied by the learned Tribunal. Under the Conventional Heads, the learned Tribunal has further awarded sum of ₹40,000/- towards Loss of Consortium to claimant No. 1; ₹15,000/- towards Loss of Estate; and ₹15,000/- towards Funeral Expenses. As such, the learned Tribunal awarded the compensation in following manner:-

Heads	Amount
Loss of dependency	₹15,75,000/-
Loss of Consortium to claimant No. 1	₹40,000/-
Loss of Estate	₹15,000/-
Funeral Expenses	₹15,000/-
Total Compensation along with interest @ 7.5% per annum	₹16,45,000/-



8. From the above facts it is also clear that it is factually incorrect statement of learned counsel for the appellant that nothing has been granted by the learned Tribunal under the Conventional Head Loss of Estate. It is also clear that a very just and fair compensation has been awarded to the claimant. Accordingly, in view of the discussion above, I find no case is made out that merits interference with the impugned Award. The Hon'ble Supreme Court in *State of Haryana and another vs. Jasbir Kaur and others Law Finder Doc ID # 64043* and *Divisional Controller K.S.R.T.C. vs. Mahadeva Shetty and another, (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. Thus, all that has to be determined in the facts of a given case is that the compensation accorded is 'just'. In my considered view, in the present case, the learned Tribunal has awarded a very 'just' compensation, which is in accordance with the law laid down by the Hon'ble Supreme Court and therefore, does not warrant the interference of this Court.

9. In view of the above, present appeal is **dismissed**.

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

04.04.2025
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(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No